

JUDAISM

# The Talmud

## Kiddushin

A massive, multi-volume compendium of rabbinic debates and commentary on the Torah that forms the basis of Jewish religious law, ethics, and practice. Presents all 37 tractates with Gemara, via Sefaria's William Davidson Talmud (the Koren Talmud Bavli translation, CC BY-NC), plus Avot and Eduyot (which have no Gemara) via Michael L. Rodkinson's 1896-1918 translation.

Presented by Earth's Sacred Texts — [blackbetty.space](https://blackbetty.space)

# Contents

Kiddushin

# Kiddushin

## Chapter 1

<sup>1</sup> MISHNA: A woman is acquired by, i.e., becomes betrothed to, a man to be his wife in three ways, and she acquires herself, i.e., she terminates her marriage, in two ways. The mishna elaborates: She is acquired through money, through a document, and through sexual intercourse. With regard to a betrothal through money, there is a dispute between tanna'im: Beit Shammai say that she can be acquired with one dinar or with anything that is worth one dinar. And Beit Hillel say: She can be acquired with one peruta, a small copper coin, or with anything that is worth one peruta. The mishna further clarifies: And how much is the value of one peruta, by the fixed value of silver? The mishna explains that it is one-eighth of the Italian issar, which is a small silver coin.

<sup>2</sup> And a woman acquires herself through a bill of divorce or through the death of the husband. A woman whose husband, who had a brother, died childless [yevama], can be acquired by the deceased husband's brother, the yavam, only through intercourse. And she acquires herself, i.e., she is released from her levirate bond, through ḥalitza or through the death of the yavam.

<sup>3</sup> GEMARA: The mishna teaches that a woman can be acquired in three ways. The Gemara asks: What is different here that this mishna teaches: A woman is acquired, using the language of acquisition, and what is different there, in the beginning of the next chapter (42a), which teaches: A man betroths, using the language of betrothal? The Gemara explains: In this mishna the tanna utilized the language of acquisition because he wanted to teach about betrothal through money, which is the standard means of exchange in an act of acquisition.

<sup>4</sup> The Gemara continues its explanation: And from where do we derive that betrothal is accomplished by means of giving money? It is derived by means of a verbal analogy between the term expressing taking stated with regard to betrothal and from the term expressing taking with regard to the field of Ephron. How so? It is written here, with regard to marriage: "When a man takes a woman" (Deuteronomy 24:1), and it is written there, concerning Abraham's purchase of the field of the Cave of Machpelah from Ephron the Hittite: "I will give money for the field; take it from me" (Genesis 23:13). This verbal analogy teaches that just as Ephron's field was acquired with money, so too, a woman can be acquired with money.

<sup>5</sup> The Gemara continues: And the taking of Ephron's field is called an acquisition in the Torah, as it is written with regard to the same issue: "The field which Abraham acquired" (Genesis 25:10).

<sup>6</sup> Alternatively, it can be proven that purchasing a field with money is called an acquisition from the verse: "They shall acquire fields with money" (Jeremiah 32:44). Consequently, as the tanna wanted to teach that a woman can be betrothed with money, he taught: A woman is acquired. This explains why the terminology of acquisition is used in this mishna.

<sup>7</sup> The Gemara asks: But let the mishna teach there, in the next chapter: A man acquires. The Gemara explains: Initially, the mishna taught using the language of the Torah, in which betrothal is called

taking. And ultimately, in the next chapter, it taught using the language of the Sages. And what is the reason that betrothal is called kiddushin, literally, consecration, in the language of the Sages? The reason is that through betrothal the husband renders her forbidden to everyone like consecrated property. Therefore, this act is referred to as consecration.

<sup>8</sup> The Gemara asks another question with regard to the difference in wording between the two mishnayot: And let it teach here, as in the following chapter: A man acquires. Why does this mishna teach: The woman is acquired, with the woman as the subject of the sentence? The Gemara answers: This is because the tanna wanted to teach in the latter clause of the mishna: And she acquires herself, which is stated with regard to her. Therefore, the tanna also taught the halakha stated with regard to her in the first clause.

<sup>9</sup> The Gemara further asks: But if this is the reason, the mishna could have been formulated entirely differently. Let it teach: The man can acquire a woman and transfer authority, i.e., grant her the release from marriage in the form of a bill of divorce. The Gemara answers: The mishna could not use the expression: Transfer, because there is the case of the husband's death, in which it is not he who transfers authority. Rather, it is from Heaven that her freedom is transferred to her. Therefore, the mishna could not issue a general statement that the man can actively transfer to the woman her release from marriage.

<sup>10</sup> And if you wish, say instead another explanation. If the mishna had taught: The man acquires the woman, I would say that he can acquire her even against her will, as indicated by the expression: He acquires. One might have assumed that the betrothal depends on the husband, without the need for the woman's consent. Therefore the mishna taught: The woman is acquired, from which it may be inferred that with her consent, yes, he can acquire her as a wife, but when he acts without her consent, no, she is not betrothed to him.

<sup>11</sup> The Gemara continues to analyze the style of the mishna: And why does the tanna specifically teach: Three [shalosh] ways, formulated in the feminine? Let it teach: Three [shelosha] ways, formulated in the masculine. The Gemara explains: The mishna uses this form because it wants to teach the word way [derekh], and derekh is formulated in the feminine, as it is written: "And you shall show them the way [derekh] in which [bah] they must walk" (Exodus 18:20). The term bah, which is referring to derekh, is formulated in the feminine.

<sup>12</sup> The Gemara challenges: But with regard to that which is taught in a mishna (Nazir 65b): One examines a zav in seven [shiva] ways [derakhim], where shiva is formulated in the masculine, let it teach: Seven [sheva] ways, formulated in the feminine. The Gemara answers: The mishna uses the masculine formulation of the term seven because it wanted to teach: Derekh, and we find that the word derekh is referred to in the masculine form, as it is written: "They shall come out against you one way [derekh], and shall flee before you seven [shiva] ways" (Deuteronomy 28:7). The Gemara asks: If so, the verses contradict each other, as in one verse the term derekh is masculine, and in the other verse it is feminine. And furthermore, the mishnayot contradict each other, as in one mishna derekh is masculine while in the other it is feminine.

<sup>13</sup> The Gemara answers: The verses do not contradict each other. Here, that verse: "The way in which they must walk" (Exodus 18:20), is referring to the Torah, i.e., the way mentioned here is referring to the path of the Torah, and Torah is referred to in the feminine form, as it is written: "The Torah of the Lord is perfect [temima], restoring the soul" (Psalms 19:8). The word temima is in the

feminine. Consequently, in reference to the Torah the verse writes: *Derekh*, formulated in the feminine. There, that verse: “Shall flee before you seven ways” (Deuteronomy 28:7), is referring to war, and as it is the way of a man to wage war and it is not the way of a woman to wage war, it is appropriate to speak in the masculine. Therefore, the verse writes the word *derekh* formulated in the masculine.

<sup>14</sup> Likewise, the mishnayot do not contradict each other: Here, where it is referring to a woman, the mishna teaches *derekh* formulated in the feminine. There, with regard to the examination of a *zav*, where it is referring to a man, as it is common for a man to undergo an examination to determine if his emission has a cause other than a gonorrhea-like discharge [*ziva*] but it is not common for a woman to undergo an examination, since, unlike a man, a woman is rendered impure even by circumstances beyond her control, it taught and used the word *derekh* formulated in the masculine. Even if a woman has an emission of blood for a reason other than illness, she is still impure. Consequently, in her case there is no reason for an examination to see what might have caused her discharge.

<sup>15</sup> The Gemara asks another question with regard to the language of the mishna: What is the reason that the mishna teaches: Three [*shalosh*], formulated in the feminine? This is because it wanted to teach: Ways. But if so, let it teach instead the word: Matters, i.e., a woman can be acquired through three matters, and as this term is masculine, let it teach three [*shelosh*], in the masculine. The Gemara answers: The mishna did do so because it wanted to teach intercourse as one of these ways, and intercourse is called a way in the Torah, as it is written: “And the way of a man with a young woman, so is the way of an adulterous woman” (Proverbs 30:19-20). For this reason the mishna used the term ways rather than matters.

<sup>16</sup> The Gemara raises a difficulty: This works out well with regard to intercourse, which is referred to as a way. But what is there to say concerning money and a document? The mishna could have used the word matters with regard to these modes of betrothal. The Gemara answers: Because it was necessary to mention intercourse, which is called a way, the mishna used the word way in reference to the other two modes as well.

<sup>17</sup> The Gemara asks: And would the mishna teach two cases in a particular manner due to one? Since the word way suits only one of the three modes of betrothal, why didn't the mishna use the term: Matters, on account of the other two? The Gemara answers: These, too, are for the sake of sexual intercourse. Since the marital relationship, in which intercourse is paramount, is the ultimate purpose of betrothal, the mishna considers this clause as the most important part of the halakha.

<sup>18</sup> And if you wish, say instead: In accordance with whose opinion is this mishna, which teaches *derekh*? It is in accordance with the opinion of Rabbi Shimon, as it is taught in a baraita that Rabbi Shimon says: For what reason did the Torah say: “When a man takes a woman” (Deuteronomy 22:13) and did not write: “When a woman is taken by a man? Because it is the way [*derekh*] of a man to pursue a woman, and it is not the way of a woman to pursue a man. The Gemara cites a parable of a man who lost an item. Who searches for what? Certainly the owner of the lost item searches for his lost item, not the other way around. Since woman was created from man's lost side, the man seeks that which he has lost. To allude to this statement of Rabbi Shimon, the mishna employs the term *derekh* in this context.

<sup>19</sup> The Gemara asks: But with regard to that which we learned in a mishna: One examines a zav in seven ways, why does it use this phraseology? Let it teach the word: Matters. The Gemara answers that the mishna there teaches us this halakha, that it is the way of excessive eating to lead to ziva, and likewise it is the way of excessive drinking to lead to ziva. Therefore, the mishna uses the phrase: Seven ways, to emphasize that there are ways of behavior that can cause the emission of a zav.

<sup>20</sup> The Gemara further challenges: And with regard to that which we learned in a mishna (Bikkurim 2:6): The halakhot of an etrog tree correspond to those of a tree in three ways. Let it teach instead: Three matters. The Gemara answers: Because it wants to teach in the latter clause: And the halakhot of an etrog tree correspond to those of a vegetable in one way, therefore the mishna uses the term: Ways, in the first clause as well. The Gemara asks: In the latter clause too, let the mishna teach: Matter, rather than: Way.

<sup>21</sup> The Gemara explains: There, the mishna teaches us this, that the way an etrog grows is like a vegetable: Just as it is the way of a vegetable to grow by being watered by all water, i.e., in addition to rainwater it requires irrigation, and its tithing is according to when it is harvested, i.e., its tithing is based on when it is collected from the field, so too, it is the way of an etrog to grow by being watered by all water, as it requires more water than rain provides, and its tithing is according to the time when it is harvested. If, for example, a vegetable is collected during a year when poor man's tithe is given, that tithe is separated from it, even if it formed a bud during the previous year, when second tithe was separated. The same applies to an etrog. Therefore, the mishna specifically uses the term: Way, to allude to this reason.

<sup>22</sup> The Gemara further asks: But concerning that which we learned in a mishna (Bikkurim 2:8): With regard to a koy, an animal whose classification was uncertain, as the Sages were unsure whether it is a domesticated or a non-domesticated animal, there are ways, i.e., halakhot, in which its halakhot correspond to those of a non-domesticated animal and there are ways in which its halakhot correspond to those of a domesticated animal. And there are ways in which its halakhot correspond to those of both a non-domesticated animal and a domesticated animal, and there are ways in which its halakhot correspond to those of neither a non-domesticated animal nor a domesticated animal. Let that mishna teach the term: Matters. And furthermore, with regard to that which we learned in a mishna (Gittin 9a): This is one of the ways in which the halakhot of bills of divorce correspond to those of bills of manumission, let that mishna teach the word: Matters.

<sup>23</sup> Rather, the Gemara rejects the previous explanations, as the phraseology is not dependent on the nature of the topic at hand. Instead, anywhere that there is a distinction with regard to an issue the mishna teaches the term: Ways, as there are different ways or possibilities available. And anywhere that there is no distinction it teaches the word: Matters. The Gemara comments: The language of the mishna is also precise in this regard, as it teaches in the latter clause of that mishna that Rabbi Eliezer says: The halakhot of an etrog tree correspond to those of a tree with regard to every matter. This indicates that when no distinctions apply, the mishna will use the term matter. The Gemara concludes: Learn from this clause in the mishna that this explanation is correct.

<sup>24</sup> § The Gemara continues to analyze the language of the mishna: With regard to the number in the first clause of the mishna, i.e., a woman is acquired in three ways, this serves to exclude what? The fact that the mishna mentions a number indicates that other modes of acquisition do not apply to

betrothal. What mode is excluded? Similarly, the number in the latter clause of the mishna, that a woman acquires herself in two ways, serves to exclude what?

<sup>25</sup> The Gemara explains: The number in the first clause serves to exclude a wedding canopy, which does not effect betrothal. The Gemara asks: And according to the opinion of Rav Huna, who said: A wedding canopy acquires a woman, and it alone could be a mode of betrothal, as derived by an a fortiori inference (see 5a), this number serves to exclude what?

<sup>26</sup> The Gemara answers: The number serves to exclude acquisition through symbolic exchange, i.e., a pro forma act of acquisition effecting the transfer of ownership of an article. Although a woman can be betrothed by means of money or an item of monetary value, she is not betrothed if she is given an item by symbolic exchange. The Gemara explains why this needs to be excluded: It might enter your mind to say that since the Sages derive the acquisition of a woman by verbal analogy between the term expressing taking stated with regard to betrothal from the term expressing taking with regard to the field of Ephron, it can be suggested that just as a field can be acquired through symbolic exchange, so too, a woman can be acquired through symbolic exchange. Therefore, the tanna teaches us that this is not the case.

<sup>27</sup> The Gemara asks: And perhaps one should say that so too, it is possible to betroth a woman by means of symbolic exchange. The Gemara answers: This cannot be the case, as symbolic exchange is effective using an item worth less than the value of one peruta, and with an item worth less than the value of one peruta, a woman

<sup>28</sup> does not render herself acquired by a man.

<sup>29</sup> The Gemara asks: The number in the latter clause of the mishna, that a woman acquires herself in two ways, serves to exclude what? The Gemara answers that it serves to exclude ḥalitza, i.e., a woman is not released from marriage through ḥalitza. Without this exclusion it might enter your mind to say that this can be derived through an a fortiori inference from the halakha of a yevama, as follows: Just as a yevama, who is not released from the yavam through a bill of divorce, is nevertheless released from him through ḥalitza, with regard to this married woman, who can be released from her husband through a bill of divorce, is it not logical that she can be released from him through ḥalitza? Therefore, the tanna teaches us that a married woman cannot be released from her husband by means of ḥalitza.

<sup>30</sup> The Gemara asks: And perhaps one should say that so too, this is the case, i.e., a married woman can be released from marriage through ḥalitza. The Gemara answers: The verse states with regard to divorce: “A scroll of severance” (Deuteronomy 24:3), which teaches: A scroll, i.e., a written document, severs her from her husband, and nothing else severs her from him.

<sup>31</sup> § The mishna teaches that a woman can be acquired with money. The Gemara asks: From where do we derive that a woman can be acquired through money? And furthermore, with regard to that which we learned in a mishna (Ketubot 46b): A father has authority over his daughter with regard to her betrothal, whether it is through money, through a document, or through sexual intercourse, from where do we derive that she is acquired by her husband with money, and that this money is her father’s?

<sup>32</sup> Rav Yehuda said that Rav said: The reason is that the verse states with regard to a Hebrew maidservant acquiring freedom from her master: “Then shall she go out for nothing, without money”

(Exodus 21:11). The extraneous phrase: Without money, indicates that there is no money for this master, i.e., in this case the master she leaves loses the money he paid for her, but there is money for a different master, i.e., another master receives money for her when she leaves his authority. And who is the other master who can transfer her to someone else and receives money for her? This is her father.

<sup>33</sup> The Gemara asks: But why not say that this money is given to her? The Gemara rejects this: How can one suggest this? Her father receives her betrothal, i.e., the money or document of betrothal, when he marries her off to her husband, as it is written: “I gave my daughter to this man” (Deuteronomy 22:16), and shall she take the money? Since he is the one who marries her off, he is certainly entitled to the money of her betrothal.

<sup>34</sup> The Gemara asks: But why not say that this halakha applies only when she is a minor girl, as she does not have the power to receive her betrothal. Since she lacks the intellectual capacity, she likewise does not have the legal right to conduct this transaction. But with regard to a young woman, who does have the power to receive her betrothal, as a female older than twelve years is considered an adult, let her betroth herself and take the money. The Gemara answers that the verse states: “Being in her youth, in her father’s house” (Numbers 30:17), which teaches: Any profit she gains in her youth belongs to her father.

<sup>35</sup> The Gemara questions this explanation: But with regard to that which Rav Huna says that Rav says: From where is it derived that the earnings of a daughter, i.e., the profit from her labor, belongs to her father? As it is stated: “And if a man sells his daughter as a maidservant” (Exodus 21:7). This comparison between a daughter and a Hebrew maidservant teaches the following: Just as with regard to a Hebrew maidservant, her earnings belong to her master, so too, with regard to a daughter, her earnings belong to her father. The Gemara now asks: Why does Rav Huna need this derivation? Let him derive this halakha from the verse “being in her youth, in her father’s house,” which indicates that any profit from her earnings as a young woman belongs to her father.

<sup>36</sup> Rather, Rav Huna maintains that that verse is written with regard to the nullification of vows, and it is not referring to the halakhot of acquisition. The Gemara asks: If that is so, then so too, with regard to her betrothal money, one can say that this verse is written only with regard to the nullification of vows and does not apply to betrothal money. And if you would say: Let us derive the halakha of her betrothal money from the halakha of the nullification of vows, i.e., just as a father has the right to nullify his daughter’s vows when she is a young woman, so too, he has rights to her money, this is not possible, as there is a principle: We do not derive monetary matters from ritual matters.

<sup>37</sup> And if you would say: Let us derive this halakha of the betrothal of a young woman from the halakha of fines, as it is stated explicitly in the Torah that a man who rapes a young woman must pay a fine to her father, there is another principle that is applicable here: We do not derive monetary matters from fines, as the imposition of a fine is considered a unique case from which ordinary monetary rights cannot be derived.

<sup>38</sup> And if you would say: Let us derive this halakha from the reimbursements for the humiliation and degradation of a young woman who was raped, which are also given to the father, one can answer that the following distinction applies: Reimbursement for humiliation and degradation are different, as her father has an interest in them. The father has the ability to derive benefit from her humiliation



and degradation in other ways, e.g., by marrying her to a man afflicted with boils, which would humiliate her and cause a reduction in her value. Therefore, one cannot derive from the fact that the father receives the reimbursements for the humiliation and degradation of a young woman who was raped that he receives other monies due to her.

<sup>39</sup> Rather, the halakha that a young woman's betrothal money belongs to her father is derived from the verse: "Then shall she go out for nothing, without money" (Exodus 21:11), as previously stated. As for the question why the money does not belong to her, the Gemara answers that it is reasonable that when the verse excludes another situation and indicates that there is no money for this master but there is money for a different master,

<sup>40</sup> it excludes a departure that is like it, i.e., a departure wherein the two masters are the potential recipients. Just as when no money is paid, the individual who might have received the payment is her master, so too, when money is paid, in a different set of circumstances, the money goes to the one who has authority over her, i.e., her father.

<sup>41</sup> The Gemara asks: But this departure is not similar to that departure, as there, she leaves the authority of the master entirely upon being freed and she no longer retains any connection to him, and here, she still lacks the act of passing her over to the wedding canopy. Until she actually enters the wedding canopy, she has not left her father's authority completely. The Gemara answers: Nevertheless, there is a similarity between her departures in both cases, as she leaves her father's authority at least as far as the nullification of vows is concerned. As we learned in a mishna (Nedarim 66b): With regard to a betrothed young woman, her father and her husband together nullify her vows, and her father cannot nullify them alone.

<sup>42</sup> The Gemara asks: But does this verse: "Then shall she go out for nothing" (Exodus 21:11), come for that purpose, to teach that there is no money for this master, but there is money for a different master? But it is required for that which is taught in the following baraita. As it is taught in a baraita: The verse "Then shall she go out for nothing, without money" should be understood as follows: "Then shall she go out for nothing"; these words are referring to the days of adulthood, i.e., a Hebrew maidservant leaves her owner's authority once she becomes an adult. "Without money [ein kasef]"; these words are referring to the days of her youth, i.e., when she becomes a young woman she leaves his authority.

<sup>43</sup> Ravina said: If so, that the verse is to be used only for this derivation, let the verse say: En kasef, without the letter yod. What is indicated by the full spelling with a yod: Ein kasef? This serves to teach the halakha stated above: There is no money for this master, but there is money for a different master. And who is he? He is her father, who has a right to receive the money when his daughter leaves his authority upon her betrothal.

<sup>44</sup> The Gemara explains: And from where is it derived that one interprets the verse homiletically in this manner? How is it known that the full form of the word ein teaches a halakha? As it is taught in a baraita with regard to the daughter of a priest who married a non-priest and was subsequently widowed or divorced: "And she has no child, and is returned to her father's house, as in her youth, she may eat of her father's bread" (Leviticus 22:13). This verse indicates that if she has no children from her non-priest husband she may once again partake of teruma.

<sup>45</sup> I have derived only that this halakha applies to her actual children. From where do I derive that her children's children are equivalent to children with regard to this halakha? The verse states: "She

has no [ein lah] child,” where ein is spelled with a yod inserted in the middle. This additional letter serves to enable an alternative articulation of the term, specifically, one examines her [ayyein lah] to see if she has any descendants. And I have derived only that this halakha applies to children of unflawed lineage, i.e., her legitimate offspring. From where do I derive that children of flawed lineage, e.g., mamzerim, are also considered her children for the purposes of this halakha? The verse states: “She has no child,” which indicates that one examines her, as explained above.

<sup>46</sup> With regard to the last derivation, the Gemara asks: But you have already derived one halakha from this word, that her children’s children are considered like her children in this case. The Gemara answers: In fact, a verse was not necessary to teach about her children’s children, as there is an established principle that children’s children are considered like children. And therefore, when the verse was necessary, it was to teach the requirement of examining her for children of flawed lineage.

<sup>47</sup> The Gemara asks: And the tanna himself, from where does he know that one can expound the yod in ein in this manner? The Gemara answers: They say in explanation that it is written: “Balaam refuses [me’en]” (Numbers 22:14), and it is similarly written: “My yavam refuses [me’en]” (Deuteronomy 25:7), and in neither case is a yod written. And here the word ein is written with a yod. Learn from it that the yod is superfluous and comes for the sake of an exposition.

<sup>48</sup> The Gemara comments: And it was necessary to write a verse that teaches that her betrothal, i.e., the money or document of betrothal, belongs to her father, and it was necessary to write another verse that teaches that her earnings belong to her father, as one could not derive one halakha from the other. As, if the Merciful One had written only that her betrothal money belongs to her father, I would say that this is because she did not toil for it and therefore is not entitled to this sum. But with regard to her earnings, for which she toiled, say that they are hers. Therefore, it is necessary to state that her earnings also belong to her father.

<sup>49</sup> And conversely, if the verse had taught us only the halakha of her earnings, one would have said that they belong to her father because his daughter is sustained by him through his property. But with regard to her betrothal, i.e., the money or document of betrothal, which comes to her from an external source, I would say that it is hers. Therefore, it is necessary for the verse to teach both halakhot.

<sup>50</sup> The Gemara returns to the matter itself: The baraita states with regard to a Hebrew maidservant: “Then shall she go out for nothing,” these are the days of adulthood; “without money,” these are the days of her youth. The Gemara asks: And let the Merciful One write that she leaves her master when she reaches her youth, and it would not be necessary to state that she leaves upon reaching adulthood. If she has already left her master when she becomes a young woman, it is not necessary to state that she leaves him upon reaching adulthood.

<sup>51</sup> Rabba says: This phrase comes and teaches about that phrase. In other words, since it is not explicitly stated that this particular verse is referring to her departure when she becomes a young woman, if there was only one superfluous phrase one would conclude that it is referring to adulthood, as the halakha that she leaves the master when she becomes an adult is a lesser novelty. Therefore, two extraneous verses are required.

<sup>52</sup> Rabba cites an analogous case. This is just as it is with regard to a tenant and a hired worker. As it is taught in a baraita concerning teruma: The verse states: “A tenant of a priest or a hired worker shall not eat of the consecrated” (Leviticus 22:10). “A tenant”; this is referring to a Hebrew slave who has been acquired as a permanent acquisition, i.e., one who said he wishes to stay with his master. This

Hebrew slave has his ear pierced and he remains with his master until the Jubilee Year. “A hired worker”; this is referring to a Hebrew slave who has been acquired for an acquisition of six years, the standard period of servitude for a Hebrew slave.

<sup>53</sup> The baraita asks: Let the verse say “tenant” and let it not say “hired worker,” and I would say: If one who is acquired as a permanent acquisition does not partake of his owner’s, i.e., the priest’s, teruma, as despite his status as a Hebrew slave he is not considered his owner’s property, is it not all the more so that one who is acquired for an acquisition of six years should not be permitted to partake of teruma?

<sup>54</sup> The baraita answers: If so, that the verse were stated in this manner, I would say: “A tenant”; this is one who was acquired for an acquisition of six years, as the term itself is ambiguous. But one who was acquired as a permanent acquisition may partake of teruma. Therefore, the term “hired worker,” which is certainly referring to one who is less permanent than a tenant, comes and teaches about the meaning of the term “tenant,” that even if a Hebrew slave was acquired as a permanent acquisition he may not partake of teruma. A similar line of reasoning applies in the above case of a young woman and an adult.

<sup>55</sup> Abaye said to Rabba: Are these cases really comparable? There, the tenant and the hired worker are two bodies. This is significant, as even if the Merciful One had written explicitly that a pierced tenant may not partake of teruma, from which the halakha of a Hebrew slave for six years could have been inferred, and then the Merciful One wrote the other case of a Hebrew slave acquired temporarily, this would not present a serious difficulty. The reason is that, although the halakha of a hired worker is a matter that could be derived by means of an a fortiori inference, and therefore it does not have to be stated explicitly, there is a principle: Sometimes with regard to a matter that can be derived through an a fortiori inference, the verse nevertheless takes the trouble and writes it explicitly.

<sup>56</sup> But here, with regard to a woman, she is one body, i.e., it is the same Hebrew maidservant. Once she has left upon the arrival of her youth, what is she doing in his authority as an adult? It is entirely unnecessary for the verse to teach that she leaves her master upon becoming an adult, as she has already left him.

<sup>57</sup> Rather, Abaye rejects the previous suggestion that one verse teaches about the other, and said: The claim that the verse “Then shall she go out for nothing” is referring to adulthood is necessary only for the adulthood of a sexually underdeveloped woman who is incapable of bearing children [ailonit]. An ailonit will never develop the physical signs of maturity, i.e., two pubic hairs. Consequently, she does not go through the halakhic stage of a young woman. Instead, she remains a minor until the age of twenty, at which point she immediately becomes an adult.

<sup>58</sup> Consequently, if the Torah did not teach that a Hebrew maidservant leaves her master upon becoming an adult, it might enter your mind to say: She leaves only when entering her youth, but when entering adulthood directly she does not leave. Since an ailonit is never classified as a young woman, she would never leave servitude. Therefore, the verse teaches us that a Hebrew maidservant leaves her master even if she reaches adulthood directly.

<sup>59</sup> Mar bar Rav Ashi objects to this: But is it not an a fortiori inference? And if the signs indicating that a young woman has entered puberty do not fully release a young woman from her father’s authority, as he can still betroth her, nevertheless, they do release her from the master’s authority; is it

not logical that adulthood, which completely releases her from her father's authority, should release her from the master's authority? If so, one can derive by this reasoning that an ailonit leaves her master in adulthood, which means the verse is unnecessary.

<sup>60</sup> Rather, Mar bar Rav Ashi says: This verse is necessary only with regard to the basic halakha of the sale of an ailonit as a Hebrew maidservant. As it might enter your mind to say that if a female will show the signs of a young woman, i.e., puberty, her sale is a valid sale, whereas in a case where she will not show the signs of a young woman, her sale is not a valid sale. The reason one might think this is the case is that if the maidservant turns out to be an ailonit, one cannot fulfill the requirements of the verse, as she will never become a young woman.

<sup>61</sup> Therefore the superfluous phrase: "Then shall she go out for nothing, without money" (Exodus 21:11), teaches us that even an ailonit can be sold as a Hebrew maidservant and is released upon reaching adulthood.

<sup>62</sup> The Gemara asks: And according to the opinion of Mar bar Rav Ashi, who said: But is it not an a fortiori inference that adulthood releases a woman from her master's authority, how does he respond to the fact that we say in general, with regard to a matter that can be derived through an a fortiori inference, the verse nevertheless takes the trouble and writes it explicitly? The Gemara answers: That matter applies only where there is no other way to resolve the difficulty of why a halakha is written when it could be derived through an a fortiori inference. But when there is another, more substantial way to resolve the difficulty, one resolves it in that manner.

<sup>63</sup> § The Gemara notes: And a tanna cites the halakha that a woman can be betrothed with money from here, a different source. As it is taught in a baraita that when the verse states: "When a man takes a woman and engages in sexual intercourse with her, and it comes to pass, if she finds no favor in his eyes, because he has found some unseemly matter in her, and he writes her a scroll of severance" (Deuteronomy 24:1), in this verse, the term taking is only with money. And so it says: "I will give money for the field; take it from me" (Genesis 23:13).

<sup>64</sup> The Gemara asks: But is there any need for this derivation? Could this not be derived through an a fortiori inference, as follows: And if a Hebrew maidservant, who cannot be acquired as a maidservant through intercourse, nevertheless can be acquired through money, is it not logical that this woman, who can be acquired through intercourse for the purpose of betrothal, can likewise be acquired through money?

<sup>65</sup> Nevertheless, this a fortiori inference can be refuted. A yevama proves otherwise, as she is acquired by the yavam through intercourse, and yet she cannot be acquired through money. The Gemara rejects this refutation: What is unique about a yevama is that she cannot be acquired through a document. Will you say that the same applies to this woman, who can be acquired through a document for the purpose of betrothal, and consequently the acquisition of money applies to her as well?

<sup>66</sup> The Gemara reiterates its question. The verse states: "When a man takes a woman." Why do I need a verse for this purpose? It was already derived through this a fortiori inference, as the proposed refutation of this inference was rejected. Rav Ashi said: It is needed because one can say that the refutation of the a fortiori inference is present from the outset, i.e., there is a difficulty with the comparison between a woman and a Hebrew maidservant.

<sup>67</sup> Rav Ashi elaborates: From where do you derive that a woman can be betrothed with money? It is derived through an a fortiori inference from the case of a Hebrew maidservant. This derivation can be refuted. What is unique about a Hebrew maidservant is that she can be released with money, i.e., she pays her master her value as a maidservant and she is then freed, and therefore she can likewise be acquired through money. Will you say the same with regard to this woman, who cannot be released, i.e., divorced, through money? Since this a fortiori inference is rejected, one must rely on the source cited in the baraita, that the verse states: “When a man takes.”

<sup>68</sup> After mentioning an additional proof for the option of betrothal with money, the Gemara comments: And it was necessary for the Torah to write, with regard to a Hebrew maidservant: “Then shall she go out for nothing,” and it was also necessary to write: “When a man takes a woman.” As, if the Merciful One had written only: “When he takes,” I would say: The betrothal money that the husband gives her is invariably hers. Therefore, the Merciful One writes: “Then shall she go out for nothing,” to teach that when she is not an adult her father has the right to her betrothal money.

<sup>69</sup> And conversely, had the Merciful One written only: “Then shall she go out for nothing,” I would say that in a case where she gave him money and betrothed him, it is a valid betrothal, as this verse does not specify who gives the money to whom. Therefore, the Merciful One writes: “When he takes,” and not: When she takes, to teach that only a man may betroth a woman, not vice versa.

<sup>70</sup> The baraita continues to interpret the verse. The phrase: “And engages in sexual intercourse with her” (Deuteronomy 24:1), teaches that a woman can be acquired through intercourse. Why is it necessary for the verse to state this explicitly? Could this not be derived through an a fortiori inference: And if a yevama, who cannot be acquired through money, can be acquired through intercourse, is it not logical that this woman, who can be acquired through money, as derived above, can also be acquired through intercourse?

<sup>71</sup> The Gemara counters: The case of a Hebrew maidservant proves otherwise, as she is acquired through money and yet she cannot be acquired through intercourse. The Gemara dismisses this refutation: What is distinct about a Hebrew maidservant is that her acquisition is not for the sake of marriage, as she is acquired as a servant. Will you say the same with regard to this woman, whose acquisition is for the sake of marriage? Therefore, it is logical that a woman can be acquired through sexual intercourse.

<sup>72</sup> The Gemara reiterates its question. The verse states: “And engages in sexual intercourse with her.” But why do I need a verse for this purpose? It was already derived through the above a fortiori inference. Rav Ashi said: It is needed because it is possible to say that the refutation of the a fortiori inference is present from the outset. From where do you derive that intercourse is a mode of acquisition? From the case of a yevama.

<sup>73</sup> One could say: What is unique about a yevama is that she is bound to the yavam and stands waiting for him to act, and for this reason sexual intercourse is sufficient to render her his wife. Will you say the same with regard to this woman, who is not bound and is not standing waiting for anyone? It is therefore possible that intercourse is not enough to acquire a woman in ordinary circumstances. Consequently, the a fortiori inference does not bear close scrutiny. For this reason an additional proof is required, that the verse states: “And engages in sexual intercourse with her.”

<sup>74</sup> The baraita continues to discuss the modes of betrothal: And from where is it derived that a woman can be acquired even by means of a document? The Gemara answers: This is a logical

derivation, made by an a fortiori inference: And if money, which does not release a woman from her husband, nevertheless can bring her into a husband's domain by betrothal, is it not logical that a document, which releases a woman from her husband in the form of a bill of divorce, can bring her into a husband's domain by betrothal?

<sup>75</sup> The Gemara refutes this claim: What is unique about money is that it can effect acquisition in many contexts, as one can redeem with it consecrated property and second tithe. Will you say that the same also applies to a document, with which one cannot redeem consecrated property and second tithe? The proof that one may redeem consecrated property only by means of money is that it is written: "And he will give the money and it will be assured to him" (see Leviticus 27:19). Consequently, this halakha cannot be derived by logical reasoning.

<sup>76</sup> Therefore, the verse states: "And she leaves his house and goes and becomes another man's wife" (Deuteronomy 24:2). This verse juxtaposes becoming, i.e., betrothal, to leaving, i.e., divorce. Just as leaving is performed through a document, i.e., a bill of divorce, so too, becoming can be performed through a document. The Gemara asks: And let one also juxtapose leaving to becoming, in the opposite direction: Just as becoming is performed through money, so too, leaving can be effected through money.

<sup>77</sup> Abaye says: If so, people will say: Money brings in and money releases; if so, can an advocate [saneigor] become a prosecutor [kateigor]? It is improper for the same mode that draws man and woman together to be used for the termination of their relationship. The Gemara asks: If so, then with regard to a document too, they will say: A document brings in and a document releases; if so, can a prosecutor become an advocate?

<sup>78</sup> The Gemara answers: The words of this betrothal document are discrete, i.e., distinct, and the words of this divorce document are discrete, i.e., the two documents differ in content. The Gemara asks: Here too, this money is discrete and this money is discrete, as one coin is for the betrothal and a different coin is used for the divorce. The Gemara answers: In any event, the coin itself is one, i.e., there is no noticeable difference between the coin used for betrothal and one that would be used for divorce. The same cannot be said with regard to documents, as particular texts serve specific purposes, and the same document could not be used for both betrothal and divorce.

<sup>79</sup> Rava said: The halakha that a woman cannot be divorced by means of money is derived from a different source. The verse states: "And he writes her a scroll of severance" (Deuteronomy 24:3). This indicates that a woman is divorced only through writing and she is not divorced through money. The Gemara asks: But as this point is not stated explicitly and is inferred from the verse, one can instead say the following interpretation: She is divorced through writing, and she is not betrothed through writing. The Gemara rejects this suggestion. It is written: "And she leaves and becomes" (Deuteronomy 24:2), which juxtaposes betrothal to divorce, indicating that betrothal can be effected with a document.

<sup>80</sup> The Gemara asks: And what did you see that you interpreted the verses in this manner? One can say the reverse, that the juxtaposition between betrothal and divorce teaches that in both cases money is effective, while the verse: "And he writes her," means that she can be divorced but not betrothed through writing. The Gemara answers: It stands to reason that when the verse is referring to divorce it excludes a different mode of divorce. Would a verse be referring to divorce and exclude a mode of betrothal?

<sup>81</sup> The Gemara asks: And according to the opinion of Rabbi Yosei HaGelili, who derives a different exposition from this verse, from where does he derive that a woman cannot be divorced through money? The Gemara answers that the verse states: “A scroll of severance,” which teaches: A scroll, i.e., a written document, severs her from her husband, and nothing else severs her from him.

<sup>82</sup> The Gemara asks: And with regard to the Rabbis, who disagree with Rabbi Yosei HaGelili, what do they do with this verse: “A scroll of severance”? How do they interpret it? The Gemara answers: They require it for the halakha that a document of divorce must be a matter that entirely severs him from her. The text of the bill of divorce must completely terminate the relationship between them.

<sup>83</sup> This is as it is taught in a baraita (Tosefta, Gittin 5:12) that if a husband says to his wife: This is your bill of divorce on the condition that you will not ever drink wine, or: On the condition that you will never go to your father’s house, that is not an act of severance, as she remains restricted by him indefinitely. If he stipulates that she may not do so for thirty days, that is an act of severance. The Rabbis derive from the term severance that any indefinite condition prevents the divorce from taking effect.

<sup>84</sup> The Gemara asks: And Rabbi Yosei HaGelili, from where does he derive this requirement that a bill of divorce must completely sever the ties between husband and wife? The Gemara answers that he derives it from the fact that the verse does not utilize the basic form of the word severance, i.e., karet, but rather its conjugate, keritut. This indicates an additional principle that is derived from the term. The Gemara asks: And what do the other Sages derive from the seemingly superfluous use of this word? The Gemara answers: They do not interpret the distinction between karet and keritut.

<sup>85</sup> § The Gemara asks: It has been shown that one mode of betrothal cannot be derived from another mode of betrothal, as explained in the baraita, but why not let one be derived from the other two methods? The Gemara answers: This is not possible, as, which method will be derived from the others? If you say: Let the Merciful One not write that a woman can be betrothed through a document, and one can derive this mode of acquisition from these modes of acquisition, i.e., intercourse and money, this claim can be refuted. What is unique about these other modes is that their benefit is great, relative to a document, as a woman experiences no enjoyment upon receiving a document.

<sup>86</sup> And if you say: Let the Merciful One not write that a woman can be acquired through sexual intercourse, and one can derive this mode from these modes of acquisition, i.e., money and a document, this too is not possible, as, what is unique about these modes of betrothal is that their acquisition is great. In other words, these modes of acquisition apply in many other situations. Therefore, one cannot derive the unusual acquisition of sexual intercourse from these methods.

<sup>87</sup> If you say: Let the Merciful One not write that a woman can be acquired through money, and one can derive this mode from these other modes of acquisition, this is also not possible, as what is unique about these is that they apply against her will. A yavam acquires a yevama through intercourse even against her will, while a document releases a woman from marriage without her consent in the case of a bill of divorce.

<sup>88</sup> And if you would say that money also applies against her will, in the case of a Hebrew maidservant, whose father can sell her to a master without her consent, enabling one to therefore derive from the other two modes of acquisition, i.e., intercourse and a document, that a woman can be acquired through money, this opinion can be refuted as well: In any event, with regard to

marriage, we do not find a case in which a woman can be acquired through money against her will. Consequently, none of these modes of acquisition can be derived from any of the others.

<sup>89</sup> § Rav Huna says: The ceremony of the wedding canopy effects acquisition of the woman, as is derived through an a fortiori inference: If money, which does not enable the wife to partake of teruma, as the daughter of a non-priest betrothed to a priest may not yet partake of teruma, effects acquisition of a woman for betrothal, is it not logical that a wedding canopy, which enables her to partake of teruma, as once a woman has entered the wedding canopy it is permitted for her to partake of teruma due to her husband the priest, should also effect acquisition of a woman by her husband?

<sup>90</sup> The Gemara asks: And does betrothal money not enable a woman to partake of teruma? But didn't Ulla say: By Torah law the daughter of a non-priest who is betrothed to a priest may partake of teruma immediately upon her betrothal, as it is stated: "But if a priest buy any soul, the acquisition of his money, he may eat of it" (Leviticus 22:11), and this woman is considered the acquisition of his money.

<sup>91</sup> And what is the reason that the Sages said that she may not partake of teruma? It is a rabbinic decree lest they pour her a cup of teruma wine in her father's house, where she is staying before her marriage, and she give to her brothers and sisters to drink, as it is prohibited for them to partake of teruma. If so, by Torah law a woman may partake of teruma once she has been betrothed with money. Consequently, the above a fortiori inference that entering a wedding canopy can effect betrothal is invalid.

<sup>92</sup> Rather, the Gemara emends Rav Huna's statement and says that he refutes the opinion that entering a wedding canopy does not effect betrothal as follows: If money, which does not complete the acquisition of a woman, as a young woman remains under her father's authority with regard to certain issues, nevertheless effects acquisition of her for the stage of betrothal,

<sup>93</sup> is it not logical that a wedding canopy, which completes the marriage, since it entirely removes a young woman from her father's authority, can effect acquisition for betrothal on its own? The Gemara rejects this claim: What is unique about money is that it can effect acquisition in many contexts, as one can redeem with it consecrated property and second tithe. This is not so with regard to a wedding canopy, which is ineffective in effecting any acquisition other than marriage. Therefore, in the case of betrothal, money can effect betrothal while a wedding canopy cannot. The Gemara counters: The halakha of sexual intercourse proves otherwise, as this act serves to effect acquisition of a woman despite the fact that it is not a valid mode of acquisition in any other case.

<sup>94</sup> The Gemara counters: What is unique about sexual intercourse is that it effects acquisition of a yevama, whereas a yavam does not acquire her via a wedding canopy. The Gemara answers: Money proves otherwise, as money cannot be used to acquire a yevama, and yet it is a valid mode for acquiring a woman. And the derivation has reverted to its starting point: The aspect of this mode, money, is not like the aspect of that mode, intercourse, and the aspect of that mode, intercourse, is not like the aspect of this mode, money. Their common denominator is that they generally effect acquisition, and they effect acquisition here, with regard to betrothal. Likewise, I will bring the mode of a wedding canopy, which generally effects acquisition, rendering a woman as married, and therefore it should also effect acquisition here.

<sup>95</sup> The Gemara rejects this: What about the fact that the common denominator of money and intercourse is that their benefit, i.e., pleasure, is great? The Gemara says: The case of a document



proves otherwise, as no great pleasure is derived from receiving a document, and yet it can be used to acquire a woman. The Gemara answers: What is unique about a document is that it can release a Jewish woman from her husband in the form of a bill of divorce. The Gemara answers: Money and intercourse prove otherwise, as they do not release a woman and yet they are valid modes of acquisition for betrothal.

<sup>96</sup> And once again, the derivation has reverted to its starting point: The aspect of this mode is not like the aspect of that mode, and the aspect of that mode is not like the aspect of this mode. Their common denominator is that they generally effect acquisition and they effect acquisition here, with regard to betrothal. Likewise, I will bring the mode of a wedding canopy, which generally effects acquisition, and therefore it should also effect acquisition here.

<sup>97</sup> The Gemara again rejects this claim: What about the fact that the common denominator of all three modes of acquisition is that they are effective in certain situations against her will? A bill of divorce, sexual intercourse in the case of a yevama, and money with regard to a Hebrew maidservant all effect acquisition of a woman against her will. Therefore, the mode of a wedding canopy cannot be derived from these methods, as a wedding canopy is effective only when the woman enters it willingly. And in response to this claim Rav Huna would answer: In any event, with regard to marriage, we have not found a case in which a woman can be acquired through money against her will. Consequently, it is possible to learn from the modes of money, a document, and intercourse that a wedding canopy likewise effects betrothal.

<sup>98</sup> Rava said: There are two refutations of this matter, i.e., it is possible to refute Rav Huna's opinion in two ways. One opinion is that we learned in the mishna that a woman can be acquired through three modes of acquisition, and we did not learn that there are four modes. This indicates that there are no other ways to acquire a woman apart from the three listed in the mishna.

<sup>99</sup> And furthermore, Rava disagrees with the main point of the proof, which was based on the fact that a wedding canopy completes a marriage: Doesn't entering a wedding canopy complete a marriage only by means of an act of betrothal, which precedes the wedding canopy? And can one derive that entering a wedding canopy effects acquisition without betrothal from the case of entering a wedding canopy that effects acquisition by means of betrothal? Consequently, entering a wedding canopy alone cannot effect a betrothal.

<sup>100</sup> Abaye said to Rava in response to his two claims: With regard to that which you said, that we learned in the mishna three modes and we did not learn that there are four modes, this is no proof, as the tanna teaches only a matter that is explicitly written in the Torah, and does not teach a matter that is not explicitly written in the Torah, such as a wedding canopy.

<sup>101</sup> And with regard to that which you said: Doesn't entering a wedding canopy complete a marriage only by means of an act of betrothal, this is also what Rav Huna is saying, i.e., Rav Huna incorporates this claim into his reasoning: If money, which does not complete a marriage after money, i.e., after a woman has been betrothed through money an additional monetary gift cannot render her a fully married woman, effects acquisition of the woman in the form of betrothal, is it not logical that entering a wedding canopy, which is more powerful than money in that it completes a marriage after money, should effect acquisition and be used to perform betrothal by itself?

<sup>102</sup> § After discussing the sources for the modes of acquisition listed in the mishna, the Gemara analyzes these halakhot in greater detail. The Sages taught in a baraita (Tosefta 1:1): How is betrothal

performed through money? If a man gave a woman money or an item worth money, and he said to her: You are hereby betrothed [mekuddeshet] to me, or: You are hereby betrothed [me'oreset] to me, or: You are to me as a wife, then she is betrothed. But if she is the one who gave the money to him, and she said: I am hereby betrothed [mekuddeshet] to you, or: I am hereby betrothed [me'oreset] to you, or: I am hereby to you as a wife, then she is not betrothed.

<sup>103</sup> Rav Pappa objects to this: This baraita contains an internal contradiction. The first part of the baraita states: If a man gave a woman money and said to her: You are hereby betrothed to me, from which it may be inferred that the reason the woman is betrothed is that he gave her money and he said the appropriate formula. This leads to the conclusion that if he gave her money and she said the formula, she is not betrothed. Now say the latter clause of the baraita: But if she is the one who gave the money to him, and she said: I am hereby betrothed to you, then it is not a valid betrothal. Rav Pappa infers: The reason that it is not a valid betrothal is that she gave money to him and she said the appropriate formula, from which it may be inferred that if he gave money to her and she said the appropriate formula, then this is a valid betrothal.

<sup>104</sup> The Gemara explains: The first clause of the baraita is exact, and therefore it is correct to infer that which was not explicitly stated from this ruling. By contrast, the latter clause of the baraita was cited for no reason, i.e., it was simply formulated in the opposite manner of the first clause, and the baraita is not exact in the wording of this case. Therefore, one should not analyze this clause too carefully and infer halakhot from it. The Gemara asks: And would the baraita teach in the latter clause a matter that contradicts the first clause?

<sup>105</sup> Rather, the Gemara retracts the previous explanation in favor of the following. This is what the baraita is saying: If he gave the money and he said the formula, it is obvious that it is a valid betrothal. If he gave the money and she said the formula, it is considered as though she gave the money and she said the formula, and therefore it is not a valid betrothal. And if you wish, say a different explanation of the baraita: If he gave the money and he said the formula, she is betrothed. If she gave the money and she said the formula, she is not betrothed at all. If he gave the money and she said the formula, the ruling is uncertain, and by rabbinic law we are concerned that this might actually be a betrothal.

<sup>106</sup> The Gemara continues to discuss the language of betrothal. Shmuel says: With regard to betrothal, if he gave her money or an item worth money, and said to her: You are hereby betrothed [mekuddeshet], or: You are hereby betrothed [me'oreset], or: You are hereby as a wife, then she is betrothed. If he said: I am hereby your man, or: I am hereby your husband, or: I am hereby your betrothed, then there is no room for concern here. In these cases there is no possibility that it might be a valid betrothal, as betrothal is effective only if its formulation defines the relationship in terms of the woman's connection to the man, not the reverse.

<sup>107</sup> And similarly, with regard to divorce, if a husband gave his wife a bill of divorce and said to her: You are hereby sent away, or: You are hereby divorced, or: You are hereby permitted to marry any man, then she is divorced. If he said: I am not your man, or: I am not your husband, or: I am not your betrothed, then there is no room for concern, as a bill of divorce is effective only if its formulation defines the relationship in terms of the woman's connection to the man, not the reverse.

<sup>108</sup> Rav Pappa said to Abaye: Is this to say that Shmuel holds that ambiguous intimations, i.e., incomplete expressions that can be understood only from their context, are considered like

unambiguous intimations? In the cases listed by Shmuel, the woman is betrothed despite the fact that the man did not say: You are hereby betrothed to me, but merely: You are hereby betrothed. The statement itself does not include the detail that the speaker intends to betroth her to himself, and yet Shmuel maintains that the betrothal is valid.

<sup>109</sup> Rav Pappa asks: But didn't we learn in a mishna (Nazir 2a) that one who says: I shall be, is a nazirite? And we discussed this ruling: But perhaps he meant to say: I will be in a fast? And Shmuel said that this mishna is referring to a particular set of circumstances, that he said: I shall be, when a nazirite was passing before him. In that context it is clear the individual meant that he too will be a nazirite. Rav Pappa analyzes this statement: The reason that he is a nazirite is only due to the fact that a nazirite passes before him. But if this were not the case, no, his statement would not be considered a naziriteship vow. This indicates that according to Shmuel, ambiguous intimations are not considered like unambiguous intimations.

<sup>110</sup> The Gemara rejects this: With what are we dealing here? Shmuel is referring to a case where he said the formulation and added the phrase: To me. For example, he said to a woman: You are hereby betrothed to me. The Gemara asks: If so, what is Shmuel teaching us? If the man stated the full formula it is obvious that she is betrothed, as he used the standard expression of betrothal. The Gemara answers: These

<sup>111</sup> last expressions are what he teaches us. The novelty of Shmuel's statement is that with regard to the second set of pronouncements there is no concern at all that a valid betrothal or divorce might have been performed. The Gemara explains why according to Shmuel these pronouncements are not of concern. Here, in the case of betrothal, it is written: "When a man takes a woman" (Deuteronomy 24:1), which indicates that the man is acting to change the status of the woman, and it is not written that he takes himself or gives himself to her, as in the case of one who says: I am hereby your man. And likewise, it is written here, with regard to divorce: "And sends her" (Deuteronomy 24:1), and it is not written that he sends himself from her, as in the case of one who says: I am not your man.

<sup>112</sup> The Sages taught in a baraita that if a man says to a woman: You are hereby my wife, or: You are hereby my betrothed, or: You are hereby acquired to me, then she is betrothed. If he said to her: You are hereby mine, or: You are hereby under my authority, or: You are hereby bound to me, then she is betrothed. The Gemara asks: But as the halakha is that she is betrothed with regard to both sets of statements, let the baraita teach all of them together. Why does the baraita divide these statements into two groups? The Gemara answers: The tanna heard them as two sets of three, and consequently he taught them in that form. He heard each sequence of three cases as a separate halakha from his teachers, and therefore he preserved them as two sets of three.

<sup>113</sup> A dilemma was raised before the Sages: If a man betrothing a woman said: You are hereby unique to me, what is the halakha? Is this woman betrothed? Similarly, if he said to her: You are hereby designated to me, what is the halakha? If he said: You are hereby my helper, what is the halakha? If he said: You are hereby my counterpart, what is the halakha? If he said: You are hereby my gathered one, what is the halakha? If he said: You are hereby my rib, what is the halakha? If he said: You are hereby my closed one, what is the halakha? If he said: You are hereby beneath me, what is the halakha? If he said: You are hereby my seized one, what is the halakha? Finally, if he said: You are hereby my taken one, what is the halakha?

<sup>114</sup> The Gemara suggests: Resolve at least one of these dilemmas, as it is taught in a baraita: With regard to one who says to a woman: You are hereby my taken one, she is betrothed, because it is stated: “When a man takes a woman” (Deuteronomy 24:1).

<sup>115</sup> A dilemma was raised before the Sages: If a man says to a woman: You are hereby my espoused one [ḥarufati], what is the halakha? Come and hear, as it is taught in a baraita that with regard to one who says: You are hereby my espoused one, she is betrothed, as in Judea they call a betrothed woman a ḥarufa, an espoused woman. The Gemara asks: And is Judea most of the world? Even if this is true in Judea, why should a halakha that applies in all locations be based on this local custom?

<sup>116</sup> The Gemara answers that this is what the baraita is saying: With regard to one who says: You are hereby my espoused one, she is betrothed, as it is stated: “Who is a maidservant espoused [neḥerefet] to a man” (Leviticus 19:20). This verse means that she is betrothed to a certain man. And furthermore, the baraita adds another proof for this claim: In Judea they call a betrothed woman a ḥarufa, an espoused woman. The Gemara asks: And is it reasonable to introduce the custom in Judea with the term: And furthermore, as proof to a halakha derived from a verse? Rather, the Gemara explains that this is what the baraita is saying: With regard to one who says: You are hereby espoused, in Judea, she is betrothed, as in Judea they call a betrothed woman a ḥarufa, an espoused woman.

<sup>117</sup> The Gemara asks a general question with regard to all the previously mentioned expressions: With what are we dealing? If we say that these dilemmas are referring to a case where he was not speaking with her about matters of her bill of divorce or her betrothal, but suddenly issued this statement to her, from where does she know what he is saying to her? Out of context, these statements are not necessarily referring to betrothal. Rather, they are referring to a case where he was speaking to her about matters of her bill of divorce and her betrothal. But if so, even though he did not say anything, she would also be betrothed if he gave her money for the purpose of betrothal.

<sup>118</sup> As we learned in a mishna (Ma’aser Sheni 4:7): If one was speaking with a woman about matters of her bill of divorce or her betrothal, and he gave her a bill of divorce or her betrothal, i.e., the money or a document of betrothal, but did not clarify his action, Rabbi Yosei says: This is sufficient for him, i.e., it is a valid divorce or betrothal because she will understand his intention from the context. Rabbi Yehuda says: He is required to clarify the meaning of his behavior. And Rav Huna says that Shmuel says: The halakha is in accordance with the opinion of Rabbi Yosei. If so, even if he said nothing to her she would still be betrothed, and this should certainly be the case if he says one of the statements under discussion.

<sup>119</sup> The Sages say in explanation of this matter: Actually, we are dealing with cases where he was speaking to her about matters of her bill of divorce and her betrothal, and if it was referring to a case where he had given her the money and been silent, so too it would have been a valid betrothal. With what are we dealing here? This is a case where he gave her something and said to her one of these expressions.

<sup>120</sup> And this is the dilemma raised before the Sages: These expressions, did he say them to her for the purpose of betrothal, or perhaps he said them to her for the purpose of labor? He might have intended to hire her, withdrawing his previous intention to betroth her. In other words, his statement in conjunction with his giving of an item renders the meaning of the expression less clear than if he had

remained silent. The Gemara leaves most of these issues unanswered, and states that the dilemmas shall stand unresolved.

<sup>121</sup> § The Gemara discusses the matter itself: If he was speaking to the woman about matters of her bill of divorce or her betrothal, and he gave her bill of divorce or her betrothal to her and did not clarify his intention, Rabbi Yosei says: This is sufficient for him. Rabbi Yehuda says: He is required to clarify. Rav Yehuda says that Shmuel says: And this is the halakha provided that they were discussing the same issue and had not moved on to a different topic.

<sup>122</sup> And likewise, Rabbi Elazar says that Rabbi Oshaya says: And this is the halakha provided that they were discussing the same issue. The Gemara comments: This disagreement is like a dispute between tanna'im on this topic. Rabbi Yehuda HaNasi says: And this is the halakha provided that they were discussing the same issue. Rabbi Elazar bar Rabbi Shimon says: This is the halakha despite the fact that they were not discussing the same issue.

<sup>123</sup> The Gemara asks: And if they were not discussing the same issue, from where does she know what he is saying to her? They have already changed the topic of conversation, and these expressions on their own are ambiguous. Abaye said: They have not changed to an entirely different topic; rather, they changed from discussing one topic to discussing another topic within the same general topic. In other words, they were no longer speaking directly about divorce or betrothal, but they were still discussing related matters. Therefore, his intention was clear to her when he made his statement.

<sup>124</sup> Rav Huna says that Shmuel says: The halakha is in accordance with the opinion of Rabbi Yosei. Rav Yeimar said to Rav Ashi: But if so, with regard to that which Rav Yehuda says that Shmuel says: Anyone who does not know the nature of bills of divorce and betrothals should have no dealings in them, i.e., he may not serve as a judge in cases of this kind lest he permit that which is prohibited, does this principle apply even if that individual did not hear this halakha that Rav Huna says that Shmuel says? Since this type of case is uncommon, should such an individual be considered unfamiliar with the halakhot of bills of divorce and betrothals? Rav Ashi said to him: Yes, it is indeed so; this person is considered to lack the requisite knowledge to deal with these cases. This ruling is an important matter with regard to the halakhot of betrothal, and one who is unaware of it might err.

<sup>125</sup> The Gemara returns to Shmuel's statement. And similarly, with regard to divorce: If a husband gave his wife her bill of divorce and said to her: You are hereby sent away, or: You are hereby divorced, or: You are hereby permitted to marry any man, then she is divorced. The Gemara comments: It is obvious that if a husband gave her a bill of divorce and said to his wife: You are hereby a free woman,

<sup>126</sup> he has said nothing, as this statement is not a valid expression of divorce. Similarly, if a master said to his female Canaanite slave upon emancipating her: You are hereby permitted to any man, he has not said anything.

<sup>127</sup> The Gemara addresses a less straightforward case: If a man said to his wife: You are hereby for yourself, what is the halakha? Do we say that he said this to her only with regard to work? In other words, he might have meant that she may keep her earnings. Or perhaps he said to her that she is on her own entirely, i.e., she is divorced.

<sup>128</sup> Ravina said to Rav Ashi: Come and hear a proof, as it is taught in a baraita: The essence of a bill of manumission is the expression: You are hereby a freeman, or: You are hereby for yourself. Now

consider, if in the case of a Canaanite slave, whose body belongs to the master, even so, when the master says to him: You are hereby for yourself, this is considered as though he said to him that he is entirely on his own and is freed, then all the more so is it not clear that a wife, whose body is not owned by her husband, is divorced by means of this expression?

<sup>129</sup> With regard to the same issue, Ravina said to Rav Ashi: If one said to his Canaanite slave: I have no business with you, what is the halakha? Do we say that when he said to him: I have no business with you, he meant entirely, and therefore the slave is freed? Or did he perhaps say this to him with regard to labor? In other words, it is possible that the master is relieving the slave of his obligation to perform labor without actually emancipating him from slavery.

<sup>130</sup> Rav Nahman said to Rav Ashi, and some say Rav Hanin from Mehoza said to Rav Ashi: Come and hear: With regard to one who sells his Canaanite slave to a gentile, the slave is emancipated but nevertheless requires a bill [get] of manumission from his first master. In this manner the Sages penalized this owner for preventing the slave from fulfilling the mitzvot in which he is obligated.

<sup>131</sup> Rabban Shimon ben Gamliel says in addition to this: In what case is this statement said? This is referring to a situation where he did not write a document [ono] for the slave when he sold him to the gentile. But if he wrote a document for him, this itself is his emancipation. The Gemara asks: What are the circumstances of this document? Rav Sheshet said that he writes to him: When you escape from him I have no business with you. This indicates that the formula: I have no business with you, is a valid expression of emancipation.

<sup>132</sup> § Abaye says: With regard to one who betroths a woman with a loan, i.e., he previously lent this woman money and he now says that she is betrothed to him by means of that loan, she is not betrothed. The reason is that a woman can be betrothed only through her acceptance of money, or an item that has monetary value, at the time of the betrothal. Although this woman owes the man money, at the time the man states that she is betrothed to him, the loan is not in fact money but an obligation. Therefore, he does not actually give her anything at the time of the betrothal. By contrast, if he betroths her by means of the benefit of the loan, she is betrothed. But it is prohibited to do so, due to the fact that betrothing a woman via the benefit of a loan is an artifice used to circumvent the prohibition of receiving interest, as this enables the husband to gain an additional benefit from the loan.

<sup>133</sup> The Gemara clarifies: What is meant by this term: The benefit of the loan? If we say that it means that he established interest upon it when she took the loan, e.g., he said to her that he is lending her four coins in exchange for the repayment of five, and he betroths her by releasing her from the obligation to pay this additional coin, this is a case of full-fledged interest, not merely an artifice used to circumvent the prohibition of receiving interest. He is receiving full payment of the loan and an additional benefit. And furthermore, when he releases her from the obligation to pay this additional coin, he is simply forgoing another obligation she has toward him; he is not giving her anything. This is like a regular case of a betrothal with a loan, and therefore she should not be betrothed.

<sup>134</sup> The Gemara answers: No, it is necessary in a case where he extended the time of the loan for her. When the time for her to repay the loan arrived he extended the deadline and betrothed her with the financial benefit she receives from the extra time he is giving her to use the money. In this case he does betroth her with the value he is giving her at that time, but it is similar to interest, as it is included in the prohibition of interest to pay the creditor for an extension of the time of a loan.

<sup>135</sup> § Rava says: With regard to one who says to another: Here are one hundred dinars for you that I am giving you on the condition that you return them to me, if he gave these one hundred dinars as part of a purchase, he does not acquire the item, as he has not given the seller any money. And similarly, with regard to a woman, if he gave her money for her betrothal on the condition that she return it, she is not betrothed. If one gave money in this manner for the redemption of his firstborn son, for which a priest must receive five sela, his son is not redeemed.

<sup>136</sup> If one does this with regard to teruma, i.e., he gives produce to a priest as teruma on the condition that it will be returned, he has technically fulfilled his obligation of giving. Once he gets the teruma back it belongs to him, as he is the original owner, and although it is prohibited for him to partake of it, as he is a non-priest, he may sell it to a different priest. But it is prohibited to do this, i.e., give teruma in this manner, ab initio, because this priest receiving the teruma appears like a priest who assists at the threshing floor, as he presumably agrees to this arrangement in return for some gain.

<sup>137</sup> The Gemara asks: What does Rava maintain? If he maintains that a gift given on the condition that it is returned is called a gift, this should apply not only to teruma but even to all the other cases, i.e., it should be considered a valid gift in all of the above cases. And if he maintains that a gift of this kind is not called a gift, then even with regard to teruma it should not be considered a legitimate form of giving.

<sup>138</sup> And furthermore, Rava is the one who says: A gift given on the condition that it is later returned is called a gift. As Rava said that if one says to another on the first day of the festival of Sukkot: Take this etrog on the condition that you return it to me, and the recipient takes it, recites a blessing over it, and returns it, he has fulfilled his obligation, despite the fact that one must own the etrog he uses for the mitzva on the first day of Sukkot. And if he does not return it he has not fulfilled his obligation, as he gave him the gift only on the condition that it would be returned. This indicates that in the opinion of Rava, a gift that is given on the condition that it is returned is considered a gift.

<sup>139</sup> Rather, Rav Ashi said: In all of these cases the gift is acquired, except for the betrothal of a woman, because a woman cannot be acquired by means of symbolic exchange. Rav Huna Mar, son of Rav Nehemya, said to Rav Ashi: We say this in the name of Rava in accordance with your opinion, not in accordance with the previous ruling.

<sup>140</sup> § Rava says that if a woman said to a man: Give one hundred dinars to so-and-so

<sup>141</sup> and I will be betrothed to you by means of these one hundred dinars that you give to that individual, she is betrothed, as derived from the halakha of a guarantor. How so? With regard to a guarantor, is it not the case that he commits himself to repaying the debt even though he receives no benefit, as the money from the loan is given to the debtor? And with regard to this woman too, even though she receives no benefit, as the one hundred dinars are given to someone else, nevertheless she commits and transfers herself to the man who gives the money.

<sup>142</sup> The Gemara discusses a similar case: If a man gives one hundred dinars to a woman and says to her: Here are one hundred dinars for you, and with this money you become betrothed to so-and-so, she is betrothed, as derived from the halakha of emancipating a Canaanite slave. With regard to a Canaanite slave, is it not the case that he acquires himself and is freed when someone gives his master money to emancipate the slave, even though he loses nothing of his own? With regard to this man too, i.e., the third party, even though he loses nothing of his own, he acquires this woman by means of the other man's payment.

<sup>143</sup> The Gemara discusses a similar case: A woman says to a man: Give one hundred dinars to so-and-so and I will be betrothed to him. If he gives the money, she is betrothed, as is derived from a combination of the halakha of both of these cases, that of a guarantor and a Canaanite slave. How so? With regard to a guarantor, is it not the case that he commits himself to repaying the debt even though he receives no benefit? With regard to this woman too, even though she receives no benefit, nevertheless she commits and transfers herself.

<sup>144</sup> This consideration alone is insufficient, as one could still ask: Are these cases comparable? In the case of a guarantor, the one who acquires the item in question, which in this case is the commitment of the guarantor, is the one who loses money when he gives the loan. By contrast, in the situation at hand, this man, the third party, acquires the woman and loses nothing of his own. Therefore, the Gemara comments: The emancipating of a Canaanite slave can prove it, as he does not lose his own money and nevertheless he acquires himself.

<sup>145</sup> This consideration alone is insufficient, as one could still ask: Are these cases comparable? There, with regard to a slave, the one who transfers ownership is the one who acquires it, as the master transfers ownership of the slave to the slave, and he himself acquires the money from the donor. Here, this woman transfers herself and she does not acquire anything. Rather, in this regard the case of a guarantor can prove it, as even though he receives no benefit from the creditor, nevertheless, he commits himself, just like the woman in this case. In this manner one can derive that the woman is betrothed in this case from a combination of those two halakhot.

<sup>146</sup> Rava raises a dilemma: If a woman said to a man: Here are one hundred dinars and I will be betrothed to you, what is the halakha? Mar Zutra said in the name of Rav Pappa: She is betrothed. Rav Ashi said to Mar Zutra: If so, this is an example of a case in which property that serves as a guarantee is acquired with property that is not guaranteed. Land is property that serves as a guarantee, and, as derived by way of a verbal analogy, the same applies to people. Money is property that does not serve as a guarantee. Through his acquisition of the money, this man acquires the woman as well.

<sup>147</sup> Rav Ashi asks: But we learned the opposite in a mishna (26a): Property that does not serve as a guarantee can be acquired with property that serves as a guarantee through giving money, through giving a document, or through taking possession of them. By contrast, property that serves as a guarantee cannot be acquired by means of acquiring property that does not serve as a guarantee. Mar Zutra said to Rav Ashi: Do you maintain that she wants her acquisition to be performed by means of money, i.e., he will acquire her as well through monetary acquisition? Not so, as here we are dealing with an important man, as, due to the benefit she receives from the fact that he consents to accept a gift from her, she agrees to transfer herself to him.

<sup>148</sup> The Gemara reverts back to the earlier discussion with regard to the derivation from the cases of a guarantor and a Canaanite slave. It was also stated in the name of Rava: And similarly, with regard to monetary matters, one can conduct a valid acquisition in the modes derived from the cases of a guarantor and a Canaanite slave. The Gemara comments: And it is necessary to state this halakha with regard to both betrothal and monetary acquisitions.

<sup>149</sup> The Gemara elaborates: As, had he taught us only the case of betrothal, one would have said that this halakha applies specifically in that case, because a woman is amenable to be betrothed with any form of benefit, in accordance with the statement of Reish Lakish. As Reish Lakish said: There is a



popular saying among women: It is better to sit as two bodies, i.e., be married, than to sit alone like a widow. A woman prefers any type of husband to being left alone. Consequently, she would be willing to commit herself to betrothal by any form of benefit. But with regard to monetary matters, one might say that these types of unusual acquisitions are not effective.

<sup>150</sup> And conversely, if he had taught us only that this is the halakha with regard to monetary matters, one might have said that it applies solely to a case of this kind, because a monetary claim can be waived. One can relinquish his claim to money that is in someone else's possession without receiving anything in return. But with regard to betrothal, which does not entirely depend on the will and agreement of the woman, as she must actually receive her betrothal money, one might say that the halakhot of a guarantor and a Canaanite slave are not comparable to this case. Therefore, it is necessary to state that this is the halakha in both cases.

<sup>151</sup> § Rava says that if a man says to a woman: Be betrothed to half of me, she is betrothed. But if he said to her: Half of you is betrothed to me, she is not betrothed. Abaye said to Rava: What is different between the two cases that if he says: Half of you is betrothed to me, she is not betrothed? Is it because the Merciful One states: "When a man takes a woman, and marries her" (Deuteronomy 24:1), indicating he must take "a woman," and not half a woman? So too, the Merciful One states: "A man," and not half a man.

<sup>152</sup> Rava said to Abaye: How can these cases be compared? There, a woman is not eligible for two men. If one attempts to betroth half a woman it means he wants to leave her other half for someone else. This is impossible, as a woman cannot be married to two men. But isn't a man eligible to marry two women? And when he declares: Be betrothed to half of me, this is what he is saying to her: If I wish to marry another woman, I will marry another woman.

<sup>153</sup> Mar Zutra, son of Rav Mari, said to Ravina: But in a case where he says to her: Half of you is betrothed to me, let the betrothal spread through all of her, and she will be completely betrothed. Isn't it taught in a baraita (Tosefta, Temura 1:5) that if one says about an animal: The leg of this animal is a burnt-offering, all of it is a burnt-offering, as the sanctity of the leg spreads throughout the animal's entire body?

<sup>154</sup> Mar Zutra adds: And even according to the one who says that it is not entirely a burnt-offering, that statement applies only where he consecrated the leg of the animal, which is not a matter upon which the animal's life depends. It is possible for an animal to survive the removal of a leg. But if one consecrates a matter upon which the animal's life depends, everyone agrees that all of it is a burnt-offering. Here too, as the woman cannot survive without half of her body, why doesn't the betrothal spread throughout all of her?

<sup>155</sup> The Gemara rejects this opinion: Is it comparable? There, in the case of the animal, it involves a creature without intellectual capacity. Here, the issue depends on another mind, that of the woman herself. The woman must indicate that she wants the betrothal to be effective.

<sup>156</sup> This case is comparable only to that halakha which Rabbi Yoḥanan says: With regard to an animal that belongs to two partners, if one of them consecrated the half of it that belonged to him, and he goes back and acquires the other half from his partner and consecrates the other half, it is consecrated, despite the fact that it was consecrated on two separate occasions. But although it is consecrated, it may not be sacrificed, because when he first sanctified it the animal was not fit to be sacrificed. The consecration does not spread throughout the entire animal without the consent of the

other partner. This flaw cannot be remedied and the animal is permanently disqualified from being sacrificed as an offering.

<sup>157</sup> But, as it is consecrated now, this is enough to render a non-sacred animal that is exchanged with it a substitute. If one exchanges this animal with another, non-consecrated, animal, the second animal becomes consecrated as well. And yet its substitution is like it, i.e., it too is consecrated but may not be sacrificed either.

<sup>158</sup> The Gemara comments: One can learn from the statement three halakhot.

<sup>159</sup> Conclude from it that living things can be permanently deferred. Not only an offering that has already been slaughtered, but also a living animal that has been separated as an offering for which it is disqualified, is permanently deferred from being sacrificed on the altar. Likewise here, when he consecrated only half of it, the animal cannot be offered and is rejected. This ruling is in opposition to the claim that only slaughtered animals are permanently rejected.

<sup>160</sup> And furthermore, learn from it that deferral at the outset, i.e., a condition disqualifying the animal from being sacrificed that was present when the animal was first consecrated, is considered a permanent deferral. One does not say that the halakha of deferral applies only to an animal that was eligible to be sacrificed at the time it was consecrated and later was deferred. And learn from it that there is deferral not only with regard to an offering itself, but also with regard to monetary value, i.e., deferral applies even to an animal whose value was consecrated. In this case, half of an animal is not consecrated to be sacrificed as an offering, and yet it can still be permanently deferred from the altar.

<sup>161</sup> § Rava raises a dilemma: If a man says to a woman: Half of you is betrothed with half of one peruta, and half of you with half of one peruta, what is the halakha? Does one say that since he said to her: Half of one peruta, he has divided his statement? In other words, by specifying half of one peruta he intended the betrothal to be performed in two stages, with one half-peruta for each stage, and half of one peruta does not effect betrothal. Or perhaps he was counting toward the full sum of the betrothal money, and intends for the betrothal to take effect at one time.

<sup>162</sup> And if you say that in that case it is considered as though he were counting, then if he said to her: Half of you is betrothed with one peruta and half of you with one peruta, what is the halakha? Does one say that since he said to her: With one peruta and one peruta, he divided his statement and intended to betroth her two halves separately, and one cannot betroth half a woman? Or perhaps anything that he does on that day is considered as if he were counting, i.e., since he intended to complete the action that day it is as though she were betrothed with two perutot.

<sup>163</sup> And if you say that everything he does on that day is considered as if he were counting, then if he said to her: Half of you is betrothed with one peruta today, and half of you is betrothed with one peruta tomorrow, what is the halakha? Does one say that since he said to her: Tomorrow, he has divided his statement, which prevents the days from being combined, or perhaps this is what he is saying to her: The betrothal begins from now, and it will not be completed until tomorrow.

<sup>164</sup> Rava further inquires: If he said to her: Your two halves are betrothed with one peruta, what is the halakha? Here, he certainly spoke to her at one time, i.e., he did not divide his statement into two, and therefore it should be a valid betrothal, or perhaps a woman may not be betrothed in halves at all. No resolution was found for any of these questions, and therefore the Gemara says that the dilemmas shall stand unresolved.

<sup>165</sup> Rava raises another dilemma. If one man said to another: Let your two daughters be betrothed to my two sons with one peruta, what is the halakha? The Gemara explains the two sides of the dilemma: Do we follow the giver and recipient, and as the giver bestows one peruta and the recipient receives one peruta there is money here, since one peruta is considered money and therefore the betrothal is valid. Or perhaps we follow them, i.e., those affected by the issue, in this case the sons and the daughters, and there is not one peruta for each of these individuals, and therefore the betrothal is not valid? This problem is also left unanswered, and therefore the Gemara says that the dilemma shall stand unresolved.

<sup>166</sup> Rav Pappa raises a dilemma: If one man said to another: I hereby acquire your daughter and your cow with one peruta, what is the halakha? Do we say that he meant: Your daughter should be betrothed with half of one peruta and your cow purchased with half of one peruta? In that case neither the betrothal nor the acquisition take effect. Or perhaps he meant: Your daughter should be betrothed with one peruta and your cow should be acquired by pulling? No satisfactory answer was found in this case either, and the Gemara says that the dilemma shall stand unresolved.

<sup>167</sup> Rav Ashi raises a dilemma: If he said: I hereby acquire your daughter and your land with one peruta, what is the halakha? Does this mean: Your daughter should be betrothed with half of one peruta and your land should be acquired with half of one peruta? Or perhaps it means: Your daughter should be betrothed with one peruta and your land should be acquired through the act of taking possession? This question is also left unanswered, and the Gemara again says that the dilemma shall stand unresolved.

<sup>168</sup> § The Gemara relates: There was a certain man who betrothed a woman with silk [beshira'ei] garments. Rabba said: An appraisal of the value of the garments is not necessary, as they are certainly worth more than one peruta. Rav Yosef said: An appraisal of the value of the garments is necessary, and as the man did not determine the value of the silk garments before the betrothal, the betrothal is invalid. The Gemara comments: If he said to her that she should become betrothed to him by any amount, regardless of the value of the silk garments, everyone agrees that the garments do not require appraisal, as they are undoubtedly worth more than one peruta.

<sup>169</sup> Conversely, if he said to her that they are worth fifty dinars, and they are not worth fifty dinars, then everyone agrees that the betrothal is not valid, as they are not worth the amount he specified. They disagree when he said that they are worth fifty dinars, and in actuality they are worth fifty dinars. Rabba said: An appraisal of the value of the garments is not necessary before the betrothal, as they are worth fifty dinars. Rav Yosef said: An appraisal of the value of the garments is necessary, because the woman herself is not an expert in appraisal and she does not rely on his assessment. Since she is unsure if the garments are actually worth fifty dinars as he claimed, she does not agree to be betrothed.

<sup>170</sup> There are those who say that even in a case where he says to her: Be betrothed to me with these silk garments, whatever they are worth, the amora'im disagree with regard to the halakha. The reason for the dispute in this case is as follows. Rav Yosef said: An item worth money is like money in every way. Just as money is set, i.e., it has a clearly defined value,

<sup>171</sup> so too, an item worth money must be set, i.e., it must have a clearly defined value.

<sup>172</sup> Rav Yosef said: From where do I say this opinion? As it is taught in a baraita with regard to redeeming a Hebrew slave: "He shall give back the price of his redemption out of the money that he

was bought for” (Leviticus 25:51), which indicates: He is acquired specifically through money and he is not acquired through grain or vessels.

<sup>173</sup> Rav Yosef explains: What are the circumstances of these grains and vessels? If we say that a Hebrew slave cannot be acquired through them at all, as money alone may be used, the Merciful One states: “He shall give back the price of his redemption,” which serves to include all modes of repayment as valid equivalents of money, i.e., an item worth money is the same as money. There is no requirement to use money in particular; it is also possible to use items with monetary value.

<sup>174</sup> And if you say that they do not have the value of one peruta, why mention specifically grain and vessels? Even money that is not worth one peruta cannot be used for acquiring a slave. Rather, is it not speaking here about a case where the grain and vessels do have the value of one peruta, but since they lack a set value, no, a Hebrew slave cannot be redeemed with them? The comparison with money teaches that a Hebrew slave can be redeemed only with an item that has a clearly defined value, like money.

<sup>175</sup> And the other Sage, Rabba, who maintains that appraisal is not necessary, would respond: The tanna is referring to an item worth one peruta, but he is not teaching that one cannot redeem a slave with items whose value is not set. Rather, this is what he is saying: A Hebrew slave is acquired through the mode of money, and he is not acquired through the mode of grain or vessels. And what is this mode particular to the acquisition of grain and vessels? This is referring to symbolic exchange. A slave cannot be acquired through the mode of acquisition of symbolic exchange.

<sup>176</sup> The Gemara notes: This explanation is valid only according to those who say that grain can be acquired through the mode of exchange; but according to the opinion of Rav Nahman, who said that produce cannot effect symbolic exchange, as this mode of acquisition applies only to vessels, what can be said? Why does the tanna mention grain if grain cannot be used in symbolic exchange? Rather, the Gemara rejects this explanation in favor of the following: Actually, this is referring to a case where the grain and utensils do not have the value of one peruta. And as for that which you said: Why mention specifically grain and vessels; even money that is not worth one peruta cannot acquire either, one could say that the tanna is speaking utilizing the style of: It is not necessary.

<sup>177</sup> The Gemara elaborates: It is not necessary to state with regard to money that if it has the value of one peruta, yes, one effects acquisition with it, and if not, then no, one cannot effect acquisition with it. But with regard to grain and vessels, one might say that as their benefit is readily available, i.e., one can enjoy them immediately in their current state, perhaps the slave decides and transfers ownership of himself to the master by even less than the worth of one peruta. Therefore, the tanna teaches us that an article less than the value of one peruta cannot effect acquisition notwithstanding the above reasoning.

<sup>178</sup> Rav Yosef said: From where do I say that betrothal can be effected only with an item with a clearly defined value? As it is taught in a baraita (Tosefta, Bekhorot 6:4), that if one says to a priest: This calf should be for the redemption of my firstborn son, or: This cloak should be for the redemption of my firstborn son, then he has said nothing. But if he said: This calf worth the value of five sela should be for the redemption of my firstborn son, or: This cloak worth the value of five sela should be for the redemption of my firstborn son, then his son is redeemed.

<sup>179</sup> The Gemara clarifies: What are the circumstances with regard to this redemption with a calf or a cloak that has no clearly defined value? If we say that they are not worth five sela, is it in his power

to give a priest less than the established amount? Why would it even be considered that perhaps the son is redeemed? Rather, is it not referring to a case where even though they are worth this amount, one may not redeem with them in the case of the first clause since their value is not set? This shows that there is a difference between an item that has a set value and one that does not.

<sup>180</sup> The Gemara rejects this suggestion: No; actually, this is referring to a case where the calf or cloak is not worth five sela, and the latter clause is referring to a case where the priest accepted upon himself to value the items as though they were worth this amount, which is why the son is redeemed. This is like this incident in which Rav Kahana, who was a priest, took a cloth [sudara] from the house of a man obligated to perform the redemption of his firstborn son. Rav Kahana said to the man: For me, I view this cloth as though it were worth five sela.

<sup>181</sup> Rav Ashi said: We said that it is possible to redeem one's son in this manner only when the priest is an individual such as Rav Kahana, who is a great man and is required to wear a cloth on his head. It was common practice for important people to wear a scarf on their heads. But with regard to everyone else, i.e., those who do not wear these cloths and cannot say it is worth that amount to them, no, they may not perform the redemption of the firstborn son in this manner. The Gemara cites a proof that a distinguished individual who needs a cloth will pay a large amount for one. This is like this incident in which Mar bar Rav Ashi bought a cloth from Rabba's mother from Kovei for thirteen dinars, despite the fact that it was worth ten, because he needed a cloth.

<sup>182</sup> § Rabbi Elazar says: If a man said to a woman: Be betrothed to me with one hundred dinars, and he gave her one dinar out of the one hundred, she is betrothed immediately and he must subsequently complete the payment of the remainder of the amount he promised her. What is the reason for this? Since he said to her: Be betrothed to me with one hundred dinars, and yet he gave her only one dinar, he is like one who said to her: Be betrothed to me on the condition that I will give you one hundred dinars. In other words, he betroths her now with one dinar on the condition he will pay the remaining ninety-nine in the future. The betrothal therefore takes effect immediately, and he owes her the rest of the one hundred dinars.

<sup>183</sup> The Gemara adds: And this is in accordance with the opinion that Rav Huna says that Rav says: With regard to anyone who states a provision employing the phrase: On the condition, it is tantamount to his stipulating that the agreement take effect retroactively from now. An agreement stipulated by means of the phrase: On the condition, takes effect immediately. This is not like an ordinary agreement, which takes effect only after the condition has been fulfilled.

<sup>184</sup> The Gemara raises an objection from a baraita (Tosefta 2:10). If a man says to a woman: Be betrothed to me with one hundred dinars, and while he was counting the money, one of them wanted to retract the betrothal, it is in the power of either of them to do so even when only the last dinar remains to be given. This indicates that the betrothal does not take effect until the entire one hundred dinars has been paid.

<sup>185</sup> The Gemara answers: With what are we dealing here? This is a case where he says to the woman: Be betrothed to me with this one hundred dinars. In this case the entire one hundred dinars, not just the first dinar, constitutes the betrothal money. The Gemara raises a difficulty with this answer: From the fact that the latter clause of the baraita uses the expression: With this one hundred dinars, it can be inferred that the first clause is dealing with an unspecified one hundred dinars.

<sup>186</sup> As it is taught in the latter clause of that baraita, if he said to a woman: Be betrothed to me with this one hundred dinars, and it was found to be one hundred dinars less a dinar, or if it included a dinar of copper instead of silver, she is not betrothed. If one of the dinars was found to be a flawed dinar, i.e., it was a silver dinar but it was so worn that it would not be universally accepted, she is betrothed, and he must exchange that dinar for a different one. Since the latter clause of the baraita emphasizes the term: This one hundred dinars, evidently the first clause of the baraita must be referring to an unspecified one hundred dinars.

<sup>187</sup> The Gemara rejects this opinion: No; one can say that the first clause and the latter clause are both referring to a case where he said: With this one hundred dinars, and the latter clause is explaining the first clause, as follows: If one of them wishes to retract the betrothal, it is in the power of either of them to do so even when only the last dinar remains to be given. How so? This is referring to a case where he said to her: With this one hundred dinars.

<sup>188</sup> The Gemara comments: And so too, it is reasonable to explain the baraita this way, as, if it enters your mind that the first clause is referring to an unspecified one hundred dinars, consider the following: Now if it is not a betrothal in a case involving an unspecified one hundred dinars, and she can retract her agreement to the betrothal, is it necessary to say that she can retract it when he says: With this one hundred dinars? If that were the correct interpretation of the first clause, the ruling in the last clause would be unnecessary.

<sup>189</sup> The Gemara rejects this proof: If it is due to that reason, there is no conclusive argument, i.e., the proof of the argument is inconclusive. The reason is that one could say that the tanna taught the latter clause to reveal the meaning of the first clause. The function of the latter clause is not to teach a novel halakha, but to preempt a mistaken reading of the first clause. The latter clause was stated so that you should not mistakenly say that the first clause is referring only to a situation when he said: With this one hundred dinars, but in a case of an unspecified one hundred dinars, it would be a betrothal. Therefore, the tanna taught in the latter clause: With this one hundred dinars, which teaches by inference that the first clause is referring to an unspecified one hundred dinars, and even so it is not a betrothal. Although this proof is rejected, the Gemara remains with its explanation that the first clause is referring to a case where he said to her: With this one hundred dinars.

<sup>190</sup> Rav Ashi said: It is unnecessary to explain that the first clause of the baraita is referring to a case where he said: With this one hundred dinars, as a situation where he was counting the money is different. The reason is that she has the entirety of the one hundred dinars in mind, and therefore she will not be content with some of the money. His continuous action indicates that they both expect that he will give her the entire one hundred dinars, and consequently both parties can retract their agreement until he finishes counting.

<sup>191</sup> The Gemara further analyzes the baraita: What are the circumstances of this copper dinar mentioned here? If she knows that it is a copper dinar, she knew and accepted this coin as a dinar. If so, she cannot later retract her betrothal. The Gemara answers: No; it is necessary in a case where he gave her this dinar at night and at the time she did not see that it was copper. Alternatively, it was found among the other dinars, and she did not notice that one of them one was copper.

<sup>192</sup> The Gemara further asks: What are the circumstances of this flawed dinar, also mentioned in the baraita? If it cannot be spent, i.e., it cannot pass as a silver dinar, this is exactly like a copper dinar, as

it too is not worth a full dinar. Rav Pappa said: This is referring to a case where the dinar can be spent with difficulty, i.e., it is difficult, but not impossible, to find someone who will accept it.

<sup>193</sup> § Rava says that Rav Naḥman says: If one said to a woman: Be betrothed to me with one hundred dinars, and instead of giving it to her he gave her collateral for the money, she is not betrothed.

<sup>194</sup> There is no one hundred dinars here, as he has not yet given her one hundred dinars, and there is no collateral here, since this collateral is not a gift but merely a security. He has therefore not given her anything. Rava raised an objection to Rav Naḥman from the following baraita: If he betrothed her with collateral, she is betrothed. The Gemara answers: There, it is referring to collateral belonging to other people, which was in the possession of the man who betrothed her, and this is in accordance with the opinion of Rabbi Yitzḥak.

<sup>195</sup> As Rabbi Yitzḥak says: From where is it derived that a creditor acquires collateral, i.e., that the individual in possession of the collateral has the actual rights to it? As it is stated: “You shall surely restore him the pledge when the sun goes down that he may sleep in his garment, and bless you; and it shall be righteousness to you” (Deuteronomy 24:13). If the creditor does not acquire the pledge or collateral, from where does this considering his return of the collateral as righteousness stem? The creditor is not giving an item belonging to him; why is this considered a righteous act? Rather, from here it is derived that a creditor acquires collateral to a certain extent.

<sup>196</sup> The Gemara relates: The sons of Rav Huna bar Avin bought a certain maidservant on the condition that they would pay with copper perutot. They did not have the money at the time, and therefore they gave a piece of silver [naskha] for her as collateral. Ultimately, the price of the maidservant increased and the sellers wanted to cancel the sale. They came before Rabbi Ami for his ruling and he said to them: There are no perutot here, and there is no piece of silver here either. There was no valid act of acquisition at all because they did not actually give the money, and the collateral does not transfer ownership.

<sup>197</sup> § The Sages taught in a baraita (Tosefta 2:9): If a man said to a woman: Be betrothed to me with one hundred dinars, and she took it from his hand and threw it into the sea, or into the fire, or into anything that destroys, she is not betrothed. The Gemara expresses surprise at this ruling: The baraita indicates that she is not betrothed only if the one hundred dinars are destroyed, but if she threw the coins before him but did not destroy them, that is a betrothal. Why should this be? By throwing the coins at him she is effectively saying to him: Take this; I do not want your betrothal.

<sup>198</sup> The Gemara answers: The tanna of the baraita is speaking using the style of: It is not necessary, as follows: It is not necessary to state in a case where she throws the money before him that it is not a betrothal, as her action indicates that she does not want to be betrothed. But when she throws it into the sea or into the fire, one might say that since she is obligated to pay for the money he gave her, perhaps she betrothed herself with the money she received. And as for the reason why she did this act of destroying the money, she thought: I will test this man to see if he is an individual of an angry temperament or not. Therefore, the tanna teaches us that even in that case it is not a betrothal.

<sup>199</sup> The Sages taught in a baraita (Tosefta 2:9): If a man said to a woman: Be betrothed to me with one hundred dinars, and she said to him: Give the money to my father, or: Give the money to your father, she is not betrothed. If she said: Give the money to my father, or Give the money to your father on the condition that he accepts them for me, she is betrothed.

<sup>200</sup> The Gemara comments: The baraita taught the case where she said: Give the money to my father, to convey the far-reaching nature of the halakha of the first clause. If she simply said that he should give the money to anybody else, even her own father, whom it can be assumed she wants to benefit, she is still not betrothed. And the baraita taught the case where she said: Give the money to your father, to convey the far-reaching nature of the halakha of the latter clause. If she said that someone else should receive the money on her behalf, it is a valid betrothal even if she said the money should be given to his father.

<sup>201</sup> The Gemara cites a similar case. If he said to her: Be betrothed to me with one hundred dinars, and she said to him: Give them to so-and-so, she is not betrothed. But if she said to him: On the condition that he accepts them for me, she is betrothed. The Gemara comments: It is necessary to issue this ruling, despite the fact that it is apparently identical to the previous halakha.

<sup>202</sup> The Gemara elaborates: This is because if the tanna had taught us only the case where she said: Give the money to my father, or: Give the money to your father, one would say that it is in that case there, when she said: On the condition that one of these relatives accepts them for me, that it is a betrothal, as she relies on them and she thinks: They will do my bidding for me and will hold this money on my behalf. But if she says: Give it to so-and-so, someone who is not related to either of them, no, the betrothal is not valid.

<sup>203</sup> And conversely, if the tanna had taught us only the case of so-and-so, one might say: It is here, when she said: Give it to so-and-so, that it is not a betrothal, as she is not close to him and is not interested in giving him this money as a gift. But if she said: Give the money to my father, or: Give the money to your father, to whom she is close, one might say that she gave it to them as a gift, i.e., she accepted the sum as her betrothal money and decided to give it as a gift. If so, she should be betrothed. It was therefore necessary for the tanna to issue both rulings and clarify that she is not betrothed in either case.

<sup>204</sup> The Sages taught: If a man said to a woman: Be betrothed to me with one hundred dinars, and she said to him: Place them on a rock, she is not betrothed. And if the rock was hers, she is betrothed. Rav Beivai raises a dilemma: If the rock was the property of both of them, what is the halakha? No answer was found, and the Gemara states that the dilemma shall stand unresolved.

<sup>205</sup> The Gemara discusses a similar case. If a man said to a woman: Be betrothed to me with a loaf of bread, and she said to him: Give it to a dog, she is not betrothed. And if this dog was hers, she is betrothed. Rav Mari raises a dilemma: If a dog was chasing her to bite her, and she said to him: Give the loaf to the dog, what is the halakha?

<sup>206</sup> The Gemara presents the two sides of the dilemma: Does one say that she commits herself to betrothal and transfers herself to him through this benefit that she receives by being rescued from the dog? Or perhaps she can say to him: By Torah law you are required to rescue me, due to the injunction: "Neither shall you stand idly by the blood of your neighbor" (Leviticus 19:16), and therefore she is not betrothed with the loaf because she does not owe him anything. This problem is also left unanswered, and the Gemara again states that the dilemma shall stand unresolved.

<sup>207</sup> If a man said to a woman: Be betrothed to me with a loaf of bread, and she said: Give it to a poor person, she is not betrothed, even if it was a poor person who is dependent upon her, i.e., a poor person who regularly receives food from that woman. What is the reason for this? She could say to



him: Just as I am required to give charity to him, so too you are required to give charity to him. Therefore, this donation is not an indication that she has agreed to the betrothal.

<sup>208</sup> The Gemara relates: There was a certain man who was selling

<sup>209</sup> beads [humrei] of glass [petakhyata]. A certain woman came and said to him: Give me one string. He said to her: If I give you this string will you be betrothed to me with it? She said to him: Give, give. Rav Ḥama said: Any use of the expression: Give, give, is nothing. Although she said: Give, give, she did not agree to the condition, as she was mocking him and had no intention of actually becoming betrothed.

<sup>210</sup> The Gemara relates a similar incident: There was a certain man who was drinking wine in a store. A woman came in and said to him: Give me one cup of wine. He said to her: If I give you a cup of wine will you be betrothed to me with it? She said to him: Give to drink, give it to me to drink. Rav Ḥama said that any use of the expression: Give to drink, give it to me to drink, is nothing, i.e., she certainly did not intend to accept the condition and she is not betrothed.

<sup>211</sup> The Gemara further relates: There was a certain man who was picking dates from a date tree. A certain woman came and said to him: Throw me two. He said to her: If I throw two dates to you will you be betrothed to me with them? She said to him: Throw, throw. Rav Zevid said: Any use of the expression: Throw, throw, is nothing, and she is not betrothed.

<sup>212</sup> A dilemma was raised before the Sages: If she said: Give, or: Give to drink, or: Throw, without the additional emphasis of the repetition, what is the halakha? Does this straightforward statement indicate that she actually meant him to give it to her in accordance with his stated condition, or does she not agree to betrothal even here? Ravina said: She is betrothed. Rav Sama bar Rakta said in the form of an oath: By the king's crown! She is not betrothed. The Gemara states: And the halakha is that she is not betrothed.

<sup>213</sup> The Gemara issues further rulings concerning the previous cases. And the halakha is: With regard to silk garments that are worth more than one peruta, appraisal is not necessary before a woman can be betrothed with them. And the halakha is in accordance with the opinion of Rabbi Elazar, that if a man promised a woman one hundred dinars as betrothal money and gave her only a dinar, she is betrothed. And the halakha is in accordance with the opinion of Rava, who said that Rav Naḥman said that if he promised one hundred dinars and gave her only collateral, this is not a valid betrothal.

<sup>214</sup> § The Sages taught: How is betrothal performed with a document? If he wrote the following for a young woman's father on paper or earthenware, despite the fact that the paper or earthenware is not worth one peruta: Your daughter is betrothed [mekuddeshet] to me, or: Your daughter is betrothed [me'oreset] to me, or: Your daughter is to me as a wife, then she is betrothed. There is no requirement for the paper or earthenware to be worth one peruta, as she is not betrothed through the value of the paper or earthenware.

<sup>215</sup> Rabbi Zeira bar Memel objects to this description of the writing of the document: But this document is not comparable to a bill of sale. There, in the case of a bill of sale, the seller is the one who writes to the buyer: My field is sold to you. Here, the husband, who is akin to a buyer, is the one who writes: Your daughter is betrothed to me.

<sup>216</sup> Rava said: There, in the case of a sale, the formulation of the document is taken from the context of the verse, and here, in the case of betrothal, the formulation of the document is likewise taken

from the context of the verse. Rava elaborates: There, with regard to a sale, it is written: “And sells of his ancestral land” (Leviticus 25:25), which indicates that the Merciful One renders the transaction dependent on the seller. Here, it is written: “If a man takes a woman” (Deuteronomy 22:13), meaning that the Merciful One renders the betrothal dependent on the husband.

<sup>217</sup> The Gemara asks: There, in the case of a sale, it is also written: “Men shall buy [yiknu] fields for money” (Jeremiah 32:44), which indicates that the matter depends upon the buyer. The Gemara answers: Read into the verse: Shall sell [yikkanu]. The Gemara asks: What is the reason that you read it as yikkanu; because it is written in the verse in Leviticus: “And sells,” and there is a preference to have the verse from the Prophets accord with that of the Torah? So too, instead of: “If a man takes [ki yikah]” (Deuteronomy 22:13), read into the verse: When he is given [ki yakiah], as it is written: “I gave my daughter to this man” (Deuteronomy 22:16), so that the verses will accord with each other.

<sup>218</sup> Rather, Rava said: There is no proof from the verses for these rulings, as they are a halakha received through tradition, and the Sages based them on the verses. And if you wish, say: There too, in the case in Jeremiah, it is written with regard to the buyer: “And I took the deed of purchase” (Jeremiah 32:11), thereby indicating that it is the seller who writes the document.

<sup>219</sup> And Rava says that Rav Nahman says: If he wrote the following for him on paper or earthenware, despite the fact that the paper or earthenware is not worth one peruta: Your daughter is betrothed [mekuddeshet] to me, or: Your daughter is betrothed [me’oreset] to me, or: Your daughter is to me as a wife, whether he gave it to her father or whether he gave it directly to her, she is betrothed with the consent of her father. And this is the halakha provided that she has not yet reached her majority, before which her father alone has the authority to betroth her.

<sup>220</sup> If he wrote for her on paper or earthenware, despite the fact that the paper or earthenware is not worth one peruta: You are hereby betrothed [mekuddeshet] to me, or: You are hereby to me as a wife, or: You are hereby betrothed [me’oreset] to me, then she is betrothed whether he gave it to her father or to her, as long as this was with her consent. And this is the halakha provided that she has reached her majority and is under her own authority.

<sup>221</sup> § Rabbi Shimon ben Lakish raises a dilemma: With regard to a document of betrothal that was written not for her sake, i.e., not for this particular woman, what is the halakha? Do we juxtapose the halakhot of the modes of becoming betrothed to the halakhot of the modes of leaving a marriage, i.e., divorce? If so, one should say: Just as

<sup>222</sup> we require that the document of leaving, i.e., a bill of divorce, must be written specifically for her sake, so too, we require that the document of becoming betrothed be written for her sake. Or perhaps we juxtapose the different modes of becoming betrothed to each other and say: Just as we do not require that becoming betrothed with money must be carried out with coins minted for her sake, so too, we do not require that becoming betrothed with a document must be with a document written for her sake.

<sup>223</sup> After he raised the dilemma, Rabbi Shimon ben Lakish then resolved it. We juxtapose becoming betrothed to leaving a marriage, as the verse states: “And she departs out of his house, and goes and becomes” (Deuteronomy 24:2). This shows that the halakhot of a betrothal document are derived from those of a bill of divorce, and therefore a document of betrothal must also be written for her sake.

<sup>224</sup> It was stated that amora'im disagreed with regard to the following issue: If a man wrote a document of betrothal for her sake but without her consent, i.e., she did not know at the time that they were writing it but accepted it afterward, Rava and Ravina say: She is betrothed. Rav Pappa and Rav Sherevya say: She is not betrothed. Rav Pappa said: I will say their reason and I will say my reason. I will state their reason, as it is written: "And she departs out of his house, and goes and becomes," by which the verse juxtaposes becoming betrothed to leaving a marriage. Just as a bill of divorce, written for leaving a marriage must be written for her own sake but can be written without her consent, so too, a document written for becoming betrothed must be written for her own sake and can even be without her consent.

<sup>225</sup> And I will say my reason: The verse says: "And she departs out of his house, and goes and becomes." The verse juxtaposes becoming betrothed to leaving a marriage. Just as with regard to a bill of divorce, written for leaving a marriage, we require the consent of the one transferring ownership, i.e., the man, as he divorces and transfers authority of the woman to herself, so too, with regard to a document written for becoming betrothed, we require the consent of the one transferring ownership, which in this case is the woman, who must agree to the marriage.

<sup>226</sup> The Gemara raises an objection from a mishna (Bava Batra 167b) against the opinion that she is betrothed if the document was written without her consent. One writes documents of betrothal and marriage only with the consent of both the man and woman. What, is the mishna not referring to actual documents of betrothal and marriage, which indicates that the document must be written with the woman's consent? The Gemara rejects this proof: No, this is referring to documents of stipulation, which contain the details of the dowry. And this statement is in accordance with that which Rav Giddel says that Rav says.

<sup>227</sup> As Rav Giddel says that Rav says: If the father of one member of the couple says to the father of the other: How much are you giving to your son? And he answers: Such and such, and adds: How much are you giving to your daughter? And the other responds: Such and such, then if they, the couple, subsequently arose and became betrothed, they acquire everything that was promised. These are the matters that are acquired through speech, and they do not require an act of acquisition. The documents of betrothal mentioned here that require the woman's consent are those which contain this type of monetary obligation, not actual documents of betrothal.

<sup>228</sup> § The mishna teaches that a woman can be betrothed through sexual intercourse. The Gemara asks: From where do we derive this? Rabbi Abbahu said that Rabbi Yoḥanan said that the verse states: "If a man be found lying with a married woman [beulat ba'al]" (Deuteronomy 22:22). This teaches that he becomes her husband [ba'al] by means of sexual intercourse [be'ila]. Rabbi Zeira said to Rabbi Abbahu, and some say it was Reish Lakish who said this to Rabbi Yoḥanan: Is this other proof, taught by Rabbi Yehuda HaNasi, unacceptable: "When a man takes a woman and engages in sexual intercourse with her" (Deuteronomy 24:1)? This verse teaches that she can be acquired through intercourse.

<sup>229</sup> The Gemara answers that the verse cited by Rabbi Yehuda HaNasi is insufficient proof that a woman can be betrothed via intercourse, as, if this halakha were derived only from there, I would say that she is not considered his wife unless he first betroths her through money, indicated by the phrase "takes a woman," and then engages in intercourse with her. This is the only valid mode of betrothal,

and intercourse alone is not enough. Therefore, the verse states “a married woman [beulat ba’al]” and teaches us that intercourse by itself is a valid means of betrothal.

<sup>230</sup> Rabbi Abba bar Memel objects to this: The above suggestion, that both money and sexual intercourse are required for betrothal, cannot be the correct interpretation of the verse: “When a man takes a woman and engages in sexual intercourse with her.” This is because, if it is so, that a woman can be acquired only through both betrothal money and intercourse, the case of one who engages in intercourse with a betrothed young woman, concerning which the Merciful One states in the Torah that he is punished by stoning (see Deuteronomy 22:23–24), how can you find a case where he is liable to be punished in this manner?

<sup>231</sup> Rabbi Abba bar Memel elaborates: If this is referring to a case where he betrothed her with money and then engaged in sexual intercourse with her, she is a non-virgin, and the punishment of stoning applies only to one who engages in intercourse with a betrothed young virgin. If it is referring to a case where he betrothed her with money and did not engage in intercourse with her, this is nothing, as the betrothal has not been completed. The Rabbis said before Abaye: You find it in a case where he betrothed her with money and then the betrothed man engaged in intercourse with her in an atypical manner, i.e., anal intercourse. Despite the fact that she is still a virgin, the betrothal has taken effect by means of this type of sexual intercourse.

<sup>232</sup> Abaye said to those Sages: The verse cannot be explained in that manner, as Rabbi Yehuda HaNasi and the Rabbis disagree only with regard to another man, i.e., whether a woman is considered to be a virgin after engaging in anal intercourse with another man. But with regard to her husband, everyone agrees that if he engages in intercourse in an atypical manner with her he has rendered her a non-virgin. If so, she is no longer considered a virgin with regard to the halakha of a betrothed young woman.

<sup>233</sup> The Gemara clarifies: What is the dispute to which Abaye refers? As it is taught in a baraita (Tosefta, Sanhedrin 10:4): If ten men engaged in sexual intercourse with a betrothed young woman, and she is still a virgin, as they engaged in anal intercourse with her, they are all punished by stoning. Rabbi Yehuda HaNasi says: I say that the first one is punished by stoning, as he engaged in intercourse with a virgin young woman, but all the others are punished by strangulation. Once the first man engages in intercourse with her she is no longer considered a virgin, even if he engaged in anal intercourse with her.

<sup>234</sup> Rav Naḥman bar Yitzḥak said a different answer to Rabbi Abba bar Memel’s question: You find a situation where a man who engages in intercourse with a betrothed young woman is punished by stoning in a case where he betrothed her with a document. Everyone agrees that since a document, i.e., a bill of divorce, completely removes a woman from her husband, without the need for an additional act, it also completely brings her into the state of betrothal. If a young woman is betrothed by means of a document, she can be a betrothed young woman while remaining a virgin.

<sup>235</sup> The Gemara returns to the different derivations of Rabbi Yehuda HaNasi and Rabbi Yoḥanan. And Rabbi Yoḥanan, who maintains that the mode of betrothal through intercourse is derived from the verse: “If a man be found lying with a married woman [beulat ba’al]” (Deuteronomy 22:22), what does he do with this verse: “When a man takes a woman and engages in sexual intercourse with her” (Deuteronomy 24:1)? The Gemara answers: He requires that verse for a different halakha, as he

maintains that it teaches that this woman can be acquired through intercourse, but a Hebrew maidservant cannot be acquired through intercourse.

<sup>236</sup> As it might enter your mind to say: Let the halakha of a Hebrew maidservant be derived through an a fortiori inference from the halakha of a yevama: Just as a yevama, who cannot be acquired through money at all, nevertheless can be acquired through intercourse, which indicates that the ability of an act of sexual intercourse to effect acquisition is greater than that of money, is it not logical that this Hebrew maidservant, who can be acquired through money, can also be acquired through intercourse?

<sup>237</sup> The Gemara rejects this opinion: What is unique about a yevama is that she is bound and standing waiting for the yavam, i.e., there is already a connection between them. Perhaps it is for this reason that intercourse enables a yavam to acquire a yevama, and the same cannot be said of a maidservant. Rather, it might enter your mind to say a different claim: Since it is written with regard to a the master of a Hebrew maidservant: “If he take himself another wife” (Exodus 21:10), this verse juxtaposes a Hebrew maidservant with another woman that a master marries: Just as another woman that a master marries can be acquired through intercourse, so too, a Hebrew maidservant can be acquired through intercourse. Therefore, the verse teaches us, with the phrase “and engages in sexual intercourse with her,” that this is not the case.

<sup>238</sup> The Gemara asks: And Rabbi Yehuda HaNasi, who learns that betrothal can be effected through sexual intercourse from this verse, from where does he derive this conclusion that a Hebrew maidservant cannot be acquired through intercourse? The Gemara answers: If so, that this verse is teaching only one halakha, let the Merciful One write simply: And he engages in sexual intercourse. What is the meaning of the phrase “And he engages in sexual intercourse with her”? Learn two halakhot from it. One can learn from this verse both that a woman can be acquired through intercourse, and that an ordinary woman can be betrothed through intercourse but a Hebrew maidservant cannot be acquired through intercourse.

<sup>239</sup> The Gemara asks: And according to the opinion of Rava, who said: Bar Ahina explained this to me by citing a proof from the following verse: “When a man takes a woman and engages in sexual intercourse with her” (Deuteronomy 24:1), which teaches that betrothal that is given to consummation, i.e., betrothal when it is permitted for the man and woman to engage in intercourse, is a betrothal, but betrothal that is not given to consummation is not a valid betrothal, what is there to say? Since he uses this verse for a different purpose, from where does Rava derive that a woman can be betrothed through intercourse and that a Hebrew maidservant cannot be acquired in this manner?

<sup>240</sup> The Gemara answers: If so, that a woman cannot be betrothed through intercourse, let the verse write: When a man takes a woman or engages in intercourse with her. What is indicated by the phrase: “And engages in sexual intercourse with her”? One can learn from the verse all these halakhot, that intercourse is a valid mode of betrothing a woman but not acquiring a maidservant, and betrothal is effective only when it is given to consummation.

<sup>241</sup> The Gemara asks: And Rabbi Yehuda HaNasi, what does he do with this verse: “If a man be found lying with a married woman [beulat ba’al]” (Deuteronomy 22:22), from which Rabbi Yoḥanan derives that intercourse is a valid means of betrothal? The Gemara answers: Rabbi Yehuda HaNasi requires this verse for the halakha that the husband renders her a non-virgin even if he engages in

intercourse with her in an atypical manner, but no other man renders her a non-virgin by engaging in intercourse with her in an atypical manner.

<sup>242</sup> The Gemara asks: And does Rabbi Yehuda HaNasi accept this opinion? But isn't it taught in a baraita: If ten men engaged in intercourse with a betrothed young woman, and she is still a virgin, they are all punished by stoning. Rabbi Yehuda HaNasi says: I say that the first one is punished by stoning, but the others are all punished by strangulation. This proves that in the opinion of Rabbi Yehuda HaNasi, even one who is not her husband can render a woman a non-virgin by engaging in anal intercourse with her.

<sup>243</sup> Rabbi Zeira said: Rabbi Yehuda HaNasi concedes with regard to the fine of a rapist and a seducer that they all pay this fine, and they are not exempt merely because their acts of intercourse were with a non-virgin. The Gemara asks: In what way is this case different from the death penalty? With respect to the death penalty they are punished as though they engaged in intercourse with a betrothed non-virgin, and yet concerning the fine, they pay as though they engaged in intercourse with a virgin. The Gemara answers: It is different there, with regard to capital punishment, as the verse states: "Then the man only who lay with her shall die" (Deuteronomy 22:25), which indicates that only one man is executed for having sexual intercourse with a virgin, and no more.

<sup>244</sup> The Gemara asks: And the Rabbis, what do they do with this term "only"? The Gemara answers: They require it for that which is taught in a baraita. The verse states: "Then they shall both of them die" (Deuteronomy 22:22). This indicates that this is not the case unless the two of them are equal, i.e., both deserve punishment. But if one of them cannot be punished, e.g., if he is a minor, the other is not executed either. This is the statement of Rabbi Oshaya. Rabbi Yonatan says that the verse: "Then the man only who lay with her shall die," indicates that in some cases only one of them is liable to receive the death penalty.

<sup>245</sup> The Gemara asks: And Rabbi Yoḥanan, from where does he derive this conclusion that only a woman's husband can render her a non-virgin through intercourse in an atypical manner, if he uses this verse to derive the mode of betrothal by means of sexual intercourse? The Gemara answers: If so, that this verse is teaching only one halakha, let the verse write: If a man be found lying with a beulat ish, literally, a woman who engaged in sexual intercourse with a man. What is indicated by the term "beulat ba'al," literally, who engaged in sexual intercourse with a husband? Learn two halakhot from it: First, that one can betroth a woman through intercourse, and second, that only a woman's husband can render her a non-virgin by intercourse in an atypical manner.

<sup>246</sup> § A dilemma was raised before the Sages: Since intercourse is not a momentary act but has different stages, does the beginning of intercourse effect acquisition or does the end of intercourse effect acquisition? When exactly is the moment of betrothal? The Gemara comments: The practical difference resulting from this question is in a case where one engaged in only the initial stage of intercourse with her and in the meantime she reached her hand out and accepted betrothal from another man. If the beginning of sexual intercourse effects acquisition, the other man's betrothal is meaningless. If the end of sexual intercourse effects acquisition, she is betrothed to the other man.

<sup>247</sup> Alternatively, there is a difference with regard to a High Priest who acquires a virgin through sexual intercourse. If only the end of intercourse effects acquisition, she is no longer a virgin at the time of the betrothal, which would mean that a High Priest cannot acquire a woman through intercourse, as it is prohibited for him to marry a non-virgin (Leviticus 21:14). What, then, is the

halakha? Ameimar said in the name of Rava: Anyone who engages in sexual intercourse has the completion of the act of intercourse in mind, not the beginning. Therefore, the acquisition is complete only when the act has been completed.

<sup>248</sup> Additionally, a dilemma was raised before the Sages: Does the sexual intercourse that is performed to effect betrothal effect marriage at the same time that it effects betrothal, or does it effect only betrothal? The practical difference that arises from this question concerns all cases where it matters whether a woman is betrothed or married. For example, one issue is whether the act allows him to inherit property from her. If he betroths her through intercourse, does he inherit her property when she dies as he would if they were married?

<sup>249</sup> And if he is a priest, is he required to become ritually impure to bury her, as he must do for his wife? And similarly, does a betrothal through intercourse allow him to nullify her vows by himself, without her father's participation? If you say that intercourse effects marriage, he inherits property from her, and he becomes impure to bury her, and he nullifies her vows alone. And if you say that it effects only betrothal, he does not inherit property from her, and he does not become ritually impure to bury her, and he cannot nullify her vows alone. What, then, is the halakha?

<sup>250</sup> Abaye said: Come and hear a resolution from the following mishna (Ketubot 46b): A father has authority over his daughter with regard to her betrothal, whether it is through money, through a document, or through sexual intercourse. Likewise, a father has a right to items she has found, and to her earnings, and to effect the nullification of her vows, i.e., a father may nullify his daughter's vows. And he accepts her bill of divorce on her behalf if she is divorced from betrothal before she becomes a grown woman. And although he inherits her property when she dies, e.g., property she inherited from her mother's family, he does not enjoy the profits of her property during her lifetime. If the daughter married, the husband has more rights and obligations than her father had before the marriage, as he enjoys the profits of her property during her lifetime.

<sup>251</sup> The mishna teaches that a man has rights to his daughter's betrothal through sexual intercourse, and it subsequently teaches: If the daughter married. This indicates that intercourse effects only betrothal. The Gemara rejects this claim: When it teaches: If the daughter married, that is referring to the other modes mentioned here, i.e., betrothal by means of money or a document. In these cases there is a difference between betrothal and marriage, while it is possible that betrothal through intercourse effects marriage as well.

<sup>252</sup> Rava said: Come and hear a resolution from a baraita: A girl who is three years and one day old can be betrothed through intercourse, and if her yavam engaged in intercourse with her, he has acquired her. And if she is married, one is liable if he engages in intercourse with her, due to her status as a married woman. And if she is impure as a menstruating woman, she renders one who engages in intercourse with her ritually impure for seven days.

<sup>253</sup> And he renders impure the object upon which he lies like the upper one. One who engages in sexual intercourse with a menstruating woman renders the objects upon which he lies ritually impure even if he has no direct contact with them.

<sup>254</sup> And if she marries a priest she may partake of teruma from that point onward. And if one of those with whom sexual relations are forbidden by the Torah (see Leviticus, chapter 18) engages in intercourse with her, he is put to death due to his sin with her, and she is exempt from punishment as a minor. And if someone of unfit lineage, i.e., a man who would disqualify her from marrying a priest

if he engaged in sexual intercourse with her, engages in intercourse with her, he has disqualified her from marrying into the priesthood. This concludes the baraita.

<sup>255</sup> The Gemara analyzes this source. It is taught in that baraita: She can be betrothed through sexual intercourse, and it is taught separately: And if she marries a priest. This indicates that intercourse does not effect marriage. The Gemara rejects this: This is what the baraita said: If this betrothal through intercourse is a marriage to a priest, she may partake of teruma. It is possible that there are not two separate stages here but a single action, as sexual intercourse effects marriage.

<sup>256</sup> Come and hear a proof from a baraita: And Yoḥanan ben Bag Bag already sent a message to Rabbi Yehuda ben Beteira in the city of Netzivin: I heard about you that you say that the daughter of a non-priest betrothed to a priest may partake of teruma. Rabbi Yehuda ben Beteira sent back this reply to him: And do you not say so? I know about you that you are an expert in many areas of Torah; do you not know how to teach halakhot based on an a fortiori inference?

<sup>257</sup> The a fortiori inference is as follows: If in the case of a Canaanite maidservant, whose sexual intercourse with a priest does not allow her to partake of teruma, as she is not betrothed to him, her money, i.e., if a priest acquires her through money, allows her to partake of teruma, is it not logical with regard to this betrothed woman, whose sexual intercourse with a priest allows her to partake of teruma, that her betrothal money from the priest should allow her to partake of teruma? If this is indeed the case, the daughter of a non-priest betrothed to a priest should be permitted to partake of teruma. But what can I do, as the Sages said: By rabbinic law, the daughter of a non-priest betrothed to a priest may not partake of teruma until she enters the wedding canopy.

<sup>258</sup> The Gemara clarifies: What are the circumstances of the comparison between money and sexual intercourse? If it is referring to a case of sexual intercourse by means of a wedding canopy, i.e., after they are married, and betrothal through money where the marriage is then completed by means of a wedding canopy, in both cases she may partake of teruma even by rabbinic law, as she is a full-fledged married woman.

<sup>259</sup> Or rather one could say that this comparison is referring to sexual intercourse by means of a wedding canopy, and betrothal through money not by means of a wedding canopy. If so, the a fortiori inference is not valid, as here, in the case of intercourse, there are two stages of acquisition, intercourse followed by the wedding canopy, and here, in the case of money, there is only one stage. Rather, is it not correct to say that the comparison between money and intercourse is referring to sexual intercourse not by means of a wedding canopy and also money not by means of a wedding canopy?

<sup>260</sup> Granted, if you say that intercourse by itself effects marriage, it is due to that reason that it is obvious to Rabbi Yehuda ben Beteira that the mode of sexual intercourse is stronger than money, and allows her to partake of teruma. But if you say that sexual intercourse effects only betrothal, what is different here, in the case of betrothal through intercourse, that it is obvious to him that it allows her to partake of teruma, and what is different here, in the case of betrothal through money, that he is uncertain and must derive the matter through an a fortiori inference? In both cases she is only betrothed.

<sup>261</sup> Rav Naḥman bar Yitzḥak said: Actually, I will say to you that he is speaking about sexual intercourse by means of a wedding canopy and money not by means of a wedding canopy. And as for



that which you said in opposition to this a fortiori inference: Here there are two stages of acquisition, and here there is only one stage. In any event, there is a valid a fortiori inference.

<sup>262</sup> And this is what Rabbi Yehuda ben Beteira sent him, i.e., his statement should be understood as follows: If a Canaanite maidservant, whose intercourse with a priest does not allow her to partake of teruma, even by means of a wedding canopy, and yet her money allows her to partake of teruma without the means of a wedding canopy, is it not logical with regard to this betrothed woman, whose intercourse with a priest allows her to partake of teruma by means of a wedding canopy, that her betrothal money from the priest should allow her to partake of teruma without the means of a wedding canopy?

<sup>263</sup> But what can I do, as the Sages said: By rabbinic law, the daughter of a non-priest betrothed to a priest may not partake of teruma until she enters the wedding canopy, due to the reason stated by Ulla. According to Ulla, there is a concern that she may feed her siblings or members of her family teruma while she is still living in her father's house.

<sup>264</sup> And ben Bag Bag explains why one cannot accept this a fortiori inference involving a Canaanite maidservant: With regard to a Canaanite maidservant who is purchased with money, the buyer does not leave out anything from her acquisition, i.e., he completes the purchase in full. Here, in the case of betrothal, he leaves out part of her acquisition, as the stage of marriage has yet to be performed. Therefore, these two cases are dissimilar.

<sup>265</sup> Ravina said that by Torah law, it is obvious to Yoḥanan ben Bag Bag that she may partake of teruma also when she is betrothed to a priest through money alone, as she is acquired with his money. And the question that he sent him is referring to the halakha by rabbinic law.

<sup>266</sup> Ravina elaborates: And this is the question that he sent to him: I heard about you that you say that in practice the daughter of a non-priest betrothed to a priest may partake of teruma, and we are not concerned about an annulling factor [simfon], i.e., that he might find some blemish in her through which the betrothal would be considered retroactively invalid. If so, she would have eaten teruma when she was not permitted to do so. And it was with regard to this issue that Rabbi Yehuda ben Beteira sent to him: And do you not say this? I know about you that you are an expert in many areas of Torah; do you not know how to teach halakhot based on an a fortiori inference?

<sup>267</sup> The a fortiori inference is as follows: If a Canaanite maidservant, whose engaging in intercourse with a priest does not allow her to partake of teruma, and yet her receiving purchase money allows her to partake of teruma, and we are not concerned about simfon, i.e., that the Canaanite maidservant may have some physical blemish that nullifies her purchase retroactively, is it not logical with regard to this betrothed woman, whose intercourse with a priest allows her to partake of teruma, that her receiving betrothal money from the priest should allow her to partake of teruma even before entering the wedding canopy, and we should not be concerned about simfon? But what can I do, as the Sages said: By rabbinic law the daughter of a non-priest betrothed to a priest may not partake of teruma

<sup>268</sup> until she enters the wedding canopy, due to the reason of Ulla, lest she feed her non-priestly family members the teruma that her husband has given her.

<sup>269</sup> The Gemara asks: And ben Bag Bag, what does he say about this a fortiori inference? The Gemara answers that he maintains that this a fortiori inference is invalid because he does not accept that there can be a claim of simfon with regard to the acquisition of slaves. The reason is that if it is

an exposed blemish that the master found on the slave, he saw the blemish and purchased him regardless. Therefore, he cannot later claim that the transaction was unfair. If it is due to hidden blemishes on his slave, what difference does that make to him? Why should it matter if a slave has hidden blemishes? He needs him only for labor, and he does not care if he has hidden blemishes that do not impair his ability to perform labor.

<sup>270</sup> And even if this slave is discovered to be a thief or a gambler [kuvyustus], which are considered hidden blemishes that affect his work, it has come to him, i.e., the slave is acquired by the one who purchased him and the transaction is non-refundable. The reason is that the buyer should have suspected behavior of this kind, which is common among slaves, and therefore he suffers the loss. What do you say? Perhaps he discovered that the slave is an armed bandit and subject to be killed by the government for this, or sentenced to death by the government for another reason, and is sought by the authorities. This is not a valid claim, since these matters generate publicity, and therefore he is assumed to have taken the risk into consideration.

<sup>271</sup> The Gemara asks: Now, both according to the one Master, Yoḥanan ben Bag Bag, and according to the other Master, Rabbi Yehuda ben Beteira, the daughter of a non-priest betrothed to a priest may not partake of teruma by rabbinic decree. What, then, is the difference between them?

<sup>272</sup> The Gemara answers: The difference between them involves three cases. The Gemara elaborates: If the husband initially accepted her blemishes, there is no concern that an annulling factor might lead to the nullification of the betrothal, but there is still concern that she might feed teruma to the members of her family. If her father transferred her to the betrothed husband's agents, or if the father's agents walked with the husband's messenger, and therefore she is no longer in her father's house, there is no concern that she might feed her family members teruma, but it remains possible that the betrothal will be nullified.

<sup>273</sup> § The Gemara returns to the halakhot of the mishna. The mishna teaches that if one betroths a woman with money, Beit Shammai say he must betroth her with at least one dinar, whereas according to the opinion of Beit Hillel even one peruta is sufficient. The Gemara asks: What is the reasoning of Beit Shammai? Rabbi Zeira says: Their reasoning is that a woman is particular about herself and considers it beneath her dignity to be acquired with a paltry sum, and therefore she will not agree to be betrothed with less than one dinar.

<sup>274</sup> Abaye said to him: If that is so, with regard to Rabbi Yannai's daughters, for example, who are very particular about themselves and their honor, and they will not agree to be betrothed with less than three kav of dinars due to their status, so too will you say that if she reaches out her hand and accepts one dinar from another man, so too, this is not a betrothal?

<sup>275</sup> Rabbi Zeira said to Abaye: I did not say that this halakha includes a case where she reached out her hand and accepted a betrothal. She has the right to willingly relinquish her dignity. When I said this halakha I was referring to a case where he betrothed her at night and she did not see what she was being given. Alternatively, where she appointed an agent to betroth her but did not explicitly tell him how much she wished to receive for her betrothal. In these cases it is assumed that she is particular about her honor and will not agree to be betrothed for less than one dinar.

<sup>276</sup> Rav Yosef said a different explanation: The reasoning of Beit Shammai is in accordance with that which Rav Yehuda says that Rav Asi says. As Rav Yehuda says that Rav Asi says: Every sum of money mentioned in the Torah is in Tyrian coinage, i.e., dinars from Tyre, which have a high value.

And any amount of money set by rabbinic law is measured by provincial coinage. Local currency, i.e., that which existed at the time of the Sages of the Mishna, was worth about one-eighth of the value of Tyrian coinage. Beit Shammai follow the standard sum of the Torah, and the smallest possible amount in Tyrian currency is the silver coin, which is worth one dinar.

<sup>277</sup> The Gemara discusses the matter itself. Rav Yehuda says that Rav Asi says: Every sum of money mentioned in the Torah is Tyrian coinage, and any amount of money set by rabbinic law is measured by provincial coinage. The Gemara asks: And is it an established principle that any mention of money in the Torah is referring to a silver coin worth at least one dinar?

<sup>278</sup> But with regard to a claim that someone has not returned a deposit or loan, when the defendant admits that only part of the claim is true, it is written: “If a man deliver to his neighbor money or vessels to guard and it be stolen out of the man’s house” (Exodus 22:6). The following verses teach that if the thief is not found, the case is brought to a court, where the defendant must take an oath. And we learned in a mishna with regard to one who admits to part of a claim (Shevuot 38b): The oath administered by the judges to one who admits to part of a claim is administered only when the claim is for at least two silver ma’a, and the defendant’s admission is to at least the value of one peruta. If every sum of money mentioned in the Torah is referring to Tyrian coinage, how did the Sages arrive at the amount of two ma’a in this case?

<sup>279</sup> The Gemara explains: There, the halakha is derived from a juxtaposition, as the “money” mentioned in the verse is similar to “vessels”: Just as the word “vessels” indicates at least two, so too “money” is referring to at least two coins. And just as money is a significant item, so too the vessels must be a significant item.

<sup>280</sup> The Gemara asks: But there is the case of the redemption of second tithe, as it is written: “And bind up the money in your hand” (Deuteronomy 14:25). And yet we learned in a mishna (Ma’aser Sheni 2:8): With regard to one who exchanges copper coins of second-tithe money for a sela, Beit Shammai say: He may exchange the copper coins for the entire silver sela. This mishna indicates that second-tithe money, mentioned in the Torah, can be in the form of copper coins, and it is not required to be in the form of silver coins. The Gemara explains that the verse does not say money, but “the money.” The addition of the article serves as an amplification. In other words, this addition teaches that second-tithe money can be in any coinage, including copper coins.

<sup>281</sup> The Gemara asks: But there is the case of consecrated property, as it is written: “And he will give the money and it will be assured to him” (see Leviticus 27:19). And Shmuel says: With regard to consecrated property worth one hundred dinars, which was redeemed for an item worth one peruta, it is redeemed. Although the word “money” is stated in the Torah, a copper peruta may be used. The Gemara answers: There too, there is a reason for this unusual halakha, as he derives this ruling from a verbal analogy of the terms “money” mentioned here and “money” from tithes. Consequently, one may use any type of coin in this case as well.

<sup>282</sup> The Gemara asks: But there is the case of the betrothal of a woman, as it is written: “When a man takes a woman and engages in sexual intercourse with her” (Deuteronomy 24:1), and one derives betrothal through money by a verbal analogy of the term “taking” used here and “taking” from the case of the field of Ephron. And yet we learned in the mishna that Beit Hillel say one can betroth a woman with one peruta or with any item that is worth one peruta. If so, shall we say that Rav Asi,

who claims that all sums of money mentioned in the Torah are in Tyrian coinage, stated his opinion in accordance with the opinion of Beit Shammai?

<sup>283</sup> Rather, the Gemara suggests an alternative explanation: If this was stated, it was stated like this: Rav Yehuda says that Rav Asi says: Every set amount of money stated in the Torah, i.e., when a specific amount is mentioned, is referring to Tyrian coinage, and any amount of money set by rabbinic law is in provincial coinage.

<sup>284</sup> The Gemara asks: If so, what is Rav Asi teaching us? We have already learned all of these halakhot explicitly (Bekhorot 49b): The payment of five sela for the redemption of a firstborn son (Numbers 18:16); the payment of thirty sela for a slave, paid by the owner of the ox that killed the slave (Exodus 21:32); the fifty sela paid by a rapist and by a seducer (Deuteronomy 22:29); the one hundred sela paid by a defamer (Deuteronomy 22:19); all of these are paid in the sacred shekel, which is one hundred dinars in Tyrian coinage. All of the cases in which a defined amount is mentioned by the Torah have already been taught, and it is unclear what Rav Asi adds.

<sup>285</sup> The Gemara answers: It was necessary for Rav Asi to teach: And any amount of money set by rabbinic law is in provincial coinage, as we did not learn that halakha in that mishna. As it is taught in a baraita: The Sages established that one who strikes another as an act of disrespect must give him one sela as a fine. And Rav Asi is teaching that one should not say: What is the meaning of one sela? It is a Tyrian sela worth four dinar. Rather, what is the meaning of one sela? This is the sela of provincial coinage, which is worth half a dinar, as people commonly call half a dinar by the name sela [isteira].

<sup>286</sup> Rabbi Shimon ben Lakish says a different explanation: The reasoning of Beit Shammai, that the minimum amount with which a woman can be betrothed is one dinar, is in accordance with the opinion of Hizkiyya. As Hizkiyya says that the verse states with regard to a Hebrew maidservant: “Then he shall let her be redeemed” (Exodus 21:8), which teaches that she can deduct an amount from the price of her redemption and leave before her time of slavery is complete. If she comes into possession of money, she can pay the master for her value, less the work she has performed. Beit Shammai derive the halakhot of regular betrothal from the case of a Hebrew maidservant, as explained below.

<sup>287</sup> Granted, if you say that when she was acquired he gave her at least one dinar, this is the meaning of the statement that she may continually deduct from that amount up to one peruta. But if you say that he gave her one peruta when he purchased her as a maidservant, can she deduct from one peruta? One peruta is already the smallest possible sum of money. The Gemara rejects this argument: But perhaps this is what the Merciful One is saying: In a case where he gave her one dinar, she deducts from that amount up to one peruta; in a case where he gave her one peruta she cannot deduct at all. If he paid one peruta for her, the option of redemption does not apply.

<sup>288</sup> The Gemara rejects this suggestion: This cannot enter your mind, as the halakha of deduction must be similar to the halakha of designation, i.e., the process by which a master designates his Hebrew maidservant as a wife for him or his son (Exodus 21:8–9). Just as with designation, although the halakha is that if he desires, he may designate her and if he does not desire, he is not required to designate her, nevertheless anywhere that he cannot designate her, e.g., in a case where they are related and she is therefore forbidden to him, her sale is not a valid sale, so too here, with regard to

her redemption, anywhere that she cannot deduct an amount from her purchase price, her sale is not a valid sale.

<sup>289</sup> The Gemara notes: And according to the opinion of Beit Shammai the mode of betrothal of a woman by money is derived from the case of a Hebrew maidservant, as follows: Just as a Hebrew maidservant cannot be acquired with one peruta, so too a woman cannot be betrothed with one peruta.

<sup>290</sup> The Gemara asks: Even if Beit Shammai derive their opinion from here, how does this prove that a woman can be betrothed only with a minimum of one dinar? But why not say she can be betrothed with half a dinar, or say that she can be betrothed with two perutot, as it is possible to fulfill the redemption of a Hebrew maidservant if her sale was for either of these amounts? The Gemara answers: Since this comparison excludes betrothal with one peruta, as it indicates that a woman can be betrothed only with money of significant value, the Sages established the minimum amount at one dinar, which is a coin of substantial value.

<sup>291</sup> Rava said a different explanation: This is the reasoning of Beit Shammai, who hold that a woman can be betrothed only with a minimum of one dinar: The daughters of Israel should not be treated like ownerless property. Allowing women to be betrothed with such a small amount as one peruta is disrespectful to them.

<sup>292</sup> § The mishna teaches: And Beit Hillel say that a woman can be betrothed with one peruta, or with any item that is worth one peruta. Rav Yosef thought to say: One peruta means any amount. There is no defined value, as a woman may be betrothed with one peruta regardless of its value at the time. Abaye said to him: But isn't it taught with regard to this in the mishna itself: How much is one peruta? It is one-eighth of the Italian issar. This shows there is a defined value for one peruta.

<sup>293</sup> And if you would say: This statement applies only to the generation of Moses, i.e., this was the value of one peruta in the time of the Torah, but now, at any later time, its value is determined by that which people consider one peruta, that claim cannot be correct. As when Rav Dimi came from Eretz Yisrael he said: Rabbi Simai estimated in his generation: How much is one peruta? It is one-eighth of the Italian issar. And when Ravin came from Eretz Yisrael to Babylonia he said that Rabbi Dostai and Rabbi Yannai and Rabbi Oshaya estimated: How much is one peruta? It is one-sixth of the Italian issar.

<sup>294</sup> Rav Yosef said to Abaye: If so, then this is in conflict with that which we learned in a baraita: Go and calculate how many perutot there are in two sela: More than two thousand. Now there are not even two thousand, and you call them: More than two thousand? Rather, the peruta is certainly worth less than one-eighth of the Italian issar. A certain old man said to them: I teach this baraita as saying: Close to two thousand. The Gemara asks: Ultimately, according to the calculation of one-eighth of an issar, the number of perutot in two sela is 1,536, which is nowhere near two thousand. The Gemara answers: Since it passes half of the second thousand it is called: Close to two thousand.

<sup>295</sup> The Gemara discusses the matter itself. When Rav Dimi came from Eretz Yisrael he said: Rabbi Simai estimated in his generation: How much is one peruta? It is one-eighth of the Italian issar. And when Ravin came he said that Rabbi Dostai and Rabbi Yannai and Rabbi Oshaya estimated: How much is one peruta? It is one-sixth of the Italian issar. Abaye said to Rav Dimi: Shall we say that you and Ravin disagree with regard to the issue that is the subject of the dispute between these tanna'im.

<sup>296</sup> As it is taught in a baraita: The peruta mentioned by the Sages is one-eighth of the Italian issar. Six silver ma'a are one dinar, and one ma'a is worth two pundeyon. In a pundeyon there are two issar, and an issar is two masmas. A masmas is worth two konterank, and a konterank is two perutot. By this calculation, one finds that one peruta is one-eighth of the Italian issar.

<sup>297</sup> Rabban Shimon ben Gamliel says: This is not the case; rather, there are three hadreis to a ma'a, two henetz to a hadreis, two shamin to a henetz, and two perutot to a shamin. Consequently, one finds that one peruta is one-sixth of the Italian issar. Shall we say that one Master agrees with the first tanna, and Ravin, who said his ruling in the name of Rabbi Dostai and Rabbi Yannai and Rabbi Oshaya, agrees with Rabban Shimon ben Gamliel?

<sup>298</sup> Rav Dimi said to Abaye: Both my statement and that of Ravin are in accordance with the opinion of the first tanna, and it is not difficult. This statement of mine is referring to when the issar increased in value in relation to silver coins, and this statement of Ravin is referring to when the issar decreased in value. The Gemara elaborates: When the issar increased in value, twenty-four issar stood at one dinar; when they decreased in value, thirty-two issar stood at one dinar. If so, there is a set ratio between the value of a peruta and the value of silver, and there are 192 perutot in one dinar. By contrast, the ratio between the value of a copper issar and silver dinars fluctuates, so that sometimes an issar will be worth eight perutot while at other times it is worth only six.

<sup>299</sup> § Shmuel says: If man betrothed a woman with a date, she is betrothed even if a kor of dates is worth one dinar, which would mean that one date is worth much less than one peruta. The reason is that although a date has little value here, we are concerned that perhaps it is worth one peruta in Media or in some other distant place where dates are expensive. Therefore, she is betrothed in this location as well.

<sup>300</sup> The Gemara asks: But didn't we learn in the mishna that Beit Hillel say: With one peruta or with an item worth one peruta, but not less? The Gemara explains: This is not difficult. This statement in the mishna is referring to betrothal whose status is certain. Betrothal with one peruta or an item worth one peruta is certainly valid. Conversely, this case stated by Shmuel is referring to betrothal whose status is uncertain. Although the item is not worth one peruta here, there is a concern that the betrothal might nevertheless be valid.

<sup>301</sup> The Gemara relates: There was a certain man who betrothed a woman with a bundle of rags [zavda de'urdei]. Rav Shimi bar Ḥiyya sat before Rav and examined the bundle to see if it had the value of one peruta. If it was worth one peruta, yes, she was betrothed, and if not, no, she was not betrothed. The Gemara asks: And if it does not have the value of one peruta, is she not betrothed? But didn't Shmuel say that we are concerned that the item might be worth one peruta in Media? The Gemara explains: This is not difficult. This ruling of Rav Shimi bar Ḥiyya is referring to betrothal whose status is certain, whereas this statement of Shmuel is referring to betrothal whose status is uncertain.

<sup>302</sup> The Gemara further relates: There was a certain man who betrothed a woman with a blue marble stone. Rav Ḥisda sat and estimated whether it was worth one peruta. If it was worth one peruta, yes, she was betrothed, and if not, no, she was not betrothed. The Gemara asks: And if it does not have the value of one peruta, is she not betrothed? But didn't Shmuel say that we are concerned that the item might be worth one peruta in Media? The Gemara answers: Rav Ḥisda does not hold in

accordance with that opinion of Shmuel, as he holds that if the item is not worth one peruta in the place where the betrothal occurred, the betrothal is invalid.

<sup>303</sup> The mother of the man who offered the betrothal said to Rav Ḥisda: But on that day that he betrothed her it was worth one peruta. He said to the mother: It is not in your power to render her forbidden to a later man. If another comes and betroths her, his betrothal is not dismissed due to this earlier act. Since the marble stone is not worth one peruta now, the betrothal of the second man may be valid.

<sup>304</sup> Rav Ḥisda explained: Is this not similar to the case of Yehudit, wife of Rabbi Ḥiyya, who would have painful childbirths and therefore wished to leave Rabbi Ḥiyya? She said to Rabbi Ḥiyya: My mother told me: When you were young your father accepted betrothal on your behalf from another man, which would render Yehudit forbidden to Rabbi Ḥiyya. He said to her: It is not in your mother's power to render you forbidden to me, as this testimony is insufficient.

<sup>305</sup> Returning to the incident with the blue marble stone, the Gemara relates that the Sages said to Rav Ḥisda: Why do you say that she is not betrothed because the item is not worth one peruta in the place where the betrothal occurred? After all, there are witnesses in Idit who know that on that day it had the value of one peruta. Rav Ḥisda said to them: Now, in any event, they are not here, and therefore their potential testimony is disregarded.

<sup>306</sup> Rav Ḥisda cites a proof for his statement: Isn't this the same as the opinion of Rabbi Ḥanina? In the case of a woman who appeared before the court and said that she was taken captive but remained undefiled, if there are no witnesses that she was captured, her entire claim must be accepted, and therefore she is permitted to her husband. Although there are witnesses elsewhere who can testify that she was taken captive, and consequently, the court need not rely on her statement alone, as Rabbi Ḥanina says: When her witnesses are far away in the north [istan], will she be forbidden?

<sup>307</sup> The Gemara comments: Abaye and Rava do not hold in accordance with this statement of Rav Ḥisda with regard to betrothal. In their opinion one cannot learn the halakha here from Rabbi Ḥanina's statement, as there is a difference between the cases: If in the case of Rabbi Ḥanina the Sages were lenient with regard to a captive woman, who makes herself appear repulsive before her captor so that he will not rape her, and it is therefore believable that she was not violated, shall we be lenient with regard to the serious prohibition of a married woman?

<sup>308</sup> The Gemara reports: Descendants of the family of the woman who had been betrothed with a blue marble stone remained in Sura, as after Rav Ḥisda ruled that that woman's first betrothal was invalid, she married another man and had children. But the Sages avoided the family and refused to marry into it due to the concern that it was founded on a possibly adulterous relationship, which would render the descendants of the family mamzerim. The Gemara comments: And it was not because they maintained, in accordance with the opinion of Shmuel, that there is a concern that any item might be worth one peruta somewhere else. Rather, it was because they held in accordance with the opinion of Abaye and Rava, who said: Since there are witnesses in a different place, one must take them into account.

<sup>309</sup> § The Gemara relates: There was a certain man who betrothed a woman with a myrtle branch in the marketplace. Rav Aḥa bar Huna sent this dilemma before Rav Yosef: In a case like this, what is the halakha? Rav Yosef sent a response to him: Flog him, in accordance with the opinion of Rav, and

require her to receive a bill of divorce, in accordance with the opinion of Shmuel, in case the myrtle branch is worth one peruta somewhere else.

<sup>310</sup> The Gemara explains that Rav would flog a man for betrothing a woman in the marketplace, because this is disrespectful and crude, and for betrothing a woman through sexual intercourse, as it is unsavory to invite witnesses to observe a man and woman enter a room to engage in intercourse. And he would also flog a man for betrothing a woman without an arrangement [shiddukhei], i.e., if he did not discuss betrothal with the woman before betrothing her. Each of these acts is considered indecent behavior.

<sup>311</sup> And likewise, Rav would flog a man for nullifying a bill of divorce he has already sent to his wife, and for issuing a declaration preemptively invalidating a bill of divorce. The latter case is referring to one who announces before giving a bill of divorce that he is divorcing his wife against his will, thereby rendering the document ineffective. This behavior might lead to a grave sin if the wife marries another man under the mistaken impression that she is divorced. And similarly, Rav would flog anyone for tormenting a messenger of the Sages, as this indicates a lack of regard for the Sages. And Rav would flog one who had an excommunication take effect on him for thirty days and yet does not repent or appeal to the Sages to annul his censure.

<sup>312</sup> And Rav would flog a son-in-law who lives in his father-in-law's house, as there is a concern that he might sin with his mother-in-law. The Gemara comments: This indicates that with regard to one who lives in his father-in-law's house permanently, yes, he is flogged, whereas with regard to one who only passes by his father-in-law's house, no, he is not flogged. But there was a certain son-in-law who passed by the entrance of his father-in-law's house and Rav Sheshet flogged him due to licentiousness. The Gemara explains: In that case, there were suspicions [dayma] about him and his mother-in-law, i.e., about rumors of intimacy between them. In walking by the house he contributed to these rumors, which is why he was flogged.

<sup>313</sup> The Sages of Neharde'a say: Rav would not flog a violator in all of the cases listed, but he would in fact flog a man for betrothing a woman through sexual intercourse without a prior arrangement. And there are those who say: Even if there was an arrangement beforehand, he would also flog a man for betrothing a woman with intercourse, due to licentiousness, as it is indecent to have witnesses observe a man and woman enter a room to engage in intercourse.

<sup>314</sup> § The Gemara relates: There was a certain man who betrothed a woman with a mat of myrtle branches. People who were present said to him: But it is not worth one peruta. He said to them: If so, let her be betrothed with the four dinars that are wrapped in the mat. The woman took the mat and was silent. Rava said: This is silence after the money is given, and any silence after the money is given is nothing. Since it was assumed at the time that he gave her an item worth less than one peruta, there is no proof that she acted in accordance with his subsequent statement. It is possible that she ignored him and did not intend to become betrothed with the four dinars.

<sup>315</sup> Rava said: From where do I state this opinion? As it is taught in a baraita that in a case where a man said to a woman: Take this sela as a deposit, and he subsequently went back and said to her: Be betrothed to me with it, if he said this at the time the money was given, she is betrothed. In a case where he said this after the money was given, then if she wanted to be betrothed in this manner, she is betrothed. If she did not want it, she is not betrothed.



<sup>316</sup> The Gemara inquires: What is the meaning of: She wanted, and what is the meaning of: She did not want? If we say that: She wanted, means that she said yes, she wishes to be betrothed, and: She did not want, means that she explicitly said no, one can learn by inference that in the first clause of the baraita, when he spoke as he gave her the money and no difference is suggested between her wanting or not wanting,

<sup>317</sup> that if she said: No, it would also be a betrothal. But why should that be the case? After all, she said: No. Rather, is it not to be explained in this manner, i.e., that the phrase: She wanted, means she said yes, and: She did not want, means that she remained silent. And one can learn from this that silence after the money is given is nothing. Her silence is not interpreted as an agreement to the betrothal.

<sup>318</sup> In the city of Pumbedra they raised a difficulty against Rava's proof, in the name of Rav Huna, son of Rav Yehoshua: Is it comparable? There, in the baraita, he gave her the money as a deposit but they are his. She therefore thinks: If I throw them and they break I will be obligated to pay for them, as would anyone who destroys another person's property. Consequently, her silence is interpreted as consent only to continue in her role of holding it as a deposit. By contrast, here he gives them to her as betrothal money so that they would belong to her. And if it is so, that she is not amenable to being betrothed, let her throw them away.

<sup>319</sup> Rav Aḥai refutes this argument: Is that to say that all women are learned in halakha? In this case also, she thinks: If I throw them and they break I will be responsible for them. Therefore, I will not throw them. One cannot deduce from the fact that she does not throw the coins that she accepted them as betrothal money. Rav Aḥa bar Rav, sent this question to Ravina: In a case like this, what is the halakha? Ravina sent the following response to him: We did not hear this statement of Rav Huna, son of Rav Yehoshua. Therefore, we do not need to take it into consideration. You, who heard it, should be concerned about a possible betrothal.

<sup>320</sup> § The Gemara further relates: There was a certain woman who was selling belts. A certain man came and snatched a belt [varshekha] from her. She said to him: Give it to me. He said to her: If I give it to you will you be betrothed to me? She took it and was silent, and Rav Naḥman said: She could say: Yes, I took it, but I took my property. There is no proof that she agreed to accept it as a betrothal.

<sup>321</sup> Rava raised an objection to the opinion of Rav Naḥman from a baraita: If a man betrothed a woman with property that was taken by robbery; or with property taken by a forced transaction, when the owner was reluctant to sell, or with property that was taken by theft; or if he grabbed a sela from her hand and betrothed her with it, she is betrothed. If so, why does Rav Naḥman say here that when he took it from her and betrothed her she is not betrothed? Rav Naḥman answered: There, it is referring to a case where he had previously arranged to marry her, and therefore if she remained silent she certainly agreed to the betrothal.

<sup>322</sup> And from where do you say that there is a difference between a case where he had previously arranged to marry her and where he had not arranged to do so? As it is taught in a baraita that with regard to a man who said to a woman: Take this sela that I owe you, and he went back and said to her: Be betrothed to me with it, if he said this at the time the money was given and she wanted it, she is betrothed; if she did not want it, she is not betrothed. If he issued his statement after the money was given, then even if she wanted it, she is not betrothed.

<sup>323</sup> Rav Nahman clarifies: What is the meaning of: She wanted, and what is the meaning of: She did not want? If we say that: She wanted, means that she said yes, and: She did not want, means that she explicitly said no, it can be inferred that if she was silent it is a valid betrothal. But if so, let the baraita teach simply that she is betrothed, without specification, as it did there in the previous case, with regard to one who said: Take this sela as a deposit. It is obvious that if she explicitly said no, she is not betrothed.

<sup>324</sup> Rather, the phrase: She wanted, means she said yes, and: She did not want, means that she remained silent. And in this case of silence the baraita taught that she is not betrothed. What is the reason that she is not betrothed if she remained silent? It is that she can say: Yes I took it, but I took my own property and did not intend to become betrothed.

<sup>325</sup> But this is difficult with regard to that which we learned, that if a man betrothed her with property that was taken by robbery, or with property taken by a forced transaction, or with property that was taken by theft, or if he grabbed a sela from her hand and betrothed her with it, she is betrothed. Rather, isn't it correct to conclude from it that this ruling, that she is betrothed if she was silent, is referring to a case where he arranged the marriage beforehand, whereas this ruling, that she is not betrothed when she remained silent, is referring to a situation where he did not arrange it beforehand?

<sup>326</sup> § The Gemara relates: When Rabbi Asi died, the Sages assembled to collect his statements, i.e., they wished to review his rulings of halakha lest they be forgotten. A certain member of the Sages, and Rabbi Ya'akov was his name, said to them: This is what Rabbi Asi said that Rabbi Mani said: Just as a woman cannot be acquired by less than the value of one peruta, so too land cannot be acquired by less than the value of one peruta. They said to him: But isn't it taught in a baraita: Although a woman cannot be acquired by less than the value of one peruta, land can be acquired by less than the value of one peruta?

<sup>327</sup> Rabbi Ya'akov said to them: When that baraita is taught to the effect that land can be acquired by less than the value of one peruta but a woman cannot, it was with regard to acquisition through symbolic exchange, i.e., a legal act of acquisition formalizing the transfer of ownership of an article. As it is taught in a baraita: One can acquire land and movable items through a symbolic exchange by giving a vessel, even though it is not worth one peruta.

<sup>328</sup> They then sat and said additional statements in the name of Rabbi Asi. One statement concerned that which Rav Yehuda says that Shmuel says: Anyone who does not know the nature of bills of divorce and betrothals should have no dealings in them, as his ignorance might lead people to commit serious sins. In this context, Rabbi Asi says that Rabbi Yoḥanan says: And those who deal with these issues without proper knowledge are worse for the world than the generation of the flood, as it is stated: "Swearing and lying, and killing, and stealing, and committing adultery. They break all bounds, and blood touches blood" (Hosea 4:2).

<sup>329</sup> The Gemara asks: From where may it be inferred that this verse is referring to individuals of this kind and that they are worse for the world than the generation of the flood? The Gemara explains: As Rav Yosef translated the phrase "and committing adultery, they break all bounds, and blood touches blood," as: They give birth to children through the wives of others; they add sins upon sins.

<sup>330</sup> And it is written in the next verse: "Therefore the land mourns and everyone who dwells there languishes, with the beasts of the field and the fowls of heaven, and the fishes of the sea are also

taken away” (Hosea 4:3). This indicates that those who cause illegitimate children to be born lead to such a great tragedy that even the fish of the sea will die, whereas in the generation of the flood the decree was not imposed upon the fish in the sea, as it is stated: “Whatever was on dry land died” (Genesis 7:22). The explicit mention of dry land indicates that the fish in the sea did not die. But here, in the punishment described in the verses in Hosea, even the fish in the sea died.

<sup>331</sup> The Gemara asks: But one can say that this punishment is not administered until they perform all of them, i.e., only if they commit all of the sins mentioned in the verse, including taking false oaths, committing murder, and stealing. The Gemara answers: It should not enter your mind to say this, as it is written: “For because of swearing the land mourns” (Jeremiah 23:10). This verse teaches that on account of taking false oaths alone the world can be destroyed, from which it may be inferred that each these acts on its own is enough to warrant destruction.

<sup>332</sup> The Gemara further asks: But one can say that taking a false oath is distinct, as it involves the desecration of God’s name, and these other sins are distinct, i.e., they are less severe offenses that entail a less serious punishment. Therefore, it is possible that this great tragedy will result only if one performs all of them.

<sup>333</sup> The Gemara explains: Is it written: And they break all bounds, with the conjunction: And, which would indicate that all the sins are included as one unit? Rather, it is written: “They break all bounds,” from which it may be inferred that this punishment is given separately for each one of these sins.

<sup>334</sup> § They then sat and said additional statements in the name of Rav Asi, one of which concerned that which we learned in a mishna (Kinnim 2:5): With regard to a woman after childbirth who brought her sin-offering for her ritual purification and died, the heirs bring her burnt-offering to fulfill her remaining sacrificial obligations. Rav Yehuda says that Shmuel says: And this is the halakha only when the woman herself had already separated, i.e., designated, the animal for the burnt-offering in her lifetime. But if she had not separated it in her lifetime, no, the heirs are not required to bring a burnt-offering on her behalf.

<sup>335</sup> The Gemara concludes: Apparently, Shmuel maintains that the property of a debtor is not lienied by Torah law. In other words, one does not say that because she was required to bring a burnt-offering there is a lien on her property and the debt must be paid even if she did not set aside the animal before her death. Rabbi Asi says that Rabbi Yoḥanan says: This is the halakha even though she did not separate the burnt-offering in her lifetime. Apparently, Rabbi Yoḥanan maintains that the property of a debtor is lienied by Torah law.

<sup>336</sup> The Gemara asks: But these Sages already disagreed about this issue once; why would they engage in the same dispute with regard to multiple applications? As Rav and Shmuel both say: With regard to a loan granted by oral agreement, i.e., without a document that places a lien on the land, if the debtor dies, the creditor cannot collect the loan from the heirs or from those who purchased the land. This is the halakha even if it is clear that there was a loan and the debtors do not dispute this fact. And Rabbi Yoḥanan and Reish Lakish both say: With regard to a loan by oral agreement, the creditor can collect from the heirs and from those who purchased from the debtor. This shows that those same Sages already disagreed as to whether a lien on a property exists by Torah law in the absence of a document.

<sup>337</sup> The Gemara answers: It is necessary to teach both cases as, if it were stated only about this case of a loan, one might say: It is only with regard to this situation that Shmuel says there is no lien on property, because it is a loan that is not written in the Torah. This loan is merely a private agreement between two individuals. But with regard to this obligation of a woman to bring a burnt-offering, one might say that he concedes to Rabbi Yoḥanan and to Reish Lakish. Since this woman's obligation to bring a burnt-offering is written in the Torah, perhaps it creates a lien on her property despite the fact that there is no document to that effect.

<sup>338</sup> And conversely, had the amora'im taught us about their dispute only in this case of the burnt-offering of a woman following childbirth, one might say that Rabbi Yoḥanan says that the Torah imposes a lien only in this case of the burnt-offering, as a loan written in the Torah is like one written in a document. But with regard to this private loan, one might say that he concedes to Shmuel that the lien does not apply by Torah law. Therefore, it is necessary to state the dispute in both cases.

<sup>339</sup> Rav Pappa said that the halakha is as follows: With regard to a loan by oral agreement, the creditor can collect from the heirs but he cannot collect from those who purchased from the debtor. The reason he can collect from the heirs is that the accepted opinion is that the property of a debtor is lienied by Torah law. But he cannot collect from those who purchased from the debtor, because a loan by oral agreement does not generate publicity, i.e., people will not have heard about it. Therefore, they are not careful to avoid buying property from the debtor. These purchasers should not suffer due to a lien that was not well known.

<sup>340</sup> § The mishna teaches: And a woman acquires herself through a bill of divorce or through the death of the husband. The Gemara asks: Granted, this is the halakha with regard to a bill of divorce, as it is written explicitly in the Torah: "And he writes for her a scroll of severance, and gives it in her hand, and sends her out of his house; and she departs out of his house and she goes and becomes another man's wife" (Deuteronomy 24:1–2). This indicates that a bill of divorce enables a woman to marry whomever she wishes after the divorce.

<sup>341</sup> But from where do we derive that the death of the husband also enables a woman to remarry? The Gemara answers: This is based on logical reasoning: He, the husband, rendered her forbidden to every man, and he has permitted her. Since the husband is no longer alive, there is no one who renders her forbidden.

<sup>342</sup> The Gemara asks: But consider the status of those with whom relations are forbidden, as he renders her forbidden to them, and yet he does not permit her to them when he dies. For example, one may not marry one's father's wife even after the father dies. Rather, from the fact that the Merciful One states that a yevama who does not have children from her deceased husband is prohibited from marrying anyone besides the yavam, it may be inferred that a widow who has children from her deceased husband is permitted to remarry.

<sup>343</sup> The Gemara asks: But perhaps one should infer the following from that halakha: A woman who does not have children from her deceased husband is forbidden to everyone and permitted to the yavam, and a woman who has children from her deceased husband is forbidden to everyone also. Rather, the halakha that the death of the husband permits a woman to marry another man is derived from the fact that the Merciful One states that a widow is forbidden to a High Priest. This indicates that it is permitted for her to marry a common priest, and the same certainly applies to a non-priest.

<sup>344</sup> The Gemara asks: But perhaps one can say that she is forbidden to a High Priest by a prohibition, whereas she is forbidden to everyone else only by dint of a positive mitzva. The Gemara asks: This positive mitzva, what is its purpose? If the death of the husband affects her status, she should be entirely permitted, and if the death of the husband does not affect her status she remains in her initial state when her husband was alive, and therefore those who engage in sexual intercourse with her would be liable to receive the death penalty.

<sup>345</sup> The Gemara answers: And why is this suggestion not considered reasonable? One could argue that the death of the husband removed her from the class of people with whom one is punished with death for engaging in intercourse, and placed her in the class of people with whom one is prohibited to engage in intercourse due to a positive mitzva, just as it is with consecrated animals that have been disqualified. This is referring to animals that were designated as offerings but became invalid due to some blemish.

<sup>346</sup> The Gemara explains: The halakha with regard to such animals is that initially, when they are unblemished, they are subject to the halakhot of misuse, i.e., if one benefited from them he has misused consecrated items. And likewise shearing them and performing labor with them is prohibited. Once these animals have developed a blemish and one has redeemed them, the prohibition against misuse of consecrated items does not apply to them, but shearing them and performing labor with them remains prohibited. Based on this example, it is possible that the death of the husband does not render the woman entirely permitted. If so, one cannot derive from here that it is permitted for a wife whose husband has passed away to marry another man.

<sup>347</sup> Rather, the source that a widow may remarry is from that which the verse states: “Lest he die in battle and another man take her” (Deuteronomy 20:7). This indicates that a man may marry a widow. Rav Sheisha, son of Rav Idi, objects to this: One can say: Who is this other man mentioned by the verse? It is a yavam.

<sup>348</sup> Rav Ashi said that there are two refutations of this statement: First, a yavam is not called “another,” as his relationship with her is not entirely separate from that of the first husband. And furthermore, it is written: “And the latter husband hates her, and writes her a scroll of severance and gives it in her hand and sends her out of his house, or if the latter husband dies” (Deuteronomy 24:3). In this manner the verse juxtaposes death to divorce: Just as divorce permits a woman to everyone and completes the severing of a husband from his wife, thereby allowing her to marry another man, so too, death permits her and completes the severing, allowing her to marry another man.

<sup>349</sup> § The mishna teaches: And a yevama can be acquired by the deceased husband’s brother, the yavam, only through intercourse. And she acquires herself through ḥalitza or through the death of the yavam. The Gemara asks: From where do we derive that she can be acquired through intercourse? The verse states:

<sup>350</sup> “Her brother-in-law will engage in sexual intercourse with her and take her to him as a wife, and perform levirate marriage with her” (Deuteronomy 25:5), which indicates that intercourse renders her his wife. The Gemara asks: But one can say that with regard to all matters she is like a wife, and therefore she can also be acquired with money or a document like any other woman. The Gemara answers: It could not enter your mind to say this, as it is taught in a baraita: One might have thought that money and a document can complete the acquisition of a yevama and cause her to be married, in the manner that intercourse completes her acquisition. Therefore, the verse states: “And perform

levirate marriage with her” (Deuteronomy 25:5), which indicates that only intercourse completes her acquisition, but money or a document do not complete her acquisition.

<sup>351</sup> The Gemara asks: But one can say: What is the meaning of: “And perform levirate marriage with her”? It teaches that he can perform levirate marriage without her consent, as unlike an ordinary marriage, a levirate marriage does not require the woman’s agreement. The Gemara answers: If so, let the verse say: And perform levirate marriage, and one would understand that the matter depends entirely on him. What is the meaning of: “And perform levirate marriage with her”? Learn two conclusions from this: First, that a levirate marriage can be performed against her will, and second, that the only way to acquire a yevama is through sexual intercourse.

<sup>352</sup> § The mishna teaches that the yevama acquires herself through ḥalitza. The Gemara asks: From where do we derive this halakha? The Gemara answers: As it is written with regard to levirate marriage, after the yavam has performed ḥalitza: “And his name shall be called in Israel: The house of him who had his shoe removed” (Deuteronomy 25:10). This indicates: Once his shoe is removed by her, she is permitted to all of Israel.

<sup>353</sup> The Gemara asks: This term “Israel,” does it come to teach this halakha? It is required for that which is taught by Rav Shmuel bar Yehuda: The verse says “in Israel” to teach that ḥalitza may be performed only in a Jewish court, but not in a gentile court. The Gemara answers that the phrase “in Israel” is written twice in that chapter: “And his name shall be called in Israel” (Deuteronomy 25:10), and: “To establish a name for his brother in Israel” (Deuteronomy 25:7). A different halakha is derived from each of these instances.

<sup>354</sup> The Gemara asks: But still, we also require the additional term “in Israel” for that which is taught in a baraita, that Rabbi Yehuda said: Once we were sitting before Rabbi Tarfon and a yevama came to perform ḥalitza. And Rabbi Tarfon said to us after the ḥalitza: All of you should answer and say: The one whose shoe was removed, the one whose shoe was removed. This indicates that the phrase: “And his name shall be called in Israel” (Deuteronomy 25:10), teaches that the matter must be announced and publicized throughout the nation. The Gemara answers: That halakha is not derived from the phrase “in Israel.” Rather, it is derived from: “And his name shall be called,” which indicates that it must be announced that this is his name.

<sup>355</sup> § The mishna further teaches that a yevama is released from levirate marriage and may remarry through the death of the yavam. The Gemara asks: From where do we derive this halakha? The Gemara answers that it is an a fortiori inference: If, with regard to a married woman, who is forbidden to other men by a prohibition punished with strangulation, and yet the death of her husband renders her permitted, is it not all the more so that with regard to a yevama, who is forbidden to other men while the yavam is alive by only a mere prohibition, that the death of the yavam should render her permitted?

<sup>356</sup> The Gemara raises a difficulty against this a fortiori inference: What is unique about a married woman is that she can leave through a bill of divorce as well. Will you say the same with regard to this yevama, who does not leave through a bill of divorce? The Gemara answers: This is an insufficient refutation of the a fortiori inference, as this yevama also leaves through ḥalitza, which serves the same function as a bill of divorce.

<sup>357</sup> Rather, one can challenge this a fortiori inference in the following manner. What is unique about a married woman is that the one who renders her forbidden to everyone else, i.e., her husband, also

renders her permitted when he dies. This is not so with regard to a yevama, as she is rendered forbidden upon the death of her husband. Rav Ashi said: With regard to this yevama as well, he who renders her forbidden is also the one who renders her permitted: The yavam renders her forbidden, because if he was not alive she would automatically be permitted to other men. Likewise, the yavam renders her permitted through ḥalitza.

<sup>358</sup> The Gemara asks: And let a married woman leave a marriage through ḥalitza, as derived by an a fortiori inference: If a yevama, who cannot leave through a bill of divorce, can leave through ḥalitza, is it not logical that this married woman, who can leave through a bill of divorce, can likewise leave through ḥalitza? The Gemara answers: The verse states with regard to a married woman: “A scroll of severance” (Deuteronomy 24:3), which indicates that a scroll, i.e., a written document, severs her from her husband and nothing else severs her from him. While the husband is alive only a bill of divorce can dissolve a marriage.

<sup>359</sup> The Gemara further asks: And let a yevama leave through a bill of divorce, as derived by an a fortiori inference: If a married woman, who cannot leave through ḥalitza, can leave through a bill of divorce, is it not logical that this yevama, who can leave through ḥalitza, can also leave through a bill of divorce? The Gemara answers: The verse states: “So shall it be done to the man” (Deuteronomy 25:9), with regard to the ḥalitza of a yevama, and “so” precludes another option.

<sup>360</sup> The Gemara asks: And is it true that anywhere that there is a term that precludes another option one cannot learn an a fortiori inference? But there is the case of the designation of the goats on Yom Kippur, as it is written: “The goat upon which the lot came up for the Lord” (Leviticus 16:9), and: “This shall be an everlasting statute to you” (Leviticus 16:34), which indicates that everything stated with regard to the mitzvot of Yom Kippur is critical to the performance of the service of the day.

<sup>361</sup> And it is taught in a baraita that the verse states: “Aaron shall bring forward the goat upon which the lot came up for the Lord, and he shall offer it for a sin-offering” (Leviticus 16:9). The verse indicates that the lottery renders it a sin-offering, but a verbal designation of the goat with the status of a sin-offering does not render it a sin-offering.

<sup>362</sup> The baraita continues: A verse is necessary to teach this halakha, as one might have thought that the opposite conclusion is correct: Could this not be derived through an a fortiori inference, as follows: Just as in a case in which the use of a lottery does not effect the consecration of the animals with a specific designation, e.g., with regard to a woman who has given birth and must bring two birds, one as a sin-offering and one as a burnt-offering, and nevertheless a verbal designation of the animals with the required status does effect the consecration of them, so too, in a case in which the use of a lottery does effect the consecration of the animals, is it not logically right that a verbal designation of the animals with the required status should effect the consecration of them?

<sup>363</sup> To counter this reasoning, the verse states with regard to the goat: “He shall offer it for a sin-offering” (Leviticus 16:9), to indicate that the lottery renders it a sin-offering, but a verbal designation of the goat with the status of a sin-offering does not render it a sin-offering. And the reason that a verbal designation is ineffective is that the verse excluded this possibility, from which it may be inferred that if it were not so, one would learn an a fortiori inference, even though it is written with regard to it “statute.” The same logic should apply in the case of ḥalitza, i.e., the term “so” should not prevent one from learning an a fortiori inference, and therefore it might be argued that a yevama can be released through a bill of divorce.

<sup>364</sup> Rather, the Gemara explains that here too, there is a limitation derived from a verse. The verse states with regard to a bill of divorce: “And write for her a scroll of severance” (Deuteronomy 24:3). “For her” is a limitation, which teaches: A bill of divorce is effective for a regular woman but not for a yevama. The Gemara asks: But one can say that the phrase “for her” indicates that the bill of divorce must be written for her sake.

<sup>365</sup> The Gemara answers: “For her” is written twice (Deuteronomy 24:1, 3), and therefore both halakhot can be derived. The Gemara asks: And still, one instance of: “For her” is required to teach that the bill of divorce must be written for her sake, and the other “for her” is needed to teach: For her and not both for her and for another, i.e., her rival wife. One bill of divorce cannot be used for two women.

<sup>366</sup> Rather, the Gemara suggests a different explanation as to why a bill of divorce is ineffective for a yevama. With regard to a yevama the verse states: “The house of him who had his shoe removed” (Deuteronomy 25:10), which teaches: If she is released by the ḥalitza of the shoe, yes, she is released from the yavam, but if she was released by means of something else, no, she is not released.

<sup>367</sup> The Gemara asks: But this term “shoe,” does it come to teach this? It is necessary for that which is taught in a baraita: The verse said: “And remove his shoe” (Deuteronomy 25:9). I have derived only that his shoe may be used. From where do I derive that the shoe of any person may also be used for ḥalitza?

<sup>368</sup> The verse states “shoe,” and states again in the next verse “shoe,” which includes any other shoe. If so, what is the meaning when the verse states “his shoe,” which is apparently referring to the shoe of that particular man? This teaches that it must be his shoe that is fit for him, excluding a shoe so large that he cannot walk in it, and excluding a shoe so small that it does not cover most of his foot, and excluding

<sup>369</sup> sandals [mesulayim] that have no heels, which do not qualify as shoes. The Gemara answers: If so, that the term is stated only for that purpose, let the verse write “shoe.” What is the meaning of “the shoe”? Learn the two previously stated conclusions from it.

<sup>370</sup> MISHNA: A Hebrew slave can be acquired by his master through money or through a document, and he can acquire himself, i.e., he is emancipated, through years, i.e., when he completes his six years of labor, or through the advent of the Jubilee Year, or through the deduction of money. The slave can redeem himself during the six years by paying for his remaining years of slavery. A Hebrew maidservant has one mode of emancipation more than him, as she acquires herself through signs indicating puberty. A slave who is pierced after serving six years is acquired as a slave for a longer period through piercing his ear with an awl, and he acquires himself through the advent of the Jubilee Year or through the death of the master.

<sup>371</sup> GEMARA: The mishna teaches that a Hebrew slave can be acquired through money. The Gemara asks: From where do we derive this halakha? The Gemara answers that the verse states: “Out of the money that he was bought for” (Leviticus 25:51), which teaches that he can be acquired through money. The Gemara asks: We found that a Hebrew slave who is sold to a gentile is acquired with money, which is the case discussed in that verse, but this proves nothing with regard to a Jew sold to a Jew. One could argue that since all of the acquisitions of a gentile are performed only with money, he can likewise purchase a Hebrew slave with money.



<sup>372</sup> But from where do we derive that a Hebrew slave can be sold to a Jew with money? The Gemara explains that with regard to a Hebrew maidservant, the verse states: “Then he shall let her be redeemed” (Exodus 21:8), which teaches that if she acquires money and wishes to be emancipated before her time is complete, she deducts a sum from her redemption. The maidservant can deduct the value of time served from her purchase price and pay the remaining amount, and she then is emancipated. This teaches that a Hebrew maidservant is acquired through money, a halakha that applies to a male slave as well.

<sup>373</sup> The Gemara asks: Although we found this halakha with regard to a Hebrew maidservant, one cannot extrapolate from there to this case, as it is possible that it applies only to a female. The reason for this is that since she is ordinarily betrothed through money, she can also be acquired as a maidservant through money. From where do we derive that a Hebrew slave can likewise be acquired through money? The Gemara answers that the verse states: “If your brother, a Hebrew man, or a Hebrew woman is sold to you, and he shall serve you six years” (Deuteronomy 15:12). This verse juxtaposes a Hebrew man to a Hebrew woman, indicating that the modes through which they are acquired are the same.

<sup>374</sup> The Gemara further asks: We found a source in this verse for a slave who is sold by the court. This verse is referring to a thief who is unable to repay the value of his theft and is sold as a slave so that he can repay his debt. One can therefore argue that this case is unique, since he is sold against his will. From where do we derive that one who sells himself can be sold through money?

<sup>375</sup> The Gemara answers: One derives this through a verbal analogy between the terms “hired worker” and “hired worker.” This term appears both with regard to one who sells himself: “As a hired worker and as a settler he shall be with you” (Leviticus 25:40), and with regard to one who is sold by the court: “For double of the hire of a hired worker he has served you” (Deuteronomy 15:18). The Gemara asks: This works out well according to the one who derives this verbal analogy between the terms “hired worker” and “hired worker.” But according to the one who does not derive the verbal analogy between “hired worker” and “hired worker,” what can be said? From where does he derive that one who sells himself may be purchased with money?

<sup>376</sup> The Gemara answers: The verse states at the start of the passage dealing with one sold to a gentile: “And if a stranger who is a settler with you becomes rich” (Leviticus 25:47). The conjunction “and” serves to add to the first matter, i.e., the passage discussing one who sells himself to a Jew, as it joins the two issues. And therefore let the above case of one who sells himself to a Jew be derived from the case below of one who is sold to a gentile: Just as one who is sold to a gentile can be acquired with money, so too, one who sells himself to a Jew can be acquired with money.

<sup>377</sup> The Gemara comments: And who is the tanna who does not derive the verbal analogy between “hired worker” and “hired worker”? It is this tanna, as it is taught in a baraita: One who sells himself as a slave is sold for six years, and if he wishes he can be sold for more than six years, whereas one who is sold by the court is sold only for six years, but no more.

<sup>378</sup> The baraita adds that there are additional differences between these two slaves: One who sells himself may not be pierced with an awl, whereas one who is sold by the court may be pierced with an awl. One who sells himself is not granted a severance gift by his master when he is emancipated, whereas one who is sold by the court is granted a severance gift. With regard to one who sells himself, his master may not provide him with a Canaanite maidservant as a wife to produce slave

children, whereas with regard to one sold by the court, his master may provide him with a Canaanite maidservant.

<sup>379</sup> Rabbi Elazar says that there is no difference between these two types of slaves. Rather, both this slave and that slave may be sold for only six years; both this and that one may be pierced with an awl, both this and that one are granted a severance gift, and in both this case and that case his master may provide him with a Canaanite maidservant. What, is it not the case that they disagree with regard to this, that the first tanna does not derive the verbal analogy between “hired worker” and “hired worker,” and Rabbi Elazar derives the verbal analogy between “hired worker” and “hired worker”? If one holds that the two cases are juxtaposed, one will equate the halakhot of both slaves. This is the opinion of Rabbi Elazar, in contrast to the opinion of the first tanna, who holds that the halakhot of each type of slave are discrete.

<sup>380</sup> Rav Tavyumei said in the name of Abaye: That is not so; rather, everyone derives the verbal analogy between “hired worker” and “hired worker,” and here, in the dispute in the baraita, they disagree about this following verse. What is the reasoning of the first tanna, who says that one who sells himself is sold for six years and more than six years? He maintains that with regard to one sold by the court, the Merciful One excludes a certain case by the verse: “If your brother, a Hebrew man, or a Hebrew woman, is sold to you, and he shall serve you six years” (Deuteronomy 15:12). That teaches that only this type of slave serves for six years and no more, but the same does not apply to one who sells himself. If he so stipulates, he may serve for more than six years.

<sup>381</sup> The Gemara explains: And the other, Rabbi Elazar, learns a different halakha from this verse. “And he shall serve you” means that he works for you and not for an heir other than a son. If a master has no sons, his slave is not transferred as an inheritance to a daughter or to a brother like his other property. If he does have sons, they inherit a Hebrew slave.

<sup>382</sup> The Gemara asks: And the other, the first tanna, from where does he derive that a slave is not transferred as an inheritance? The Gemara answers that the phrase, “And he shall serve you,” is written another time, and he derives this halakha from there. The Gemara asks: And the other, Rabbi Elazar, what does he do with that other verse? The Gemara answers: In his opinion that verse comes to appease the master. The verse emphasizes that the servitude is of limited duration to encourage the master to free the slave without hesitation.

<sup>383</sup> The Gemara asks: What is the reasoning of the first tanna, who says that one who sells himself is not pierced with an awl? The Gemara answers: He derives this from the fact that with regard to one sold by the court, the Merciful One excludes a certain case by the verse: “And his master shall pierce his ear with an awl” (Exodus 21:6), which teaches: His ear, of this slave, and not the ear of a slave who sells himself.

<sup>384</sup> And the other Sage, Rabbi Elazar, would say: That term, “his ear,” comes for a verbal analogy. As it is taught in a baraita that Rabbi Eliezer says: From where is it derived that the piercing of a Hebrew slave’s ear with an awl is performed on the right ear? It is stated: Ear, here, with regard to a Hebrew slave, and it is stated there, with regard to the ritual purification of a leper: “The right ear of he who is to be purified” (Leviticus 14:14). Just as there, with regard to a leper, it specifies the right ear explicitly, so too here, the piercing of a slave must be performed on the right ear.

<sup>385</sup> The Gemara asks: And how does the other Sage, the first tanna, derive that this piercing can be performed only on the right ear? The Gemara answers: He would argue that if it is so that the word

“ear” is stated only for the sake of the verbal analogy, let the verse say merely: Ear, and one would learn the halakha through a verbal analogy from the case of the leper’s ear. What is the reason that it states “his ear”? This serves to teach that one who sells himself may not be pierced.

<sup>386</sup> And the other Sage, Rabbi Elazar, would answer: That formulation is necessary to teach that the mitzva of piercing applies to “his ear” but not her ear. He learns from the pronoun that piercing may be performed only on a male slave, not a maidservant. The Gemara asks: And from where does the other Sage, the first tanna, derive this halakha? The Gemara answers: He derives it from the verse: “But if the slave shall say” (Exodus 21:5). This indicates that piercing applies to the slave but not to a maidservant.

<sup>387</sup> And the other Sage, Rabbi Elazar, who does not derive this ruling in the same manner as the first tanna, requires this verse for a different halakha: A slave may declare that he wishes to be pierced provided that he says this when he is still a slave. After he has been emancipated, he can no longer say that he wishes to remain with his master.

<sup>388</sup> The Gemara asks: And from where does the other Sage, the first tanna, learn this halakha? The Gemara responds: He derives it from the terms: Slave, and “the slave.” If the verse had stated only: Slave, one would have learned that a slave may say this only while still a slave. Since it is actually written “the slave,” this teaches the other halakha as well, that a slave may be pierced but a maidservant may not. The Gemara comments: And the other Sage, Rabbi Elazar, does not learn a halakha from this slight difference between: Slave, and “the slave.”

<sup>389</sup> The Gemara clarifies additional details with regard to this dispute: What is the reasoning of the first tanna, who says that one does not grant a severance gift to one who sells himself? With regard to one sold by the court, the Merciful One excludes a certain case by the verse: “You shall give a severance gift to him” (Deuteronomy 15:14). “To him” means to one who is sold by the court, but not to one who sells himself.

<sup>390</sup> The Gemara asks: And what does the other Sage, Rabbi Elazar, derive from that verse? The Gemara answers: He requires that verse to teach the following: “To him” means that one grants a severance gift only to the slave himself but not to his heirs. The Gemara asks: Why not give this gift to his heirs? After all, the Merciful One calls a Hebrew slave “a hired worker.” Just as payment for the labor of a hired worker is given to his heirs when he dies, so too this severance gift for his labor should be given to his heirs when he dies. Rather, this verse teaches “to him,” but not to the slave’s creditor. One to whom the slave owes money may not collect the slave’s severance gift as repayment of the debt.

<sup>391</sup> The Gemara asks: Why is it necessary to emphasize that a creditor has no rights to the severance gift? That is necessary due to the fact that we generally hold in accordance with the opinion of Rabbi Natan, as it is taught in a baraita that Rabbi Natan says: From where is it derived that in the case of one who lends one hundred dinars to another, and the other lends a similar sum to yet another, a third person, from where is it derived that the court appropriates the money from this one, the third person, and gives it to that one, the first creditor, without going through the second person, who owes money to the first and is owed that same amount by the third? The verse states: “And he shall give it to him whom he has wronged” (Numbers 5:7), which indicates that the loan should be repaid to the creditor to whom the money is ultimately owed.

<sup>392</sup> Therefore, the term “to him” comes to exclude this possibility, as the severance gift is given to the slave and not to his creditor. And how does the other Sage, the first tanna, respond to this claim? He maintains that we generally do not hold in accordance with the opinion of Rabbi Natan. Consequently, this exposition is unnecessary.

<sup>393</sup> The Gemara continues to ask: What is the reasoning of the first tanna, who says that if one sells himself his master does not provide him with a Canaanite maidservant? The Gemara answers: With regard to one sold by the court, the Merciful One excludes a certain case by the verse: “If his master give to him a wife” (Exodus 21:4). This serves to emphasize “to him” but not to one who sells himself. And the other Sage, Rabbi Elazar, explains: “To him” means even against his will.

<sup>394</sup> And from where does the other Sage, the first tanna, derive that the slave must remain with this maidservant against his will? He derives it from the verse: “For double of the hire of a hired worker he has served you” (Deuteronomy 15:18). As it is taught in a baraita that this verse: “For double of the hire of a hired worker he has served you,” indicates that a hired worker works only during the day, whereas a Hebrew slave works both during the day and at night.

<sup>395</sup> The Gemara clarifies: And can it enter your mind that a Hebrew slave actually works both during the day and at night? But isn’t it already stated: “Because he fares well with you” (Deuteronomy 15:16), which teaches that he must be with you in food and with you in drink? All of the slave’s needs must be fulfilled, and his living conditions must be equal to those of the master himself. If so, he cannot be forced to work under unreasonable conditions. And Rabbi Yitzhak says in explanation of this halakha: From here it is derived that his master may provide him with a Canaanite maidservant against his will to produce children for the master. This is the service he performs at night.

<sup>396</sup> And the other Sage, Rabbi Elazar, would say that this is no proof, because if it is derived from there alone I would say: This matter applies only with his consent; but as for his master forcing him to live with a maidservant against his will, I would say no, he cannot do this. Therefore, the term “to him” teaches us that the master can even provide him with a Canaanite maidservant against his will.

<sup>397</sup> § According to the above explanation, both Rabbi Elazar and the first tanna accept the verbal analogy between “hired worker” and “hired worker.” Rather, who is the tanna who does not derive the verbal analogy between “hired worker” and “hired worker”? It is this tanna, as it is taught in a baraita as follows with regard to the verse: “He shall labor with you until the Jubilee Year, then he shall go out from you, he and his children with him, and shall return to his own family and to the possession of his fathers he shall return” (Leviticus 25:40–41). Rabbi Eliezer ben Ya’akov says: What is the verse speaking of when it states: “And shall return to his own family”? If it is speaking of one who sold himself and the Jubilee Year arrived during his six years of slavery, this is already stated: “He shall labor with you until the Jubilee Year, then he shall go out from you” (Leviticus 25:40).

<sup>398</sup> If it is speaking of a pierced slave, it is already stated, as will be explained. It must be that the verse is speaking of nothing other than a man sold by the court two or three years before the Jubilee Year, and it teaches that the Jubilee Year releases him from slavery. The Gemara analyzes this opinion: And if it would enter your mind that Rabbi Eliezer ben Ya’akov derives the verbal analogy between “hired worker” and “hired worker,” why do I need this verse? Let him derive that a man

sold by the court is released in the Jubilee Year by the verbal analogy between “hired worker” and “hired worker,” from the case of one who sold himself.

<sup>399</sup> Rav Naḥman bar Yitzḥak said that this claim can be refuted: Actually, Rabbi Eliezer ben Ya’akov derives the verbal analogy between “hired worker” and “hired worker” as well, and even so it was necessary for him to learn that halakha from a verse. The reason is that it might enter your mind to say that one who sells himself, who did not commit a transgression, is emancipated at the onset of the Jubilee Year even if six years have not passed, but with regard to one sold by the court, who did commit a transgression, as he was sold because he was unable to repay the value of his theft, one might say that we should penalize him and therefore he should not be emancipated in the Jubilee Year. Consequently, the verse teaches us that even this slave is emancipated in the Jubilee Year.

<sup>400</sup> The Master said earlier, in the baraita: If it is speaking about a pierced slave, it is already stated. The Gemara asks: What is the verse that teaches that a pierced slave is released in the Jubilee Year? As it is taught in a baraita that the verse states: “And you shall return, each man to his land, and you shall return, each man to his family” (Leviticus 25:10). What is the verse speaking of? If it is speaking of one who sells himself, it is already stated: “He shall labor with you until the Jubilee Year” (Leviticus 25:40).

<sup>401</sup> If it is speaking of one who was sold by the court, it is already stated: “Then he shall go out from you, he and his children with him, and shall return to his own family” (Leviticus 25:41). It must be that the verse is speaking of nothing other than a slave who is pierced two or three years before the Jubilee Year, and that the Jubilee Year releases him. The Gemara asks: From where may it be inferred that the verse is specifically referring to a pierced slave? Rava bar Sheila said that the verse states “man.” What matter applies to a man and does not apply to a woman? You must say that this is piercing a Hebrew slave’s ear with an awl.

<sup>402</sup> The Gemara comments: And it was necessary for the Torah to write that one sold by the court leaves in the Jubilee Year, and it was also necessary to write the same with regard to a pierced slave, as neither case can be derived from the other. The Gemara elaborates: As, if the Torah had informed us only about one who was sold by the court, one might say that the Jubilee Year releases him because his time had not come to be freed. But with regard to a pierced slave, whose time had come but he did not wish to be freed, one might say that we should penalize him and he should remain a permanent slave.

<sup>403</sup> And conversely, if the Torah had informed us only about a pierced slave, one might say that the Jubilee Year releases him because he has served the master for six years, as required, but with regard to one who was sold by the court, who has not yet served his master for six years, one might say that he should not be freed in the Jubilee Year. Therefore, it was necessary for the Torah to state this halakha with regard to both cases.

<sup>404</sup> And likewise, it was necessary for the Torah to write with regard to the release of a pierced slave in the Jubilee Year: “And you shall return, each man to his land” (Leviticus 25:10), and it was necessary to write as well: “And he shall serve him forever” (Exodus 21:6), which is interpreted by the Sages as referring to until the Jubilee Year. As, if the Merciful One had written only “forever,” I would say that this actually means forever, i.e., for his entire life. Therefore, the Merciful One writes: “And you shall return.”

<sup>405</sup> And if the Merciful One had written only “and you shall return,” I would say that this statement applies only where he did not serve six years after being pierced; but in a case where he did serve six years after he was pierced, one might argue as follows: His final stage, after he is pierced, should not be stricter than his initial stage, when he was first sold: Just as after his initial stage he serves only six years, so too in his final stage he serves only six years and no longer. Therefore, the verse teaches us “forever,” which means forever until the Jubilee Year, even if the Jubilee Year arrives many years later. In any case, with regard to the issue at hand there is no proof that Rabbi Eliezer ben Ya’akov does not derive the verbal analogy between “hired worker” and “hired worker.”

<sup>406</sup> Rather, who is the tanna who does not derive the verbal analogy between “hired worker” and “hired worker”? It is Rabbi Yehuda HaNasi, as it is taught in a baraita:

<sup>407</sup> A Hebrew slave sold to a gentile can be redeemed by his relatives, as it is stated: “And if he is not redeemed by any of these, then he shall go out in the Jubilee Year” (Leviticus 25:54). Rabbi Yehuda HaNasi says: He can be redeemed only through these, i.e., the assistance of his relatives, and he is not redeemed after six years of labor.

<sup>408</sup> Rabbi Yehuda HaNasi elaborates: As I might have argued that one sold to a gentile should be released after six years. Could this not be derived through an a fortiori inference: If one who cannot be redeemed by these relatives, i.e., a Hebrew slave who was sold to a Jew, as he cannot be redeemed by his relatives, nevertheless is redeemed after six years of labor, is it not logical that this Hebrew slave sold to a gentile, who can be redeemed by these relatives, can likewise be redeemed after six years of work? Therefore, the verse states “by any of these,” to emphasize that one sold to a gentile can be redeemed only through these relatives, and he cannot be redeemed after six years.

<sup>409</sup> The Gemara explains the proof: And if it enters your mind that Rabbi Yehuda HaNasi derives the verbal analogy between “hired worker” and “hired worker,” why does he say: If one who cannot be redeemed by these, with regard to one who is sold to a Jew? Let him derive that halakha from the case of one sold to a gentile, through the verbal analogy between “hired worker” and “hired worker.” The term “hired worker” is used in reference to one sold to a gentile as well: “As a hired worker year by year he shall be with him” (Leviticus 25:53), and accordingly one can say that even one sold to a Jew can be redeemed by his relatives. The fact that he does not accept this claim indicates that Rabbi Yehuda HaNasi rejects the verbal analogy between “hired worker” and “hired worker.”

<sup>410</sup> Rav Naḥman bar Yitzḥak said: This proof can be refuted, as one can say that actually Rabbi Yehuda HaNasi does derive the verbal analogy between “hired worker” and “hired worker,” and it is different here, with regard to one sold to a gentile, as the verse states: “Either his uncle or his uncle’s son may redeem him” (Leviticus 25:49). This emphasis of “him” teaches that redemption is an option only for this slave and not for another type of slave.

<sup>411</sup> With regard to the dispute itself the Gemara inquires: And who is the tanna who disagrees with Rabbi Yehuda HaNasi with regard to this? It is Rabbi Yosei HaGelili and Rabbi Akiva. As it is taught in a baraita concerning the verse: “And if he is not redeemed by any of these” (Leviticus 25:54), that Rabbi Yosei HaGelili says: The expression “by any of these” indicates that redemption by one’s relatives is to freedom, i.e., one becomes an entirely free man. But if a slave is redeemed by anyone else who pays the gentile master, it is to slavery. The redeemed slave becomes indentured to his redeemer until he repays the cost of his redemption through his work. Rabbi Akiva says the opposite:

By these relatives he is redeemed to slavery, whereas if he is redeemed by anyone else, it is to freedom.

<sup>412</sup> The Gemara asks: What is the reasoning of Rabbi Yosei HaGelili? The verse states concerning a redeemed slave who is emancipated: “If he is not redeemed by any of these” relatives; but if he is redeemed by another, “then he shall go out in the Jubilee Year,” not earlier, as he becomes enslaved to him. And Rabbi Akiva says: “If he is not redeemed” in any other manner but only “by any of these,” “then he shall go out in the Jubilee Year,” i.e., if he is redeemed by relatives, he is emancipated only at the close of Yom Kippur of the Jubilee Year. By contrast, if he is redeemed by others he is emancipated immediately. And how does Rabbi Yosei HaGelili respond to this claim? He would ask: Is it written: Only by any of these?

<sup>413</sup> Rather, as this suggested interpretation of the verse by Rabbi Akiva is clearly problematic, the Gemara retracts the previous explanation of the dispute and instead says that they disagree with regard to the precise meaning of this verse: “Either his uncle or his uncle’s son may redeem him, or any that is near of kin unto him of his family may redeem him; or if he becomes rich, and he is redeemed” (Leviticus 25:49). “Either his uncle or his uncle’s son may redeem him”; this is the redemption performed by relatives. “Or if he becomes rich”; this is redemption by himself. “And he is redeemed”; this is redemption by other people.

<sup>414</sup> Rabbi Yosei HaGelili maintains: A verse is interpreted homiletically based on its juxtaposition to the verse immediately preceding it. Therefore, one should cast, i.e., compare, the case of redemption performed by relatives to the case of redemption performed by himself: Just as redemption performed by himself leads to complete freedom, so too, redemption performed by relatives leads to freedom. And Rabbi Akiva maintains that a verse is interpreted homiletically based on its juxtaposition to the verse immediately after it. Therefore one should cast the case of redemption performed by others to the case of redemption performed by himself: Just as redemption performed by himself is to freedom, so too, redemption performed by others is to freedom, whereas if he is redeemed by his relatives, he becomes enslaved to them.

<sup>415</sup> The Gemara asks: If so, that this is their dispute, why do I need the phrase “by any of these,” according to both Rabbi Yosei HaGelili and Rabbi Akiva? The Gemara answers: If it were not for the phrase “by any of these,” I would say that a verse is interpreted homiletically based on its juxtaposition to the verse immediately preceding it as well as to the verse immediately after it, and therefore in every manner in which he is redeemed it is to freedom. The phrase “by any of these” limits this freedom either to relatives or other people, according to the respective opinions of Rabbi Yosei HaGelili and Rabbi Akiva.

<sup>416</sup> The Gemara asks: If so, that the different opinions are based on the phrase “by any of these,” then the difficulty with the opinion of Rabbi Akiva, that the verse does not say: If he is not redeemed in any other manner but only by any of these, has returned to its place, i.e., it is still valid, as this phrase indicates that Rabbi Yosei HaGelili’s interpretation of the verse is correct. Rather, Rabbi Yosei HaGelili and Rabbi Akiva disagree with regard to reason. Their dispute is a matter of logic and does not concern textual interpretation.

<sup>417</sup> The Gemara elaborates. Rabbi Yosei HaGelili maintains: It stands to reason that redemption performed by others is to slavery, as, if you say it is to freedom, they will refrain and will not redeem him. If the slave is required to serve them, and they incur no financial loss, they will redeem him.

And Rabbi Akiva maintains: It stands to reason that redemption performed by relatives is to slavery, as, if you say it is to freedom, each and every day he will go and sell himself over and again, relying on his relatives to free him.

<sup>418</sup> Rabbi Ḥiyya bar Abba says that Rabbi Yoḥanan says: This is the statement of Rabbi Yosei HaGelili and Rabbi Akiva, who hold that a slave is not invariably freed whenever he is redeemed from his gentile master. But the Rabbis say that in every case, when he is emancipated it is to freedom.

<sup>419</sup> The Gemara inquires: Who are these Rabbis? It is Rabbi Yehuda HaNasi, who derives another exposition from this term “by any of these,” as stated above. And Rabbi Yehuda HaNasi maintains that a verse is interpreted homiletically based on its juxtaposition to the verse immediately preceding it as well as to the verse immediately after it. Consequently, the Hebrew slave of a gentile is emancipated regardless of whether he is redeemed by relatives or other people.

<sup>420</sup> The Gemara asks: And Rabbi Yehuda HaNasi, what does he do with the verse: “And if he is not redeemed by any of these means, then he shall go out in the Jubilee Year” (Leviticus 25:54)? The Gemara answers: He requires this verse for that which is taught in a baraita with regard to the verse: “Then he shall go out in the Jubilee Year.” If the slave is not redeemed prior to this point in time he leaves his gentile master only in the Jubilee Year.

<sup>421</sup> This indicates that the verse is stated with regard to a gentile who is under your authority, i.e., one who is subject to Jewish rule. Or perhaps you will say that the verse is stated only with regard to a gentile who is not under your authority. This is not possible, as you say: But what can be done to him to compel him to obey the Torah’s commands? Consequently, the verse must be speaking of nothing other than a gentile who is under your authority.

<sup>422</sup> § The mishna teaches: A Hebrew slave can be acquired by his master through money or through a document. The Gemara asks: From where do we derive that he can be acquired through a document? Ulla said: The verse states with regard to a Hebrew maidservant: “If he takes himself another wife” (Exodus 21:10). The verse thereby juxtaposes a Hebrew maidservant to another woman who is betrothed: Just as another woman can be acquired by her husband through a document (see 2a), so too, a Hebrew maidservant can be acquired through a document.

<sup>423</sup> The Gemara asks: This works out well according to the one who says that the master writes the document of a Hebrew maidservant, just as a betrothal document is written by the husband. But according to the one who says that the father writes it, in the manner of a document of sale, what can be said? According to that opinion, the document of a Hebrew maidservant is not similar to a betrothal document. As it was stated that amora’im disagreed about this matter: With regard to the document of a Hebrew maidservant, who writes it? Rav Huna says: The master writes it. Rav Ḥisda says: The father writes it. This works out well according to the opinion of Rav Huna, but according to the opinion of Rav Ḥisda, what can be said?

<sup>424</sup> Rav Aḥa bar Ya’akov said that this halakha is derived from a different source. The verse states with regard to a Hebrew maidservant: “She shall not go out as the men slaves do” (Exodus 21:7). One can infer: But she can be acquired in the manner of the acquisition of Canaanite male slaves. And what is this mode of acquisition? It is a document.



<sup>425</sup> The Gemara asks: But one can say that the inference should be a different one: But she can be acquired in the manner of the acquisition of Canaanite male slaves, and what is this mode of acquisition? It is possession. The Gemara answers that one cannot interpret that verse in this manner, as the verse states with regard to Canaanite slaves: “And you shall bequeath them to your children after you” (Leviticus 25:46), which indicates that you can acquire only them, i.e., Canaanite slaves, through possession, like an inherited tract of land, but other slaves cannot be acquired through possession.

<sup>426</sup> The Gemara asks: But if so, one can equally say that they, Canaanite slaves, can be acquired through a document, but others cannot be acquired through a document. The Gemara answers: Isn’t it written: “She shall not go out as the men slaves do” (Exodus 21:7), and this is explained to mean that she, like other slaves, can be acquired through a document. The Gemara asks: Since these two verses can be explained in either manner, what did you see that led you to compare a Hebrew maidservant to a Canaanite slave with regard to a document, and what led you to differentiate her from a Canaanite slave with regard to acquisition through possession? Perhaps the opposite should be the case, i.e., she is similar to a Canaanite slave with regard to possession and differs from him concerning acquisition through a document?

<sup>427</sup> The Gemara answers: It stands to reason that a document should be included in the acquisition of a slave, as a document is powerful in that it can release a Jewish woman, in the form of a bill of divorce. The Gemara rejects this argument: On the contrary, possession should be included, as it can effect acquisition in the case of the property of a convert who died without leaving heirs, whereas no other mode can be used to acquire such property. The Gemara answers: Nevertheless, with regard to marriage, in any event, one does not find acquisition by means of possession. If you wish, say another answer: It is to that end, i.e., to determine in which way to compare a Hebrew maidservant to a Canaanite slave, that the verse “if he takes another,” is effective, as it indicates that the acquisition of a Hebrew maidservant includes a mode of acquisition used in betrothal, i.e., a document.

<sup>428</sup> The Gemara asks: And Rav Huna, what does he learn from this verse: “She shall not go out as the men slaves do” (Exodus 21:7)? The Gemara answers: He requires that verse to teach that she is not released on account of an injury to the extremities like a Canaanite slave. If a master injures one of her limbs she is not emancipated, as explained in greater detail below. The Gemara asks: And Rav H̥isda, from where does he derive this halakha? The Gemara answers: If so, that it is teaching only one halakha, let the verse write: She shall not go out as the men slaves. What is the reason for the additional term “as the men slaves do”? Conclude two conclusions from it: She is not freed due to injured limbs, and like a slave, she too can be acquired by means of a document.

<sup>429</sup> § The mishna teaches: And a Hebrew slave can acquire himself after six years of work. The Gemara cites the source for this halakha: As it is written: “Six years he shall labor; and in the seventh he shall go out free for nothing” (Exodus 21:2).

<sup>430</sup> § The mishna further states that a Hebrew slave is emancipated in the Jubilee Year. The Gemara explains that this is as it is written: “He shall labor with you until the Jubilee Year” (Leviticus 25:40).

<sup>431</sup> § The mishna teaches that a Hebrew slave can be freed through the deduction of money. H̥izkiyya says that the reason is that the verse states: “Then he shall let her be redeemed” (Exodus 21:8), which teaches that if she acquires money and wishes to be emancipated before her time is complete, she deducts the value of the years that she has not yet worked from the cost of her redemption, and is

emancipated. The same halakha applies to a slave. A tanna taught: And a slave can acquire himself with money, with an item worth money, and with a document.

<sup>432</sup> The Gemara comments: Granted, he can be acquired through money, as it is written: “Out of the money that he was bought for” (Leviticus 25:51). Likewise, it is also clear that he can be acquired with an item worth money, as the Merciful One states: “He shall give back the price of his redemption” (Leviticus 25:51), which serves to include an item of monetary value, which is considered like money. In other words, any item of value can be used to redeem a slave. But with regard to this document mentioned here, what are the circumstances? If we say that the slave wrote a promissory note for his own money, that is the same as money. What is the difference between the two cases?

<sup>433</sup> Rather, this is referring to a document of manumission written by the master when the slave is emancipated. The Gemara asks: Why do I need a document for this purpose? Let him say in the presence of two witnesses: Go free. Alternatively, let him say before a court: Go free. Rava says: That is to say that the body of a Hebrew slave is owned by his master, and this is not merely a monetary debt. And in the case of a master who relinquishes his deduction, i.e., the money that the slave must return for the years he has not yet served, his deduction is not relinquished. Although one can relinquish a monetary debt verbally, this is insufficient to release a slave whose body is owned by his master. A document is required to effect his freedom.

<sup>434</sup> § The mishna teaches that a Hebrew maidservant has one mode of emancipation more than a Hebrew slave, as she acquires herself through signs indicating puberty. Reish Lakish says: A Hebrew maidservant acquires herself from the master’s authority through the death of her father. This is derived through an a fortiori inference: If signs indicating puberty, which do not release her from her father’s authority, as, although she develops signs of puberty she remains under her father’s authority with regard to certain matters, nevertheless release her from the master’s authority, is it not logical that death, which releases her entirely from her father’s authority, should release her from her master’s authority?

<sup>435</sup> Rav Hoshaya raises an objection from the mishna: A Hebrew maidservant has one mode of emancipation more than a Hebrew slave, as she acquires herself through signs indicating puberty. And if it is so that she also acquires herself through her father’s death, as claimed by Reish Lakish, let the mishna teach also that she is released through the death of the father. The Gemara answers: The absence of an explicit statement is not proof, as the mishna taught one difference between a male slave and a maidservant and omitted others.

<sup>436</sup> The Gemara asks: What else did he omit that he omitted this? The tanna would certainly not leave out only one halakha. The Gemara answers: The tanna omitted the death of the master. In the event of the master’s death, the Hebrew maidservant is emancipated and is not inherited by the master’s heirs. The Gemara rejects this suggestion: If it is due to the death of the master, that is not an omission. The reason is that since there is also a similar halakha with regard to a man, i.e., a pierced slave, the mishna does not teach this case.

<sup>437</sup> But if so, the question remains: Rather, let it teach that she is emancipated through the death of her father. The Gemara answers: The tanna in the mishna teaches a matter that has a set time, and he does not teach a matter that does not have a set time, e.g., the death of her father.

<sup>438</sup> The Gemara raises a difficulty: But there is the case of signs indicating puberty, which do not have a set time, as young women exhibit these signs of puberty at different ages, and yet it teaches this mode of emancipation anyway. Rav Safra says: Admittedly, these signs have no maximum set time, as once she reaches the age of twelve she is emancipated whenever she develops these signs, but they do have a set time

<sup>439</sup> with regard to the minimum age at which these signs are taken into consideration. In other words, there is a lower limit, as any signs of puberty before a certain age are ignored.

<sup>440</sup> As it is taught in a baraita: Everyone agrees with regard to a nine-year-old boy who developed two pubic hairs that this is not considered a sign of adulthood, as they are treated as hairs that grow on a mole. From the age of nine years and one day until the age of twelve years and one day, even if they are still on him and have not fallen out, this is still considered a mole. Rabbi Yosei, son of Rabbi Yehuda, says: It is a sign indicating puberty. If he is thirteen years and one day old and grows two hairs, everyone agrees that this is a sign indicating puberty.

<sup>441</sup> Rav Sheshet raises an objection: It is taught in a baraita that Rabbi Shimon says: There are four different ways of emancipating slaves, and when they are emancipated one grants them a severance gift. Of these, three apply to a man, i.e., a Hebrew slave, and three apply to a woman, a Hebrew maidservant. And you cannot say that there are four ways for either one of them, because there is no emancipation through signs indicating puberty for a man, and there is no emancipation through piercing the ear for a woman. Consequently, there are only three modes of emancipation for each.

<sup>442</sup> The Gemara clarifies the difficulty: And if it is so that a Hebrew maidservant acquires herself through her father's death, as claimed by Reish Lakish, let him teach also that a Hebrew maidservant is emancipated at the death of the father. And if you would say, here too he taught some differences between a Hebrew slave and a Hebrew maidservant and omitted others, this cannot be the case, as he teaches: There are four ways of emancipating slaves. The mention of a number indicates that there is a set number of ways. And if you would say that the tanna teaches a matter that has a set time and does not teach a matter that does not have a set time, as there is the halakha of signs indicating puberty, which do not have a set time, and nevertheless he teaches it.

<sup>443</sup> And if you would say that here, too, this is in accordance with the opinion of Rav Safra, that signs have a minimum set time, there is still the death of the master, which does not have a set time, and yet he taught it. The Gemara answers: The death of the master is not taught either, i.e., this mode of emancipation is not counted among the four modes mentioned in the baraita.

<sup>444</sup> The Gemara asks: But if you do not count the death of the master, what are these four methods? The Gemara answers: A Hebrew slave or maidservant is emancipated after serving six years and in the Jubilee Year, even if it occurs within those six years. And the Jubilee Year also emancipates a slave, even after the act of piercing a Hebrew slave's ear with an awl extended his term of slavery, and a Hebrew maidservant is emancipated with signs indicating puberty.

<sup>445</sup> The Gemara adds: So too, it is reasonable that this is the correct interpretation of the baraita, as it teaches in the last clause: You cannot say that there are four modes for either one of them, because there is no emancipation through signs indicating puberty for a man, and there is no emancipation through piercing for a woman. And if it is so that the death of the master is included, in the case of a woman, at least, you find four ways that she can be freed: Six years of service, the Jubilee Year, signs

of puberty, and the death of the master. The Gemara comments: Conclude from the baraita that it is so.

<sup>446</sup> Rav Amram also raises an objection against the opinion of Reish Lakish from a baraita: And these are the slaves to whom one grants a severance gift: One who leaves through six years of service, and one who leaves in the Jubilee Year, and one who leaves through the death of the master, and a Hebrew maidservant who is released by signs indicating puberty. And if it is so that she is emancipated through her father's death as well, as claimed by Reish Lakish, let the baraita also teach that she is released through the death of the father. And if you would say, here too, he taught some differences between a Hebrew slave and maidservant and omitted others, he teaches: These, which indicates that this halakha applies only to a slave freed in these ways and no others.

<sup>447</sup> And if you would say that the tanna teaches a matter that has a set time and does not teach a matter that does not have a set time, but isn't there the case of signs indicating puberty, which do not have a set time, and nevertheless he teaches it. And if you would say that here too, this is in accordance with the opinion of Rav Safra that signs have a minimum set time, there is the death of the master, which does not have a set time, and yet he taught it. Therefore, this is a conclusive refutation of the opinion of Reish Lakish. The Gemara affirms: The refutation of the opinion of Reish Lakish is indeed a conclusive refutation.

<sup>448</sup> The Gemara asks: But the ruling of Reish Lakish is based on an a fortiori inference, and nothing has been said to contradict his reasoning. The Gemara answers: The a fortiori inference is refutable, because it can be refuted in the following manner: What is unique about signs indicating puberty is that they indicate that her body has changed, and perhaps she is emancipated because she is now considered a different person. Will you say the same with regard to the death of the father, as her body has not changed?

<sup>449</sup> It is taught in one baraita: The severance gift bestowed upon a Hebrew slave when he is emancipated is given to the slave himself, and the severance gift bestowed upon a Hebrew maidservant is given to the maidservant herself. And it is taught in another baraita: The severance gift of a Hebrew maidservant and any lost items she finds belong to her father, and her master has only the reimbursement for her lost time. He is paid the money he would have earned if she had been working instead of carrying home the items she found.

<sup>450</sup> The Gemara suggests: What, is it not correct to say that the difference between the two baraitot is that this baraita, which says that the severance gift is given to her father, is referring to when she leaves through signs indicating puberty, as she is a young woman and still under the authority of her father with regard to certain matters, and this baraita, which states that the severance gift is given to her, is referring to a case when she leaves through the death of the father. Since she does not have a father she keeps the severance gift herself. This explanation is in accordance with the opinion of Reish Lakish, that she is emancipated through the death of her father, and it contradicts the conclusion that his ruling should be rejected.

<sup>451</sup> The Gemara rejects this claim: No, both this baraita and that baraita are referring to a maidservant who left through signs indicating puberty, and it is not difficult: This baraita is referring to a case where there is a father who can take the gift, and this baraita is referring to a case where there is no father, i.e., he died before she developed the signs of puberty. In that case she receives the severance gift herself.

<sup>452</sup> The Gemara comments: Granted, one can understand the baraita that taught that the severance gift of a Hebrew maidservant is for herself, as this serves to exclude the maidservant's brothers. These brothers do not receive the gifts after her father's death, as it is taught in a baraita: "And you shall bequeath them to your children after you" (Leviticus 25:46). This verse indicates that they, Canaanite slaves, are bequeathed to your sons, but your daughters are not bequeathed to your sons. From here it is derived that a person may not bequeath his rights to profits generated by his daughter to his son.

<sup>453</sup> But it is obvious that the severance gift of a Hebrew slave is for himself. Rather, to whom could it be given? Rav Yosef said: I see here a small letter yod that has been made into a large city. In other words, although it was not necessary for the tanna to teach this halakha, he stated it out of habit despite the fact that this ruling does not teach anything novel.

<sup>454</sup> Abaye said that Rav Sheshet said like this: In accordance with whose opinion is this baraita? It is in accordance with the opinion of the Sage Tutai. As it is taught in a baraita that Tutai says: The verse: "You shall grant severance to him" (Deuteronomy 15:14), indicates that it is given to a Hebrew slave but not to his creditor. Even if the slave owes money, this gift is not given to the creditor.

<sup>455</sup> The Gemara discusses the matter itself. And these are the Hebrew slaves to whom one grants a severance gift: One who leaves through completing six years of service, and one who leaves in the Jubilee Year, and one who leaves through the death of the master, and a Hebrew maidservant who is released by signs indicating the onset of puberty. But with regard to one who flees from his master or one who is released by deducting money, one does not grant a severance gift to him. Rabbi Meir says: With regard to one who flees, one does not grant a severance gift to him, but in the case of one who is released by deducting money, one does grant a severance gift to him.

<sup>456</sup> Rabbi Shimon says: There are four different ways of emancipating a Hebrew slave, and when Hebrew slaves are emancipated one grants them a severance gift. Of these methods, three apply to a man and three apply to a woman. And you cannot say four modes apply for either one of them, because there is no emancipation through signs indicating puberty for a man, and there is no piercing for a woman. This concludes the baraita.

<sup>457</sup> The Gemara asks: From where are these matters derived? The Gemara explains that this is as the Sages taught: One might have thought that one grants a severance gift only to a Hebrew slave who is released after six years. From where is it derived to include that one grants a severance gift to one who left in the Jubilee Year, and one freed through the death of the master, and a Hebrew maidservant who leaves through signs indicating puberty? The verse states: "You shall not send him," and: "And when you send him" (Deuteronomy 15:13). These phrases serve to expand the halakha of severance to include any Hebrew slave who is emancipated.

<sup>458</sup> I might have thought that I should include a Hebrew slave who flees and one who is released through the deduction of money. Therefore, the verse states: "And when you send him free from you" (Deuteronomy 15:13), which is referring to one who was sent from you with your knowledge and consent. This excludes a Hebrew slave who flees from his master and one who is released through the deduction of money, who are not sent away from you with your permission. Rabbi Meir says: One does not grant a severance gift to a Hebrew slave who flees, as he is not sent away from you, because he left on his own. But with regard to a Hebrew slave who is released through the

deduction of money, who is sent from you, he is granted a severance gift, as this deduction payment requires the agreement of the master.

<sup>459</sup> The Gemara asks: Isn't a Hebrew slave who flees required to complete the remaining years of his contract, at which point he should be entitled to receive a severance gift? As it is taught in a baraita: From where is it derived with regard to a Hebrew slave who flees his master that he is obligated to complete his term? The verse states: "Six years he shall labor" (Exodus 21:2), and no less. Therefore, if a Hebrew slave runs away in the middle of this period, he is required to complete his six years of service.

<sup>460</sup> One might have thought that even a slave who became sick and is unable to work must work additional time to compensate for the time missed. Therefore, the verse states: "And in the seventh he shall go out" (Exodus 21:2), which indicates that he leaves his master in any case, even if he has not worked the full six years.

<sup>461</sup> Rav Sheshet said: With what are we dealing here? This concerns a case where he fled and the Jubilee Year arrived immediately afterward, and therefore he did not complete the six years of servitude. The novelty of this halakha is as follows. Lest you say: Since the Jubilee Year released him, he is considered sent away by you, the master, and therefore we should not penalize him but grant him the severance gift, the baraita teaches us that once he flees he forfeits his right to the severance gift.

<sup>462</sup> The Master said above: One might have thought that even a slave who became sick and was unable to work must work additional time to compensate for the time missed. Therefore, the verse states: "And in the seventh he shall go out" (Exodus 21:2). The Gemara asks: Is he excused from working additional time even if he was sick for all six years? But isn't it taught in a baraita: If he was sick for three years and served for three years, he is not obligated to complete the six years of actual labor, but if he was sick for all six years he is obligated to complete the six years of actual labor. Rav Sheshet said: This is referring to a case where he is unable to perform strenuous labor but can execute minor tasks, such as performing needlework or sewing clothes. Since he can perform work of some kind, this slave is not required to work additional time to compensate for the time missed, even if he was ill for all six years.

<sup>463</sup> The Gemara comments: This matter itself is difficult, as the baraita is apparently self-contradictory. On the one hand, you said that if he was sick for three years and he served for the other three years he is not obligated to complete the six years of actual labor. This indicates that if he was ill for four years he is obligated to complete the six years of labor. On the other hand, say the last clause of the baraita: If he was sick for all six years he is obligated to complete the six years of actual labor. That indicates that if he was ill for four years he is not obligated to complete the six years of actual labor. The Gemara answers that this is what the baraita is saying: If he was sick for four years he becomes as one who was sick for all six years, and therefore he is required to complete the six years of actual labor.

<sup>464</sup> § The Sages taught: How much does one grant a freed slave as a severance gift? It is five sela in value of each and every type mentioned in this verse: "And you shall grant severance to him out of your flock, and out of your threshing floor, and out of your winepress" (Deuteronomy 15:14), which is a total of fifteen sela. This is the statement of Rabbi Meir. Rabbi Yehuda says: He is given thirty sela in total, like the thirty shekels of the fine that is paid for a slave (see Exodus 21:32). Rabbi

Shimon says: The master gives him fifty shekels, like the sum of valuations, in which fifty shekels is the largest designated amount for a man (see Leviticus 27:3).

<sup>465</sup> The Master said above: The master gives five sela of each and every type, which is fifteen sela; this is the statement of Rabbi Meir. The Gemara asks: And does Rabbi Meir come to teach us to count? His novelty certainly cannot be that three fives equal fifteen. The Gemara answers that Rabbi Meir teaches us this: The master may not give less than this total number, but if he gives him less of one type and more of one other type, we have no problem with it, and he has fulfilled the mitzva.

<sup>466</sup> The Gemara asks: What is the reasoning of Rabbi Meir? The Gemara explains: He derives a verbal analogy from “empty” stated with regard to the severance gift: “You shall not send him away empty” (Deuteronomy 15:13), and “empty” stated with regard to a firstborn: “All the firstborn of your sons you shall redeem; and none shall appear before Me empty” (Exodus 34:20). Just as there, in the case of the firstborn, one must give five sela, so too here, in the case of severance gifts, one must give five sela.

<sup>467</sup> The Gemara asks: But one can say that he is obligated to give only five sela in total from all of the three types listed in the verse. The Gemara answers: If “empty” were written at the end of the verse, i.e., Deuteronomy 15:14, the halakha would be as you said. But now that “empty” is written before the verse, i.e., at the end of Deuteronomy 15:13, apply the phrase “Do not send him away empty” to “flock,” and apply “empty” to “threshing floor,” and likewise apply “empty” to “winepress.” Consequently, there must be five sela for each type.

<sup>468</sup> The Gemara asks: And let us derive a verbal analogy between “empty” and “empty” from the case of the burnt-offering of appearance in the Temple brought on the pilgrimage Festivals, with regard to which it is said: “And they shall not appear before the Lord empty” (Deuteronomy 16:16). The burnt-offering of appearance has no fixed value. The Gemara answers that the verse states: “Of that with which the Lord your God has blessed you” (Deuteronomy 15:14), which indicates that one must give a respectable amount as a severance gift.

<sup>469</sup> The baraita states that Rabbi Yehuda says that a freed slave is given thirty sela in total, like the thirty shekels of the fine that is paid for a slave. The Gemara asks: What is the reasoning of Rabbi Yehuda? The Gemara answers: He derives a verbal analogy between giving, as stated with regard to the severance gift, from the expression of giving stated in connection to a Canaanite slave gored by an ox: “He shall give to their master thirty shekels of silver” (Exodus 21:32). Just as there, he must pay thirty shekels for the slave, so too here, in the case of a severance gift, he must pay thirty.

<sup>470</sup> The Gemara asks: But let him derive a similar verbal analogy between “giving” stated with regard to the severance gift and “giving” from valuations (see Leviticus 27:23): Just as there, in the case of valuations, it is fifty shekels for an adult male, so too here, it should be fifty.

<sup>471</sup> The Gemara responds: One answer is, as people say, that if you grasped too much, you did not grasp anything; if you grasped a bit, you grasped something. In other words, if there are two possible sources from which to derive the sum of the severance gift, then without conclusive proof one may not presume that the Torah intended to teach the larger amount. Consequently, the master should be required to give only thirty shekels, not fifty. And furthermore, one should derive the halakha of a slave, i.e., the severance gift, from another case involving a slave, i.e., the thirty shekels paid when a Canaanite slave is gored by an ox, rather than derive the halakha of the severance gift from valuations, which apply to all people.

<sup>472</sup> The baraita further teaches that Rabbi Shimon says: The master gives him fifty shekels, like the fifty shekels of valuations for an adult male. The Gemara asks: What is the reasoning of Rabbi Shimon? He derived a verbal analogy between “giving” and “giving” from valuations (Leviticus 27:23): Just as there, he pays fifty, so too here, he pays fifty. The Gemara asks: But one can say that as this verbal analogy is referring to valuations in general, he should pay the smallest of the valuations, which is merely three sela. The Gemara answers that it is written: “Of that with which the Lord your God has blessed you” (Deuteronomy 15:14), which indicates that one must give a respectable amount as a severance gift.

<sup>473</sup> The Gemara asks: But let Rabbi Shimon derive, like Rabbi Yehuda, the verbal analogy between “giving” and “giving” from the verses discussing the goring of a Canaanite slave, teaching that just as there he pays thirty, so too here, he pays thirty? The Gemara adds that there are two reasons to prefer this derivation, as stated above: One reason is that if you grasped too much, you did not grasp anything; if you grasped a bit, you grasped something. And furthermore, one should derive the halakha of a slave from another case involving a slave. The Gemara answers: Rabbi Shimon derives a verbal analogy between poverty and poverty. With regard to valuations the Torah states: “But if he is too poor” (Leviticus 27:8), and concerning a Hebrew slave the verse says: “And if your brother grows poor” (Leviticus 25:39).

<sup>474</sup> Having ascertained the source for each of the opinions in the baraita, the Gemara analyzes their opinions. The Gemara asks: Granted, with regard to the opinion of Rabbi Meir, this is as it is written “flock,” “threshing floor,” and “winepress,” as he derives from these three terms that the severance gift must be worth fifteen sela. But according to the opinions of Rabbi Yehuda and Rabbi Shimon, why do I need these terms “flock,” “threshing floor,” and “winepress,” in light of the fact that one may give his slave any product?

<sup>475</sup> The Gemara answers: These terms are necessary for that which is taught in a baraita: One might have thought that one grants severance gifts only from the flock, the threshing floor, and the winepress; from where is it derived to include every matter? The verse states: “Of that with which the Lord your God has blessed you” (Deuteronomy 15:14). If so, what is the meaning when the verse states “flock,” “threshing floor,” and “winepress”? This serves to tell you that just as a flock, a threshing floor, and a winepress are unique in that they are included in the category of blessing, i.e., they grow and multiply, so too all items that are included in the category of blessing may be given as a severance gift. This excludes money, which does not increase on its own. This is the statement of Rabbi Shimon. Rabbi Eliezer ben Ya’akov says: This excludes mules, which cannot reproduce.

<sup>476</sup> The Gemara asks: And Rabbi Shimon, why does he exclude money but not mules? The Gemara answers: With regard to mules, their bodies grow and enhance. Although they do not reproduce, they still grow. And Rabbi Eliezer ben Ya’akov, why doesn’t he exclude money? He maintains that one can conduct business with money and thereby profit from it. In this manner money can increase.

<sup>477</sup> The Gemara notes: And it is necessary for the Torah to mention a flock, a threshing floor, and a winepress, as, if the Merciful One had written only “flock,” I would say that animals, yes, the master may give them to his slave upon his release, but that which grows from the ground, no, he may not give them. Therefore, the Merciful One writes “threshing floor.” And if the Torah had written only “threshing floor,” I would say that that which grows from the ground, yes, he may give them, but



animals, no, he may not give them. Therefore, the Merciful One writes “flock.” The Gemara asks: Since threshing floor is stated, why do I need the mention of a winepress?

<sup>478</sup> The Gemara answers: According to one Master, Rabbi Shimon, this term serves to exclude money. According to the other Master, Rabbi Eliezer, it serves to exclude mules.

<sup>479</sup> The Sages taught with regard to the verse: “And you shall grant severance to him out of your flock, and out of your threshing floor, and out of your winepress, of that with which the Lord your God has blessed you” (Deuteronomy 15:14). One might have thought that if the house is blessed due to him, then the master grants him a severance gift, and if the house is not blessed due to him, he does not grant him a severance gift. Therefore, the verse states: “You shall grant severance [ha’anek ta’anik],” with the doubled form of the verb used for emphasis, to indicate that you must grant him a severance gift in any case. If so, what is the meaning when the verse states: “Of that with which the Lord your God has blessed you”? This teaches that all that one gives him as a severance gift should be in accordance with the blessing one possesses.

<sup>480</sup> Rabbi Elazar ben Azarya says: The meaning of the statements of the Torah is as they are written, i.e., as indicated by a straightforward reading of the verse. Therefore, if the house was blessed due to him, the master grants him a severance gift, and if the house was not blessed due to him, he does not grant him a severance gift at all. If so, what is the meaning when the verse states: “You shall grant severance [ha’anek ta’anik],” with the doubled form of the verb? The Torah spoke in the language of people, i.e., the emphasis of the doubled verb is merely stylistic, but does not serve to teach a novel halakha.

<sup>481</sup> § The Sages taught: A Hebrew slave serves the son of his deceased master but does not serve the daughter. A Hebrew maidservant serves neither the son nor the daughter, but only the master. A pierced slave and a Hebrew slave sold to a gentile serve neither the son nor the daughter. The Master said above: A Hebrew slave serves the son but does not serve the daughter. The Gemara asks: From where is this matter derived?

<sup>482</sup> As the Sages taught, with regard to a verse that deals with a Hebrew slave: “And he shall serve you six years” (Deuteronomy 15:12). This indicates that he serves you and not an heir, i.e., if the master dies his slave does not serve one who inherits his estate. Do you say: You and not an heir, or perhaps is it even: You and not a son? The Gemara answers: When it says: “Six years he shall labor” (Exodus 21:2), which does not indicate any exclusion, the inclusion of a son is thereby stated. How then do I uphold the other verse: “And he shall serve you six years”? The expression “serve you” emphasizes that he serves only you but he does not serve an heir other than a son.

<sup>483</sup> The Gemara asks: What did you see that led you to include the son who inherits a Hebrew slave and to exclude the brother from inheriting his brother’s slave? The Gemara answers: I include the son, as he stands in place of his father to designate her. Just as a father can designate a Hebrew maidservant as a wife for himself, so too can he betroth her on behalf of his son. And similarly, he replaces his father with regard to an ancestral field (see Leviticus 27:16–21). If one redeems a field consecrated by his father, it is considered as though the father himself had redeemed it, which means that the field returns to the family in the Jubilee Year. If someone else redeems the field, including a brother, it does not return to the family.

<sup>484</sup> The Gemara asks: On the contrary, I should include the brother, as he stands in his brother’s place with regard to levirate marriage. The Gemara responds: This is insufficient proof, as is there levirate

marriage other than in a case when there is no son? If there is a son, there is no levirate marriage. This indicates that a son replaces the deceased before a brother, even with regard to levirate marriage.

<sup>485</sup> The Gemara asks: Rather, the reason for this halakha is specifically that there is this refutation that a levirate marriage applies only when there is no son. Does that not indicate that without this consideration I would say that a brother is preferable to a son? But let me derive that a son has a greater claim of standing in place of his father than a brother from the fact that here, with regard to the preference of a son, there are two cases: Designation of a Hebrew maidservant and an ancestral field, and here, in the case of a brother, there is only one: Levirate marriage.

<sup>486</sup> The Gemara answers: With regard to an ancestral field too, the tanna derives the halakha from this same refutation. The tanna learns from the case of levirate marriage that only the son, not the brother, takes the place of his father for the redemption of the field, employing the same reasoning mentioned above: Is there levirate marriage other than in a case when there is no son? Therefore, without this consideration there is only one supporting example for each claim.

<sup>487</sup> § The baraita taught that a Hebrew maidservant serves neither the brother nor the daughter. The Gemara asks: From where is this matter derived? Rabbi Padda said: As the verse states with regard to a pierced Hebrew slave: “And also to your maidservant you shall do likewise” (Deuteronomy 15:17). The verse juxtaposes a Hebrew maidservant to a pierced slave: Just as a pierced slave serves neither the son nor the daughter, so too a Hebrew maidservant serves neither the son nor the daughter. The Gemara asks: And does this verse: “And also to your maidservant you shall do likewise,” come to teach this matter? The tanna requires it for that which is taught in a baraita, that the verse: “And also to your maidservant you shall do likewise,” is a command to grant her a severance gift.

<sup>488</sup> Do you say that this comparison obligates one to grant a severance gift to a Hebrew maidservant, or is it teaching only that the halakha of piercing a Hebrew slave’s ear with an awl, which is stated immediately beforehand, applies to a Hebrew maidservant as well? The Gemara explains: When it says with regard to piercing: “But if the slave shall say” (Exodus 21:5), which indicates that a Hebrew slave can issue this declaration but a Hebrew maidservant cannot, the halakha of piercing is thereby stated and accounted for.

<sup>489</sup> How do I realize the meaning of the verse: “And also to your maidservant you shall do likewise”? This obligates a master to grant a severance gift to a freed Hebrew maidservant. If so, one cannot derive from this verse that a Hebrew maidservant serves neither the son nor the daughter. The Gemara answers: If so, that it comes only to compare her to a pierced Hebrew slave, let the verse write merely: To your maidservant likewise. What is the meaning of the additional phrase: “You shall do”? Draw two conclusions from this: A Hebrew maidservant does not serve the son, and she is granted severance gifts.

<sup>490</sup> § The baraita further teaches that a pierced Hebrew slave and one sold to a gentile serve neither the son nor the daughter. The Gemara explains: The halakha of a pierced slave is as it is written: “And his master shall pierce his ear with an awl, and he shall serve him forever” (Exodus 21:6), which indicates that he serves this master, but not the son or the daughter. The Gemara asks: From where is it derived that the same applies to a Hebrew slave sold to a gentile? Hizkiyya says that the verse states with regard to the emancipating of a slave who was sold to a gentile: “And he shall

reckon with his purchaser” (Leviticus 25:50), which teaches that this applies only to his purchaser but not to the heirs of his purchaser.

<sup>491</sup> Rava says: By Torah law a gentile inherits the property of his father, as it is stated with regard to one sold to a gentile: “And he shall reckon with his purchaser,” but not with his purchaser’s heirs. One can derive from here by inference that ordinarily a gentile has heirs. By contrast, by Torah law a convert does not inherit the property of his father or any other gentile, as once he converts he is considered a new person with no ties to his previous family. Rather, a convert inherits the property of his father by rabbinic law.

<sup>492</sup> As we learned in a mishna (Demai 6:10): With regard to a convert and a gentile who inherited property from their gentile father, the convert can say to the gentile: You take the objects of idol worship and I will take money; you take wine used for a libation to idolatry and I will take produce. Provided that these objects have not entered the domain of the convert, he may divide everything with his brother so that his brother takes as an inheritance the items that the convert is prohibited from using as a Jew. But once they have come into the convert’s possession, it is prohibited for him to exchange these objects with his brother, as he would thereby be benefiting from idolatry.

<sup>493</sup> And if it would enter your mind that a convert inherits property from his father by Torah law, it should be prohibited when these objects have not yet come into his possession as well, as when he takes money or produce and gives the idols to the gentile, he takes an item that has been exchanged for objects of idol worship. Since he receives half the inheritance at the moment when his father dies, he has a share in these items as well.

<sup>494</sup> Rather, a convert inherits property from his father by rabbinic law, as this is a decree that the Sages instituted lest he return to his previous wayward path [suro]. The Sages were concerned that due to his concern over losing his inheritance, a convert might return to his gentile lifestyle. In any event, as he does not inherit his father’s property by Torah law, the idols are not considered his property. This halakha is also taught in a baraita: In what case is this statement said? He may do this when they inherited. But when the convert and the gentile formed a partnership, it is prohibited for him to divide the property so that the gentile takes the idols, as the convert benefits from them indirectly.

<sup>495</sup> With regard to the same issue it is taught: By Torah law and by rabbinic law a gentile does not inherit property from his father who is a convert, nor does a convert inherit property from his father who is a convert. As we learned in a mishna (Shevi’it 10:9): If one borrowed money from a convert whose sons converted with him, and therefore when they converted there were no longer any legal ties between the sons and the father, he does not return it to the creditor’s sons, as they are not considered his heirs. And if he does return it, the Sages are not pleased with him.

<sup>496</sup> The Gemara asks: But isn’t it taught in a baraita that the Sages are pleased with him? The Gemara answers: This is not difficult. Here, it is referring to a convert whose conception and birth were not in sanctity of the Jewish people, i.e., his father was a gentile when he was born and afterward the son converted. In this case there are no legal ties between the father and the son, and therefore one who owes money to the father is not required to pay the son.

<sup>497</sup> And here it is referring to a case where he was not conceived in sanctity, i.e., his mother conceived him before she converted, and only his birth was in sanctity, as she converted when pregnant. It is appropriate to return money to this individual.

<sup>498</sup> Rav Ḥiyya bar Avin says that Rabbi Yoḥanan says: By Torah law a gentile inherits from his father, as it is written: “Because I have given mount Seir to Esau as an inheritance” (Deuteronomy 2:5). The Gemara asks: But perhaps it is different with regard to an apostate Jew? In other words, it is possible that Esau was not considered a gentile but rather Jewish, like the Patriarchs. Consequently, he is categorized as an apostate Jew. Rather, the proof is from here: “Because I have given Ar to the children of Lot as an inheritance” (Deuteronomy 2:9), and the descendants of Lot were certainly gentiles.

<sup>499</sup> The Gemara asks: And Rav Ḥiyya bar Avin, what is the reason that he did not state his opinion in accordance with the explanation of Rava, who derives the inheritance of gentiles from the verse: “And he shall reckon with his purchaser” (Leviticus 25:50)? The Gemara answers: Is it written explicitly in the Torah: And he shall reckon with his purchaser and not with the heirs of his purchaser? This proof is based on an exposition, not on an explicit source.

<sup>500</sup> The Gemara further asks: And Rava, what is the reason that he did not state his opinion in accordance with the explanation of Rav Ḥiyya bar Avin? The Gemara answers: Perhaps due to the honor of Abraham it is different. It is possible that for the sake of Abraham an inheritance was given to the members of his family. The same may not apply to gentiles in general.

<sup>501</sup> § The Sages taught: There are details of the halakhot of a Hebrew slave that do not apply to the case of a Hebrew maidservant and there are details of the halakhot of a Hebrew maidservant that do not apply to a Hebrew slave. The baraita elaborates: There are unique details in the halakhot of emancipating a Hebrew slave, as he leaves through serving a term of six years, and he leaves through the Jubilee Year, and he leaves through the death of the master, which is not the case for a Hebrew maidservant. And there are unique details in the halakhot of emancipating a Hebrew maidservant, as a Hebrew maidservant leaves through signs indicating puberty, and she is not sold for a second time, and one can redeem her against his will, as the Gemara will explain, which is not the case for a Hebrew slave.

<sup>502</sup> The Gemara analyzes this baraita. The Master said above: There are details of the halakhot of emancipating a Hebrew slave that do not apply to the case of a Hebrew maidservant. And the Gemara raises a contradiction from the mishna: A Hebrew maidservant has one mode of emancipation more than him, as she acquires herself through signs indicating puberty. The expression: More than him, indicates that all of the modes through which a Hebrew slave can be freed apply to a Hebrew maidservant as well. Rav Sheshet said: This baraita is referring to a case where the master designated her to marry him during the six years. Consequently, she cannot be released from his authority by all of the modes through which a Hebrew slave can be freed, as she is his wife.

<sup>503</sup> The Gemara asks: If he designated her, it is obvious that she cannot be released in the manner of a slave, as she is his wife and therefore requires a bill of divorce. The Gemara says: It is necessary to state this explicitly, lest you say that the primary halakha is not nullified with regard to her, i.e., even after she has been designated she can still be freed as a slave would be, without a bill of divorce. Therefore, the baraita teaches us that this is not the case. The Gemara asks: If so, that this is referring to a case where he designated her, why does she leave through signs indicating puberty? If he designated her she becomes his wife, and signs indicating the onset of puberty should not affect her status. The Gemara answers: This is what the baraita is saying: If he did not designate her, she leaves also through signs indicating puberty.

<sup>504</sup> § The baraita teaches: And a Hebrew maidservant is not sold a second time. The Gemara comments: From the fact that the baraita says this about a Hebrew maidservant, it can be inferred that a Hebrew slave can be sold a second time. But isn't it taught in a baraita that the verse: "And he is sold for his theft" (Exodus 22:2), means that he can be sold to pay for the items that he has stolen but not to pay for his double payment? Although one can be sold into slavery to reimburse the owner for the principal of his theft, he cannot be sold to pay the fine. Furthermore, "for his theft" indicates: But not to pay for his conspiring testimony. If he is a conspiring witness, who is required to pay the value of what he testified that another had stolen but he does not have the money to do so, he is not sold as a slave. Additionally, the phrase "for his theft" teaches that he can be sold for stealing only once, and once he has been sold one time you may not sell him again.

<sup>505</sup> Rava said: This is not difficult. Here, in the second baraita, it is referring to one theft, i.e., he stole a large amount but he is not worth enough as a slave for the proceeds of his sale to repay his entire debt. In that case he cannot be sold a second time. There, in the first baraita, it is referring to two thefts, as he may be sold a second time if he stole once, was sold, and subsequently stole again.

<sup>506</sup> Abaye said to Rava: The expression "for his theft" indicates even many thefts. Rather, Abaye said: This is not difficult. Here, in the second baraita, it is referring to one who stole from one person. This thief cannot be sold a second time even for several thefts. There, in the first baraita, it is referring to thefts from two people.

<sup>507</sup> The Sages taught: If the property he stole was worth one thousand and as a slave he is worth only five hundred, he is sold and sold again. If the property he stole was worth five hundred and he is worth one thousand, he is not sold at all. Rabbi Eliezer says: If the property he stole was exactly equal to his value if he were sold, he is sold; and if not, he is not sold.

<sup>508</sup> Rava said: In this case Rabbi Eliezer triumphed over the Rabbis, as what is different in a case where the property he stole is worth five hundred and he is worth one thousand that they concede that he is not sold? The reason is that the Merciful One states that he is sold in his entirety, and not part of him. So too, if he is worth less than the value of the property he stole, one can say: The Merciful One states that he is sold for his theft, and he is not sold for part of his theft.

<sup>509</sup> § The baraita further teaches: And one can redeem a Hebrew maidservant against his will. Rava thought to say that this means against the will of the master, i.e., she can be redeemed even if he refuses. Abaye said to him: What is the mechanism for emancipating her against the will of her master? Is it that one writes a document to him for her value, and when she has the money she repays this debt? Why should it be possible to force the master to free her in this manner? He is holding a pearl [marganita] in his hand and one gives him a shard instead, as this document is currently useless.

<sup>510</sup> Rather, Abaye said: She can be redeemed against the will of her father, due to the family flaw, i.e., the harm caused to the family name by her status. The court pressures the father as much as possible to redeem her, as it is disgraceful to a family if one of its daughters is a maidservant. The Gemara asks: If so, one should force the family of a Hebrew slave to redeem him also, due to the family flaw. The Gemara answers: There is a concern that he will go back and sell himself and earn money in this manner at his family's expense.

<sup>511</sup> The Gemara asks: Here too, in the case of a Hebrew maidservant, the father might go back and sell her as a maidservant again and receive money for her a second time. The Gemara answers that it is taught: A maidservant is not sold a second time. And whose opinion is this? It is that of Rabbi

Shimon, as it is taught in a baraita: One can sell, i.e., transfer, his young daughter in marriage and go back and betroth her again if she was divorced or widowed. Likewise, he can sell her into slavery and transfer her again, this time for marriage, after he sold her into slavery. But one cannot sell his daughter into slavery after marriage. Rabbi Shimon says: Just as a person cannot sell his daughter into slavery after marriage, so too, a person cannot sell his daughter into slavery after slavery.

<sup>512</sup> The Gemara comments: And this issue is taught in the dispute between these tanna'im, as it is taught in a baraita with regard to the verse: "He shall have no power to sell her to a foreign people, seeing that he has dealt deceitfully with her [bevigdo vah]" (Exodus 21:8).

<sup>513</sup> This verse indicates that once the master has spread his garment over her, thereby designating her as his wife, her father may no longer sell her. This is the statement of Rabbi Akiva, who interprets bevigdo as related to beged, meaning garment. Rabbi Eliezer says: "Bevigdo vah" means that since the father dealt deceitfully [bagad] with her and sold her once, he cannot sell her again.

<sup>514</sup> The Gemara asks: With regard to what principle do they disagree? Rabbi Eliezer maintains that the tradition of the manner in which the verses in the Torah are written is authoritative, and one derives halakhot based on the spelling of the words. One relies on the way a word is written, without the traditional vocalization, and therefore it is read as though it were vocalized as bevigdo, which refers to betrayal, not a garment. And Rabbi Akiva maintains that the vocalization of the Torah is authoritative, meaning that one derives halakhot based on the pronunciation of the words, although it diverges from the spelling, and since one pronounces the term as bevigdo, it is related to the word beged, meaning garment. And Rabbi Shimon maintains that both the vocalization of the Torah and the tradition of the manner in which the verses in the Torah are written are authoritative. Consequently, she cannot be sold as a slave after she has been taken as a wife, nor can she be sold again after she has already been sold once.

<sup>515</sup> Rabba bar Avuh raises a dilemma: Does designation of a Hebrew maidservant for betrothal by her master effect marriage or does it effect only betrothal? The practical difference of the outcome of this dilemma is whether he inherits her property, i.e., does her husband inherit her property if she dies as he would if she were married to him; and whether he is obligated to become impure to bury her when she dies, if he is a priest; and whether he can nullify her vows on his own without her father, as is the case with a married woman. What is the halakha?

<sup>516</sup> The Gemara suggests: Come and hear a solution to this dilemma. "Bevigdo vah" means: Once her master has spread his garment over her, the father may no longer sell her. The Gemara analyzes this statement: This indicates that her father cannot sell her afterward, but he can designate her for another man if the master dies or divorces her. And if you say that designation effects marriage, once she is married her father no longer has authority over her. Rather, is it not correct to learn from this that designation effects only betrothal?

<sup>517</sup> Rav Naḥman bar Yitzḥak said that this argument can be refuted. Here, the baraita is dealing with the ordinary betrothal of one's daughter, not to one who sells his daughter as a maidservant. And this is what the baraita is saying: Since her father gave her, i.e., betrothed her, to one who is obligated to provide her food, her clothing, and fulfill her conjugal rights, he can no longer sell her. Therefore, this baraita proves nothing with regard to the issue of whether or not designation effects marriage.

<sup>518</sup> The Gemara cites another relevant source. Come and hear: A father cannot sell his daughter as a maidservant to relatives with whom she is prohibited from engaging in sexual intercourse, as they

cannot fulfill the mitzva of designation. They said in the name of Rabbi Eliezer: He can sell her to relatives, because designation is merely an option and its inapplicability does not negate the possibility of a sale. And they agree that he can sell her to a High Priest if she is a widow, or to a common priest if she is a divorcée or a yevama who performed ḥalitza [ḥalutza]. Although it is prohibited for her to marry these men, their betrothal is effective, and therefore designation is not entirely impossible in these cases.

<sup>519</sup> The Gemara clarifies: What are the circumstances of this widow? If we say that she betrothed herself when she was a minor and her husband died, is she called a widow? Since the initial betrothal was entirely ineffective, as a minor cannot accept betrothal independently, she would not be considered his wife. Rather, one must say that her father betrothed her and she was subsequently widowed. But if that is the case, can he sell her? But it was taught that a person cannot sell his daughter into slavery after marriage.

<sup>520</sup> And Rav Amram says that Rabbi Yitzḥak says: Here, it is referring to a woman widowed from betrothal of designation, and this is in accordance with the opinion of Rabbi Yosei, son of Rabbi Yehuda, who says: The original money of the sale of the maidservant was not given for the purpose of betrothal but as payment for her work, and if the master wishes to designate her he must give her additional money for that purpose. The relevance of this assertion will be clarified below. The Gemara explains the proof from this baraita: And if you say that designation effects marriage, once she is married her father no longer has authority over her. How can he sell her a second time after the death of her first husband?

<sup>521</sup> The Gemara asks from the other perspective: Rather, what will you say, that designation effects only betrothal? If so, why does the baraita state: And they agree that he can sell her? After all, a person cannot sell his daughter into slavery after matrimony. This baraita also refers to a case where a woman was betrothed but the marriage was not consummated. Rather, what have you to say? Betrothal effected by her is different from betrothal effected by her father. Since the marriage was not performed through her father but by the master giving her additional money, as held by Rabbi Yosei, son of Rabbi Yehuda, the principle that one cannot sell his daughter into slavery after betrothal does not apply. But by the same reasoning, even if you say that designation effects marriage, you can argue that marriage effected by her is different from marriage effected by her father.

<sup>522</sup> This challenge is rejected: What is this comparison? Granted, one form of betrothal is different from the other betrothal, i.e., there is a difference between standard betrothal with the father's consent and betrothal through designation, which is performed upon the master's initiative. After that type of betrothal the father can, in fact, sell her a second time. But with regard to one mode of effecting marriage in relation to another mode of effecting marriage,

<sup>523</sup> is the matter different? In both cases she is fully released from her father's authority by Torah law, and therefore he should not be able to sell her again afterward.

<sup>524</sup> The Gemara asks: And according to the explanation of Rav Naḥman bar Yitzḥak, who says that even according to Rabbi Yosei, son of Rabbi Yehuda, the original money of the sale of the maidservant was given for the purpose of betrothal, in accordance with whose opinion does he establish the baraita that permits a father to sell his widowed daughter? After giving her in marriage a father may no longer sell his daughter into slavery. The Gemara explains: He establishes it in

accordance with the opinion of Rabbi Eliezer, who says: It is for slavery after slavery that he is not able to sell her, but he is able to sell her into slavery after marriage.

<sup>525</sup> § Reish Lakish raises a dilemma: With regard to the possibility that a person can designate a Hebrew maidservant for his minor son, what is the halakha? The Gemara clarifies the sides of this dilemma. Does one learn from the verse: “And if he designates her for his son” (Exodus 21:9), that the Merciful One states that this applies to any son, even if he is too young to be married? Or perhaps it means his son who is similar to him: Just as he is an adult man, so too, his son must be an adult man.

<sup>526</sup> Rabbi Zeira said: Come and hear a solution to this dilemma from the verse: “And the man who commits adultery with the wife of another man, even he that commits adultery with his neighbor’s wife, both the adulterer and the adulteress shall surely be put to death” (Leviticus 20:10). The Sages expounded that the term “man” serves to exclude a minor who commits adultery. The phrase “who commits adultery with the wife of another man” serves to exclude the wife of a minor, as the marriage of a minor is invalid. And if you say that a father can designate a wife for his minor son, and designation effects betrothal or marriage, we find that there is marriage for a minor.

<sup>527</sup> The Gemara challenges this proof: But rather, what will you say, that a master cannot designate a maidservant for his son who is a minor? If so, why does the verse exclude him? If the marriage of a minor is never valid, why is it necessary for the verse to exclude him? On the contrary, resolve from here that one can designate for his minor son. Rav Ashi said: One could say that here, when this verse excludes the wife of a minor, we are dealing with a yavam who is nine years and one day old who engaged in sexual intercourse with his yevama, and his intercourse is considered valid.

<sup>528</sup> The unique feature of this case is that by Torah law she is fit for him. The halakhot of levirate marriage do not stipulate the minimum age of the yavam. Sexual intercourse with a boy aged nine years and one day is legally considered intercourse, and therefore this verse is necessary, lest you say: Since by Torah law she is fit for him, and his sexual intercourse is considered proper intercourse; therefore, he acquires her and she is his wife in all regards. Consequently, one who engages in intercourse with her becomes liable for violating the prohibition against engaging in intercourse with a married woman. Therefore, the verse teaches us that despite this consideration, she is not considered a full-fledged married woman.

<sup>529</sup> The Gemara asks: Ultimately, what halakhic conclusion was reached about this matter of designation for a minor son? Come and hear, as Rabbi Aivu says that Rabbi Yannai says: Designation applies only to an adult man, and designation applies only with consent. The Gemara asks: Why is it necessary to teach these two halakhot with regard to this matter? It can be derived from the statement that designation requires consent that it applies only to an adult, as a minor is legally incapable of consent. The Gemara answers: Rabbi Yannai is saying: What is the reason, i.e., what is the reason that designation applies only to an adult man? It is because designation applies only with consent.

<sup>530</sup> And if you wish, say an alternative explanation. What is the meaning of the term: With consent? It means with her consent. As Abaye, son of Rabbi Abbahu, taught: The verse “who did not designate her [ye’adah]” (Exodus 21:8), teaches that he is required to inform her [ya’adah].

<sup>531</sup> He teaches it and he says it: This is referring to betrothal through designation, and it is in accordance with the opinion of Rabbi Yosei, son of Rabbi Yehuda, who said: The original money of the sale of the maidservant was not given for the purpose of betrothal. For this reason, an additional



act of betrothal must be performed with her consent. Rav Naḥman bar Yitzḥak said: Even if you say that the original money was given for betrothal, it is different here, as the Merciful One states “designate her [ye’adah].” This unusual expression alludes to the halakha that this act must be performed with her consent.

<sup>532</sup> After mentioning the opinion of Rabbi Yosei, son of Rabbi Yehuda, several times, the Gemara asks: What is the source in which the opinion of Rabbi Yosei, son of Rabbi Yehuda, is stated? The Gemara answers: As it is taught in a baraita with regard to the verse: “Who did not designate her, then he shall let her be redeemed” (Exodus 21:8). This juxtaposition indicates that designation applies only when she can be redeemed. Consequently, if she is at the end of her service it is necessary that when he designates her there must be enough time remaining in the day for redemption. There must be sufficient time for her to be redeemed, and if only a short amount of time remains, during which she would be unable to perform work worth one peruta, the master does not have the option of redeeming her.

<sup>533</sup> From here Rabbi Yosei, son of Rabbi Yehuda, says: If there is enough time left in the day for her to perform work that is worth one peruta for him, she is betrothed, as he betroths her with the amount she owes him for her work, which is the value of one peruta. And if not, she is not betrothed. Apparently, he maintains that the original money of the sale of the maidservant was not given for the purpose of betrothal.

<sup>534</sup> Rav Naḥman bar Yitzḥak said: Even if you say that the original money was given for betrothal, one can explain this halakha as follows: It is different here, as the Merciful One states by means of the juxtaposition: “Who did not designate her, then he shall let her be redeemed,” that by a Torah edict the designation must be performed at a stage when she can still be redeemed.

<sup>535</sup> § Rava says that Rav Naḥman says: A person may say to his minor daughter: Go out and accept your betrothal, and when she accepts the betrothal it is as though she were appointed the father’s agent for her betrothal, despite the fact she is not halakhically competent. From where is this derived? It is derived from that which Rabbi Yosei, son of Rabbi Yehuda said.

<sup>536</sup> The Gemara elaborates: Didn’t Rabbi Yosei, son of Rabbi Yehuda, say that the original money of the sale of the maidservant was not given for the purpose of betrothal, and if enough time for her to perform work worth one peruta remains, it is a betrothal? This indicates that when the father sells his daughter he effectively appoints her as her own agent to receive her betrothal, if the master wishes to designate her for himself. At the time of the designation the father receives nothing, while the daughter accepts the value of one peruta for her work as betrothal. Here too, it is no different, and therefore a minor can accept her betrothal with the consent of her father.

<sup>537</sup> And Rava says that Rav Naḥman says: With regard to one who betroths a woman with a loan for which there is collateral, i.e., he relinquishes his claim to a loan that she owes him and he returns the collateral she gave him, she is betrothed. This is derived from that which Rabbi Yosei, son of Rabbi Yehuda, said. Didn’t Rabbi Yosei, son of Rabbi Yehuda, say that the original money of the sale of the maidservant was not given for the purpose of betrothal? If so, this daughter’s requirement to serve is similar to a loan, as there is no actual money but only an obligation, and she herself is the collateral. In other words, her body is the security that the loan will be repaid.

<sup>538</sup> And yet if time for her to perform work worth one peruta remains, and he designates her, it is a betrothal. This shows that he can betroth her with a loan, i.e., the value of the remaining time of her

servitude, for which she herself is collateral. Here too, it is no different, and in general one may betroth a woman with a loan for which there is collateral.

<sup>539</sup> § The Sages taught: How is the mitzva of designation performed? The master says to her before two witnesses: You are hereby betrothed [mekuddeshet] to me, or: You are hereby betrothed [me'oreset] to me. The designation is effective even if he said this at the end of six years of work, and even if it is close to sunset on the last day of her term. And once he designates her he treats her in the manner of marriage and may not treat her in the manner of slavery. Rabbi Yosei, son of Rabbi Yehuda, says: If there is enough time left in that day for her to perform for him work worth one peruta, she is betrothed, and if not, she is not betrothed.

<sup>540</sup> The baraita continues: This can be understood by way of a parable comparing this halakha to the halakha of one who says to a woman: Be betrothed to me from now after thirty days, and another man came and betrothed her within thirty days. In this case the halakha is that she is betrothed to the first man. The Gemara inquires: According to whom is this parable suggested? Of the two opinions cited in the baraita, whose opinion accords with the halakha in the case of the parable?

<sup>541</sup> If we say that the halakha in the case of the parable is compared to the opinion of Rabbi Yosei, son of Rabbi Yehuda, didn't he say: If there is enough time on that day for her to perform for him work worth one peruta, she is betrothed, and if not, she is not betrothed? Rabbi Yosei, son of Rabbi Yehuda, maintains that she is not considered betrothed conditionally when she is initially acquired as a Hebrew maidservant. Rather, the betrothal takes effect only when he designates her. This is evident from the fact that enough time must remain for her to perform work worth one peruta, as she is betrothed with that amount. If so, one cannot compare his ruling to the case of the parable, where the betrothal of the first was given before that of the second.

<sup>542</sup> Rav Aḥa, son of Rava, said: The halakha in the case of the parable is compared to the opinion of the Rabbis, i.e., the first opinion cited in the baraita, who say that when she was initially acquired as a Hebrew maidservant it is as though he had betrothed her on condition that she would be retroactively betrothed whenever her master desired. This indicates that retroactive betrothal is possible. The Gemara asks: Isn't it obvious that this comparison is correct? Why would the baraita need to state a parable?

<sup>543</sup> The Gemara explains: The baraita needs to state a parable lest you say that the Rabbis hold she is betrothed to the master even if the master did not say to the father that she is betrothed to him from now. The parable therefore teaches us that the case of the master is comparable to a case where the first man said to her: From now, and if the master did not state this term when acquiring her as a Hebrew maidservant, then she is not betrothed to him.

<sup>544</sup> It is taught in another baraita: With regard to one who first sells his daughter as a Hebrew maidservant and then goes and betroths her to another man, he mocks the master, and she is betrothed to the second man. Although he sold her as a Hebrew maidservant, he can remove her from the authority of the master, and this is seen as mocking him. This is the statement of Rabbi Yosei, son of Rabbi Yehuda. And the Rabbis say: If the master wants to designate her, he can designate her, and the second man's betrothal is void.

<sup>545</sup> The baraita continues: This can be understood by way of a parable comparing this halakha to the halakha of one who says to a woman: Be betrothed to me after thirty days, and another man came and betrothed her within thirty days. In this case the halakha is that she is betrothed to the second

man. The Gemara inquires: According to whom is this parable suggested? Of the two opinions cited in the baraita, whose opinion accords with the halakha in the case of the parable?

<sup>546</sup> If we say that the halakha in the case of the parable is compared to the opinion of the Rabbis, don't the Rabbis say that if the master wants to designate her, he may designate her, and the second man's betrothal does not take effect? In the case of the parable, she is betrothed to the second man, and the first cannot prevent this.

<sup>547</sup> Rather, Rav Aḥa, son of Rava, said: The halakha in the case of the parable is compared to the opinion of Rabbi Yosei, son of Rabbi Yehuda. The Gemara asks: Isn't it obvious that this comparison is correct? Why would the baraita need to state a parable?

<sup>548</sup> The Gemara explains: The baraita needs to state a parable lest you say that the case of the Hebrew maidservant is different, as he did not say to her when he acquired her: After thirty days. One might argue that the reason Rabbi Yosei, son of Rabbi Yehuda, holds that she is not betrothed to the master is that he did not state when he acquired her that she should be designated at a specific time in the future, but if he would have stated this at the time he acquired her as a Hebrew maidservant, the designation would then take effect. By comparing this case to the case of the parable, the baraita teaches us that Rabbi Yosei, son of Rabbi Yehuda, would hold that the designation does not take effect even if the master had said at the time of the acquisition that designation should take effect in thirty days, provided that her father betroths her to another in the interim.

<sup>549</sup> § It is taught in another baraita: With regard to one who sells his daughter and stipulates with the buyer that the sale applies on the condition that he does not designate her, the condition stands. This is the statement of Rabbi Meir. And the Rabbis say: If the master wants to designate her he may designate her, because the father stipulated counter to that which is written in the Torah, as the Torah permits the designation of a Hebrew maidservant. And with regard to anyone who stipulates counter to that which is written in the Torah, his condition is void.

<sup>550</sup> The Gemara asks: And according to the opinion of Rabbi Meir, does his condition stand in that case? But isn't it taught in a baraita: One who says to a woman: You are hereby betrothed to me on the condition that you do not have against me any claims of food, clothing, and conjugal rights, she is betrothed and his condition is void; this is the statement of Rabbi Meir. Rabbi Yehuda says: With regard to monetary matters, e.g., food and clothing, his condition stands. This indicates that Rabbi Meir maintains that one cannot stipulate counter to that which is written in the Torah.

<sup>551</sup> Hizkiyya said: It is different here, as the verse states: "And if a man sells his daughter as a maidservant" (Exodus 21:7), from which it is derived: There are times when he sells her only as a maidservant, not for the sake of marriage. This indicates that the designation of a maidservant is not a Torah obligation but is optional. Therefore, one can issue a stipulation that runs counter to the master designating her.

<sup>552</sup> The Gemara asks: And the Rabbis, what do they do with this phrase: "As a maidservant"? How do they interpret it? The Gemara answers: This expression is necessary for them for that which is taught in a baraita: The verse states "as a maidservant." This teaches that he can sell her to people of flawed lineage, e.g., a mamzer, whom she is prohibited from marrying but whose betrothal is effective.

<sup>553</sup> The baraita asks: Why is it necessary to derive that halakha from the verse? But could this not be derived through logical inference: If her father can betroth her to people of flawed lineage, can he not sell her to people of flawed lineage? The baraita answers: The verse is necessary, as what is unique about betrothal to people of flawed lineage is that a person can betroth his daughter even when she is a young woman, i.e., between the ages of twelve and twelve and a half. Therefore, one cannot learn from this that he can also sell her to people of flawed lineage because that case is different, as a person cannot sell his daughter when she is a young woman. The halakha that a person can betroth his daughter even when she is a young woman demonstrates that the rights that a father has with regard to his daughter's betrothal are more extensive than his right to sell her. Therefore, the verse states "as a maidservant," which teaches that he can, in fact, sell her to disqualified people.

<sup>554</sup> The baraita continues: Rabbi Eliezer says: If that verse serves to teach that he can sell her to people of flawed lineage, it is unnecessary, as it is already stated: "If she does not please her master, who designated her" (Exodus 21:8). This indicates that she is displeasing in her marriage, i.e., marriage to him was forbidden, and yet the sale is valid. If so, what is the meaning when the verse states "as a maidservant"? This teaches that he can sell her

<sup>555</sup> to relatives, e.g., his father, despite the fact that sexual intercourse between them is prohibited.

<sup>556</sup> The baraita asks: Why is it necessary to derive that halakha from the verse? But could this not be derived through logical inference: If he can sell her to people of flawed lineage, can he not sell her to relatives? The baraita answers: The verse is necessary, as what is unique about selling her to people of flawed lineage is that if that master wants to designate her, he can designate her. Although it is prohibited for these people to marry her, nevertheless the betrothal would take effect. Therefore, one cannot learn from this that he can also sell her to relatives. This is a situation where if this master wants to designate her, he cannot designate her, as betrothal is ineffective. Therefore, the verse states "as a maidservant," which teaches that he can sell her to relatives.

<sup>557</sup> The Gemara asks: And as for Rabbi Meir, who derived from the term "as a maidservant" that one can stipulate that she cannot be designated, how does he know that one can sell her as a maidservant to people of unflawed lineage or relatives? The Gemara answers: He derives that she can be sold to people of flawed lineage from the verse where Rabbi Eliezer derives it: "If she does not please her master" (Exodus 21:8). With regard to relatives, he holds in accordance with the opinion of the Rabbis, who say that he cannot sell her to relatives.

<sup>558</sup> It is taught in one baraita: One can sell his daughter to his father, but he cannot sell her to his son. And it is taught in another baraita: He cannot sell her to his father nor to his son. The Gemara clarifies this issue: Granted, the baraita that states that he cannot sell her to his father nor to his son is in accordance with the opinion of the Rabbis, who say that he cannot sell her to relatives whom she cannot marry. But in accordance with whose opinion is the baraita that states that he can sell her to his father but he cannot sell her to his son?

<sup>559</sup> It is not in accordance with the opinion of the Rabbis, who forbid selling her to any relative, and it is not in accordance with the opinion of Rabbi Eliezer, who permits selling her to all relatives. The Gemara answers: Actually, it is in accordance with the opinion of the Rabbis. Although they say he cannot sell her to relatives, the Rabbis concede that he is permitted to do so where there is a possibility of designation. In this case, although the father of the girl's father cannot marry her, he

can designate her as a wife for his other son, who is the girl's uncle. Since this uncle can marry her, designation is a possibility, and therefore the sale is effective.

<sup>560</sup> § The Sages taught concerning the following verse, which is referring to a Hebrew slave: "If he comes in begappo he shall leave begappo" (Exodus 21:3), which means that if he enters with his body [begufo] he shall leave with his body [begufo]. Rabbi Eliezer ben Ya'akov says: If he enters alone he shall leave alone. The Gemara clarifies. What is the meaning of the ruling that if he enters with his body he shall leave with his body? Rava said: This means to say that he is not released through the loss of his extremities like a Canaanite slave (Exodus 21:26), meaning he does not leave his master because of damage done to his body. Abaye said to Rava: This halakha is derived from a different verse: "She shall not go out as the men slaves do" (Exodus 21:7).

<sup>561</sup> Rava answers: If this halakha were derived only from there, I would say: The master should give him the value of the eye that he took out and let him be released. In other words, one could say that the verse which states that a Hebrew maidservant does not leave as Canaanite slaves leave, which would serve as the source for the halakha of a Hebrew slave as well, does not mean that she is not released at all due to the loss of her extremities. Rather, it means that unlike Canaanite slaves, she receives compensation for the injury as well as being released. Therefore, the verse: "If he comes in with his body he shall leave with his body," teaches us that this is not so. Rather, although the master must reimburse him for the loss of his eye, he is not freed as a result of the injury.

<sup>562</sup> The Gemara discusses the second opinion in the baraita. Rabbi Eliezer ben Ya'akov says: If he enters alone, he shall leave alone. The Gemara asks: What is the meaning of: He shall leave alone? Rav Nahman bar Yitzhak said that this is what Rabbi Eliezer ben Ya'akov is saying: If the Hebrew slave has a wife and children when he is purchased, his master may provide him with a Canaanite maidservant. But if he did not have a wife and children, i.e., he enters alone, his master may not provide him with a Canaanite maidservant.

<sup>563</sup> § The Sages taught: With regard to a slave who was sold for one hundred dinars and increased in value during his term, and his value stood at two hundred dinars, from where is it derived that if he wishes to redeem himself one assesses him, for the payment of the remainder of his service, based only on the calculation of one hundred dinars, his value when originally purchased? As it is stated: "Out of the money that he was bought for" (Leviticus 25:51).

<sup>564</sup> If he was sold for two hundred dinars and decreased in value and stood at one hundred dinars, from where is it derived that when he is redeemed one assesses him based only on the calculation of one hundred dinars? The verse states: "According to his years he shall give back the price of his redemption" (Leviticus 25:52), meaning that he pays in accordance with the value of his remaining years of service.

<sup>565</sup> I have derived this halakha only in the case of a slave sold to a gentile, since the Torah is lenient with regard to his redemption, as he may be redeemed even by relatives who pay his money and free him. Consequently, in this case the owner is at a disadvantage, and regardless of whether his value increased or decreased the slave always pays the lower amount.

<sup>566</sup> In a case where the slave was sold to a Jew, from where do we derive that this halakha also applies to him? The verse states with regard to a Hebrew slave sold to a Jew: "As a hired worker and as a settler he shall be with you" (Leviticus 25:40), and it states with regard to one sold to a gentile:

“As a hired worker year by year he shall be with him” (Leviticus 25:53), for a verbal analogy. This verbal analogy teaches that the same halakha applies to one sold to a gentile as to one sold to a Jew.

<sup>567</sup> When he was in a good mood, Abaye once said: Behold I am like the intellectually sharp ben Azzai, who would regularly expound on the Torah in the markets of Tiberias. I too am ready to answer any question put to me. One of the Sages said to Abaye: After all, with regard to those verses: “Out of the money that he was bought for” and “according to his years,” one could expound them leniently, and assess the cost of redemption at the lower amount. And one could, in equal measure, expound them stringently, i.e., one could say that if a slave was worth more when he was purchased, he pays according to “the money that he was bought for,” and if he increased in value he must pay “according to his years,” i.e., by his present worth. What did you see to cause you to decide to expound them leniently? Let us expound them stringently.

<sup>568</sup> Abaye answered: It cannot enter your mind to expound the verses stringently, as indicated from the fact that the Merciful One is lenient with regard to a slave and is concerned about his well-being. As it is taught in a baraita: The verse states concerning a Hebrew slave: “Because he fares well with you” (Deuteronomy 15:16), which teaches that the slave should be with you, i.e., treated as your equal, in food, meaning that his food must be of the same quality as yours, and with you in drink.

<sup>569</sup> The baraita continues: This means that there shall not be a situation in which you eat fine bread and he eats inferior bread [kibbar], bread from coarse flour mixed with bran, which is low quality. There shall not be a situation in which you drink aged wine and he drinks inferior new wine. There shall not be a situation in which you sleep comfortably on bedding made from soft sheets and he sleeps on straw. From here the Sages stated: Anyone who acquires a Hebrew slave is considered like one who acquires a master for himself, because he must be careful that the slave’s living conditions are equal to his own.

<sup>570</sup> That Sage asked Abaye: But one can say that this leniency in the case of a Hebrew slave applies only to the matter of eating and drinking, so as not to cause him suffering. But with regard to the matter of redemption, perhaps one should be stringent with him. The reason to be stringent is based on a statement of Rabbi Yosei, son of Rabbi Ḥanina. As it is taught in a baraita that Rabbi Yosei, son of Rabbi Ḥanina, says: Come and see how harsh is the violation of even a hint of the Sabbatical Year, i.e., how great are the punishments not just for working the land, but also for treating lightly the sanctity of Sabbatical-Year produce.

<sup>571</sup> If a person has commercial dealings with Sabbatical-Year produce, which is prohibited, ultimately he will become so poor that he will have to sell his movable property, as it is stated: “In this Jubilee Year you shall return every man to his land” (Leviticus 25:13), and juxtaposed to it is the verse: “And if you sell any item to your neighbor or buy from your neighbor’s hand” (Leviticus 25:14), which is referring to an item acquired by passing it from hand to hand. This teaches that if one sins with regard to the Jubilee Year or the Sabbatical Year, which have many identical halakhot, he will eventually have to sell his movable property.

<sup>572</sup> If one does not sense that he is being punished and does not repent, ultimately he will have to sell his fields, as it is stated in an adjacent verse: “If your brother grows poor and sells of his ancestral land” (Leviticus 25:25). If no move toward repentance comes to his hand, he will have to sell his house, as it is stated: “And if a man sells a dwelling-house in a walled city” (Leviticus 25:29).

<sup>573</sup> The Gemara asks: What is different there, in the first sentence, in which the tanna says: He does not sense, and what is different here, in the continuation, in which he says: If no move toward repentance comes to his hand? The Gemara answers that this is in accordance with a statement of Rav Huna. As Rav Huna says: Once a person commits a transgression and repeats it, it is permitted to him. The Gemara is surprised at this: Can it enter your mind that it is permitted to him merely because he has sinned twice? Rather, say that it becomes to him as though it is permitted. Therefore, when he violates a prohibition a second time, the baraita takes for granted that he does not sense that he is performing a sin, and employs a different terminology.

<sup>574</sup> The Gemara resumes its citation of the baraita: If no move toward repentance comes to his hand, his poverty will increase until he sells his daughter, as it is stated: “And when a man sells his daughter as a maidservant” (Exodus 21:7). The Gemara comments: And even though “his daughter” is not written with regard to that matter in Leviticus 25 but in Exodus, nevertheless, it teaches us this principle: A person will sell his daughter rather than borrow with interest. What is the reason for this? His daughter can occasionally deduct money from her debt and use it to leave her master, but this interest continuously increases.

<sup>575</sup> The baraita continues its exposition of the verses in Leviticus: If no move toward repentance comes to his hand, he will eventually need to borrow with interest, as it is stated: “And if your brother grows poor and his means fails with you” (Leviticus 25:35), and juxtaposed to it is the verse: “Take no usury or interest from him” (Leviticus 25:36). If no move toward repentance comes to his hand, he will eventually need to sell himself, as it is stated: “And if your brother grows poor with you and sells himself to you” (Leviticus 25:39).

<sup>576</sup> The baraita further states: Not only will he be sold to you, a born Jew, but he will even be sold to a stranger, as it is stated: “And sells himself to a stranger [ger]” (Leviticus 25:47). And this sale to a ger is not referring to a sale to a righteous convert [ger tzedek], but even to a gentile who resides in Eretz Yisrael and observes the seven Noahide mitzvot [ger toshav], as it is stated: “And sells himself to a stranger who is a settler [ger toshav]” (Leviticus 25:47). With regard to the continuation of the verse, “or to an offshoot of a stranger’s family,” the Gemara expounds: “A stranger’s family”; this is a gentile, i.e., he will reach a state where he has no choice but to sell himself to a gentile. When it says: “To an offshoot of a stranger’s family,”

<sup>577</sup> this is referring to one sold for idol worship itself, i.e., he is forced to sell himself as a slave to work in a temple of idol worship. The baraita teaches that it is only due to a person’s sins that he reaches a point where he has to sell himself as a slave. Therefore, one should be stringent with him with regard to his redemption and not allow him to be redeemed easily.

<sup>578</sup> Abaye said to that Sage: There, the verse brings him back, i.e., one must strive to redeem a Jew who has been sold as a slave. As the school of Rabbi Yishmael taught: Since this person who sold himself as a slave has gone and become a priest for idol worship, one might say: Let us throw a stone after the fallen, that is, since he has reached this nadir one should abandon him. Therefore, the verse states: “After he is sold he shall be redeemed; one of his brothers may redeem him” (Leviticus 25:48).

<sup>579</sup> The Gemara further asks: But one can say as follows: “He shall be redeemed,” so that he will not be assimilated among the gentiles. But with regard to the matter of his redemption and freedom, let

us act strictly with him, as derived from that which Rabbi Yosei, son of Rabbi Ḥanina, said, that one is sold as a slave due to his sins.

<sup>580</sup> Rav Naḥman bar Yitzḥak said: Two verses are written with regard to the redemption of a slave sold to a gentile. It is written: “If there be yet many of the years, according to them he shall give back the price of his redemption out of the money that he was bought for” (Leviticus 25:51), and it is written: “And if there remain but few of the years until the Jubilee Year, and he shall reckon with him, according to his years” (Leviticus 25:52). But how can there be both many years and few years when, in any case, he will not serve for more than six years? Rather, this means that as the money of his value increased with the passage of time, he is redeemed “out of the money that he was bought for,” i.e., the price for which he was originally sold, which is the lower sum. And if his monetary value decreased over time, one determines his value “according to his years,” i.e., according to his current value.

<sup>581</sup> The Gemara asks: But one can say that this is what the Torah is saying: In a case where he served for two years and an additional four years remain for his service, as indicated by the phrase “if there be yet many of the years,” let him give his redemption money for the four years he owes him “out of the money that he was bought for.” If he served four years and two years remain for his service, as is stated “and if there remain but few of the years,” let him give his redemption money the value of the two years, “according to his years.”

<sup>582</sup> The Gemara rejects this suggestion: If so, let the verse write: If there be yet many years, and: If there remain but few years. What is the meaning of the phrase “of the years”? This teaches that if his monetary value increased over the years of his servitude, he is redeemed “out of the money that he was bought for,” which is the lower sum. And if his monetary value decreased over the years of his servitude, one determines his value “according to his years.” Upon hearing this statement, Rav Yosef said: Rav Naḥman bar Yitzḥak homiletically interpreted these verses like Sinai. His exposition reflects the truth of Torah as it was given at Mount Sinai, as every matter is fully resolved.

<sup>583</sup> The Gemara records a mnemonic device for the upcoming discussions: Slave, house, partial, house, slave, and relatives. Rav Huna bar Ḥinnana raised a dilemma before Rav Sheshet: With regard to a Hebrew slave who is sold to a gentile, can he be partially redeemed, or can he not be partially redeemed? Does this slave have the option of paying part of his value and thereby reducing his remaining period of service?

<sup>584</sup> The Gemara analyzes the sides of the dilemma: With regard to a Hebrew slave sold to a gentile, the verse states: “According to his years he shall give back the price of his redemption [ge’ullato]” (Leviticus 25:52), and the meaning of the term “ge’ullato” can be derived from the same term stated with regard to the redemption of an ancestral field: “And he becomes rich and finds sufficient means to redeem it [ge’ullato]” (Leviticus 25:26). Accordingly, just as an ancestral field cannot be partially redeemed, but is either fully redeemed or not at all, so too, this slave cannot be partially redeemed. Or perhaps we say that he cannot be partially redeemed only if that leads to a leniency, but we do not say that he cannot be redeemed if it leads to a stringency.

<sup>585</sup> Rav Sheshet said to him: Didn’t you say there, with regard to a thief who is sold to repay what he stole, that the verse: “And he is sold” (Exodus 22:2), teaches that all of him is sold but not part of him? If he is worth one thousand, and he owes five hundred for theft, he cannot be sold. So too, in



the case of one who was sold to a gentile, the phrase “he is redeemed” (Leviticus 25:49) means all of him and not part of him.

<sup>586</sup> Abaye said: If you say that he is partially redeemed, you find elements of leniency and stringency. This ruling can lead to a leniency in the following case: A master purchased a Hebrew slave for one hundred and the redeemer gives him fifty, which is half of his value, and afterward the slave increased in value and stood at two hundred. If you say that he can be partially redeemed he is already half-redeemed. Consequently, the redeemer gives him one hundred, half of his current value, and the slave goes out, i.e., is redeemed. And if you say that he cannot be partially redeemed, the redeemer gives the owner an additional one hundred and fifty and the slave goes out, as the initial fifty serves merely as the first payment, and he is now worth two hundred.

<sup>587</sup> The Gemara asks: But you said that if the money of his value increased, one always pays “out of the money that he was bought for” (Leviticus 25:51), i.e., one calculates the value of the slave in accordance with his value at the time when he was acquired, even if that is less than his present value. Why, then, should one have to pay the full two hundred? The Gemara answers: This is referring to a case where he initially, before being sold, increased in value, was then sold for two hundred, and afterward decreased in value to one hundred, and subsequently he again increased in value so that he was worth the same amount as he was originally. In this case, his value of two hundred remains determinative.

<sup>588</sup> Abaye proceeds to describe how you find a case that leads to a stringency. A master purchased a Hebrew slave for two hundred and the redeemer gave one hundred, which is half of his value, and the slave decreased in value and stood at a value of one hundred. If you say that he can be partially redeemed, the redeemer gives fifty and the slave goes out, i.e., is redeemed. And if you say that he cannot be partially redeemed, these one hundred are a deposit with him. Therefore, the redeemer gives it to him at the time of the redemption and the slave goes out. There is no reason to pay him more money, as he is now worth one hundred.

<sup>589</sup> Rav Huna bar Hinnana raised a dilemma before Rav Sheshet with regard to a similar topic: In the case of one who sells a house from among the houses of walled cities, which can be redeemed only during the first year after the sale, can it be partially redeemed, or can it not be partially redeemed? The Gemara explains the sides of the dilemma: Does he derive the verbal analogy of “ge’ullato” (Leviticus 25:29) and “ge’ullato” (Leviticus 25:26) from the case of an ancestral field and say that just as ancestral land cannot be partially redeemed, so too, this house cannot be partially redeemed?

<sup>590</sup> Or perhaps one should say: In a case where the verse explicitly revealed that it cannot be redeemed partially, as it does in the context of an ancestral field, it revealed it. With regard to one who redeems an ancestral field, it is written: “And he becomes rich and finds sufficient means to redeem it” (Leviticus 25:26), indicating that he has enough money to redeem the whole field, not part of it. By contrast, in a case where the Torah did not reveal that it cannot be redeemed, it did not reveal it, and therefore a house from a walled city can be partially redeemed, as the verse does not state this condition in that context.

<sup>591</sup> Rav Sheshet said to him: From Rabbi Shimon’s interpretation one learns that with regard to houses in walled cities, one can borrow money and redeem them, and similarly that one can partially redeem them. As it is taught in a baraita with regard to a verse that describes one who consecrates his field: “And if he will redeem [ga’ol yigal] the field” (Leviticus 27:19). The repetition of the verb

teaches that one can borrow money and redeem houses in walled cities and that one can also partially redeem them.

<sup>592</sup> Rabbi Shimon said: What is the reason for this halakha? This is because we find with regard to one who sells his ancestral field that his power is enhanced, as, if the Jubilee Year arrives and it is not redeemed, the ancestral field returns to its owners in the Jubilee Year without them having to pay for it. Therefore, the power of the seller is diminished in that he cannot borrow money and redeem the field but must have the money to do so on his own, and he cannot partially redeem it.

<sup>593</sup> By contrast, if one consecrates his field his power is diminished, as, if the Jubilee Year arrives and he did not redeem it in the meantime, and the Temple treasurer sold it to someone else, the ancestral field goes out and becomes the property of the priests in the Jubilee Year and does not return to its original owners. Consequently, in order to offset this stringency his power is enhanced in that he may borrow money and redeem the field, and partially redeem it.

<sup>594</sup> According to this explanation, with regard to this one who sells a house from among the houses of walled cities, since his power is also diminished, as, if a full year passes and the house has not been redeemed it remains the permanent property of the buyer, in order to offset this stringency, his power should be enhanced in that he may borrow money and redeem the house, and partially redeem it.

<sup>595</sup> Rava bar Hinnana raised an objection to this opinion from a baraita. The verse states with regard to one who consecrates his field: “And if he will redeem [ga’ol yigal] the field” (Leviticus 27:19). This teaches that he may borrow money and redeem it, and partially redeem it.

<sup>596</sup> The baraita continues: As one might have thought: Could this not be derived through an a fortiori inference: Just as with regard to one who sells an ancestral field that his power is enhanced, as if the Jubilee Year arrives and it is not redeemed, it returns to its owners in the Jubilee Year, and yet his power is diminished in that he cannot borrow money and redeem the field and he cannot partially redeem it; with regard to one who consecrates a field, where his power is diminished, for if the Jubilee Year arrives and it was not redeemed it goes out to the priests in the Jubilee Year, is it not logical that his power is diminished in that he cannot borrow money and redeem the field and he cannot partially redeem it?

<sup>597</sup> The baraita raises a difficulty against this a fortiori inference: What is unique about one who sells his ancestral field is that his power is diminished with regard to redeeming it immediately, as he cannot redeem his field right away but must wait at least two years. Shall you say that the same halakhot apply with regard to one who consecrates his field, as his power is enhanced with regard to redeeming it immediately? One who has consecrated his field can redeem it as soon as he has the money to do so. If so, the a fortiori inference is not valid.

<sup>598</sup> The baraita responds: The case of one who sells a house from among the houses of walled cities can prove otherwise, as his power is enhanced with regard to redeeming it immediately, and yet he cannot borrow money and redeem the house and he cannot partially redeem it. In any case, with regard to the issue at hand, the baraita indicates the opposite of the previous conclusion: One who sells a house in a walled city cannot partially redeem it. Rav Sheshet answers: This is not difficult.

<sup>599</sup> This second baraita is in accordance with the opinion of the Rabbis, and that baraita, which teaches that one can borrow money and redeem the house and partially redeem it, is in accordance with the opinion of Rabbi Shimon.

<sup>600</sup> The Gemara states: It is taught in one baraita with regard to the houses of walled cities: One can borrow money and redeem it, and one can partially redeem it, and it is taught in another baraita: One cannot borrow money and redeem it, nor can one partially redeem. Apparently, there is a contradiction between these two baraitot. The Gemara answers as above: This is not difficult. This baraita is in accordance with the opinion of the Rabbis, and that baraita is in accordance with the opinion of Rabbi Shimon.

<sup>601</sup> The Gemara provides a mnemonic device for the names of the Sages who raise the dilemmas cited below and those to whom the questions are addressed: Ḥeresh, ḥavash, zeman. They allude to the following interlocutors: Ḥeresh alludes to Rav Aḥa, son of Rava, and Rav Ashi; ḥavash alludes to Rav Aḥa Sava and Rav Ashi; and zeman alludes to Mar Zutra, son of Rav Mari, and Ravina.

<sup>602</sup> Rav Aḥa, son of Rava, said to Rav Ashi: The comparison detailed earlier (20b) between one who sells a house and one who consecrates a field, can be refuted as follows: What is unique about one who sells a house among the houses of walled cities is that his power is diminished, in that he is not able to redeem it forever, since he cannot redeem it after a year has passed (see Leviticus 25:30). Shall you say the same with regard to one who consecrates his field, as his power is enhanced in that he is able to redeem forever?

<sup>603</sup> Rav Aḥa Sava said to Rav Ashi: The comparison is valid, because it can be said that the argument returns, as one can learn in a different manner. Let this matter be derived by an analogy derived from the common factor of two sources: The halakha of one who sells an ancestral field can prove it, as his power is enhanced in that he is able to redeem the field forever, and he cannot borrow money and redeem it, and he cannot partially redeem it. And if you say: What is unique about one who sells an ancestral field is that his power is diminished in that he is not able to redeem it immediately, the case of one who sells a house from among houses of walled cities can prove otherwise. Although one can redeem the house immediately, he cannot borrow money and redeem it, nor partially redeem it.

<sup>604</sup> And the derivation has reverted to its starting point, as one could alternate the explanations for each side with their respective refutations. Ultimately, the aspect of this case, an ancestral field, is not like the aspect of that case, a house from among houses of walled cities. Their common denominator is that they can be redeemed, and one cannot borrow money and redeem them, and likewise, one cannot partially redeem them. I will also bring the case of one who consecrates his field and rule that it may be redeemed, but one cannot borrow money and redeem it, and one cannot partially redeem it.

<sup>605</sup> Mar Zutra, son of Rav Mari, said to Ravina: This derivation, based on the common denominator, can be refuted as follows: What is unique to their common denominator is that their power is diminished in that they are unable to redeem the respective properties during the second year, as in neither case can they be redeemed in the second year. One who sells a house in a walled city cannot redeem it beyond the first year, while one who sells an ancestral field cannot redeem it during the first two years. Shall you say the same with regard to one who consecrated his field, as his power is enhanced in that he is able to redeem the field in the second year?

<sup>606</sup> Ravina said to him that the derivation is valid because it can be said that the case of a Hebrew slave sold to a gentile can prove otherwise, as his power enhanced in that he is able to redeem

himself in the second year, and nevertheless he cannot borrow money and redeem himself, and he cannot partially redeem himself.

<sup>607</sup> The Gemara discusses a similar matter. Rav Huna bar Hinnana raised a dilemma before Rav Sheshet: In the case of one who sells a house from among the houses of walled cities, can it be redeemed by relatives or can it not be redeemed by relatives? Is the ability to redeem a house limited to the seller himself? The Gemara presents the two sides of the dilemma: Does one derive the verbal analogy of “ge’ullato” (Leviticus 25:29) and “ge’ullato” (Leviticus 25:26) from an ancestral field in this manner: Just as an ancestral field cannot be partially redeemed and yet it can be redeemed by relatives, so too, this house also cannot be partially redeemed and yet it can be redeemed by relatives?

<sup>608</sup> Or perhaps, when the word ge’ula is written in the case of an ancestral field, it is written with regard to partial redemption; but the word redemption is not written with regard to relatives. If so, the verbal analogy does not apply to the halakha of redemption by relatives. Rav Sheshet said to him: The house cannot be redeemed by relatives.

<sup>609</sup> Rav Huna bar Hinnana raised an objection to the ruling of Rav Sheshet from a baraita that deals with the verse: “And in all of your ancestral land you shall grant redemption for the land” (Leviticus 25:24). This verse serves to include houses and a Hebrew slave. What, is it not correct to say that the term houses is referring to houses of walled cities, indicating that they can also be redeemed by relatives? The Gemara rejects this suggestion: No, this is referring to houses in open areas without walls.

<sup>610</sup> The Gemara asks: With regard to houses in open areas without walls, it is explicitly written: “Shall be reckoned with the field of the country” (Leviticus 25:31), meaning that they are like ancestral fields. If so, there is no need for another verse to teach this halakha. The Gemara answers: That verse: “And in all of your ancestral land you shall grant redemption for the land” (Leviticus 25:24), serves to establish that redemption by relatives is an obligation, and this is in accordance with the opinion of Rabbi Eliezer.

<sup>611</sup> As it is taught in a baraita, with regard to a verse that deals with one who sells ancestral land: “And he shall redeem that which his brother has sold” (Leviticus 25:25), this redemption is optional, i.e., if he wishes to do so he may redeem the land. Do you say that it is optional or is it nothing other than an obligation? The verse states concerning an ancestral field that was sold: “And if a man has no one to redeem it” (Leviticus 25:26). This verse is puzzling: But is there a man in Israel who does not have redeemers? Every Jew has a relative of some sort, even if he must trace his family tree back all the way to Jacob. Rather, this is referring to one who has a relative who does not want to purchase, i.e., redeem, the land, as he has permission to refrain from doing so, since this redemption is optional. This is the statement of Rabbi Yehoshua.

<sup>612</sup> Rabbi Eliezer says that when the verse states: “And he shall redeem that which his brother has sold,” this redemption is an obligation. Do you say that it is an obligation, or is it only optional? The verse states: “And in all of your ancestral land you shall grant redemption for the land” (Leviticus 25:24). Here the verse established it as obligatory. This is the interpretation of the verses according to Rabbi Eliezer.

<sup>613</sup> The Sages said to Rav Ashi, and some say Ravina said this to Rav Ashi: Granted, according to the one who says that the verse serves to include houses of walled cities, this is as it is written “in all.”

“In all” serves to include a case omitted by the phrase “you shall grant a redemption for the land.” But according to the one who says that it serves to include houses in open areas without walls, what is meant by the term “in all”? It was already taught that these houses are included in the category of ancestral fields, and therefore they are referred to by the expression “redemption for the land.” No answer was found to this question and the Gemara states that it is a difficulty.

<sup>614</sup> Abaye raised an objection to this opinion that houses in walled cities cannot be redeemed by relatives. It is taught in a baraita: What does it mean when the verse states: “May redeem him,” “may redeem him,” and “may redeem him” (Leviticus 25:48–49), three times? This serves to include all redemptions, and that they are redeemed in this order: In the case of a Hebrew slave sold to a gentile, if he does not redeem himself he can be redeemed by a brother; if he is not redeemed by a brother, then he can be redeemed by an uncle or some other relative. What, is it not correct to say that this inclusion is referring to houses of walled cities and a Hebrew slave, that they too can be redeemed by relatives? The Gemara rejects this interpretation: No, it includes houses in open areas and an ancestral field.

<sup>615</sup> The Gemara asks: But the cases of houses in open areas and the case of an ancestral field are written explicitly: “Shall be reckoned with the field of the country” (Leviticus 25:31). The Gemara answers: This is as Rav Nahman bar Yitzhak said, that the verse detailing the redemption by relatives stated with regard to an ancestral field teaches that the closer of a relative one is to the seller, the earlier one is in the order of redeeming the ancestral field. The obligation or merit to redeem the field applies first to one who is more closely related to the seller. So too, with regard to houses in open areas, this verse teaches that the closer of a relative one is to the seller, the earlier one is in the order of redeeming the house.

<sup>616</sup> The Gemara asks: Where was this opinion of Rav Nahman bar Yitzhak originally stated? The Gemara answers that it was stated with regard to this issue, as a dilemma was raised before the Sages: Can a Hebrew slave sold to a Jew be redeemed by his relatives or can he not be redeemed by his relatives? The Gemara comments: According to the opinion of Rabbi Yehuda HaNasi, you should not raise the dilemma, as he says: One who is not redeemed by these relatives is redeemed by six years of service. Evidently, Rabbi Yehuda HaNasi holds that a Hebrew slave sold to a gentile cannot be redeemed by his relatives.

<sup>617</sup> When you raise the dilemma, it is according to the opinion of the Rabbis. What is the halakha? Does one derive the verbal analogy comparing “hired worker” (Leviticus 25:40) and “hired worker” (Leviticus 25:53) from the case of a Jew sold to a gentile, and say that just as one can be redeemed by one’s relatives if sold to a gentile, so too, one can be redeemed if sold to a Jew? And at the same time one does not interpret homiletically the phrase “may redeem him” (Leviticus 25:48), stated with regard to one sold to a gentile, as a restricting term. Or perhaps the phrase “may redeem him” is in fact a restricting term, which indicates that this halakha applies only to this slave, i.e., only one sold to a gentile can be redeemed by relatives, and it does not apply to another slave, one sold to a Jew.

<sup>618</sup> Come and hear a baraita: “And in all of your ancestral land you shall grant redemption for the land” (Leviticus 25:24). The inclusive expression “in all” serves to include houses and a Hebrew slave. What, is it not correct to say that this includes houses of walled cities and a Hebrew slave sold to a Jew? The Gemara rejects this interpretation: No, one can say that this is referring to a Hebrew slave sold to a gentile.

<sup>619</sup> The Gemara asks: It is explicitly written with regard to a Hebrew slave sold to a gentile: “Either his uncle or his uncle’s son may redeem him” (Leviticus 25:49). If so, it is unnecessary to derive the option of redemption by a relative from an inclusive expression in a different verse.

<sup>620</sup> The Gemara answers: That verse serves to establish that redeeming him is an obligation. And even according to the opinion of Rabbi Yehoshua, who says that there is no requirement to redeem land, this case is different, as it is proper to redeem him to prevent him from being assimilated by gentiles.

<sup>621</sup> Come and hear a proof from a baraita: What is the meaning when the verse states: “May redeem him,” “may redeem him,” and “may redeem him” (Leviticus 25:48–49), three times? This serves to include all redemptions, and that they are redeemed in this order. What, is it not correct to say that this inclusion is referring both to houses of walled cities and a Hebrew slave sold to a Jew, that they can be redeemed by relatives? The Gemara rejects this interpretation: No, it includes houses in open areas and an ancestral field. The Gemara asks: Concerning houses in open areas and an ancestral field, it is written explicitly: “Shall be reckoned with the field of the country” (Leviticus 25:31). Rav Naḥman bar Yitzḥak said: This teaches that the closer of a relative one is to the seller, the earlier one is in the order of redeeming the house or the field. This is the context of Rav Naḥman bar Yitzḥak’s statement.

<sup>622</sup> § The Gemara returns to the mishna, which teaches: And a Hebrew slave who is pierced after serving six years is acquired as a slave for a longer period through piercing his ear with an awl. The Gemara explains that this is as it is written: “And his master shall pierce his ear with an awl, and he shall serve him forever” (Exodus 21:6).

<sup>623</sup> The mishna further teaches that a pierced slave acquires himself through the advent of the Jubilee Year and through the master’s death. The Gemara explains that this is as it is written: “And he shall serve him forever” (Exodus 21:6). This term indicates that he serves only the master, but not the son and not the daughter. The term “forever” is referring to the forever represented by the Jubilee Year. The word “forever” does not mean for eternity, but refers to the end of the cycle of the Jubilee Year.

<sup>624</sup> The Sages taught: From the term “an awl” I have derived only that a master can pierce the ear of a Hebrew slave with an awl. From where do I derive that a sharp thorn [sol], a thorn [sira], a needle, an auger, and a stylus used to engrave in wax may be used? The verse states: “And you shall take the awl” (Deuteronomy 15:17). This term “and you shall take” serves to include any implement that can be taken in the master’s hand. This is the statement of Rabbi Yosei, son of Rabbi Yehuda.

<sup>625</sup> Rabbi Yehuda HaNasi says: Not all of these utensils may be used for piercing. Just as an awl is unique in that it is made of metal, so too any tool made of metal can be used; one may not pierce a slave’s ear with non-metal implements. Alternatively, the verse states: “And you shall take the awl,” to include the large awl for piercing.

<sup>626</sup> Rabbi Elazar said: Yudan the Distinguished would teach as follows: When they pierce, they pierce only the earlobe. And the Rabbis say: The piercing is not performed on the earlobe, as the halakha is that a Hebrew slave who is a priest is not pierced at all because the piercing renders him blemished and unfit to serve in the Temple. And if you say that they pierce a slave’s earlobe, how does a Hebrew slave who is a priest become blemished through piercing? A pierced earlobe is not considered a blemish. This indicates that he is pierced only on the upper part of the ear through the

cartilage. The Gemara inquires: With regard to what principle do Rabbi Yehuda HaNasi and Rabbi Yosei, son of Rabbi Yehuda, disagree?

<sup>627</sup> The Gemara explains: Rabbi Yehuda HaNasi expounds the verses by means of the hermeneutical principle of reading the verse as consisting of generalizations and details. Accordingly, he maintains that the term “and you shall take” is a generalization that indicates piercing may be performed with any implement. “An awl” is a detail, and when the verse states: “Through his ear and into the door” (Deuteronomy 15:17), it then generalized again. When the verse writes a generalization and a detail and a generalization, you may deduce that the verse is referring only to items similar to the detail: Just as the explicit detail mentions an awl, which is made of metal, so too, any utensil used for piercing must be made of metal.

<sup>628</sup> By contrast, Rabbi Yosei expounds the verses by means of the hermeneutical principle of reading the verse as consisting of amplifications and restrictions. Accordingly, he learns that the term “and you shall take” amplifies, i.e., it includes any item that can be taken in one’s hand. The term “an awl” restricts. When the verse states “through his ear and into the door,” it then amplifies again. When the verse amplifies, restricts, and amplifies, it has amplified the halakha to include everything except one item.

<sup>629</sup> What has it amplified, i.e., included beyond an awl? It has amplified the category to include everything that can pierce an ear. What has it restricted from inclusion in the category? It excludes only the method that is most dissimilar to the use of an awl, which is a corrosive substance. Producing a hole in the slave’s ear with a substance of this kind is not a valid form of piercing.

<sup>630</sup> The Master said above: “The awl,” this serves to include the large awl for piercing. The Gemara asks: From where may it be inferred that this expression is referring to a large awl? The Gemara answers that this is as Rava said with regard to the verse: “The sinew of the thigh vein which is upon the hollow of the thigh” (Genesis 32:33), that this is referring to the most important [meyummenet] part of the thigh. The definite article indicates something clear and obvious. Here too, the term “the awl” is referring to a special awl.

<sup>631</sup> It was further stated in the above baraita that Rabbi Elazar said: Yudan the Distinguished would teach: When they pierce a slave they pierce only the earlobe. And the Rabbis say: A Hebrew slave who is a priest is not pierced at all, because piercing renders him blemished. The Gemara asks: And let him be pierced and be rendered blemished and disqualified for Temple service. Why is it prohibited to do this? Rabba bar Rav Sheila says: The verse states concerning a Hebrew slave at the end of his servitude: “And he shall return to his own family” (Leviticus 25:41), i.e., to his status in his family. He must be able to return to the position he had as a member of his family. If he was rendered a blemished priest while a slave, once he is emancipated he can no longer return to his status as a priest who can perform the Temple service.

<sup>632</sup> A dilemma was raised before the Sages: With regard to a Hebrew slave who is a priest, what is the halakha concerning the permissibility for his master to provide him with a Canaanite maidservant with whom to engage in sexual intercourse? The Gemara analyzes the two sides of the dilemma: Does one say that the halakha permitting a Hebrew slave to engage in intercourse with a Canaanite maidservant is a halakhic novelty, as a Jew is generally prohibited from engaging in intercourse with a gentile, and in light of this novelty, it is no different in the case of priests and no different in the case of an Israelite?

<sup>633</sup> Or perhaps the case of priests is different from Israelites, since the Torah includes additional mitzvot for them, which do not apply to all Jews. Therefore, it is prohibited for a priest to engage in sexual intercourse with a Canaanite maidservant, despite the fact she is permitted to a non-priest. The amora'im disagreed with regard to this issue. Rav said: It is permitted for the master to provide him with a Canaanite maidservant, and Shmuel said it is prohibited.

<sup>634</sup> Rav Nahman said to Rav Anan: When you were studying in the house of Mar Shmuel did you play with tokens [iskumadri]? Didn't you take your studies seriously? What is the reason that you do not say a proof to him from that which we learned: And the Rabbis say: A Hebrew slave who is a priest is not pierced at all because piercing renders him blemished.

<sup>635</sup> Rav Nahman explains the proof: And if you say that if his master cannot provide him with a Canaanite maidservant, it is not even relevant to suggest that a slave of priestly lineage could be pierced, as the fact that he cannot be pierced could be derived from another point, as I require the slave to say: "I love my master, my wife, and my children" (Exodus 21:5), and that declaration cannot be issued by a priest if his master may not provide him with a Canaanite maidservant. And nothing more can be answered to this proof. The reason given by the Rabbis proves that a Canaanite maidservant can be provided even to a priest.

<sup>636</sup> Similarly, a dilemma was raised before them: What is the halakha with regard to the permissibility for a priest who goes to war to engage in intercourse with a beautiful woman captured in that war? Does one say that the case of a beautiful woman is a novelty in that the Torah permits a man to engage in intercourse with a gentile woman? Consequently, it is no different in the case of a priest and no different in the case of an Israelite, as both are permitted to engage in intercourse with this woman. Or perhaps the case of priests is different, since the Torah includes additional mitzvot for them? Rav said: It is permitted, and Shmuel said: It is prohibited.

<sup>637</sup> The Gemara comments: With regard to the first act of sexual intercourse between the soldier priest and the gentile woman, everyone agrees that it is permitted, as the Torah spoke only in response to the evil inclination, and the evil inclination of a priest is as strong as that of an Israelite. This passage serves to prevent intercourse performed in a prohibited manner, which is relevant to a priest as well.

<sup>638</sup> When they disagree it is with regard to the second act of sexual intercourse. Is a priest permitted to bring the captive into his house, convert her, and marry her? Rav said it is permitted, and Shmuel said it is prohibited. Their reasoning is as follows: Rav said it is permitted: Since she was permitted to him once, she remains permitted to him. And Shmuel said it is prohibited, as ultimately she is a convert, and a convert is not fit to marry a priest.

<sup>639</sup> There are those who say a different version of this dispute. With regard to the second act of intercourse everyone agrees that it is prohibited, as she is a convert, and a priest may not marry a convert. When they disagree it is with regard to the first act of intercourse. Rav said it is permitted, as the Torah spoke only in response to the evil inclination. And Shmuel said it is prohibited, as any situation that one can read with regard to it: "Then you shall bring her home to your house" (Deuteronomy 21:12), one can also read and fulfill with regard to the earlier command of: "And see among the captives a beautiful woman, and you have a desire for her, and would take her to you as a wife" (Deuteronomy 21:11). Conversely, any situation that one cannot read with regard to it: "Then



you shall bring her home to your house,” i.e., if the soldier may not marry her, one does not read with regard to it: “And sees among the captives,” and one may not engage in sexual intercourse with her.

<sup>640</sup> The Sages taught: With regard to a beautiful captive, the verse states: “And sees among the captives,” teaching that this halakha applies only if he notices her when she is a captive. The expression “a woman” teaches that she is permitted even if she is a married woman. The phrase “a beautiful woman” indicates that the Torah here spoke only in response to the evil inclination, as it is due to her beauty that he desired her. And why does the Torah permit this? It is preferable for Jews to eat the meat

<sup>641</sup> of dying animals that were slaughtered, and let them not eat the meat of dying animals that were not slaughtered but which will become carcasses. In other words, it is preferable for this act to be performed in a somewhat permitted way rather than in a manner that is entirely prohibited. The expression: “And you have a desire for her and would take her to you as a wife” (Deuteronomy 21:11), teaches that this halakha applies even if she is not pretty, as this is a subjective judgment dependent on one’s desire. The term “for her” indicates that he may take her, but not her and another woman. A soldier is allowed to take only one captive in this manner.

<sup>642</sup> The phrase “and would take her” teaches: You have the ability to take her, i.e., to marry her. “To you as a wife” teaches that he may not take two women, one for him and one for his father, or one for him and one for his son. The verse: “Then you shall bring her home into your house” (Deuteronomy 21:12), teaches that he should not pressure her to engage in sexual intercourse during the war, but he should first take her into his home.

<sup>643</sup> § The Sages taught: It is stated with regard to a pierced slave: “But if the slave shall say [amor yomar]: I love my master, my wife, and my children, I will not go out free” (Exodus 21:5). The repeated verb teaches that he is not pierced unless he says this statement and repeats it. If he said at the beginning of his six years of service that he wants to be pierced, but he did not say it at the end of six years, he is not pierced, as it is stated: “I will not go out free,” i.e., he is not pierced unless he says it when he leaves.

<sup>644</sup> If he said this statement at the end of six years but did not say it at the beginning of his six years, he is likewise not pierced, as it is stated: “If the slave shall say [amor yomar],” which indicates that he is not pierced unless he states it while he is still a slave. This concludes the baraita.

<sup>645</sup> The Gemara analyzes this baraita. The Master said above: If he said it at the beginning of his six years and he did not say it at the end of six years, he is not pierced, as it is stated: “I will not go out free.” The Gemara asks: Why does the tanna of the baraita learn this halakha specifically from the phrase “I will not go out free”? Let him derive it from the fact that we require another condition. He has to be able to say: “I love my master, my wife, and my children” (Exodus 21:5) in order to become a pierced slave, and he cannot say this, as at the start of the six years he does not yet have children from the Canaanite maidservant his master provided for him.

<sup>646</sup> And furthermore, the baraita states that if he said this statement at the end of six years but did not say it at the beginning of his six years, he is likewise not pierced, as it is stated “the slave.” Is that to say that he is not a slave at the end of six years? Rava said: What is the meaning of: At the beginning of six? This is not referring to the actual beginning of his six years of service, but to the beginning of the last peruta, i.e., when he reaches the start of his final stage of work worth one peruta, when he is still a slave. And what is the meaning of the term: At the end of six? At the end of the last peruta.

<sup>647</sup> The Sages taught: If the slave has a wife and children and his master does not have a wife and children, he is not pierced, as it is stated: “Because he loves you and your house” (Deuteronomy 15:16). The word “house” is referring to a wife and children, and therefore if the master does not have a wife and children the verse cannot be fulfilled, and the slave is not pierced. Similarly, if his master has a wife and children and he does not have a wife and children, he is not pierced, as it is stated: “I love my master, my wife, and my children” (Exodus 21:5).

<sup>648</sup> Furthermore, if he loves his master but his master does not love him, he is not pierced, as it is stated: “Because he fares well with you” (Deuteronomy 15:16), which indicates that it is good for both of them to be with each other. If his master loves him but he does not love his master, he is not pierced, as it is stated: “Because he loves you.” If he is ill and his master is not ill, he is not pierced, as it is stated: “Because he fares well with you,” which excludes a sick person. Similarly, if his master is ill and he is not ill, he is not pierced, as it is stated “with you,” which equates the well-being of the pair.

<sup>649</sup> Rav Beivai bar Abaye raised a dilemma: If both of them are ill, what is the halakha? Do we require only that the slave be “with you,” i.e., in the same condition as the master, and that is the case here, as they are both ill, and the slave can be pierced? Or perhaps we require “because he fares well with you,” i.e., it must be good for both of them, and that is not the case here, as they are both ill. If so, he cannot be pierced. No answer was found, and therefore the Gemara says that the dilemma shall stand unresolved.

<sup>650</sup> The Sages taught: The verse states concerning a Hebrew slave: “Because he fares well with you,” which teaches that the slave should be with you, i.e., treated as your equal, in food, meaning that his food must be of the same quality as yours, and with you in drink. This means that there shall not be a situation in which you eat fine bread and he eats inferior bread, bread from coarse flour mixed with bran, which is low quality. There shall not be a situation in which you drink aged wine and he drinks inferior new wine. There shall not be a situation in which you sleep comfortably on bedding made from soft sheets and he sleeps on straw. From here the Sages stated: Anyone who acquires a Hebrew slave is considered like one who acquires a master for himself, because he must be careful that the slave’s living conditions are equal to his own.

<sup>651</sup> The Sages taught with regard to a verse that deals with the emancipation of a slave: “Then he shall go out from you, he and his children with him” (Leviticus 25:41). Rabbi Shimon said: This verse is puzzling, as, if he is sold, are his sons and daughters sold? Rather, from here it is derived that his master is obligated to provide sustenance for his children, and when the slave is emancipated his sons are released as well. You say something similar with regard to the verse: “If he is married then his wife shall go out with him” (Exodus 21:3). Rabbi Shimon said: If he is sold, is his wife sold? Rather, from here it is derived that his master is obligated to provide sustenance for his wife.

<sup>652</sup> The Gemara comments: And it is necessary for the baraita to mention both cases, as if it had taught us only that the master is required to provide sustenance for the slave’s children, one might say that this is because they are not fit to work and eat. Since they are unable to support themselves, the master is required to support them. But with regard to his wife, who can eat and work, one might say that she should work and eat in payment for her work, and the master is not required to support her for free.

<sup>653</sup> And conversely, if the baraita had taught us only about his wife, one might say that the master is required to support her since it is not her manner to circulate and collect charity, as she is too embarrassed to do this. But with regard to his children, since it is their manner to circulate and beg, i.e., this is not beneath their dignity, one might say no, he is not required to support them. Therefore it is necessary to issue both rulings.

<sup>654</sup> The Sages taught:

<sup>655</sup> Had the verse stated: His ear to the door, I would say: He should pierce, opposite his ear, into the door alone. In other words, with regard to the door, yes, it should be pierced, but his ear itself, no, it should not be pierced. The Gemara asks: But how could it even be suggested that his ear should not be pierced? But isn't it written: "And his master shall pierce his ear with an awl" (Exodus 21:6)?

<sup>656</sup> Rather, I would say that the master should pierce his ear outside, i.e., not at the door, and he should place it afterward on the door, and then he should pierce opposite his ear on the door. Therefore, the verse states: "And you shall take the awl and place it through his ear and into the door" (Deuteronomy 15:17). How so? He bores through his ear until he reaches the door.

<sup>657</sup> The baraita adds: Since the verse states "door," I would derive that this applies to any door, regardless of whether it is detached from its doorpost or whether it is not detached. Therefore, the verse states: "Then his master shall bring him to the court, and shall bring him to the door, or to the doorpost" (Exodus 21:6): Just as a doorpost is upright and attached, so too, a door must be upright and attached to the doorpost.

<sup>658</sup> Rabban Yoḥanan ben Zakkai would expound this verse as a type of decorative wreath [ḥomer], i.e., as an allegory: Why is the ear different from all the other limbs in the body, as the ear alone is pierced? The Holy One, Blessed be He, said: This ear heard My voice on Mount Sinai when I said: "For to Me the children of Israel are slaves" (Leviticus 25:55), which indicates: And they should not be slaves to slaves. And yet this man went and willingly acquired a master for himself. Therefore, let this ear be pierced.

<sup>659</sup> And Rabbi Shimon bar Rabbi Yehuda HaNasi would likewise expound this verse as a type of decorative wreath: Why are the door and a doorpost different from all other objects in the house, that the piercing is performed with them? The Holy One, Blessed be He, said: The door and the doorpost were witnesses in Egypt when I passed over the lintel and when I passed over the two doorposts of houses in which there were Jews (Exodus, chapter 12), and I said: "For to Me the children of Israel are slaves," and they should not be slaves to slaves. And I delivered them at that time from slavery to freedom, and yet this man went and acquired a master for himself. Therefore, let him be pierced before them, as they are witnesses that he violated God's will.

<sup>660</sup> MISHNA: A Canaanite slave is acquired by means of money, by means of a document, or by means of the master taking possession of him. And he can acquire himself, i.e., his freedom, by means of money given by others, i.e., other people can give money to his master, and by means of a bill of manumission if he accepts it by himself. This is the statement of Rabbi Meir. And the Rabbis say: The slave can be freed by means of money given by himself, and by means of a bill of manumission if it is accepted by others, provided that the money he gives belongs to others, not to him. This is because the slave cannot possess property, as anything owned by a slave is considered his master's.

<sup>661</sup> GEMARA: The Gemara asks: From where do we derive that these are the modes by which a slave can be acquired? The Gemara answers: As it is written with regard to Canaanite slaves: “And you shall bequeath them to your children as an ancestral inheritance” (Leviticus 25:46). The verse juxtaposes Canaanite slaves to an ancestral field: Just as an ancestral field can be acquired by means of money, by means of a document, or by means of the owner taking possession of it, so too, a Canaanite slave can be acquired by means of money, by means of a document, or by means of the master taking possession of him.

<sup>662</sup> The Gemara asks: If so, perhaps one can interpret this juxtaposition differently: Just as an ancestral field returns to its owners in the Jubilee Year, so too a Canaanite slave returns to his prior owners in the Jubilee Year. Therefore, the verse states: “Of them you may take your slaves forever” (Leviticus 25:46), which indicates that the sale is permanent.

<sup>663</sup> A Sage taught in a baraita that a Canaanite slave can also be acquired by means of symbolic exchange, i.e., a pro forma act of acquisition performed by the giving of an item, usually a kerchief, effecting the transfer of ownership of an article. The Gemara asks: And why doesn’t the tanna of our mishna mention acquisition through symbolic exchange? The Gemara answers: He teaches only the effectiveness of modes of acquisition which are not effective in transferring the ownership of movable property, as it is a novelty that these are effective, as one may have thought that a slave can be acquired only in the same manner as movable property is acquired. He does not teach the effectiveness of modes of acquisition which are effective in transferring the ownership of movable property, as it is not a novelty that a slave can be acquired in that manner.

<sup>664</sup> Shmuel says: A Canaanite slave can be acquired by means of pulling, as can movable property. How is pulling performed in the case of a slave? If the master took him by force and the slave came to him, he has thereby acquired him. But if the master called him and he came to him willingly, he has not acquired him.

<sup>665</sup> The Gemara comments: Granted, according to the opinion of the tanna of our mishna, it is clear why he did not list pulling as a mode of acquisition, as he does not teach the effectiveness of modes of acquisition that are effective in transferring the ownership of movable property; he teaches only the effectiveness of modes of acquisition that are not effective in transferring the ownership of movable property. Pulling is effective with movable property. But according to the opinion of the tanna of the baraita, who taught the mode of symbolic exchange, let him teach pulling as well. The Gemara answers: When he teaches his baraita, which includes acquisition through symbolic exchange, he teaches the effectiveness of modes of acquisition that are effective in transferring the ownership of both land and movable property. He does not teach the effectiveness of pulling, which is effective in transferring the ownership of movable property but is not effective in transferring the ownership of land.

<sup>666</sup> The Gemara returns to analyze Shmuel’s statement: How does one acquire a slave through pulling? If the master took him by force and he came to him, he has acquired him. If he called him and he came to him, he has not acquired him. The Gemara asks: And has he not acquired him if he called him? But isn’t it taught in a baraita: How is an animal acquired through passing? If he grabbed it by its hoof, or by its hair, or by the saddle on it, or by the load [shalif] on it, or by the bit [bifrumbiya] in its mouth, or by the bell on its neck, he has acquired it.

<sup>667</sup> How is an animal acquired by pulling? If he calls it and it comes, or he if hits it with a stick and it runs before him, once it lifts a foreleg and a hind leg from where it was standing, he acquires it. Rabbi Asi, and some say Rabbi Aḥa, says: It is not enough if the animal lifts its feet. Rather, one does not acquire it until it walks the distance of its full height in the presence of the one acquiring it. In any event, this indicates that calling is an effective use of the mode of pulling.

<sup>668</sup> The Sages say in response that there is a difference between the acquisition of a slave and that of an animal. An animal walks by the will of its owner, as it is domesticated and follows the orders of its master. Consequently, if it comes when called it is as though it was pulled. By contrast, a slave walks by his own will. Consequently, even if a slave comes when called, this cannot be considered acquisition through pulling, as the master has performed no act of acquisition. Rav Ashi said: A slave who is a minor is considered like an animal. Since he has no will of his own, he can be acquired through calling, like an animal.

<sup>669</sup> § The Sages taught (Tosefta 1:5): How does one acquire a slave through possession? If the slave removes the master's shoe, or carries his garments after him to the bathhouse, or undresses him, or bathes him, or anoints him, or scrubs the oil off him, or dresses him, or puts on his shoes, or lifts him, the master acquires him. Rabbi Shimon says: Acquisition through the mode of possession should not be considered greater than acquisition using the mode of lifting, as lifting acquires property in any situation. With regard to this last statement the Gemara asks: What is Rabbi Shimon saying here? The first tanna also said that a slave can be acquired by lifting.

<sup>670</sup> Rav Ashi says that one can infer from the statement of the first tanna: If a slave lifts his master, the master acquires him, as he is performing labor for the master. But if his master lifts the slave, the master does not acquire him, as the slave has not performed labor for his master. With regard to this Rabbi Shimon says: Acquisition through possession should not be greater than acquisition through lifting, as lifting acquires property in any situation. Consequently, one can acquire a slave even by lifting him.

<sup>671</sup> The Gemara asks: Now that you said that if a slave lifts his master, the master acquires him, consider the following ramification of this ruling: If that is so, let a Canaanite maidservant be acquired by means of sexual intercourse with the master, as it is possible to claim she lifts him during the act of intercourse. The Gemara answers: When we say that one acquires a slave through the labor the slave performs for him, that applies to a situation where this master benefits and that slave suffers. In this manner the master exercises his authority over the slave. Here, with regard to sexual intercourse, it is a case where this master benefits and this Canaanite maidservant likewise benefits. Since both sides derive benefit, it cannot be seen as an act of acquisition.

<sup>672</sup> The Gemara asks: If he engages in intercourse in an atypical manner, i.e., anal intercourse, with her, what can be said? In that case the woman does not benefit from the intercourse. Rav Aḥai bar Adda of the place called Aḥa said: Who will tell us, i.e., it is not obvious, that there is no benefit for both of them, i.e., there is benefit only for the man, when they engage in intercourse in an atypical manner? And furthermore, it is written: "Lyings with a woman" (Leviticus 18:22). The plural form indicates that there are two ways of engaging in sexual intercourse with a woman: In this manner the verse compares typical sexual intercourse to intercourse in an atypical manner.

<sup>673</sup> § The Gemara relates: Rabbi Yehuda from India was a convert who had no heirs. When he became ill Mar Zutra entered to ask about his health. When he saw that his condition intensified, i.e.,

that he was about to die, Mar Zutra said to Rabbi Yehuda's slave: Remove my shoes and take them to my house. He wanted to acquire the slave upon the death of his master, as when a convert without heirs dies, the first person to claim his property acquires it. The Gemara comments: There are those who say that this slave was an adult man,

<sup>674</sup> and this person, Rabbi Yehuda from India, departed to death, and that individual, Mar Zutra, departed to life by receiving a slave.

<sup>675</sup> And there are those who say that this slave was a minor, and Mar Zutra did not act in accordance with the opinion of Abba Shaul. As it is taught in a baraita: With regard to a convert who dies without heirs and Jews plundered his property, as it is considered ownerless, and among his possessions were slaves, then, whether the slaves were adults or minors, they acquire ownership of themselves and become freemen, as they can acquire themselves from the ownerless property. Abba Shaul says: Adult slaves acquire ownership of themselves and become freemen. But with regard to minor slaves, anyone who takes possession of them acquires them. According to the opinion of Abba Shaul, Mar Zutra did not have to hasten to acquire the slave during Rabbi Yehuda's lifetime before the slave would acquire himself. He could have waited until Rabbi Yehuda died before acquiring the slave.

<sup>676</sup> § The mishna teaches that a slave can acquire himself by means of money, and Rabbi Meir rules that this money must be given by others. The Gemara comments: This ruling indicates that with money given by others, yes, the slave can be freed in this manner, but not by giving money himself. The Gemara inquires: With what are we dealing? If we say that this is referring to emancipating the Canaanite slave without his consent, that creates a difficulty. After all, we have heard that Rabbi Meir is the one who says: It is against the slave's interest to leave his master's authority for freedom, as he thereby loses out on certain benefits; and we learned in a baraita: One can act in a person's interest in his absence, but one can act against a person's interest only in his presence. How can one act against the slave's interest and free him without his consent?

<sup>677</sup> Rather, it is obvious that this slave was freed with his consent, and the mishna teaches us this: With money given by others, yes, the slave can be freed in this manner, but by giving money himself, no, he cannot be freed in this manner, despite his consent. Evidently, a slave has no acquisition without his master. It is impossible for a slave to perform an independent act of acquisition, as everything acquired by him immediately belongs to his master. Consequently, he cannot be in possession of money with which he can acquire himself. Instead, the money must be given to his owner by somebody else.

<sup>678</sup> The Gemara asks: If so, say the latter clause of the mishna: He can be freed by means of a bill of manumission if he accepts it by himself. The Gemara analyzes this ruling: If he accepts it by himself, yes, but if it is accepted by others, no, he cannot acquire his freedom in this manner. And if this document is produced with the slave's consent, as claimed above, why is it not effective if it is accepted by others?

<sup>679</sup> The Gemara adds: And if you would say in response: What is the meaning of: If he accepts it by himself? This means that in addition to being freed if the bill of manumission is accepted by others, he can also be freed if he accepts it by himself, and according to this interpretation the mishna teaches us this, that his bill of manumission and his ability to acquire himself come simultaneously. In other words, although he did not have the legal power to acquire himself while he was still a slave, when he receives his bill of manumission he attains this ability at that same moment. The Gemara

explains why this interpretation of the mishna is problematic: But Rabbi Meir did not teach this ruling, as it is taught in a baraita: A slave can be freed by means of a bill of manumission if he accepts it by himself, but not if it is accepted by others; this is the statement of Rabbi Meir.

<sup>680</sup> Abaye said: Actually, according to Rabbi Meir the mishna is referring to a case where the master received money without the slave's consent, and acquisition effected with the giving of money is different: Since it acquires him against his will from another master, as the slave's consent is not necessary in that case, it likewise acquires him for himself against his will. His consent is not required, despite the fact that it is against his interest to be freed.

<sup>681</sup> The Gemara asks: If so, that the halakha that a slave can be freed with the giving of money without his consent is predicated on the halakha that he can be acquired by means of the giving of money to his previous master without his consent, he should also be freed with a document if it is accepted by others without his consent. The Gemara answers: This document is discrete, and this document is discrete, i.e., the comparison between the acquisition of a slave and his emancipation is invalid in the case of a document, as a document of sale is not similar to a bill of manumission.

<sup>682</sup> The Gemara asks: Here too, this money is discrete and this money is discrete, as the money is given for a different purpose in the cases of acquisition and manumission. The Gemara answers: In any event, the coin itself is one, i.e., there is no noticeable difference between the coin used for acquisition of a slave and one that would be used for emancipating him. The same cannot be said with regard to documents, as particular texts serve specific purposes, and the same document could not be used for both acquiring a slave and emancipating him.

<sup>683</sup> Rava said the following distinction: With regard to emancipation by means of money, his master's receipt of the money causes him to be freed, not the giving of the money by others. Therefore, they are not considered to have harmed the slave without his consent. By contrast, in the case of a document, the receipt of the document by others on behalf of the slave causes him to be freed, and one can incur liability for another person only in his presence.

<sup>684</sup> § The mishna teaches: And the Rabbis say: The slave can be freed by means of money given by himself. The Gemara analyzes this ruling: By means of money given by himself, yes, he can be emancipated in this manner, but with money given by others, no, he cannot be emancipated in this manner. The Gemara asks: Why not? Although this was indeed performed without the slave's consent, after all, we heard that the Rabbis say: It is in a slave's interest to go out from the master's authority to freedom. And we learned in a baraita: One can act in a person's interest in his absence, but one can act against a person's interest only in his presence. Why, then, isn't he freed when others give the money, considering that this change of status is to his advantage?

<sup>685</sup> And if you would say: What is the meaning of the phrase: By means of money given by himself? This means that not only can he be redeemed by means of money given to others but he can be redeemed even by means of money given to himself, and it teaches us that a slave has the ability to receive an acquisition without his master. If so, say the latter clause of the mishna: He can be freed by means of a bill of manumission if it is accepted by others. This indicates: If it is accepted by others but not if he accepts it by himself. And yet we maintain that according to the Rabbis his bill of manumission and his ability to acquire his freedom come simultaneously. If so, why can't he be freed through a document he accepts by himself?

<sup>686</sup> And if you would say: What is the meaning of: If it is accepted by others? This means that not only can he be emancipated if he accepts the bill of manumission by himself, but he can even be freed if it is accepted by others, and the mishna teaches us this: That it is in a slave's interest to go out from the master's authority to freedom. If so, there is no difference between emancipation by means of money and emancipation by means of a document, and therefore let us combine them and teach them together and say: A slave can be freed by means of money and by means of a bill of manumission, whether by others or whether by himself.

<sup>687</sup> Rather, it is clear that there is a difference between money and a document. When he is emancipated by means of money, a slave can be freed whether by means of money given by others or whether by means of money given by himself. In the case of a bill of manumission, he can be emancipated if it is accepted by others but not if he accepts it by himself. And this latter clause is the opinion of Rabbi Shimon ben Elazar. As it is taught in a baraita that Rabbi Shimon ben Elazar says: A slave can also be freed with a bill of manumission if it is accepted by others but not if he accepts it by himself. And there are three disputes with regard to the matter. There are the opinions of Rabbi Meir, the Rabbis, and Rabbi Shimon ben Elazar.

<sup>688</sup> Rabba said: What is the reason of Rabbi Shimon ben Elazar? He derives this by means of a verbal analogy, understanding the meaning of "to her [lah]," written with regard to a maidservant in the verse: "Nor was freedom given to her" (Leviticus 19:20), from the meaning of "for her [lah]," written with regard to a wife: "And he writes for her a bill of divorce" (Deuteronomy 24:3). Just as a woman is not divorced until the husband moves the bill of divorce from his domain to a domain that is not his, and the bill of divorce is ineffective as long as it remains in his domain; so too, a slave is not freed unless the master moves the bill of manumission to a domain that is not his. Since the slave belongs to him, the document will remain the master's even if he gives it to the slave. Therefore, he can be freed by means of a document only through other people who receive the document on his behalf.

<sup>689</sup> Rabba raises a dilemma:

<sup>690</sup> According to the opinion of Rabbi Shimon ben Elazar, in the case of a Canaanite slave, what is the halakha with regard to the possibility that a slave can appoint an agent to accept his bill of manumission from the hand of his master? Does one say that since Rabbi Shimon ben Elazar derives the verbal analogy of "lah" and "lah" from a woman, which teaches that a slave can be freed with a document, therefore, a slave is also like a woman in that he too can appoint an agent?

<sup>691</sup> Or perhaps, in the case of a woman, as she can accept her bill of divorce herself, she can also appoint an agent, whereas a slave is different, as he cannot accept his bill of manumission himself, and consequently he cannot appoint an agent either. After raising the dilemma, Rabba subsequently resolved it: Since Rabbi Shimon ben Elazar derives the verbal analogy of "lah" and "lah" from a woman, a slave is also treated like a woman with regard to his ability to appoint an agent.

<sup>692</sup> The Gemara comments: But consider that which Rav Huna, son of Rav Yehoshua, says with regard to the service in the Temple: These priests are the agents of the Merciful One, i.e., they perform the Temple service as the emissaries of God. As if it enters your mind that they are our agents, is there anything that we cannot do but agents can do on our behalf? Since it is prohibited for non-priests to serve in the Temple, priests cannot be considered the agents of the Jewish people.



<sup>693</sup> This statement leads to the following question: But is it not true that an agent can be appointed to perform a task that cannot be done by the one who sent him? But according to Rava's conclusion there is the case of a slave, who is unable to accept his bill of manumission himself, and yet he can appoint an agent to receive it for him.

<sup>694</sup> The Gemara rejects this suggestion: And that is not so. The difference between the cases is that an Israelite is not involved in the halakhot of offerings at all, as a non-priest is never permitted to sacrifice offerings. By contrast, a slave is somewhat involved in bills of manumission, as it is taught in a baraita: It seems that a slave can accept the bill of manumission of another slave from the hand of the master of that other slave. But he cannot accept a bill of manumission from the hand of his own master, who wishes to free another of his slaves. In this case there is no acquisition, as the document has not left the master's property, as anything given to a slave is considered the property of his master. With regard to the issue at hand, since a slave can accept a bill of manumission, at least on behalf of another slave, the halakhot of these documents are relevant to him, and therefore he can appoint an agent to receive his bill of manumission.

<sup>695</sup> § The mishna teaches that according to Rabbi Meir the slave can be freed by means of money given by others, while the Rabbis hold that he can be freed by means of money given by himself, provided that the money he gives belongs to others. The Gemara suggests: Shall we say that they disagree with regard to this principle, and that Rabbi Meir maintains: There is no acquisition for a slave without his master, i.e., a slave has no personal property and therefore his master immediately owns whatever the slave acquires, which means a slave cannot receive his redemption money himself. And similarly there is no acquisition for a woman without her husband. And the Rabbis maintain: There is acquisition for a slave without his master, and there is acquisition for a woman without her husband.

<sup>696</sup> Rabba said that Rav Sheshet said: Everyone agrees that there is no acquisition for a slave without his master, and there is no acquisition for a woman without her husband, and so, with what are we dealing here? This is a unique case in which another individual transferred one hundred dinars to a slave and said to him: I am giving this to you on the condition that your master has no rights to it.

<sup>697</sup> The Gemara clarifies the two opinions according to this explanation. Rabbi Meir maintains that when this third party said to the Canaanite slave: Acquire the money, the slave acquires it and his master immediately acquires it. And when he said to him: On the condition that your master has no rights to it, he has said nothing to him, i.e., his condition is ineffective. And the Rabbis maintain that since he said to him: On the condition, his condition is effective and the master does not acquire the money. Therefore, the slave owns this money, with which he can redeem himself.

<sup>698</sup> And Rabbi Elazar said: In a case like this, everyone agrees that the slave acquires the money, and his master automatically acquires that which was acquired by the slave. And with what are we dealing here, in the dispute between the Sages and Rabbi Meir? This is referring to a case where another person transferred one hundred dinars to him and said to him: On the condition that you are emancipated with it.

<sup>699</sup> The Gemara explains the dispute according to this interpretation. Rabbi Meir maintains that when he said to him: Acquire the money, the slave acquires it, and his master immediately acquires the one hundred dinars from him. And when he said to him: On the condition, he has said nothing to him. And the Rabbis maintain: He does not transfer the money to the slave himself, as he said to him only:

On the condition that you are emancipated with it. In other words, he gave it to the slave only for him to hand over the money to his master for his emancipation. His condition is valid and the slave is emancipated.

<sup>700</sup> And the Gemara raises a contradiction between one statement of Rabbi Meir and a second statement of Rabbi Meir, and it raises a contradiction between one statement of the Rabbis and a second statement of the Rabbis. As it is taught in a baraita:

<sup>701</sup> A woman may not redeem her husband's second tithe without adding one-fifth of its value to the redemption money, as is required from all those who redeem their own second tithe. Rabbi Shimon ben Elazar said in the name of Rabbi Meir: A woman may redeem second tithe without adding one-fifth. The Gemara inquires: What are the circumstances? If we say that she redeems second tithe with her husband's money, which he gave her for this purpose, and the tithe belongs to her husband, in this case she acts with the agency of her husband. Just as he is required to add one-fifth when he redeems his own second tithe, it is clear that she too must add one-fifth.

<sup>702</sup> But rather, one might say that this is referring to a case where she uses her money and it is his tithe. This is also difficult, as in this case the Rabbis would agree that she is exempt from paying the additional fifth, as the Merciful One states: "And if a man shall redeem any of his tithe" (Leviticus 27:31). The emphasis of the term "man" teaches: This applies to a man, but this does not apply to a woman who redeems her husband's tithe.

<sup>703</sup> Rather, is it not correct to say that we are dealing with a case like this following one: Where another person transferred one hundred dinars to her, and said to her: I am giving this to you on the condition that you redeem your husband's tithe with it? And if so, we heard them say the opposite with regard to the issue of whether such a condition is effective. According to Rabbi Meir's reasoning presented in the case of a slave, anything a woman acquires should be acquired by her husband, which would mean that it is as though her husband himself redeemed it. How, then, could Rabbi Meir rule that a woman redeems second tithe without adding one-fifth? Additionally, the Rabbis said that the money received by the slave is not immediately acquired by his master, and yet here they consider the money received by the wife as belonging to her husband.

<sup>704</sup> Abaye said: Reverse the opinions in the case of redemption of tithes. Rava said: Actually do not reverse them, and here, with regard to tithes, we are dealing with tithe she received from her father's house as an inheritance. And Rabbi Meir conforms to his standard line of reasoning, as he says: Tithe is property that belongs to the Temple treasury, and therefore the husband does not acquire it, unlike the regular property a woman brings to her marriage. Consequently, a woman can redeem it with her husband's money without adding one-fifth, as the husband is not the owner of the tithe.

<sup>705</sup> And the Rabbis conform to their standard line of reasoning, as they say: Tithe is common, i.e., non-sacred, property. It is not owned by the Temple treasury. And consequently, the husband acquires it like other property of his wife, to whose profits he is entitled. Therefore, she performs with the agency of her husband and must add the fifth.

<sup>706</sup> § A Sage taught: A Canaanite slave is emancipated through a tooth and an eye and through permanent damage to other extremities that do not regenerate if they are severed. The Gemara asks: Granted, a tooth and an eye, these body parts are explicitly written, as the Torah states clearly that if a master damages a tooth or blinds an eye the slave is emancipated (Exodus 21:26–27). But from where do we derive that if the master permanently damages other extremities the slave is likewise

emancipated? The Gemara answers: These extremities are similar to a tooth and an eye: Just as the removal of a tooth and an eye leads to exposed, i.e., external, blemishes that do not regenerate, so too, the same applies to all blemishes caused by the slave's master that are exposed and that do not regenerate.

<sup>707</sup> The Gemara asks: But one can say that the examples of a tooth and an eye are like two verses that come as one, i.e., they teach the same matter, and there is a principle that any two verses that come as one do not teach their halakha so that it can be applied to other cases. If so, a slave should be emancipated only for an injury to a tooth or an eye. The Gemara answers: It is necessary to mention both a tooth and an eye, as neither halakha could be derived from the other. Consequently, they are not considered to be like two verses that come as one. The Gemara elaborates: As, if the Merciful One had written only tooth, I would say that even

<sup>708</sup> a milk tooth, a child's tooth that will eventually fall out to be replaced by another, is included in this halakha. Therefore the Merciful One writes "eye," to teach that this halakha applies only to a body part that does not regenerate, like an eye. And if the Merciful One had written only "eye," I would say that just as an eye was created with him in the womb, so too, this halakha applies to anything that was created with him in the womb. But with regard to a tooth, which grows later, perhaps he would not be emancipated if his master knocked it out. Therefore, it is necessary to mention both cases.

<sup>709</sup> The Gemara asks: But one can say the following argument: "If a man smites" (Exodus 21:26), is a generalization; "a tooth" and "an eye" are each a detail. If so, this should be read as a generalization and a detail, and the hermeneutical principle in a case of this kind is that the generalization includes only what is mentioned explicitly in the detail. Consequently, a tooth and an eye are included, but not other matters.

<sup>710</sup> The Gemara answers that when each verse states: "To freedom shall he send him" (Exodus 21:26, 27), it then generalized again. Consequently, this should be read as a generalization and a detail and a generalization. In this case, the hermeneutical principle is that you may deduce that the verse is referring only to items similar to the detail: Just as the explicit detail is an exposed blemish that does not regenerate itself, so too, any body parts that are exposed blemishes and that do not regenerate themselves are included in this halakha.

<sup>711</sup> The Gemara asks: If so, one can limit this category even further: Just as with the explicit details, they are referring to exposed blemishes and the body part is prevented from performing its regular function and does not regenerate, so too, a slave should be emancipated as a result of an injury to all exposed blemishes that do not regenerate and where the body part is prevented from performing its regular function. Why, then, is it taught in a baraita: If the master pulled out his beard and dislocated a bone in the slave's jaw, the slave is emancipated by means of this injury. In this case there is no loss of function. The Gemara answers: "To freedom shall he send him" (Exodus 21:26–27), is an amplification, which includes an injury that is not exactly the same as the detail.

<sup>712</sup> The Gemara asks: But if it is an amplification, which includes additional injuries, the slave should also be emancipated even if he struck him on his hand and it withered, i.e., became temporarily paralyzed, but would eventually be expected to regenerate. Why, then, is it taught in a baraita: If he struck him on his hand and the hand withered but it will eventually regenerate, the slave is not emancipated by means of this injury? The Gemara answers: If so, that even limbs that will

eventually regain their function are included in this halakha, what purpose do the examples of tooth and eye serve? These two items that are explicitly stated in the verse would not exclude anything. Rather, only injuries similar to the details of an tooth and an eye are included, but not temporary injuries.

<sup>713</sup> The Sages taught: With regard to any of the twenty-four extremities, if a master strikes his slave and injures him there, the slave is emancipated by means of these injuries, and he requires a bill of manumission from his master. This is the statement of Rabbi Shimon. Rabbi Meir says: He does not require a bill of manumission. Rabbi Eliezer says: He requires one. Rabbi Tarfon says: He does not require one. Rabbi Akiva says: He requires one.

<sup>714</sup> Those who discuss matters and decide before the Sages say the following compromise: Rabbi Tarfon's statement appears correct with regard to a tooth and an eye, since in these cases the Torah explicitly benefitted him. Because his right to emancipation is stated explicitly in the verse, the slave does not require a bill of manumission. And Rabbi Akiva's statement is reasonable with regard to other limbs, since it is a rabbinic penalty. The Gemara is puzzled by this claim: Is it a rabbinic penalty? We interpret the verses, and therefore this halakha applies to the other limbs by Torah law. Rather, these Sages meant that is necessary to give a bill of manumission since it is a rabbinic interpretation and is not written explicitly in the Torah.

<sup>715</sup> The Gemara asks: What is the reason of Rabbi Shimon? He derives a verbal analogy between: Sending away, "to freedom shall he send him" (Exodus 21:26, 27), and: Sending away, "and sends her out of his house" (Deuteronomy 24:1), from the case of a woman. Just as a woman can be released from her husband only by means of a document, so too, a slave can also be released from his master only by means of a document. And Rabbi Meir would say that if the term "freedom" was written at the end of the phrase, i.e., if the verse had stated: He shall send him away to freedom, it would be as you said, that he must be given a bill of manumission before he can be emancipated. Now that it is written "to freedom shall he send him," this indicates that he is free from the beginning, i.e., no additional act of emancipation is required.

<sup>716</sup> The Sages taught in a baraita (Tosefta, Bava Kamma 9:26): If a slave owner struck his slave on his eye and blinded him, or on his ear and deafened him, the slave is emancipated by means of these injuries. If he struck near his eye and as a result he does not see, or near his ear and he does not hear, the slave is not emancipated by means of these injuries. Rav Shemen said to Rav Ashi: Is this to say that a sound that causes damage is nothing?

<sup>717</sup> But didn't Rami bar Yehezkel teach a baraita: With regard to a rooster that stuck its head into the airspace of a glass vessel and crowed into it and the noise broke it, its owner pays the full cost of the damage like a regular case of damage. And Rav Yosef said that the Sages of Rav's study hall say: With regard to a horse that neighed or a donkey that brayed and they thereby broke vessels in the house, their owners must pay for half of the damage. Although these two examples are different, as one results in full payment and the other in half payment, it is clear that sound can be a source of liability for damages.

<sup>718</sup> Rav Ashi said to him: A person is different, as, since he is mentally competent it is he who frightened himself. It was not the physical sound that caused the damage but the slave's subjective fear, which is not a direct result of the action. As it is taught in a baraita (Tosefta, Bava Kamma 6:16) that injury can result from being frightened: One who frightens another and causes him injury is

exempt according to human laws but liable according to the laws of Heaven. How so? If one shouted into another's ear and deafened him, he is exempt. But if he held him and shouted into his ear and deafened him, he is liable according to human laws as well, as he took physical hold of him. Once he physically took hold of him, he is liable for all the resultant damage.

<sup>719</sup> The Sages taught in a baraita (Tosefta, Bava Kamma 9:9): In a case where the master struck him on his eye and weakened his vision without blinding him, or he struck him on his tooth and loosened it, if he can use the eye or the tooth now, the slave is not emancipated by means of them. And if he can no longer use them at all, then the slave is emancipated by means of them. It is taught in another clause in that baraita: In a case where the slave's eye was weak prior to this incident, and the master blinded it entirely, or if the slave's tooth was loose and his master knocked it out, if he was able to use them before the master struck him, the slave is emancipated by means of them, and if not, then the slave is not emancipated by means of them.

<sup>720</sup> The Gemara comments: And it is necessary to state both halakhot, despite the fact that they apparently teach the same halakha that a weakened eye is not considered a significant injury, as, if the tanna had taught us only this first halakha, I would say that he is emancipated, because at the outset his vision was strong and now his vision is weak. But here, in the second baraita, where his vision was also weak at the outset, I would say he is not emancipated if the master blinded him entirely, as his eye did not function properly even beforehand.

<sup>721</sup> And conversely, if the tanna had taught us only this second halakha, I would say that he is emancipated because he blinded him entirely. But there, where he did not blind him entirely I would say no, he is not emancipated, despite the fact that he weakened his vision. Therefore, it is necessary to state both halakhot.

<sup>722</sup> The Sages taught in a baraita (Tosefta, Bava Kamma 9:9): In a case where his master was a doctor and the slave said to him to paint his eye with a medicament, and the master blinded it in the process, or he asked him to drill his aching tooth, and the master knocked it out, the slave laughs at the master and is emancipated. Rabban Shimon ben Gamliel says that the verse: "And if a man smites the eye of his slave, or the eye of his maidservant, and destroys it, to freedom shall he send him for his eye's sake" (Exodus 21:26), means that the slave is not emancipated unless the master intends to destroy it. If he intended to heal him, the slave is not freed, even if the master did, in fact, injure him.

<sup>723</sup> The Gemara asks: And the Rabbis, what do they do with this verse "and destroys it"? What do they derive from this phrase? The Gemara answers: They require it for that which is taught in a baraita: Rabbi Elazar says that in a case where the master stuck his hand into the womb of his maidservant to assist her in giving birth and he blinded the fetus in her womb, he is exempt and the fetus is not emancipated when born. What is the reason for this? As the verse states "and destroys it," meaning unless he intends to destroy it, and in this case he did not mean to touch the fetus's eye.

<sup>724</sup> And the other Sage, Rabban Shimon ben Gamliel, would say that that halakha is derived from the fact that the verse could have said: And destroys, and instead said "destroys it." And the other Sage, i.e., the Rabbis, how do they respond to this argument? They do not expound the difference between "destroys" and "destroys it," i.e., they maintain that this is not a significant deviation from which one can derive a halakha.

<sup>725</sup> Rav Sheshet says: In a case where the slave's eye was blind and the master removed it entirely, the slave is emancipated by means of this injury. What is the reason for this? He is now lacking a limb, which is worse than a mere blemish.

<sup>726</sup> And the tanna of a baraita also taught: The halakha of unblemished status, i.e., that an offering must not contain a blemish, and the halakha of male status apply to animal offerings, but the halakha of unblemished status and the halakha of male status do not apply to bird offerings.

<sup>727</sup> The Gemara comments: One might have thought that if one brings a bird whose wing is dried, or whose leg is severed, or whose eye was removed, that it too is acceptable as an offering. Therefore, the verse states: "And if his offering to the Lord is a burnt-offering from birds" (Leviticus 1:14). This phrase indicates that only some birds can be sacrificed as offerings, but not all birds. This teaches that a bird can be disqualified due to a blemish. For example, if a significant part of the bird is missing, e.g., a limb, the bird is not acceptable as an offering. This indicates that the actual loss of an eye is considered a greater blemish than blindness. Consequently, if his master takes out the slave's blind eye, he is emancipated.

<sup>728</sup> Rabbi Ḥiyya bar Ashi says that Rav says: If the slave had

<sup>729</sup> an extra finger, i.e., six fingers on his hand, and the master severed it, the slave is emancipated by means of this injury. Rav Huna says: And this halakha applies when the finger can be counted along the back of the hand, i.e., the extra finger is on the same line as the others. If it protrudes from another spot, then it is not classified as a finger but a mere growth, and destroying it is not considered the removal of a limb.

<sup>730</sup> § The Gemara relates: The Elders of the city of Nezonya did not come to Rav Ḥisda's lecture. Rav Ḥisda said to Rav Hamnuna: Go and ostracize them [tzaninhu] because they act disrespectfully toward the Sages. Rav Hamnuna went and said to the Elders of Nezonya: What is the reason that the rabbis did not come to the lecture? They said to him: Why should we come, as we asked him about a matter and he did not resolve it for us. We have nothing to learn from him. Rav Hamnuna said to them: Have you asked me anything that I did not resolve for you? Ask me your question.

<sup>731</sup> They raised the following dilemma before him: With regard to a slave whose master castrates his testicles, what is the halakha? Is that considered an exposed blemish that is sufficient to emancipate him or not? An answer to their dilemma was not available to Rav Hamnuna. They said to him: What is your name? He said to them: Hamnuna. They said to him in jest: You should not be called Hamnuna, a good hot fish; rather, your name should be Karnuna, a cold fish that is no longer tasty.

<sup>732</sup> After this encounter Rav Hamnuna came before Rav Ḥisda and told him what had happened. Rav Ḥisda said to him: They raised before you a dilemma that can be resolved from a baraita, which was cited in connection to a mishna, and you did not know how to answer them. As we learned in a mishna (Nega'im 6:7): There are twenty-four extremities in a person, none of which can become ritually impure due to unaffected skin. The Torah states that if a leprous spot contains some healthy flesh, the person is immediately rendered impure (Leviticus 13:14). The halakha of unaffected skin does not apply to the extremities because the priest must be able to see the entirety of the untainted area at once. Due to the shape of the twenty-four extremities, it is impossible to see the entirety of the area from a single vantage point. Consequently, the halakha of unaffected skin does not apply to them.

<sup>733</sup> And these are the twenty-four extremities: The extremities of the fingers and toes, twenty in total, and the extremities of the ears, and the extremity of the nose, and the extremity of the penis, and the extremities of the nipples of a woman. Rabbi Yehuda says: Even the nipples of a man are included. And it is taught in that regard in a baraita: A slave is emancipated for injuries to all of them. The body parts listed with regard to leprosy are the same ones that, when injured, lead to the emancipation of a slave. Rabbi Yehuda HaNasi says: Also, the castration of a slave by his master entails his freedom. Ben Azzai says: The tongue is also considered an exposed body part, as it is exposed when one speaks. Consequently, if the master severs his slave's tongue, the slave goes free.

<sup>734</sup> The Master said above that Rabbi Yehuda HaNasi says: Also castration. The Gemara asks: Castration of what? If we say that it is referring to castration of the penis, i.e., that the master severed the slave's penis, this is the same as the mishna that already mentioned a penis. What, then, does Rabbi Yehuda HaNasi add? Rather, is it not correct to say that Rabbi Yehuda HaNasi is referring to castration of the testicles? If so, this baraita resolves the dilemma raised by the Elders of Nezhonya.

<sup>735</sup> The Gemara further analyzes the baraita. Rabbi Yehuda HaNasi says: Also castration, but he does not include the tongue, unlike ben Azzai. The Gemara inquires: And according to Rabbi Yehuda HaNasi, is the tongue not considered exposed? And the Gemara raises a contradiction from the following: In a case where one was sprinkling the purification water of the red heifer on another person in order to purify him from ritual impurity imparted by a corpse, and a sprinkling of water landed on his mouth, Rabbi Yehuda HaNasi says: He has sprinkled, i.e., this is a valid form of sprinkling and the impure person is purified. And the Rabbis say: He has not sprinkled, i.e., this is an invalid form of sprinkling because water of purification must be sprinkled on exposed limbs.

<sup>736</sup> The Gemara clarifies the difficulty from this baraita: What, is it not the case that this is referring to a situation where water was sprinkled on his tongue, which would indicate that Rabbi Yehuda HaNasi maintains that the tongue is an exposed limb? The Gemara rejects this suggestion: No, this is referring to one who had water sprinkled on his lips. The Gemara asks: If it was sprinkled on his lips, isn't it obvious that he is ritually pure, as the lips are exposed? The Gemara answers: It is necessary to state this, lest you say that at times, he closes his lips tightly, and consequently they should be considered an unexposed part of the body. Therefore, the baraita teaches us that according to Rabbi Yehuda HaNasi one's lips are considered exposed.

<sup>737</sup> The Gemara further asks: But isn't it taught explicitly in a baraita that if one had water sprinkled on his tongue he is ritually pure according to Rabbi Yehuda HaNasi? And it is further taught in a baraita dealing with the blemishes of priests and offerings that if most of his tongue was removed, this is a blemish; and Rabbi Yehuda HaNasi says: This is referring to a case where the part removed was most of the part of his tongue that he uses for speaking and pronouncing words, which is the tip of the tongue, not most of its length. This indicates that Rabbi Yehuda HaNasi maintains that if the tongue is removed, that is considered a blemish.

<sup>738</sup> Rather, the baraita should be explained as follows. Rabbi Yehuda HaNasi says: Castration is included, and it is not necessary to say that if the slave's tongue is removed he is emancipated, as the tongue is exposed. Ben Azzai says: The loss of his tongue emancipates him, but castration does not. And what is the meaning of the term: Also, in the baraita, which indicates that ben Azzai is adding to Rabbi Yehuda HaNasi's statement? He is adding to the first statement of the first tanna, not to the immediately preceding ruling of Rabbi Yehuda HaNasi. The Gemara asks: If so, the statement of ben

Azzai should be first, as he adds one item, i.e., the tongue, to the ruling of the first tanna, while Rabbi Yehuda HaNasi further adds the case of castration to ben Azzai's opinion.

<sup>739</sup> The Gemara answers: The baraita should have been formulated in this manner, but the tanna first heard the opinion of Rabbi Yehuda HaNasi and set it in his version of the baraita, and afterward he heard the opinion of ben Azzai and taught it at the end. And although it would be appropriate to change the order of the statements, he did not do so because a mishna does not move from its place. Once it has been taught in a certain manner, the tanna will not change the text of a mishna, in order to avoid confusion.

<sup>740</sup> Ulla says: All concede with regard to a tongue that in the matter of ritual impurity it is considered exposed with respect to a dead creeping animal and other items that impart impurity. In other words, if an individual comes into contact with a source of ritual impurity with his tongue, he is rendered impure. What is the reason for this? The Merciful One states: "Whom he touches" (Leviticus 15:11), and this tongue can also touch. It is possible for one to touch objects with his tongue.

<sup>741</sup> Similarly, all agree about a tongue with regard to the matter of immersion that the tongue is considered concealed, and therefore one need not open his mouth so that the water touches his tongue. For an immersion to be valid, the water must come into contact with the entire outside of one's body. Ulla teaches that this does not include the tongue. What is the reason for this? The Merciful One states: "And he shall immerse his flesh in water" (Leviticus 15:13). Just as his flesh is on the outside, so too everything that requires immersion is on the outside, and this does not include what is ordinarily on the inside.

<sup>742</sup> They disagreed only with regard to whether the tongue is considered exposed or concealed in the matter of sprinkling. Rabbi Yehuda HaNasi compares sprinkling to impurity, where the tongue is considered exposed, and the Rabbis compare it to immersion, where the tongue is considered concealed.

<sup>743</sup> The Gemara comments: And the two of them disagree with regard to the meaning of this verse: "And the pure person shall sprinkle upon the impure person on the third day and on the seventh day, and he shall purify him on the seventh day and he shall wash his clothes and immerse in water and he shall become pure in the evening" (Numbers 19:19). Rabbi Yehuda HaNasi maintains that the verse should be read as: "And the pure person shall sprinkle upon the impure person on the third day and on the seventh day, and he shall purify him." This indicates that sprinkling is compared to ritual impurity, which means that it is effective if the water lands on any part of the body that can become impure.

<sup>744</sup> Conversely, the Rabbis maintain that one should read the phrase "and he shall purify him" with the last part of the verse, as follows: "And he shall purify him on the seventh day and he shall wash his clothes and immerse in water." According to this reading, sprinkling is compared to immersion, which means that the water must be sprinkled on part of the body that requires immersion.

<sup>745</sup> The Gemara asks: And with regard to the opinion of the Rabbis as well, let us compare sprinkling to impurity. The Gemara answers: One should derive purification from purification. Just as immersion is a method of purification, so too sprinkling is a method of purification, and therefore it is appropriate to compare these two cases. The Gemara asks from the other perspective: And with regard to the opinion of Rabbi Yehuda HaNasi, let us compare sprinkling to immersion. The Gemara answers that the phrase "and he shall wash his clothes" concludes the discussion of that matter, i.e.,



this expression indicates that a new clause begins from here, and therefore sprinkling should not be compared to immersion but to impurity, which is mentioned prior to it.

<sup>746</sup> The Gemara asks: But does Rabbi Yehuda HaNasi maintain with regard to the matter of immersion that the tongue is considered concealed? But doesn't Ravin say that Rav Adda says that Rabbi Yitzhak says: There was an incident involving a maidservant of the household of Rabbi Yehuda HaNasi who immersed herself, and she ascended from her immersion and a bone was found between her teeth, and Rabbi Yehuda HaNasi required her to perform another immersion? This indicates that according to Rabbi Yehuda HaNasi one may not have a foreign object even inside one's mouth during immersion. If so, the tongue should require immersion as well.

<sup>747</sup> The Gemara answers: That is no proof, as it is granted that we do not require immersion in water, i.e., the water need not actually enter one's mouth. But we require that the mouth be a place that is fit for water to enter. If there is a foreign object, the water cannot enter that spot.

<sup>748</sup> This is in accordance with that statement of Rabbi Zeira. As Rabbi Zeira says with regard to meal-offerings: For any amount of flour suitable for mingling with oil in a meal-offering, mingling is not indispensable for it. Although it is a mitzva to mingle the flour and oil ab initio, if they were not mingled the meal-offering is still valid. But for any amount of flour not suitable for mingling, mingling is indispensable for it, and such a meal-offering is invalid. The principle is: Ab initio requirements prevent the fulfillment of a mitzva in situations where they are not merely absent but impossible. Here too, although there is no need for the water to actually enter the concealed spaces of the body, it is still necessary that these places be fit for immersion without the interposition of a foreign object.

<sup>749</sup> The Gemara comments that the first question with regard to castration of the testicles is like a dispute between tanna'im. It is stated with regard to animals that cannot be used as offerings due to blemishes: "That whose stones are bruised, or crushed, or torn, or cut you shall not sacrifice to the Lord" (Leviticus 22:24). All of these blemishes are referring to the animal's testicles; this is the statement of Rabbi Yehuda.

<sup>750</sup> The Gemara asks: Could Rabbi Yehuda possibly mean that these blemishes apply only to the testicles and not to the penis? Certainly these should also be considered blemishes if they affect the penis, which is more exposed than the testicles. Rather, this is what the baraita is saying: All of these blemishes apply to the testicles also; this is the statement of Rabbi Yehuda. Rabbi Eliezer ben Ya'akov says: All of them apply only to the penis. Rabbi Yosei states the following distinction: "Bruised or crushed" applies to the testicles also. Conversely, when there are areas that are "broken or cut" on the penis, yes, these are considered a blemish, but on the testicles, no, they are not a blemish.

<sup>751</sup> MISHNA: A large domesticated animal is acquired by passing, when its current owner transfers it to a buyer by giving him the reins or the bit. And a small domesticated animal is acquired by lifting. This is the statement of Rabbi Meir and Rabbi Eliezer. And the Rabbis say: A small domesticated animal can be acquired by pulling also, and there is no need to lift it.

<sup>752</sup> GEMARA: Rav taught in the town of Kimḥonya: A large domesticated animal is acquired by pulling. Shmuel found Rav's students and said to them: Did Rav actually say that a large domesticated animal is acquired by pulling? But didn't we learn in the mishna that it is acquired by passing? And several times I also heard Rav say that it is acquired by passing. Did he retract that

ruling? Rav's students replied: In fact, Rav retracted that ruling and he states his opinion in accordance with the opinion of that tanna, i.e., the Rabbis, as it is taught in a baraita: And the Rabbis say: Both small and large domesticated animals are acquired by pulling. Rabbi Shimon says: Both are acquired by lifting.

<sup>753</sup> Rav Yosef objects to this: If that is so, by what mode of acquisition can an elephant be acquired, according to the opinion of Rabbi Shimon? It is impossible to lift an elephant. Abaye said to him: It is possible to acquire it by the mode of acquisition of symbolic exchange, a legal act of acquisition formalizing the transfer of ownership of an article. Alternatively, one can acquire an elephant by renting its place temporarily and acquiring the elephant by means of the ground upon which it is standing.

<sup>754</sup> Rabbi Zeira says that there is another method: One brings four vessels and places them under the elephant's feet, and he thereby acquires it like any other item that is inside the buyer's vessels. The Gemara asks: Can you learn from Rabbi Zeira's statement that if the buyer's vessels, being used to acquire an item from the seller, are in the seller's domain, the buyer acquires the item? The Gemara rejects this: This is no proof, as with what are we dealing here? The case in question is one where the vessels are not in the seller's domain but in an alley [simta], which is neither a public nor a private domain. In a place of this kind the buyer's vessels certainly effect acquisition for him.

<sup>755</sup> Alternatively, the buyer can lift an elephant by using bundles of vines. He leads the elephant to them, and when the elephant stands on the bundles of vines this is considered lifting the elephant.

<sup>756</sup> MISHNA: Property that serves as a guarantee, i.e., land or other items that are fixed in the earth, can be acquired by means of giving money, by means of giving a document, or by means of taking possession of it. Property that does not serve as a guarantee, i.e., movable property, can be acquired only by pulling. Property that does not serve as a guarantee can be acquired along with property that serves as a guarantee by means of giving money, by means of giving a document, or by means of taking possession of them. The movable property is transferred to the buyer's possession when it is purchased together with the land, by means of an act of acquisition performed on the land.

<sup>757</sup> Generally, one is not obligated to take an oath concerning the denial of a claim with regard to land. The mishna continues: And in a legal dispute involving both land and movable property, if the defendant makes a partial admission of the claim with regard to the movable property, thereby rendering himself obligated to take an oath denying any responsibility for the remaining property, the movable property binds the property that serves as a guarantee, i.e., the land, so that he is forced to take an oath concerning the land as well, despite the fact that one is generally not obligated to take an oath for a claim involving land.

<sup>758</sup> GEMARA: The Gemara inquires: From where do we derive that land can be acquired by means of money? Hizkiyya said that the verse states: "They shall acquire fields with money" (Jeremiah 32:44). The Gemara asks: But if the proof is from that verse, one can say that the acquisition is not valid unless there is a document as well, as it is written in the same verse: "And write a document and sign" (Jeremiah 32:44). The Gemara answers: If it were written: They shall acquire fields with money, at the end of the verse, it would be as you said, that one must also write a document so that he can acquire the land with money. Now that it is written "they shall acquire" at the beginning of the verse, this teaches that the money itself effects acquisition of the land, and the document is merely a proof.

<sup>759</sup> Rav says: They taught that land can be acquired by means of money alone, i.e., without a document, only in a place where the custom is that they do not write documents; but in a place where the custom is that they write documents one does not acquire land until a document is given to him. And if he specified that he wishes to acquire the land from the time of the money transfer, then he has specified his wishes, and the land is acquired once the money is given.

<sup>760</sup> The Gemara comments: This is like that which Rav Idi bar Avin would do. When purchasing land, Rav Idi bar Avin would say: If I wish to acquire it by means of money, I will acquire it in that manner, and if I wish to acquire it by means of a document, I will acquire it by that method. He would stipulate at the outset that he reserves the right to choose how the transaction will be finalized. The Gemara elaborates: If I wish to acquire it by means of money, I will acquire it in that way, as, if you wish to retract your participation in the sale you cannot retract it, because the money has already changed hands. And if I wish to acquire the land by means of a document, I will acquire it in that way, as, if I wish to retract my participation in the sale I can retract it provided that I have not received a document of purchase.

<sup>761</sup> § The mishna teaches that land can be purchased by means of a document. The Gemara asks: From where do we derive this? If we say that it is because it is written: “And write in a document and sign, and witnesses shall testify” (Jeremiah 32:44), but didn’t you say that the document mentioned in the verse is merely a document of proof? Rather, it is derived from here: “And I took the deed of purchase” (Jeremiah 32:11), an expression that indicates that the document itself effects the acquisition. Shmuel said: The Sages taught that the document itself effects acquisition only in the case of a deed of a gift. But with regard to a sale, it does not effect acquisition until the buyer gives the seller money. The document itself does not effect the acquisition.

<sup>762</sup> Rav Hamnuna raises an objection to this from a baraita: How is acquisition performed by means of a document? If he wrote for him on paper or earthenware, even though the paper or the earthenware is not worth one peruta: My field is sold to you, or: My field is given to you as a gift, it is thereby sold or given. This indicates that a document is sufficient to effect acquisition both in the case of a sale and in the case of a gift. Rav Hamnuna raised the objection and he resolved it: The baraita is referring to one who sells his field due to its poor quality. The seller wants to be rid of his field due to its decreasing value and would like to transfer ownership of it as quickly as possible. In this case writing a document is enough to complete the acquisition.

<sup>763</sup> Rav Ashi says: It can be claimed that the entire baraita is referring to one case, that of a gift one wished to give another. The baraita does not deal with a sale at all. And why does he write for him a deed for a gift containing the language of a sale? He does it in order to enhance his power. If it turns out that there was a lien on this land, the beneficiary can collect the value of the field from the giver’s other property, as though this land had been sold to him. In other words, by writing that it is a sale, the giver grants the beneficiary the acquisition power of a buyer, but since the transaction is actually a gift, the document itself completes the acquisition.

<sup>764</sup> § The mishna further teaches that land can be acquired by means of taking possession of it. The Gemara asks: From where do we derive this? Hizkiyya said that the verse states: “And dwell in your cities that you have taken” (Jeremiah 40:10). In what manner have you taken these cities? They are taken by dwelling, which indicates that taking possession of a plot of land and dwelling there is an act demonstrating ownership, and it is itself a valid act of acquisition. A Sage from the school of

Rabbi Yishmael taught a different proof: “And you shall possess it and dwell there” (Deuteronomy 11:31). How have you possessed it? You have done so by dwelling there. This teaches that land can be acquired through an act that demonstrates ownership.

<sup>765</sup> § The mishna teaches that property that does not serve as a guarantee can be acquired only by pulling. The Gemara asks: From where do we derive this? As it is written: “And if you sell any item to your neighbor or buy from your neighbor’s hand” (Leviticus 25:14). This verse speaks of an item that is acquired from hand to hand, i.e., by pulling.

<sup>766</sup> The Gemara asks: And according to the opinion of Rabbi Yoḥanan, who says that by Torah law giving money effects acquisition but pulling does not, what can be said? Rabbi Yoḥanan maintains that acquisition through pulling is a rabbinic decree, and by Torah law movable property can be acquired only by means of giving money. Why does the mishna not mention this mode of acquisition? The Gemara answers: Rabbi Yoḥanan could answer that the tanna teaches a rabbinic ordinance, which reflects the accepted practice, but he does not find it necessary to mention a mode of acquisition that applies by Torah law.

<sup>767</sup> § The mishna further states that property that does not serve as a guarantee, i.e., movable property, can be acquired along with property that serves as a guarantee, i.e., land. The Gemara asks: From where is this matter derived? Ḥizkiyya said that the verse states: “And their father gave them great gifts, of silver, and of gold, and of precious things, with fortified cities in Judah” (II Chronicles 21:3). This indicates that he gave them movable items together with the cities. He did not need to give the items to them directly, as he was able to transfer these gifts by means of the cities he gave them.

<sup>768</sup> A dilemma was raised before the Sages with regard to this matter of acquisition of movable property by way of land: Do we require that this movable property be actually piled on the land that is sold or not? Rav Yosef said: Come and hear a proof from the following mishna (Pe’*a* 3:6). Rabbi Akiva says: The owner of any amount of land is obligated in pe’*a* and in first fruits,

<sup>769</sup> and if the debtor possesses land of any area the creditor can write a document that prevents the Sabbatical Year from abrogating an outstanding debt [prosbol] for it so that his loans will not be canceled in the seventh year, and he can acquire property that does not serve as a guarantee along with it. And if you say that we require the movable property to be piled on the land, for what is land of any size fit? What can be piled on a tiny spot of land?

<sup>770</sup> Rav Shmuel bar Bisna interpreted it before Rav Yosef as follows: For example, if one stuck a needle into a tiny patch of land, which he sold by means of the land, the needle is acquired. Rav Yosef said to him: You disgust me [kevastan]. Did the tanna go to all that trouble just to teach us that a needle can be acquired by means of land? Rav Ashi said: Who shall say to us that he did not hang a pearl worth one thousand dinars on the needle? One can acquire an item of high value through land of this size. In any event, the question of whether or not the movable property must be piled onto the land has not been resolved.

<sup>771</sup> Come and hear, as Rabbi Elazar said: There was an incident involving a certain Madonite [Madoni] who was in Jerusalem, as he had a great deal of movable property and wished to give it as a gift. He was ill and did not have time for the recipient to acquire the property by pulling. The Sages said to him: One in this situation has no remedy but to transfer them by means of land. What did he do? He went and acquired a beit sela, apparently meaning land the size of a sela coin, near Jerusalem

and said: This northern portion of the beit sela is given to so-and-so, and with it one hundred sheep and one hundred barrels. And the Madonite died, and the Sages fulfilled his statement and gave the gifts.

<sup>772</sup> And if you say that to acquire movable property by way of land we require that the property be actually piled upon it, for what is a beit sela fit? It is impossible to pile one hundred sheep and one hundred barrels on top of such a small plot of land. The Gemara rejects this argument: Do you maintain that a beit sela is referring to a place that is actually the size of a sela coin? No; rather what is the meaning of the term sela? It is referring to a place that is very large and that could hold the many gifts. If that is true, why did they call it sela? This name indicates that it was hard as rock [sela].

<sup>773</sup> Come and hear a proof from a different source, as Rav Yehuda says that Rav says: There was an incident involving a certain person who became sick in Jerusalem, and the assumption that he became sick is in accordance with the opinion of Rabbi Eliezer, who says that a person on his deathbed can transfer property only by means of an accepted standard act of acquisition. And some say he was healthy, and that assumption is in accordance with the opinion of the Rabbis that a person on his deathbed can transfer property by means of speech alone, whereas a healthy person requires an accepted act of acquisition.

<sup>774</sup> The incident happened as follows: This man had a great deal of movable property and he wished to give it away as a gift. The Sages said to him: In this situation one has no remedy but to transfer movable property by means of land. What did he do? He went and acquired land the size of a beit rova near Jerusalem and said: This square handbreadth is given to so-and-so, and with it one hundred sheep and one hundred barrels. And he died, and the Sages fulfilled his statement. And if you say that we require that the property be piled on the land, for what is a square handbreadth fit? Is it possible to place all of these items in such a limited space?

<sup>775</sup> The Gemara rejects this: With what are we dealing here? It is with money, i.e., he sought to give the value of the barrels and sheep, and money of this amount can be placed on a small plot of land. The Gemara comments: So too, it is reasonable that this incident involved money. As, if it enters your mind to say that it involved an actual group of one hundred sheep and one hundred barrels, let him transfer them to the recipient through an act of symbolic exchange. If the incident involved money, which cannot be transferred by symbolic exchange, he had no recourse but to acquire the land.

<sup>776</sup> The Gemara raises a difficulty against this argument: Rather, what will you say, that this is referring to money, which cannot be acquired through symbolic exchange? Even so, he still could have acted differently: Let him transfer it to the recipient through pulling. Rather, you are forced to say that the recipient of this gift was not present, and the man wanted to grant him possession of it without the recipient having to perform a physical act of acquisition. So too, it is possible that the recipient of the gift was not present, and he was unable to transfer it to him through symbolic exchange. Consequently, there is no proof that the incident involved money.

<sup>777</sup> The Gemara asks: Is there no other way to perform this acquisition? But let him transfer it to him by means of another person, i.e., another can pull the property on behalf of the recipient. The Gemara answers: The giver did not rely on that option, as he feared that the third party might seize it and

consume it or use the property in some other manner. The giver wanted to be sure that the acquisition would be completed in full.

<sup>778</sup> Rather, what then is the meaning of the statement: He has no remedy? Even if he did not want to use the option of a third party, it was certainly available to him. The Gemara explains that this is what Rav was saying and meant in his description of this incident: In accordance with his decision that he does not rely on another person and does not want to transfer property by means of anyone else, in this situation one has no remedy but to transfer movable property by means of land. In summary, no decisive proof has been cited as to whether or not it is possible to acquire movable property by means of land when the items are not piled upon the land.

<sup>779</sup> Come and hear a proof from the following mishna (Ma'aser Sheni 5:9): There was an incident involving Rabban Gamliel and other Elders who were traveling on a ship. Rabban Gamliel said to the Elders: One-tenth of produce that I will measure out and separate in the future from the produce of my fields

<sup>780</sup> is given as first tithe to Yehoshua ben Ḥananya, who was a Levite, and the place of the tithe is rented to him so that he can acquire the tithe by means of the land. And another tenth that I will measure out in the future as the poor man's tithe is given to Akiva ben Yosef so that he will acquire it on behalf of the poor, and its place is rented to him. One can learn from here that we require the movable property to be piled on the land, as Rabban Gamliel emphasized: Its place. The Gemara rejects this argument: It is different there, as Rabban Gamliel did this so as not to trouble the Sages to whom he was giving the tithes by forcing them to transport the tithes to a different location. For reasons of convenience he transferred to the other Sages ownership of the land where the tithes were already situated.

<sup>781</sup> The Gemara further suggests: Come and hear a solution for this dilemma, as Rava bar Yitzḥak says that Rav says: There are two types of documents. If one says: Acquire this field for so-and-so and write the document for him as proof of the sale of the field, he can retract his agreement with regard to the document. He can change his mind and tell them not to write the document. But he cannot retract his agreement with regard to the field, as the buyer has already acquired it. By contrast, if he said: Acquire this field for so-and-so on the condition that you write him a document, if the document has not yet been given he can retract his agreement both with regard to the document and with regard to the field, as he transfers the field to him only on the condition that he writes a document.

<sup>782</sup> And Rav Ḥiyya bar Avin said that Rav Huna said: There are actually three types of documents. Two types are those that we said, and the other type is as follows. If the seller first wrote him the document, as a seller can write a bill of sale before the transaction and give it when he receives payment. This is as we learned in a mishna (Bava Batra 167b): A scribe may write a deed of sale for the seller of property who requests one, even if the purchaser is not with him when he presents his request. In a case of this kind, once the buyer takes possession of the land from him, the document is acquired by the buyer wherever it is, i.e., even if it is not in the possession of the buyer.

<sup>783</sup> One can learn from here that we do not require that the property be piled on it, as in this case the document is acquired by means of the land wherever the document is located. The Gemara rejects this proof: A document is different, as it is the bridle of the land. Since the document that refers to the land is the means by which one takes possession of the land, it is considered as though the document

is part of the land. Therefore, one can take possession of the document by means of the land without it actually having to be placed there. The same does not necessarily apply to other movable property, which does not refer specifically to the land.

<sup>784</sup> The Gemara asks: But it was taught concerning this halakha that a document can effect acquisition wherever it is located: This is what we learned in the mishna: Property that does not serve as a guarantee can be acquired along with property that serves as a guarantee by means of giving money, by means of giving a document, or by means of taking possession of them. This indicates that there is no difference between a document and other types of movable property. Consequently, one can learn from here that we do not require that the property be piled on the land. The Gemara affirms: One can learn from here that this is the case.

<sup>785</sup> A dilemma was raised before the Sages: Do we require that one who sells movable property by means of land state explicitly that this is his intention, or not? The Gemara suggests: Come and hear, as those aforementioned baraitot teach all these halakhot of acquiring movable property through land, and they do not teach the expression: By means of. This indicates that it is not necessary to specify this aspect of the acquisition. The Gemara rejects this proof: And according to your reasoning, is it taught that he must say to him: Acquire it? The baraitot do not state this, and yet everyone agrees that the seller must say to him that he should acquire the land.

<sup>786</sup> Rather, one must say that the acquisition is not effective unless he says: Acquire it, and yet the tanna did not deem it necessary to mention this requirement. Here too, the acquisition is not effective unless he says: By means of. This requirement is not mentioned because these baraitot do not discuss the type of statements he must issue, but simply are referring to the basic legal issues involved. The Gemara concludes: And the halakha is that we do not require that the property be piled on the land, but we require that the seller say that he is transferring the movable property by means of the land, and he must say: Acquire it.

<sup>787</sup> § A dilemma was raised before the Sages: If a seller wishes to give a field in the form of a sale and with it movable property as a gift, what is the halakha? Can he transfer them together by means of a transaction performed with the land? The Gemara suggests: Come and hear a proof for this dilemma from the incident involving Rabban Gamliel, as he said: One-tenth of produce that I will measure out in the future is given to Yehoshua, and its place is rented to him. Learn from this that even if the field is rented, which is equivalent to a sale, and the tithe is given as a gift, one can transfer the two together.

<sup>788</sup> Another dilemma was raised before the Sages: If one wishes to give a field to one person and movable property to another, what is the halakha? Can one transfer movable property to one person by means of land that is going to be gifted to another? The Gemara suggests: Come and hear that which Rabban Gamliel stated: One-tenth of that which I will measure out in the future is given to Akiva ben Yosef so that he will acquire it on behalf of the poor, and its place is rented to him. Although the gift is for the poor and the place is rented to Rabbi Akiva, the acquisition is effective.

<sup>789</sup> The Gemara rejects this proof: What is the meaning of: Rented, in this case? It means rented for tithe. This land was not rented to Rabbi Akiva for his own use, but only so that he could receive the tithe. Therefore, the land was also given to the poor. And if you wish, say a different refutation: Rabbi Akiva is different, as he was a charity collector, and therefore he was considered like the hand of the poor. Since a charity collector collects charity on behalf of the poor, he has the status of the

poor himself. If so, this cannot be compared to a case in which one transfers a certain item to one person and land to someone else.

<sup>790</sup> § Rava says: The Sages taught that one can acquire movable property by way of land only when he gives all the money for the land and the movable property. But if he did not give the money for all the property, even if they were transferred to him he acquires only the movable property corresponding to the money that he paid.

<sup>791</sup> It is taught in a baraita (Tosefta, Ketubot 2:3) in accordance with the opinion of Rava: The power of money is greater than the power of a document in one way, and the power of a document is greater than the power of money in a different way. The baraita elaborates: The power of money is greater in that money can be used to redeem consecrated property and second tithe, which is not the case with a document. And the power of a document is greater than the power of money, as a document releases a Jewish woman, i.e., a man can divorce his wife with a bill of divorce, which is not the case with money.

<sup>792</sup> The baraita continues: And furthermore, the power of each, money and a document, as a means to transfer ownership is greater than the power of acquisition by means of taking possession, and the power of taking possession is greater than the power of acquisition of each of them. How so? The power of each of them is greater than the power of acquisition of taking possession, as each of them effects acquisition in the case of a Hebrew slave, which is not the case for taking possession (see 14b). The power of taking possession is greater than the power of acquisition of each of them, as with regard to taking possession, if one sold another ten fields in ten countries, once the buyer takes possession of one of the fields he acquires all of them.

<sup>793</sup> In what case is this statement said? It is said in a case when he gave him money for all of the land. But if he did not give him money for all of it, he acquires only the land corresponding to the money that he paid, in accordance with the opinion of Rava. The Gemara comments: The baraita supports the opinion of Shmuel, as Shmuel says: If one sold another ten fields in ten countries, once he takes possession of one of them he acquires all of them.

<sup>794</sup> Rav Aḥa, son of Rav Ika, said: Know that this is true, as, if he handed him ten animals with one bridle [afsar] and said to him: Acquire them, doesn't he acquire all of them? In this case, too, they are considered like one field. A Sage said to Rav Aḥa, son of Rav Ika: Is it comparable? There, its bond, i.e., the bridle that joins the animals, is in his hand. Here, in the case of ten fields, its bond is not in his hand.

<sup>795</sup> There are those who say that Rav Aḥa, son of Rav Ika, said: Know that he does not acquire all of the fields by taking possession of only one field, as, if one passed to him ten animals with one bridle and said to him: Acquire this one, does he acquire all of them? The same applies here when he takes possession of only one field; it is as though he said to him: Acquire this one, and therefore he does not acquire the other fields in this manner.

<sup>796</sup> The Gemara rejects this argument: Is it comparable? There, the animals are separate entities, and therefore when he says to him: Acquire this one, there is no reason that the other animals should be acquired as well. Here, the mass of the earth is one. Consequently, if he acquires one plot of land, he acquires the other plots along with it.



<sup>797</sup> § The mishna teaches: And in a legal dispute involving both land and movable property, if the defendant makes a partial admission of the claim with regard to the movable property, thereby rendering himself obligated to take an oath denying any responsibility for the remaining property, the movable property binds the property that serves as a guarantee, i.e., the land, so that he is forced to take an oath concerning the land as well, despite the fact that one is generally not obligated to take an oath for a claim involving land. Ulla says: From where is it derived from the Torah that one can impose the extension of an oath, i.e., if one is required to take an oath for one claim, the other party can obligate him to take an oath with regard to other claims which on their own would not lead to the imposition of an oath?

<sup>798</sup> As it is stated with regard to a sota: “And the woman shall say: Amen, amen” (Numbers 5:22), and we learned in a mishna (Sota 18a): Concerning what does she say the double expression of: Amen, amen? She says amen on the curse, as she accepts the curse upon herself if she is guilty, and amen on the oath, as she declares that she is not defiled. She states: Amen if I committed adultery with this man about whom I was warned, amen if I committed adultery with another man. Amen that I did not stray when I was betrothed nor after I was married, nor as a widow waiting for my yavam to perform levirate marriage, since a woman at that stage is prohibited from engaging in sexual intercourse with any men, nor when married through levirate marriage to the yavam.

<sup>799</sup> The Gemara analyzes this halakha: What are the circumstances with regard to this betrothed woman? If we say that he warned her not to seclude herself with a particular man when she was betrothed, and he gives her the bitter water of a sota to drink when she is betrothed, but didn’t we learn in a mishna (Sota 23b): With regard to a betrothed woman who secluded herself with another man after being warned by her betrothed, and a widow waiting for her yavam to perform levirate marriage who secluded herself with another man after being warned by her yavam, they neither drink the bitter water nor collect payment of their marriage contracts. What is the reason for this? The Merciful One states as part of her oath: “But if you have gone aside, being under your husband” (Numbers 5:20), and that does not apply here, as these women are not yet under their husband’s authority.

<sup>800</sup> Rather, one must say that he warned her when she was betrothed, i.e., he warned her when she was betrothed not to seclude herself with a particular man, and she secluded herself with that man when she was betrothed, and he gave her the water to drink when she was married.

<sup>801</sup> The Gemara asks: But in this case, does the water she is given to drink examine her and cause her death? Doesn’t the Merciful One state: “And the man shall be clear from iniquity” (Numbers 5:31)? This verse indicates: When the man is clear from iniquity, the water examines his wife; but if the man is not clear from iniquity with regard to the matter of illicit sexual intercourse, the water does not examine his wife. Since he suspected her of impropriety when she was betrothed and warned her about a particular man, and she secluded herself with that man regardless of his warning, he was not allowed to engage in intercourse with her. If he did so, he is a sinner himself, and therefore the water will not affect his wife. If so, it is impossible for a betrothed woman to be examined as a sota.

<sup>802</sup> Rather, it is clear that this oath is administered by means of an extension. Although the husband cannot force her to take an oath only with regard to her behavior before they were married, since she must take an oath with regard to her behavior during her marriage, he can extend the oath to include incidents that occurred while she was betrothed.

<sup>803</sup> The Gemara comments: We found a source for the extension of an oath in the case of a sota, which is a halakha involving a prohibition. From where do we derive that an oath can be extended with regard to monetary matters as well? The school of Rabbi Yishmael taught that this can be derived through an a fortiori inference: And just as in the case of a sota,

<sup>804</sup> where an oath cannot be imposed by one witness, as two witnesses must testify that the wife secluded herself with the man concerning whom she was warned in order for her to be obligated to take the oath of a sota, and yet one can extend her oath, is it not logical that with regard to a claim involving money, where an oath can be imposed by the testimony of one witness, that one can extend the oath?

<sup>805</sup> The Gemara asks: We found a source for the extension of an oath in the case of a definite claim, i.e., when the plaintiff is certain of his claim. From where do we derive that this halakha of the extension of an oath applies also to uncertain claims, when the plaintiff is not sure the defendant owes him money but merely suspects this to be the case?

<sup>806</sup> The Gemara answers: It is taught in a baraita that Rabbi Shimon ben Yoḥai says: The Torah states an external oath, i.e., an oath administered outside of the Temple, and it states an internal oath, an oath administered inside the Temple courtyard, i.e., the oath of a sota. Just as with regard to an oath stated in the Torah that is taken inside the Temple, the Torah rendered uncertainty like certainty, as in the case of a sota the husband's claim is based on suspicion and yet he can extend that oath; so too, with regard to an oath stated in the Torah that is taken outside the Temple, the Torah rendered uncertainty to be like certainty, i.e., all oaths can be extended to include even uncertain claims.

<sup>807</sup> § The Gemara asks: Until where does the extension of an oath reach? It has been established that a plaintiff can attach other claims to the oath that the defendant is required to take, even if they do not relate to the current claim submitted in court. To what extent can the plaintiff impose additional oaths? Rav Yehuda said that Rav said: The halakha is that a plaintiff can even say to a defendant: Take an oath to me that you are not my Canaanite slave. If the defendant is required to take an oath, e.g., concerning denial of a debt, he can be forced to take an oath about this matter as well.

<sup>808</sup> The Gemara asks: But the court ostracizes one who says this to another, as it is taught in a baraita: One who calls another a slave shall be ostracized. One who calls another a mamzer incurs the punishment of forty lashes. If one calls another a wicked person then the insulted person may harass him in all aspects of his life. In light of this halakha, it is clear that the court will not force the accused to respond to this insult by taking an oath.

<sup>809</sup> Rather, Rava said that the plaintiff can extend an oath by stating: Take an oath to me that you were not sold to me as a Hebrew slave. In this case the plaintiff is not questioning the man's lineage, as he is simply claiming that he was sold to him as a slave and must work for him. The Gemara asks: But there is nothing novel about this halakha, as this is a proper claim that there is money owed to him by the accused. The sale and service of a Hebrew slave can be assessed in monetary terms, and is analogous to all claims of debt, which can be imposed by extension of an oath. The Gemara answers: Rava conforms to his line of reasoning, as Rava says: The Hebrew slave himself is acquired by his master. Consequently, this claim involves not just money but ownership over his person as well.

<sup>810</sup> The Gemara asks: If so, this is similar to a claim concerning ownership of land, and the mishna already taught that an oath can be extended to include a claim concerning land. The Gemara answers:

This ruling is necessary lest you say: It is land that people are likely to sell privately, and if it is so that the plaintiff had sold it to him, the sale would not have generated publicity, and the public would not know about it. Therefore, the plaintiff's claim that the defendant sold land to him is reasonable.

<sup>811</sup> By contrast, in this case, where the plaintiff claims that he purchased the defendant as a Hebrew slave, if it is so that he purchased him as a slave, the sale would have generated publicity. Since this supposed sale is not common knowledge, one might have thought that the defendant cannot be forced to take an oath to deny this claim. Therefore, Rava teaches us that despite the absence of public knowledge, one can extend an oath to this claim as well.

<sup>812</sup> MISHNA: The mishna discusses a transaction involving the barter of two items. With regard to all items used as monetary value for another item, i.e., instead of a buyer paying money to the seller, they exchange items of value with each other, once one party in the transaction acquires the item he is receiving, this party is obligated with regard to the item being exchanged for it. Therefore, if it is destroyed or lost, he incurs the loss. How so? If one exchanges an ox for a cow, or a donkey for an ox, once this party acquires the animal that he is receiving, this party is obligated with regard to the item being exchanged for it.

<sup>813</sup> GEMARA: The Gemara asks: What is the item given in exchange mentioned in the mishna? If it is referring to a coin, for which property is usually exchanged, can one learn from the mishna that a coin can effect exchange, i.e., it is possible to perform the act of acquisition of exchange, either a standard exchange or a symbolic exchange, using coins? This is problematic, as the halakha is that coins cannot be used for this act of acquisition. Rav Yehuda said: The phrase: All items used as monetary value for another item, is not referring to a coin. Rather, this is what the mishna is saying: With regard to all items that can be appraised when used as monetary value for another item, i.e., that their value can be appraised relative to the value of another item, excluding a coin, whose value is apparent,

<sup>814</sup> once one party in the transaction acquires the item he is receiving, this party is obligated with regard to the item being exchanged for it. The novelty of the mishna is that all items, not only vessels, can be used to perform the act of acquisition of exchange. Therefore, one should not infer that the same is the halakha with regard to coins. The Gemara comments: The language of the mishna is also precise, as it teaches afterward: How so? If one exchanges an ox for a cow, or a donkey for an ox, once this party acquires the animal that he is receiving, this party is obligated with regard to the item being exchanged for it. This clause apparently explains the previous clause, and employs the example of animals, not coins. The Gemara summarizes: Learn from this clause that the mishna is referring to acquisition through the exchange of items, not money.

<sup>815</sup> The Gemara asks: And with regard to what entered our minds initially, that a coin effects symbolic exchange, what is the meaning of the clause: How so, if one exchanged an ox for a cow, once this party acquires the animal that he is receiving, this party is obligated with regard to the item being exchanged for it. This example does not involve a coin. The Gemara explains that it was assumed that this is what the mishna is saying: Not only can a coin be used in the act of acquisition of exchange, but produce can also effect exchange. How so? If one exchanged meat of an ox for a cow, or the meat of a donkey for an ox, once this party acquires the item that he is receiving, this party is obligated with regard to the item being exchanged for it.

<sup>816</sup> The Gemara asks: This works out well according to the opinion of Rav Sheshet, who says: Produce effects exchange, i.e., the mode of acquisition of exchange applies not only to vessels but also to produce and animals. But according to the opinion of Rav Naḥman, who says: Produce does not effect exchange, what can be said?

<sup>817</sup> The Gemara answers: According to this opinion, the mishna is dealing with money alone, and this is what the mishna is saying: There is a transaction involving money that is like an exchange. How so? If one exchanged the monetary value of an ox for a cow, or the monetary value of a donkey for an ox, the transaction is effective. In this case, one sold his ox to another for an agreed sum of money, and after the buyer acquired the ox by pulling it, he then offered to give the seller his cow in exchange for the money that he owes him. In this case the cow is acquired without the seller having to pull it. Although this acquisition initially was to be an exchange, it is ultimately a purchase for money, as the second animal is acquired as a result of the forgiving of the monetary debt.

<sup>818</sup> What is the reason for this ruling in light of the halakha that one cannot acquire movable property by means of money alone? The Gemara explains that Rav Naḥman holds in accordance with the opinion of Rabbi Yoḥanan, who said: By Torah law money effects acquisition, i.e., when one pays money he acquires the item, even if he has not yet performed another act of acquisition. And what is the reason that the Sages said that pulling acquires an item and money does not? This is a rabbinic decree lest the seller say to the buyer after receiving the money: Your wheat was burned in the loft. If a fire breaks out or some other mishap occurs after a seller receives the money, he will not bother to save the goods in his house because they no longer belong to him, and the buyer may incur a loss.

<sup>819</sup> The Sages therefore decreed that acquisition takes effect only when a buyer pulls the item. The reason that the mishna allows a transaction that indicates that one can effect acquisition using only money is because that case of the mishna as explained by Rav Naḥman is an uncommon occurrence. It is rare for one who has sold his animal in exchange for money to change his mind and request an animal from the purchaser instead. With regard to a common occurrence, the Sages issued a decree, whereas in the case of an uncommon occurrence, the Sages did not issue a decree. Consequently, the Sages did not apply their decree to this situation.

<sup>820</sup> The Gemara asks: And how is the mishna explained according to the opinion of Reish Lakish, who disagrees with Rabbi Yoḥanan and says that pulling is explicitly stated in the Torah? Reish Lakish maintains that the acquisition of movable property cannot be performed with money by Torah law, and therefore there can be no distinction between common and uncommon cases. This works out well if Reish Lakish holds in accordance with the opinion of Rav Sheshet, who says that produce effects exchange. If so, he can explain the mishna in accordance with the opinion of Rav Sheshet.

<sup>821</sup> But if he holds in accordance with the opinion of Rav Naḥman, who says that produce does not effect exchange and a coin does not effect acquisition by Torah law or by rabbinic law, in what manner does he establish the mishna? The Gemara answers: Perforce Reish Lakish holds in accordance with the opinion of Rav Sheshet.

<sup>822</sup> MISHNA: The authority of the Temple treasury effects acquisition by means of money to the seller. And the authority, i.e., the mode of acquisition, of a commoner [hedyot] is by possession. Furthermore, one's declaration to the Most High, i.e., when one consecrates an item through speech, is equivalent to transferring an item to a common person, and the item is acquired by the Temple treasury through his mere speech.

<sup>823</sup> GEMARA: The Sages taught in a baraita (Tosefta 1:6): How does the authority of the Temple treasury effect acquisition by means of money? With regard to the Temple treasurer who gives coins for an animal, even if the animal is at the other end of the world, he acquires it immediately. And with regard to a commoner, he does not acquire the animal until he pulls it.

<sup>824</sup> How is one's declaration to the Most High equivalent to transferring an item to a common person? With regard to one who says: This ox is a burnt-offering, or: This house is consecrated property, the Temple treasury acquires these even if they are at the other end of the world. There is no need for a further act of acquisition, as that statement alone is sufficient. Whereas with regard to a commoner, he does not acquire property in this manner

<sup>825</sup> until he pulls or takes possession of it. Additionally, the Temple treasury has the following advantage: If a commoner pulled a consecrated item for the purpose of acquiring it with one hundred dinars, and he did not manage to redeem it by paying the one hundred dinars to the Temple treasurer before the item's price stood at two hundred dinars, he gives two hundred dinars. What is the reason for this? It states: He will give the money and it will be assured to him (see Leviticus 27:19). This indicates that one can acquire an item from the Temple treasury only by the actual transfer of money.

<sup>826</sup> By contrast, in the reverse case, when the commoner pulled an item when it was worth two hundred dinars, and he did not manage to redeem it before the value of the item stood at one hundred dinars, he gives two hundred dinars. What is the reason for this? The power of a commoner should not be greater than that of the Temple treasury of consecrated property. Since a commoner completes his acquisition by pulling, the item is acquired by him at that price, and the Temple treasury should not suffer a loss in a case where the commoner could not have reneged on his commitment had he been dealing with another commoner.

<sup>827</sup> Similarly, if the commoner redeemed it at two hundred dinars, but he did not manage to pull it before its value stood at one hundred dinars, he gives two hundred dinars. What is the reason? It states: He will give the money and it will be assured to him, which indicates that the redemption of consecrated property is effected with money. By contrast, if he redeemed it at one hundred dinars and did not manage to pull it before it stood at two hundred dinars, what he redeemed is redeemed, and he gives only one hundred dinars.

<sup>828</sup> The Gemara asks: Why is this the halakha? So too, let us say: The power of a commoner should not be greater than that of the Temple treasury of consecrated property, and if this occurred in a case where he was dealing with another commoner he would need to pay the full two hundred dinars, which was the value of the item when he pulled it. Shouldn't the Temple treasury have as much power as a common person?

<sup>829</sup> The Gemara answers: There is an additional impediment to reneging on an agreement with another commoner. Is that to say that a commoner who gave a seller money and changed his mind before acquiring the item is not forced to accept upon himself the curse of: He Who exacted payment from the generation of the flood (see Genesis, chapter 7) and the generation of the dispersion (see Genesis, chapter 11) will punish one who does not keep his word? Although a commoner can legally renege on his agreement at this stage, the Sages disapproved of such dishonest conduct, and one who did so would be cursed in this manner. Consequently, the power of a commoner is not greater than that of the Temple treasury, as it is not a simple matter to renege on an agreement with another commoner.

<sup>830</sup> MISHNA: With regard to all mitzvot of a son with regard to his father, men are obligated to perform them and women are exempt. And with regard to all mitzvot of a father with regard to his son, both men and women are obligated to perform them. The mishna notes an additional difference between the obligations of men and women in the performance of mitzvot: With regard to all positive, time-bound mitzvot, i.e., those which must be performed at specific times, men are obligated to perform them and women are exempt. And with regard to all positive mitzvot that are not time bound, both men and women are obligated to perform them.

<sup>831</sup> And with regard to all prohibitions, whether they are time-bound or whether they are not time-bound, both men and women are obligated to observe them, except for the prohibitions of: Do not round the corners of your head, and: Do not destroy the corners of your beard, which are derived from the verse: “You shall not round the corners of your head and you shall not destroy the corners of your beard” (Leviticus 19:27), and a prohibition that concerns only priests: Do not contract ritual impurity from a corpse (see Leviticus 21:1). These mitzvot apply only to men, not women, despite the fact that they are prohibitions.

<sup>832</sup> GEMARA: The Gemara asks: What is the meaning of the phrase: All mitzvot of a son with regard to his father? If we say that it is referring to all mitzvot that the son is obligated to perform with regard to his father, are women exempt from obligations of this kind? But isn’t it taught in a baraita concerning a verse that deals with the mitzva of honoring one’s father and mother: “A man shall fear [tira’u] his mother and his father” (Leviticus 19:3)? I have derived only that a man is obligated in this mitzva. From where do I derive that a woman is also obligated? When it says in the same verse: “A man shall fear [tira’u] his mother and his father” (Leviticus 19:3), employing the plural form of the verb, this indicates that there are two that are obligated here, both a man and a woman.

<sup>833</sup> Rav Yehuda said that this is what the mishna is saying: With regard to all mitzvot of a son that are incumbent upon his father to perform for his son, men are obligated in them and women are exempt.

<sup>834</sup> The Gemara comments: According to this interpretation, we learn in this mishna that which the Sages taught in a baraita: A father is obligated with regard to his son to circumcise him, and to redeem him if he is a firstborn son who must be redeemed by payment to a priest, and to teach him Torah, and to marry him to a woman, and to teach him a trade. And some say: A father is also obligated to teach his son to swim. Rabbi Yehuda says: Any father who does not teach his son a trade teaches him banditry [listut]. The Gemara expresses surprise at this statement: Can it enter your mind that he actually teaches him banditry? Rather, the baraita means that it is as though he teaches him banditry. Since the son has no profession with which to support himself, he is likely to turn to theft for a livelihood. This baraita accords with Rav Yehuda’s interpretation of the mishna.

<sup>835</sup> § The baraita teaches that a father is obligated to circumcise his son. The Gemara asks: From where do we derive this? The Gemara answers that this is as it is written: “And Abraham circumcised his son Isaac” (Genesis 21:4). The Gemara comments: And in a case where one’s father did not circumcise him the court is obligated to circumcise him, i.e., if this obligation is not fulfilled by the father it applies to the community as a whole, as it is written: “Every male among you shall be circumcised” (Genesis 17:10), in the form of a general mitzva that does not apply only to the father. And in a case where the court did not circumcise him the son is obligated to circumcise himself when

he reaches adulthood, as it is written: “And the uncircumcised male, who is not circumcised in the flesh of his foreskin, that soul shall be cut off from his people” (Genesis 17:14).

<sup>836</sup> From where do we derive that his mother is not obligated to circumcise her son? As it is written: “And Abraham circumcised his son Isaac when he was eight days old, as God commanded him” (Genesis 21:4). The verse emphasizes that God commanded him, and not her.

<sup>837</sup> We found a source for this mitzva immediately, i.e., when it was given to Abraham; from where do we derive that this is the halakha for the men of all generations? The school of Rabbi Yishmael taught that any place where it is stated: “Command,” it is nothing other than an expression of galvanization both immediately and for generations. The mitzva of circumcision is presented by means of this term.

<sup>838</sup> The Gemara elaborates: From where is it derived that the term “command” indicates a galvanization? As it is written: “And command Joshua, and encourage him and strengthen him” (Deuteronomy 3:28). In this context, the term “command” is not referring to a specific command but is a general expression of galvanization. From where is it derived that this applies immediately and for generations? As it is written: “From the day that the Lord commanded and onward throughout your generations” (Numbers 15:23). This shows that whenever the word “command” is used it is referring to that day onward for all generations.

<sup>839</sup> § The baraita teaches that a father is obligated to redeem his son. The Gemara asks: From where do we derive this? The Gemara answers that this is as it is written: “All the firstborn of your sons you shall redeem” (Exodus 34:20). And in a case where one’s father does not redeem him he is obligated to redeem himself, as it is written: “You shall redeem [pado tifde]” (Numbers 18:15). The repetition of the verb indicates that a firstborn is required to be redeemed in any case, even if his father neglects to do so.

<sup>840</sup> And from where do we derive that a mother is not commanded to redeem her son? As it is written: “You shall redeem [tifde]” which can be read as: You shall be redeemed [tippadeh]. This indicates that whoever is commanded to redeem himself is commanded to redeem others, and whoever is not commanded to redeem himself is not commanded to redeem others. Since a woman is not commanded to redeem herself, she is not commanded to redeem her son either.

<sup>841</sup> The Gemara asks: And from where do we derive that she is not obligated to redeem herself? The Gemara answers that this is as it is written: “You shall redeem [tifde],” which can be read as: You shall be redeemed [tippadeh]. This indicates that any person whom others are commanded to redeem is commanded to redeem himself, and any person whom others are not commanded to redeem is not commanded to redeem himself. Since there is no mitzva for a parent to redeem his daughter, there is similarly no mitzva for a daughter to redeem herself. And from where is it derived that others are not commanded to redeem a daughter? As the verse states: “All the firstborn of your sons you shall redeem” (Exodus 34:20), i.e., your sons and not your daughters.

<sup>842</sup> The Sages taught: If a firstborn has not yet been redeemed and he himself has a firstborn son, he is obligated to redeem himself and he is also obligated to redeem his firstborn son, and he takes precedence over his son. If he does not have enough money to redeem both of them, he redeems himself. Rabbi Yehuda says: His son takes precedence over him. Rabbi Yehuda’s reasoning is that with regard to this one, the father, the mitzva of his redemption was upon his father, and only when his father did not observe the mitzva did it apply to the adult son. And that mitzva of the redemption

of his firstborn son applies to him directly. Consequently, he should first fulfill the mitzva that applies to him by redeeming his son.

<sup>843</sup> Rabbi Yirmeya says: Everyone agrees

<sup>844</sup> that anywhere that there are only five sela available, i.e., enough to redeem only one man, and one is obligated to redeem both himself and his son, he, the father, takes precedence over his son. What is the reason? It is that his own mitzva is preferable to one that he performs on behalf of others. When they disagree is in a case where there is land worth five sela that is liened property that has been sold, i.e., he sold this land to other people but it can be reclaimed by his prior creditor, and five sela which is entirely unsold property.

<sup>845</sup> And the reasoning behind the dispute is as follows: Rabbi Yehuda maintains that a loan that is written in the Torah, i.e., any financial obligation that applies by Torah law, is considered as though it is written in a document, and therefore it can be collected from liened property, like any loan recorded in a document. This means that the liened property worth five sela is available for one's own redemption, but not for that of his son, as the sale of the property occurred before the birth of his firstborn. Consequently, with these five sela upon which there is no lien he redeems his son, and the priest goes and repossesses the land worth five sela that is liened property for his own redemption. In this manner one can fulfill both mitzvot.

<sup>846</sup> And the Rabbis maintain: A loan that is written in the Torah is not considered as though it is written in a document, since buyers will not be aware of this obligation, so that they should be aware that the land may be repossessed. And therefore there is no advantage for this man to redeem his son with the five sela upon which there is no lien, and his own mitzva is preferable, which means he redeems himself with the free land. With the liened property that is left he cannot redeem his son, as the land was sold before the birth of his firstborn.

<sup>847</sup> The Sages taught: If one has money to redeem his son and to ascend to Jerusalem on the pilgrimage Festival, he redeems his son and then ascends to Jerusalem on the pilgrimage Festival. Rabbi Yehuda says: He ascends to Jerusalem on the pilgrimage Festival and then redeems his son. His reasoning is that this trip to Jerusalem for the pilgrimage Festival is a mitzva whose time soon passes, and this, the redemption of the firstborn son, is a mitzva whose time does not soon pass, as it can be fulfilled later.

<sup>848</sup> The Gemara asks: Granted, according to the opinion of Rabbi Yehuda, it is as he stated in his reasoning, i.e., Rabbi Yehuda provided the rationale for his opinion. But what is the reasoning of the Rabbis, who say that he should first redeem his son? The Gemara answers that the reason is that the verse states: "All the firstborn of your sons you shall redeem" (Exodus 34:20), and it then states, in the same verse: "And none shall appear before me empty," referring to the pilgrimage Festival in Jerusalem. The order of the verse indicates that one should redeem his firstborn son before traveling to Jerusalem on the pilgrimage Festival.

<sup>849</sup> The Sages taught: From where is it derived that if one had five firstborn sons, from five different women, he is obligated to redeem them all? The verse states: "All the firstborn of your sons you shall redeem" (Exodus 34:20), and the emphasis of "all" includes any of one's firstborn sons. The Gemara asks: Isn't it obvious this is the case? After all, the Merciful One made this mitzva dependent upon the opening of the womb, as it states: "Sanctify to Me all the firstborn, whoever opens the womb"



(Exodus 13:2). Since each of these sons is the firstborn of his mother, it is clear that the father is required to redeem each of them.

<sup>850</sup> The Gemara answers that this ruling is necessary lest you say that we should derive a verbal analogy between “firstborn” stated here and “firstborn” from the verses dealing with inheritance: Just as there, the verse describes a firstborn who receives a double portion of the inheritance as: “The first fruit of his strength” (Deuteronomy 21:17), i.e., he is the firstborn son to his father, and not the first child born to his mother; so too here, with regard to the redemption of the firstborn son, it is referring to the first fruit of his strength, which would mean that the father need redeem only his oldest child. Therefore, this baraita teaches us that this is not the case. Rather, every firstborn son to his mother must be redeemed.

<sup>851</sup> § The baraita teaches that a father is obligated to teach his son Torah. The Gemara asks: From where do we derive this requirement? As it is written: “And you shall teach them [velimadtem] to your sons” (Deuteronomy 11:19). And in a case where his father did not teach him he is obligated to teach himself, as it is written, i.e., the verse can be read with a different vocalization: And you shall study [ulmadtem].

<sup>852</sup> From where do we derive that a woman is not obligated to teach her son Torah? As it is written: “And you shall teach [velimadtem],” which can be read as: And you shall study [ulmadtem]. This indicates that whoever is commanded to study Torah is commanded to teach, and whoever is not commanded to study is not commanded to teach. Since a woman is not obligated to learn Torah, she is likewise not obligated to teach it.

<sup>853</sup> The Gemara asks: And from where do we derive that she is not obligated to teach herself? The Gemara answers: As it is written: “And you shall teach [velimadtem],” which can be read as: And you shall study [ulmadtem], which indicates that whoever others are commanded to teach is commanded to teach himself, and whoever others are not commanded to teach is not commanded to teach himself. And from where is it derived that others are not commanded to teach a woman? As the verse states: “And you shall teach them to your sons” (Deuteronomy 11:19), which emphasizes: Your sons and not your daughters.

<sup>854</sup> The Sages taught: If one wishes to study Torah himself and his son also wants to study, he takes precedence over his son. Rabbi Yehuda says: If his son is diligent and sharp, and his study will endure, his son takes precedence over him. This is like that anecdote which is told about Rav Ya’akov, son of Rav Aḥa bar Ya’akov, whose father sent him to Abaye to study Torah. When the son came home, his father saw that his studies were not sharp, as he was insufficiently bright. Rav Aḥa bar Ya’akov said to his son: I am preferable to you, and it is better that I go and study. Therefore, you sit and handle the affairs of the house so that I can go and study.

<sup>855</sup> Abaye heard that Rav Aḥa bar Ya’akov was coming. There was a certain demon in the study hall of Abaye, which was so powerful that when two people would enter they would be harmed, even during the day. Abaye said to the people of the town: Do not give Rav Aḥa bar Ya’akov lodging [ushpiza] so that he will be forced to spend the night in the study hall. Since Rav Aḥa bar Ya’akov is a righteous man, perhaps a miracle will occur on his behalf and he will kill the demon.

<sup>856</sup> Rav Aḥa found no place to spend the night, and he entered and spent the night in that study hall of the Sages. The demon appeared to him like a serpent with seven heads. Rav Aḥa bar Ya’akov began to pray, and with every bow that he bowed one of the demon’s heads fell off, until it eventually

died. The next day Rav Aḥa said to the townspeople: If a miracle had not occurred, you would have placed me in danger.

<sup>857</sup> The Sages taught: If one has to decide whether to study Torah or to marry a woman, which should he do first? He should study Torah and afterward marry a woman. And if it is impossible for him to be without a wife, he should marry a woman and then study Torah. Rav Yehuda says that Shmuel says: The halakha is that one should marry a woman and afterward study Torah.

<sup>858</sup> Rabbi Yoḥanan says: How can one do this? With a millstone hanging from his neck, i.e., with the responsibility of providing for his family weighing upon him, can he engage in Torah study? The Gemara comments: And the amora'im do not disagree; this is for us and that is for them. In other words, one statement applies to the residents of Babylonia, whereas the other is referring to those living in Eretz Yisrael.

<sup>859</sup> § With regard to marriage, the Gemara relates: Rav Ḥisda would praise Rav Hamnuna to Rav Huna by saying that he is a great man. Rav Huna said to him: When he comes to you, send him to me. When Rav Hamnuna came before him, Rav Huna saw that he did not cover his head with a cloth, as Torah scholars did. Rav Huna said to him: What is the reason that you do not cover your head with a cloth? Rav Hamnuna said to him: The reason is that I am not married, and it was not customary for unmarried men to cover their heads with a cloth. Rav Huna turned his face away from him in rebuke, and he said to him: See to it that you do not see my face until you marry.

<sup>860</sup> The Gemara notes: Rav Huna conforms to his standard line of reasoning, as he says: If one is twenty years old and has not yet married a woman, all of his days will be in a state of sin concerning sexual matters. The Gemara asks: Can it enter your mind that he will be in a state of sin all of his days? Rather, say that this means the following: All of his days will be in a state of thoughts of sin, i.e., sexual thoughts. One who does not marry in his youth will become accustomed to thoughts of sexual matters, and the habit will remain with him the rest of his life.

<sup>861</sup> Rava said, and similarly, the school of Rabbi Yishmael taught: Until one reaches the age of twenty years the Holy One, Blessed be He, sits and waits for a man, saying: When will he marry a woman? Once he reaches the age of twenty and has not married, He says: Let his bones swell, i.e., he is cursed and God is no longer concerned about him.

<sup>862</sup> Rav Ḥisda said: The fact that I am superior to my colleagues is because I married at the age of sixteen, and if I would have married at the age of fourteen,

<sup>863</sup> I would say to the Satan: An arrow in your eye, i.e., I would not be afraid of the evil inclination at all. Rava said to Rabbi Natan bar Ami: While your hand is still on your son's neck, i.e., while you still have authority and control over him, find him a wife. What is the appropriate age? From sixteen until twenty-two, and some say from eighteen until twenty-four.

<sup>864</sup> The Gemara notes that this is like a dispute between tanna'im, based on the verse: "Train a child in the way that he should go" (Proverbs 22:6). Rabbi Yehuda and Rabbi Neḥemya disagreed about the age in which the verse instructs the parent to educate his child: One said that the verse is referring to the ages from sixteen until twenty-two, and one said it is referring to the ages from eighteen until twenty-four. The dispute concerning the correct age for marriage and the dispute about educating a child are the same, as while a father still has a large measure of influence over his son, he must both teach him and find him a wife.

<sup>865</sup> § The Gemara continues its discussion of a father's obligation to teach his son Torah. To what extent is a person obligated to teach his son Torah? Rav Yehuda says that Shmuel says: One should emulate the education of, for example, Zevulun ben Dan, a contemporary of Shmuel, whose father's father taught him Bible, Mishna, Talmud, halakhot, and aggadot. The Gemara raises an objection from a baraita: If a father taught his son Bible, he is not required to teach him Mishna. And Rava said in explanation of this baraita: Bible is the Torah, not the Prophets or Writings, i.e., he is not required to teach him anything else, including Mishna.

<sup>866</sup> The Gemara answers that Shmuel's statement should be understood as follows: One should teach his son like Zevulun ben Dan was taught in certain aspects, but not like Zevulun ben Dan in other respects. One should teach his son like Zevulun ben Dan in that his father's father taught him; but not like Zevulun ben Dan, as there he was taught Bible, Mishna, Talmud, halakhot, and aggadot, while here, in this baraita, one is required to teach his son Bible alone.

<sup>867</sup> The Gemara asks: But is one's father's father obligated to teach him Torah? But isn't it taught in a baraita, that the verse: "And you shall teach them to your sons" (Deuteronomy 11:19), indicates: But not your sons' sons? And how do I realize, i.e., understand, the meaning of the verse: "But make them known to your sons and to your sons' sons" (Deuteronomy 4:9)? This serves to say to you that whoever teaches his son Torah, the verse ascribes him credit as though he taught him, and his son, and his son's son, until the end of all generations.

<sup>868</sup> The Gemara answers that the tanna of this baraita stated his opinion in accordance with the opinion of that tanna, as it is taught in another baraita: From the verse "And you shall teach them to your sons" I have derived only that you must teach your sons. From where do I derive that there is an obligation to teach your sons' sons? The verse states: "But make them known to your sons and to your sons' sons." If so, what is the meaning when the verse states: "Your sons" (Deuteronomy 11:19), which implies only sons? This limitation teaches: Your sons, but not your daughters.

<sup>869</sup> Rabbi Yehoshua ben Levi says: Anyone who teaches his son's son Torah, the verse ascribes him credit as though he received it from Mount Sinai, as it is stated: "But make them known to your sons and to your sons' sons," and juxtaposed to it is the phrase in the verse: "The day when you stood before the Lord your God in Horeb" (Deuteronomy 4:10), as Horeb is Mount Sinai.

<sup>870</sup> The Gemara relates: Once Rabbi Ḥiyya bar Abba encountered Rabbi Yehoshua ben Levi, and saw that he had placed an inexpensive covering on his head and brought his child to the synagogue to study. Rabbi Ḥiyya bar Abba said to him: What is the reason for all this fuss, as you are in such a hurry that you do not have time to dress yourself properly? Rabbi Yehoshua ben Levi said to him: Is it insignificant, that which is written: "But make them known to your sons," and juxtaposed to it is the phrase in the verse that states: "The day when you stood before the Lord your God in Horeb"? The Gemara comments: From this moment onward, Rabbi Ḥiyya bar Abba would not taste meat [umtza], meaning he would not eat breakfast, before he had read to his child and added to the child's studies from the day before. Similarly, Rabba bar Rav Huna would not taste meat before he had brought his child to the study hall.

<sup>871</sup> § Rav Safra says in the name of Rabbi Yehoshua ben Ḥananya: What is the meaning of that which is written: "And you shall teach them diligently [veshinnantam] to your sons" (Deuteronomy 6:7)? Do not read this as "veshinnantam," with the root shin, nun, nun, which indicates a repetition. Rather, read it as veshillashtam, with the root shin, lamed, shin, related to the word three, shalosh.

This means that one must study, review, and study again, thereby dividing one's studies into three parts.

<sup>872</sup> In light of this statement, the Sages said that a person should always divide his years into three parts, as follows: A third for Bible, a third for Mishna, and a third for Talmud. The Gemara asks: How can a person divide his life this way? Who knows the length of his life, so that he can calculate how long a third will be? The Gemara answers: No, it is necessary for one's days, i.e., one should divide each day of his life in this manner.

<sup>873</sup> Therefore, because they devoted so much time to the Bible, the first Sages were called: Those who count [soferim], because they would count all the letters in the Torah, as they would say that the letter vav in the word "belly [gaḥon]" (Leviticus 11:42) is the midpoint of the letters in a Torah scroll. The words: "Diligently inquired [darosh darash]" (Leviticus 10:16), are the midpoint of the words in a Torah scroll. And the verse that begins with: "Then he shall be shaven" (Leviticus 13:33), is the midpoint of the verses. Similarly, in the expression: "The boar out of the wood [miya'ar] ravages it" (Psalms 80:14), the ayin in the word wood [ya'ar] is the midpoint of Psalms, with regard to its number of letters. The verse: "But He, being full of compassion, forgives iniquity" (Psalms 78:38), is the midpoint of verses in the book of Psalms.

<sup>874</sup> Rav Yosef raises a dilemma: Does the vav of the word "belly [gaḥon]" belong to this side or to this side? Is it part of the first or second half of the Torah? The Sages said to him: Let us bring a Torah scroll and count the letters. Didn't Rabba bar bar Ḥana say with regard to a different issue: They did not move from there until they brought a Torah scroll and counted the letters? Therefore we can do the same. Rav Yosef said to them: They were experts in the deficient and plene forms of words and therefore could count the letters precisely. We are not experts in this regard, and therefore we would be unable to resolve the question even if we were to count the letters.

<sup>875</sup> Similarly, Rav Yosef raises a dilemma: Does the midpoint of the verses in the Torah, which is "then he shall be shaven," belong to this side or to this side? Abaye said to him: Even if we cannot count the letters, we can at least bring a Torah scroll to count the verses. Rav Yosef explained: We are not experts about verses either, as when Rav Aḥa bar Adda came from Eretz Yisrael to Babylonia he said: In the West, i.e., Eretz Yisrael, they divide this following verse into three separate verses: "And the Lord said to Moses, behold I come to you in a thick cloud, that the people may hear when I speak with you, and may also believe you forever; And Moses told the words of the people to the Lord" (Exodus 19:9). Perhaps there are other verses that we do not know how to divide properly.

<sup>876</sup> The Sages taught: Five thousand eight hundred and eighty-eight verses are the verses in a Torah scroll. Psalms has eight more verses than that, and Chronicles has eight fewer verses than that.

<sup>877</sup> § The Sages taught: The verse states: "And you shall teach them diligently [veshinnantam]" (Deuteronomy 6:7). The root shin, nun, nun, of veshinnantam should be understood as meaning sharp, i.e., that matters of Torah should be sharp and clear in your mouth, so that if a person asks you something, do not stutter in uncertainty and say an uncertain response to him. Rather, answer him immediately, as it is stated:

<sup>878</sup> "Say to wisdom: You are my sister, and call understanding your kinswoman" (Proverbs 7:4), which indicates that one should be as knowledgeable in the Torah as in the identity of his sister. And it states: "Bind them upon your fingers, you shall write them upon the tablet of your heart" (Proverbs 7:3). And it states: "As arrows in the hand of a mighty man, so are the children of one's youth"

(Psalms 127:4). And it states: “Sharp arrows of the mighty” (Psalms 120:4). And it states: “Your arrows are sharp, the peoples fall under you” (Psalms 45:6). And it states: “Happy is the man who has his quiver full of them; they shall not be put to shame when they speak with their enemies in the gate” (Psalms 127:5).

<sup>879</sup> The Gemara asks: What is the meaning of the phrase “enemies in the gate” with regard to Torah study? Rabbi Ḥiyya bar Abba says: Even a father and his son, or a rabbi and his student, who are engaged in Torah together in one gate become enemies with each other due to the intensity of their studies. But they do not leave there until they love each other, as it is stated in the verse discussing the places the Jewish people engaged in battle in the wilderness: “Therefore it is said in the book of the wars of the Lord, Vahev in Suphah [beSufa], and the valleys of Arnon” (Numbers 21:14). The word “vahev” is interpreted as related to the word for love, ahava. Additionally, do not read this as “in Suphah [beSufa]”; rather, read it as “at its end [besofa],” i.e., at the conclusion of their dispute they are beloved to each other.

<sup>880</sup> The Sages taught: “And you shall place [vesamtem] these words of Mine in your hearts” (Deuteronomy 11:18). Read this as though it stated sam tam, a perfect elixir. The Torah is compared to an elixir of life. There is a parable that illustrates this: A person hit his son with a strong blow and placed a bandage on his wound. And he said to him: My son, as long as this bandage is on your wound and is healing you, eat what you enjoy and drink what you enjoy, and bathe in either hot water or cold water, and you do not need to be afraid, as it will heal your wound. But if you take it off, the wound will become gangrenous.

<sup>881</sup> So too the Holy One, Blessed be He, said to Israel: My children, I created an evil inclination, which is the wound, and I created Torah as its antidote. If you are engaged in Torah study you will not be given over into the hand of the evil inclination, as it is stated: “If you do well, shall it not be lifted up?” (Genesis 4:7). One who engages in Torah study lifts himself above the evil inclination.

<sup>882</sup> And if you do not engage in Torah study, you are given over to its power, as it is stated: “Sin crouches at the door” (Genesis 4:7). Moreover, all of the evil inclination’s deliberations will be concerning you, as it is stated in the same verse: “And to you is its desire.” And if you wish you shall rule over it, as it is stated in the conclusion of the verse: “But you may rule over it” (Genesis 4:7).

<sup>883</sup> The Sages taught: So difficult is the evil inclination that even its Creator calls it evil, as it is stated: “For the inclination of a man’s heart is evil from his youth” (Genesis 8:21). Rav Yitzḥak says: A person’s evil inclination renews itself to him every day, as it is stated: “And that every inclination of the thoughts in his heart was only evil all day [kol hayyom]” (Genesis 6:5). “Kol hayyom” can also be understood as: Every day.

<sup>884</sup> And Rabbi Shimon ben Levi says: A person’s inclination overpowers him every day, and seeks to kill him, as it is stated: “The wicked watches the righteous and seeks to slay him” (Psalms 37:32). And if not for the fact that the Holy One, Blessed be He, assists each person in battling his evil inclination, he could not overcome it, as it is stated: “The Lord will not leave him in his hand” (Psalms 37:33).

<sup>885</sup> A Sage from the school of Rabbi Yishmael taught: My son, if this wretched one, the evil inclination, encounters you, pull it into the study hall, i.e., go and study Torah. If it is a stone it will melt, and if it is iron it will break, as it is stated with regard to the Torah: “Is not My word like fire, says the Lord, and like a hammer that breaks the rock in pieces?” (Jeremiah 23:29). Just as a stone

shatters a hammer, so too one can overcome his evil inclination, which is as strong as iron, through Torah study. With regard to the second part of the statement: If it is a stone it will melt, this is as it is stated with regard to the Torah: “Ho, everyone who thirsts, come for water” (Isaiah 55:1), and it states: “The water wears the stones” (Job 14:19), indicating that water is stronger than stone.

<sup>886</sup> § The baraita (29a) teaches that a father is commanded to marry his son to a woman. The Gemara asks: From where do we derive this matter? As it is written: “Take wives and bear sons and daughters, and take wives for your sons and give your daughters to men” (Jeremiah 29:6).

<sup>887</sup> The Gemara analyzes this verse: Granted with regard to his son, this is in his power, i.e., he can instruct him to marry a woman, as a man is the active agent in a marriage. But with regard to his daughter, is this in his power? She must wait for a man to marry her. The Gemara answers: This is what Jeremiah was saying to them in the aforementioned verse: Her father should give her something for her dowry, and he should dress and cover her with suitable clothing so that men will leap to marry her.

<sup>888</sup> § The baraita further states that a father is commanded to teach his son a trade. The Gemara asks: From where do we derive this? Hiziyya said: As the verse states: “Enjoy life with the wife whom you love” (Ecclesiastes 9:9). If this verse is interpreted literally, and it is referring to an actual woman, then one can derive as follows: Just as a father is obligated to marry his son to a woman, so too, he is obligated to teach him a trade, as indicated by the term: Life. And if the wife mentioned in this verse is allegorical, and it is the Torah, then one should explain the verse in the following manner: Just as he is obligated to teach him Torah, so too, he is obligated to teach him a trade.

<sup>889</sup> § The baraita adds: And some say that a father is also obligated to teach his son to swim in a river. The Gemara asks: What is the reason for this? It is necessary for his life, i.e., this is potentially a lifesaving skill.

<sup>890</sup> § The baraita further teaches that Rabbi Yehuda says: Any father who does not teach his son a trade teaches him banditry. The Gemara asks: Can it enter your mind that he actually teaches him banditry? Rather, the baraita means that it is as though he taught him banditry.

<sup>891</sup> The Gemara asks: What is the difference between the opinion of the first tanna and that of Rabbi Yehuda? Both state that a father must teach his son a trade. The Gemara answers: There is a difference between them in a case where the father teaches him to engage in business. According to the first tanna this is sufficient, whereas Rabbi Yehuda maintains that he must teach him an actual trade.

<sup>892</sup> § The mishna teaches: With regard to all mitzvot of a father with regard to his son, both men and women are obligated to perform them. The Gemara inquires: What is the meaning of the expression: All mitzvot of a father with regard to his son? If we say that this is referring to all of the mitzvot that a father is required to perform for his son, are women obligated in these? But isn't it taught in a baraita: A father is obligated with regard to his son to circumcise him, and to redeem him? This indicates that his father, yes, he is obligated to do these, but his mother, no, she is not obligated to perform these mitzvot for her son.

<sup>893</sup> Rav Yehuda said that this is what the mishna is saying: With regard to each mitzva for the father that is incumbent upon the son to perform for his father, both men and women are obligated in them. The Gemara comments: We already learned this, as the Sages taught in a baraita, with regard to the

verse: “A man shall fear [tira’u] his mother and his father” (Leviticus 19:3). I have derived only that a man is obligated in this mitzva; from where do I derive that a woman is also obligated? When it says in the same verse: “A man shall fear [tira’u] his mother and his father” (Leviticus 19:3), employing the plural form of the verb, this indicates that there are two that are obligated here, both a man and a woman.

<sup>894</sup> If so, that both of them are obligated, what is the meaning when the verse states: “Man”? In the case of a man, it is in his power to perform this mitzva; whereas with regard to a woman, it is not always in her power to perform this mitzva, because she is under the authority of another person, i.e., her husband. As she is obligated to her husband to maintain her household, she is not always able to find time for her parents. Rav Idi bar Avin says that Rav says: Consequently, if a woman is divorced, then both of them, a daughter and a son, are equal with regard to honoring and fearing their father and mother.

<sup>895</sup> The Sages taught that it is stated: “Honor your father and your mother” (Exodus 20:11), and it is stated: “Honor the Lord with your wealth” (Proverbs 3:9). In this manner, the verse equates the honor of one’s father and mother to the honor of the Omnipresent, as the term “honor” is used in both cases.

<sup>896</sup> Similarly, it is stated: “A man shall fear his mother and his father” (Leviticus 19:3), and it is stated: “You shall fear the Lord your God and Him you shall serve” (Deuteronomy 6:13). The verse equates the fear of one’s father and mother to the fear of the Omnipresent.

<sup>897</sup> Likewise, it is stated: “He who curses his father or his mother shall be put to death” (Exodus 21:17), and it is stated: “Whoever curses his God shall bear his sin” (Leviticus 24:15). The verse equates the blessing, a euphemism for cursing, of one’s father and mother to the blessing of the Omnipresent. But with regard to striking, i.e., with regard to the halakha that one who strikes his father or mother is liable to receive court-imposed capital punishment, it is certainly not possible to say the same concerning the Holy One, Blessed be He.

<sup>898</sup> And so too, the equating of one’s attitude toward his parents to his attitude toward God is a logical derivation, as the three of them are partners in his creation. As the Sages taught: There are three partners in the forming of a person: The Holy One, Blessed be He, who provides the soul, and his father and his mother. When a person honors his father and mother, the Holy One, Blessed be He, says: I ascribe credit to them as if I dwelt between them and they honor Me as well.

<sup>899</sup> It is taught in a baraita that Rabbi Yehuda HaNasi says: It is revealed and known before the One Who spoke and the world came into being that a son honors his mother more than he honors his father, because

<sup>900</sup> she persuades him with many statements of encouragement and does not treat him harshly. Therefore, in the mitzva of: “Honor your father and your mother” (Exodus 20:11), the Holy One, Blessed be He, preceded the mention of the honor due one’s father before mentioning the honor due one’s mother. The verse emphasizes the duty that does not come naturally. Similarly, it is revealed and known before the One Who spoke and the world came into being that a son fears his father more than his mother, because his father teaches him Torah, and consequently he is strict with him. Therefore, in the verse: “A man shall fear his mother and his father” (Leviticus 19:3), the Holy One, Blessed be He, preceded the mention of fear of the mother before the mention of fear of the father.

<sup>901</sup> A tanna taught a baraita before Rav Nahman: When a person causes his father and mother suffering, the Holy One, Blessed be He, says: I did well in not dwelling among them, for if I had dwelled among them they would have caused Me suffering as well, as it were. Rabbi Yitzhak says: Anyone who transgresses in private, it is considered as though he is pushing away the feet of the Divine Presence, i.e., he distances God from him, so to speak. As it is stated: “So says the Lord: The heaven is My throne and the earth is My footstool” (Isaiah 66:1). When someone sins in secret, he demonstrates that he thinks God is absent from that place, and it is as though he pushes His feet away from the earth.

<sup>902</sup> With regard to the same issue, Rabbi Yehoshua ben Levi says: It is prohibited for a person to walk even four cubits with an upright posture, which is considered an arrogant manner, as it is stated: “The entire world is full of His glory” (Isaiah 6:3). One who walks in an arrogant manner indicates a lack of regard for the glory and honor of God that is surrounding him, and thereby chases God from that place, as it were. The Gemara relates: Rav Huna, son of Rav Yehoshua, would not walk four cubits with an uncovered head. He said: The Divine Presence is above my head, and I must act respectfully.

<sup>903</sup> The son of one widow asked Rabbi Eliezer: If my father says to me: Give me water to drink, and my mother also says to me: Give me water to drink, which of them should I honor first? Rabbi Eliezer said to him: Set aside the honor of your mother, and perform the honor of your father, as you and your mother are both obligated in the honor of your father. He came before Rabbi Yehoshua and asked him the same question, and Rabbi Yehoshua said this same answer to him.

<sup>904</sup> The man said to him: My teacher, if one’s mother is divorced, what is the halakha? Rabbi Yehoshua said to him: From your eyelashes, which are filled with tears, it is evident that you are the son of a widow, and you have no father. Why, then, are you asking this question as though it were relevant for you? Consequently, Rabbi Yehoshua answered him sarcastically: Pour water for them into a pitcher and squawk at them as one does to summon chickens. In other words, if one’s mother is divorced, the same honor is due to both parents, and neither takes precedence.

<sup>905</sup> § Ulla the Great interpreted a verse homiletically at the entrance to the house of the Nasi. What is the meaning of that which is written: “All the kings of the earth shall give You thanks, O Lord, for they have heard the words of Your mouth” (Psalms 138:4)? It is not stated: The word of Your mouth, in the singular. Rather, the verse uses the expression: “The words of Your mouth,” in the plural. To what is this phrase referring? When the Holy One, Blessed be He, said: “I am the Lord your God” (Exodus 20:2), and, in the same verse: “You shall have no other gods before Me,” the nations of the world said: He teaches this for His own honor, as both statements entail respect for God.

<sup>906</sup> Once He said: “Honor your father and your mother” (Exodus 20:11), they returned and conceded the truth of the first statements, which is why the verse uses the plural expression: “Words of Your mouth,” i.e., all the words of God’s mouth. Rava said: This can be derived from here: “The beginning of Your word is truth” (Psalms 119:160). Is the beginning of Your word truth but not the end of Your word? Rather, from the end of Your word it is apparent to everyone that the beginning of Your word is truth.

<sup>907</sup> The Sages raised a dilemma before Rav Ulla: How far must one go to fulfill the mitzva of honoring one’s father and mother? Rav Ulla said to them: Go and see what one gentile did in Ashkelon, and his name was Dama ben Netina. Once the Sages sought to purchase merchandise



[perakmatya] from him for six hundred thousand gold dinars' profit, but the key for the container in which the merchandise was kept was placed under his father's head, and he was sleeping at the time. And Dama ben Netina would not disturb his father by waking him, although he could have made a substantial profit.

<sup>908</sup> Rav Yehuda says that Shmuel says: They asked Rabbi Eliezer: How far must one go to fulfill the mitzva of honoring one's father and mother? Rabbi Eliezer said to them: Go and see what one gentile did for his father in Ashkelon, and the name of the son was Dama ben Netina. Once the Sages wished to purchase precious stones from him for the ephod of the High Priest for six hundred thousand gold dinars' profit, and Rav Kahana taught that it was eight hundred thousand gold dinars' profit. And the key to the chest holding the jewels was placed under his father's head, and he would not disturb him.

<sup>909</sup> The next year the Holy One, Blessed be He, gave Dama ben Netina his reward, as a red heifer was born in his herd, and the Jews needed it. When the Sages of Israel came to him he said to them: I know, concerning you, that if I were to ask for all the money in the world you would give it to me. But I ask only that money that I lost due to the honor of Father.

<sup>910</sup> And Rabbi Ḥanina says: And if this is related about one who is not commanded by the Torah to honor his father, as Dama was a gentile, and nevertheless when he performs the mitzva he is given this great reward, all the more so is one rewarded who is commanded to fulfill a mitzva and performs it. As Rabbi Ḥanina says: Greater is one who is commanded to do a mitzva and performs it than one who is not commanded to do a mitzva and performs it.

<sup>911</sup> Rav Yosef, who was blind, said: At first I would say: If someone would tell me that the halakha is in accordance with the opinion of Rabbi Yehuda, who says: A blind person is exempt from fulfilling the mitzvot, I would make a festive day for the rabbis, as I am not commanded and yet I perform the mitzvot. This means my reward is very great. Now that I have heard that which Rabbi Ḥanina says: Greater is one who is commanded to do a mitzva and performs it than one who is not commanded to do a mitzva and performs it, on the contrary: If someone would tell me that the halakha is not in accordance with the opinion of Rabbi Yehuda, and a blind person is obligated in mitzvot, I would make a festive day for the rabbis.

<sup>912</sup> When Rav Dimi came from Eretz Yisrael to Babylonia, he said: Once Dama ben Netina was wearing a fine cloak [sirkon] of gold, and was sitting among the nobles of Rome. And his mother came to him and tore his garment from him and smacked him on the head and spat in his face, and yet he did not embarrass her.

<sup>913</sup> Avimi, son of Rabbi Abbahu, taught: There is a type of son who feeds his father pheasant [pasyonei] and yet this behavior causes him to be removed from the World, i.e., the World-to-Come; and there is one who makes him grind with a millstone, which is difficult work,

<sup>914</sup> and this action brings him to the life of the World-to-Come.

<sup>915</sup> Rabbi Abbahu said: One such as Avimi, my son, properly fulfilled the mitzva of honoring his parents. The Gemara relates: Avimi had five sons during his father's lifetime who were ordained to issue halakhic rulings, and he too was ordained. And yet when Rabbi Abbahu, his father, came and called at the gate to enter, Avimi would himself run and go to open the door for him. And before he arrived there, he would already say: Yes, yes, so that his father would not think that he was being ignored.

<sup>916</sup> One day Rabbi Abbahu said to Avimi his son: Give me water to drink. Before he brought him the water, Rabbi Abbahu dozed off. Avimi bent over and stood over him until his father awoke. The performance of this mitzva aided him, i.e., as a reward God helped him in his studies, and Avimi succeeded in homiletically interpreting the psalm: “A song to Asaph” (Psalms 79).

<sup>917</sup> Rav Ya’akov bar Avuh said to Abaye: With regard to one such as I, so beloved by my parents that before I return from the study hall my father brings me a cup and my mother pours for me, how should I act? Is it disrespectful to accept this honor from them? Abaye said to him: Accept it from your mother, but do not accept it from your father, as, since he is a Torah scholar he will be disheartened if his son does not show him the proper level of respect.

<sup>918</sup> The Gemara relates: Rabbi Tarfon had a certain manner of treating his mother, that whenever she wished to ascend into her bed he would bend over and help her to ascend, and whenever she wished to descend from the bed, she would descend onto him. He came and praised himself in the study hall for performing the mitzva of honoring one’s father and mother so thoroughly. They said to him: You still have not reached even half of the honor due to her. Has it ever happened that she threw a purse into the sea in front of you, and you did not embarrass her?

<sup>919</sup> When Rav Yosef heard his mother’s footsteps, he would say: I will stand before the arriving Divine Presence. Rabbi Yoḥanan said: Fortunate is one who never saw his father and mother, as it is so difficult to honor them appropriately. The Gemara relates that Rabbi Yoḥanan himself never saw his parents. When his mother was pregnant with him, his father died; and when she gave birth to him, his mother died. And the same is true of Abaye. The Gemara asks: Is that so, that Abaye never saw his mother? But didn’t Abaye say on many occasions: My mother told me? The Gemara answers: That mother was actually his foster mother, not his birth mother.

<sup>920</sup> Rav Asi had an elderly mother. She said to him: I want jewelry, and he made jewelry for her. She said to him: I want a man whom I can marry, and he said to her: I will seek one for you. She said to him: I want a husband who is as handsome as you. At this point, he realized that she was senile, and that he would be unable to fulfill all her requests. Therefore, he left her and went to Eretz Yisrael.

<sup>921</sup> Rav Asi heard that she was following him to Eretz Yisrael. He came before Rabbi Yoḥanan and said to him: What is the halakha with regard to leaving Eretz Yisrael to go outside of Eretz Yisrael? Rabbi Yoḥanan said to him: It is prohibited. Rav Asi further asked: If one is going to greet his mother, what is the halakha? Rabbi Yoḥanan said to him: I do not know. Rav Asi waited a little while, and then came back to him. Rabbi Yoḥanan said to him: Asi, you are evidently determined to leave. May the Omnipresent return you in peace, and he said no more.

<sup>922</sup> Rav Asi came before Rabbi Elazar, because he did not know how to interpret Rabbi Yoḥanan’s statement. He said to Rabbi Elazar: God forbid, perhaps he is angry with me that I wished to leave? Rabbi Elazar said to him: What exactly did he say to you? Rav Asi said to him: May the Omnipresent return you in peace. Rabbi Elazar said to him: If it is so that he was angry, he would not have blessed you. Rabbi Yoḥanan certainly gave you permission to leave. In the meantime, while he was traveling to meet her, Rav Asi heard that her coffin was coming, i.e., his mother had died and her coffin was being brought to Eretz Yisrael. He said: Had I known I would not have left, as after his mother’s death he was not obligated to leave Eretz Yisrael to honor her.

<sup>923</sup> The Sages taught: One honors his father in his life and honors him in his death. How does he honor him in his life? One who goes to a place on the command of his father should not say to the

people to whom he has been sent, to hurry them along: Send me on my journey on my own behalf, or: Hurry up on my own behalf, or: Allow me to take leave of this business on my own behalf. Rather, he should say all of the above in the following manner: Act in this manner on Father's behalf, as a mark of respect for his father.

<sup>924</sup> How does he honor him in his death? If he says a matter he heard from his father's mouth, he should not say: So said Father. Rather, he should say: So said Father, my teacher, may I be an atonement for his resting soul. And this halakha applies within twelve months of his death. From this time onward he says: May his memory be for a blessing, for the life of the World-to-Come.

<sup>925</sup> The Sages taught: A Sage who lectures in public must change the name of his father, i.e., when he quotes his father he should not mention him by name. And similarly, he changes the name of his teacher. The disseminator, who explains the statements of a Sage to the audience, changes neither the name of his father nor the name of his teacher. The Gemara asks: To whose father is this referring? If we say it is referring to the father of the disseminator, whom the Sage mentioned in his lecture, is that to say that the disseminator is not obligated to observe the mitzva of honoring one's father? How can a disseminator mention his own father by name?

<sup>926</sup> Rather, Rava said: This is referring to the name of the Sage's father and the name of the Sage's teacher. This is like that which Mar bar Rav Ashi would do, as when he would teach Torah at his regular lecture and would mention a halakha in the name of his father, Rav Ashi, he would say: So said my father, my teacher; and his disseminator would say: So said Rav Ashi. Although a son may not mention his father's name, the disseminator of his lecture may do so.

<sup>927</sup> The Sages taught: What is fear and what is honor? Fear of one's father includes the following: One may not stand in his father's fixed place, and may not sit in his place, and may not contradict his statements by expressing an opinion contrary to that of his father, and he may not choose sides when his father argues with someone else. What is considered honor? He gives his father food and drink, dresses and covers him, and brings him in and takes him out for all his household needs.

<sup>928</sup> A dilemma was raised before the Sages:

<sup>929</sup> From whose funds must one give his father food and drink? Rav Yehuda says: From the money of the son. Rav Natan bar Oshaya said: From the money of the father. The Sages gave this following ruling to Rav Yirmeya, and some say they gave this following ruling to the son of Rav Yirmeya: The halakha is like the one who says it must be paid from the money of the father.

<sup>930</sup> The Gemara raises an objection from the following baraita: It is stated: "Honor your father and your mother" (Exodus 20:11), and it is stated: "Honor the Lord with your wealth" (Proverbs 3:9), which teaches the following verbal analogy: Just as there one honors God "with your wealth," i.e., through monetary loss, so too here one must honor his father through monetary loss. And if you say that one honors him from the money of the father, what difference does it make to the son, i.e., what monetary loss does he suffer? The Gemara answers: It makes a difference to him with regard to the neglect of his work. Although he is not required to spend his own money, the son must leave aside his work to honor his father, which will cause him some financial loss.

<sup>931</sup> The Gemara suggests: Come and hear a proof from a baraita: Two brothers, or two partners in the ownership of produce, or a father and son, or a rabbi and his student, may redeem the second tithe for each other without adding one-fifth, as one who redeems the tithe of another, including these

individuals, is not required to add one-fifth. And they may feed each other the poor man's tithe. If one of them is poor, the other may give him the poor man's tithe that he separated from his produce, and it is not considered as though the pauper ate the poor man's tithe from his own produce.

<sup>932</sup> The Gemara explains the proof from this baraita. And if you say that the obligation to honor one's father is from the money of the son, one finds that this son repays his obligation from the produce of the poor, as he is taking care of his father with produce that should go to the poor. The Gemara rejects this proof: No, it is necessary to state this halakha in a case where he has covered all of his father's basic needs with his own money. At this stage, if his father needs surplus money, he may give it to him from the poor man's tithe.

<sup>933</sup> The Gemara asks: If so, consider that which is taught with regard to this baraita. Rabbi Yehuda says: May a curse come upon one who feeds his father the poor man's tithe. And if this halakha, that one may feed his father the poor man's tithe, was said with regard to a surplus, what difference is there? Since the son has fulfilled his obligation and simply adds something so that his father will have more, why is this person cursed? The Gemara answers: Even so, it is a disrespectful matter for one to feed his father with money that has been designated as charity for the poor.

<sup>934</sup> The Gemara further suggests: Come and hear: They asked Rabbi Eliezer how far one must go in honoring his father and mother. Rabbi Eliezer said to them: Such that the father takes a purse and throw it into the sea in front of his son, and the son does not embarrass him. And if you say that the son honors him from the money of the father, what difference does it make to the son? Why would the son care if his father throws away his own purse? The Gemara answers: This is referring to a son who is fit to inherit from him. Since the son thinks that the money will eventually belong to him, he has cause for anger.

<sup>935</sup> And this is as reflected in an incident involving Rabba bar Rav Huna, when Rav Huna tore silk garments in front of his son Rabba. Rav Huna had said to himself: I will go and see if he becomes angry or does not become angry, i.e., he wanted to test him and see whether his son Rabba would honor him. The Gemara asks: But perhaps his son would become angry and Rav Huna would thereby violate the prohibition of: "Nor put a stumbling block before the blind" (Leviticus 19:14), as by testing his son Rav Huna would have caused him to sin. The Gemara answers: It was a case where the father had forgone his honor from the outset. Consequently, even if the son grew angry with him, he would not have violated the mitzva.

<sup>936</sup> The Gemara asks: But by tearing his clothes, he violates the prohibition: Do not destroy (see Deuteronomy 20:19). The Gemara answers that Rav Huna made a tear at the seam, so that the garment could be repaired. The Gemara asks: Perhaps it was due to that reason that the son did not become angry, because he saw that his father caused no actual damage? The Gemara answers: He did this when the son was already angry for some other reason, so that he would not notice this detail.

<sup>937</sup> The Gemara cites another story involving the mitzva of honoring one's father and mother. Rav Yehezkel taught his son Rami: If people sentenced to be burned became mingled with those sentenced to be stoned Rabbi Shimon says: All of them are judged with the punishment of stoning, as the punishment of burning is more severe. Since the death penalty of each is uncertain, all of them are treated leniently.

<sup>938</sup> Rav Yehuda, who was also Rav Yehezkel's son, said to him: Father, do not teach the mishna this way, as, according to this version, why is this the halakha specifically because burning is more severe

than stoning? Let him derive it from the fact that the majority are sentenced to be stoned. The wording of the baraita, which states that those who were supposed to be burned became mixed up with those who were to be stoned, indicates that the people sentenced to stoning are the majority. If so, one should simply follow the majority. Rather, I will teach it this way: If those who are sentenced to be stoned became mixed up with those who are sentenced to be burned, they are all judged with the punishment of stoning even though this is the minority, as they are all treated leniently.

<sup>939</sup> Rav Yehezkel said to him: If so, say the latter clause of the mishna: And the Rabbis say that they should be judged with the punishment of burning, as the punishment of stoning is more severe. According to your version, why is this the halakha specifically because stoning is more severe? Let him derive it due to the fact that the majority of people are sentenced to be burned, and one follows the majority.

<sup>940</sup> His son Rav Yehuda said to him: The statement of the Rabbis is not difficult, as there the Rabbis are saying to Rabbi Shimon as follows: That which you said, that burning is more severe, is not the case; rather, stoning is more severe. In other words, the Rabbis were specifically responding to Rabbi Shimon's reasoning, and therefore they stated the opposite claim and ignored the issue of which group is in the majority.

<sup>941</sup> Later, Shmuel said to Rav Yehuda: Big-toothed one, do not speak to your father like that, as it is disrespectful. As it is taught in a baraita: If one's father was transgressing a Torah matter, he should not say to him explicitly: Father, you transgressed a Torah matter. Rather, he should say to him: Father, so it is written in the Torah. The Gemara asks: If he says to him directly: This is what is written in the Torah, he will cause him suffering. Rather, he should say to him: Father, this verse is written in the Torah, and he should proceed to quote the verse, from which his father will understand on his own that he has acted improperly.

<sup>942</sup> § Elazar ben Matya says: If my father says: Give me water, and there is a mitzva for me to perform at the same time, I set aside the honor of my father and perform the mitzva, as my father and I are both obligated in the mitzva. Isi ben Yehuda says: If it is possible for this mitzva to be performed by others, let it be performed by others, and he should go and attend to the honor due to his father, as the honor of his father is his obligation alone. Rav Mattana says: The halakha with regard to this matter is in accordance with the opinion of Isi ben Yehuda.

<sup>943</sup> Rav Yitzhak bar Sheila says that Rav Mattana says that Rav Hisha says: With regard to a father who forgoes his honor, his honor is forgone, and his son does not transgress if he does not treat him in the proper manner. By contrast, with regard to a rabbi who forgoes his honor, his honor is not forgone.

<sup>944</sup> And Rav Yosef says: Even with regard to a rabbi who forgoes his honor, his honor is forgone, as it is stated: "And the Lord went before them by day" (Exodus 13:21). God Himself, the Teacher of the Jewish people, had forgone the honor due Him and took the trouble to guide the people. Rava said: How can these cases be compared? There, with regard to the Holy One, Blessed be He, the world is His and the Torah is His, and therefore He can forgo His honor.

<sup>945</sup> By contrast, here, is it his Torah, that the teacher can forgo its honor? Rava then said: Yes, if he studies, it is his Torah, as it is written: "For his delight is the Torah of the Lord, and in his Torah he meditates day and night" (Psalms 1:2). This indicates that at first it is "the Torah of the Lord," but after he studies, it becomes "his Torah."

<sup>946</sup> The Gemara asks: Is that so? But Rava served drinks to the guests at his son's wedding celebration, and he poured a cup for Rav Pappa and Rav Huna, son of Rav Yehoshua, and they stood before him when he approached them. When he poured a cup for Rav Mari and for Rav Pineḥas, son of Rav Ḥisda, they did not stand before him. Rava became angry and said: Are these Sages, i.e., Rav Mari and Rav Pineḥas, Sages, and are those Sages, who stood to honor me, not Sages? Do you think you are so great that you are not required to honor a Sage?

<sup>947</sup> And furthermore, it happened that Rav Pappa was serving drinks to the guests at the wedding celebration [hillula] of Abba Mar, his son, and he poured a cup for Rav Yitzḥak, son of Rav Yehuda, and he did not stand before him, and Rav Pappa became angry. These anecdotes indicate that even when a rabbi forgoes the honor due to him by serving drinks to his guests, his honor is not forgone. The Gemara answers: A rabbi can forgo the full measure of honor due to him, but even so, others are required to perform some act of reverence, such as preparing to stand before him.

<sup>948</sup> Rav Ashi said: Even according to the one who says that if a rabbi forgoes the honor due him, his honor is forgone, if a Nasi forgoes the honor due him, his honor is not forgone. The Gemara raises an objection: There was an incident involving Rabbi Eliezer and Rabbi Yehoshua and Rabbi Tzadok, who were reclining at the wedding of Rabban Gamliel's son. And Rabban Gamliel, who was Nasi of the Sanhedrin at the time, was standing over them and serving them drinks. He gave the cup to Rabbi Eliezer and he would not accept it; he gave it to Rabbi Yehoshua and he accepted it. Rabbi Eliezer said to him: What is this, Yehoshua? We sit and the esteemed Rabban Gamliel stands over us and serves us drinks?

<sup>949</sup> Rabbi Yehoshua said to him: We found one greater than him who served his guests, as our forefather Abraham was greater than him and he served his guests. Abraham was the greatest man of his generation and it is written about him: "And he stood over them under the tree, and they ate" (Genesis 18:8). And lest you say: His guests appeared to him as ministering angels, and that is why he honored them, in fact they appeared to him only as Arabs. And if so, should not the esteemed Rabban Gamliel stand over us and serve us drinks?

<sup>950</sup> Rabbi Tzadok said to them: For how long will you ignore the honor due to the Omnipresent, and deal with the honor of people? You could cite a proof from God Himself. After all, the Holy One, Blessed be He, makes the winds blow, and raises the clouds, and brings the rain, and causes the earth to sprout, and sets a table before each and every creature. And should not the esteemed Rabban Gamliel stand over us and serve us drinks? This discussion indicates that even a Nasi may forgo the honor due him.

<sup>951</sup> Rather, if it was stated, it was stated as follows: Rav Ashi said: Even according to the one who says that if a Nasi forgoes the honor due him, his honor is forgone, if a king forgoes the honor due him, his honor is not forgone. As it is stated: "You shall set a king over you" (Deuteronomy 17:15), which indicates that his fear should be upon you. The people are commanded to fear a king, and therefore it is not permitted for him to forgo the honor due to him.

<sup>952</sup> § The Sages taught with regard to the verse: "Before the hoary head you shall stand and you shall revere the face of an elder, and you shall fear your God" (Leviticus 19:32): One might have thought that it is obligatory to stand before a simple [ashmai] elder. Therefore, the verse states: "elder," and an "elder" means nothing other than a wise man, as it is stated: "Gather unto Me seventy men of the Elders of Israel, whom you know to be the Elders of the people" (Numbers 11:16). Rabbi Yosei

HaGelili says: An “elder [zaken]” means nothing other than one who has acquired wisdom. He interprets the word zaken as a contraction of the phrase zeh kanna, meaning: This one has acquired. Elsewhere the word kanna is used in reference to wisdom, as it is stated that wisdom says: “The Lord acquired me [kanani] at the beginning of His way” (Proverbs 8:22).

<sup>953</sup> The baraita continues: One might have thought that one must stand before an elder as soon as he sees him, even from a distance. Therefore the verse states: “You shall stand and you shall revere” (Leviticus 19:32), which teaches: I said that one is obligated to stand only in a place where there is reverence. If he stands while the elder is still far away, it is not clear that he is doing so in his honor.

<sup>954</sup> The baraita continues: One might have thought that he should revere him through money, i.e., that one is required to give an elder money in his honor. Therefore, the verse states: “You shall stand and you shall revere.” Just as standing includes no monetary loss, so too, reverence is referring to an action that includes no monetary loss. One might have thought that one should also stand before him in the lavatory or in the bathhouse. Therefore, the verse states: “You shall stand and you shall revere,” which indicates: I said the mitzva of standing only in a place where there is reverence. It is inappropriate to show respect for someone in places of this kind.

<sup>955</sup> The baraita continues: One might have thought that one may close his eyes like one who does not see the elder. Therefore, the verse states: “Before the hoary head you shall stand and you shall revere the face of an elder, and you shall fear your God” (Leviticus 19:32). With regard to any matter given over to the heart, it is stated: “And you shall fear your God.” This phrase is referring to a situation where it is impossible to prove whether one purposefully made it appear as if he were not aware that he was obligated to perform a mitzva, as only that individual and God know the truth.

<sup>956</sup> The baraita continues: Rabbi Shimon ben Elazar says: From where is it derived that an elder should not trouble others to honor him? The verse states: “And you shall revere the face of an elder, and you shall fear your God.” The phrase “an elder, and you shall fear,” read by itself, without the rest of the verse, indicates that an elder is also commanded to fear God, and not purposefully act in a manner to cause others to have to honor him. In conclusion, the baraita cites another opinion. Isi ben Yehuda says that the verse: “Before the hoary head you shall stand,” indicates that even any person of hoary head is included in this mitzva, not only a Sage.

<sup>957</sup> The Gemara analyzes this baraita. Apparently the opinion of Rabbi Yosei HaGelili is the same as that of the first tanna, as they both say that an elder is a Torah scholar. What does Rabbi Yosei HaGelili add? The Gemara answers: There is a difference between them with regard to one who is young and wise. The first tanna maintains: One who is young and wise is not considered an elder, as the mitzva applies only to one who is both elderly and wise. Rabbi Yosei HaGelili maintains: It is even a mitzva to honor one who is young and wise. According to Rabbi Yosei HaGelili, the mitzva is not referring to old age at all, but only to wisdom.

<sup>958</sup> The Gemara asks: What is the reasoning of Rabbi Yosei HaGelili? He could have said to you that if it enters your mind to explain as the first tanna says, that for the obligation to honor another to be in effect that person must be both elderly and wise, if so, let the Merciful One write: Before the hoary head of an elder you shall stand and you shall revere. What is the difference between the two terms “hoary head” and “elder,” that the Merciful One separates them? This serves to say that this term is not the same as that one, and that term is not the same as this one, i.e., an elder is not required to have a hoary head. Learn from the verse that even one who is young and wise is called an elder.

<sup>959</sup> And the first tanna would say that the verse is written this way because the Torah wants to juxtapose “elder” with “and you shall fear,” in accordance with Rabbi Shimon ben Elazar’s statement above that an elder should not trouble others to honor him. The Gemara asks: And what is the reasoning of the first tanna? Why does he maintain that one is obligated to stand only before an elder, wise man? The Gemara answers: The first tanna maintains that if it enters your mind to explain as Rabbi Yosei HaGelili says, let the Merciful One write:

<sup>960</sup> Before the hoary head of an elder you shall stand and revere; you shall stand and revere the face of an elder. From the fact that the Merciful One did not write this and thereby divide the two concepts, learn from it that “elder” and “hoary head” are together referring to one type of person.

<sup>961</sup> The Master said previously in the baraita: One might have thought that he should revere him through money, i.e., he is required to give him money in his honor; therefore, the verse states: “You shall stand and you shall revere” (Leviticus 19:32). Just as standing includes no monetary loss, so too, reverence is referring to an action that includes no monetary loss. The Gemara asks: And does standing include no monetary loss at all? Are we not dealing with a case where he was piercing pearls, a highly remunerative task, and in the meantime he must stand for the elder and thereby neglect his work, which causes him a loss?

<sup>962</sup> Rather, the verse juxtaposes standing to reverence: Just as reverence does not include neglect of work, so too, standing does not include neglect of work; therefore, one who is engaged in work is not obligated to stand before an elder. And the verse also juxtaposes reverence to standing: Just as standing includes no monetary loss, as standing applies only when it does not entail neglect of work, as explained previously, so too, reverence is referring to an action that includes no monetary loss. From here the Sages stated: Craftsmen are not permitted to stand before Torah scholars when they are engaged in their work.

<sup>963</sup> The Gemara asks: And are craftsmen not required to stand before Torah scholars? But didn’t we learn in a mishna (Bikkurim 3:3): When farmers bring their first fruits to Jerusalem, all craftsmen stand before them, and greet them, and say to them: Our brothers from such and such a place, welcome! Since craftsmen would stand even for those engaged in a mitzva, all the more so should they stand for Torah scholars. Rabbi Yoḥanan says: There is no difficulty here, as indeed they stood before those bringing first fruits, and yet they would not stand before Torah scholars.

<sup>964</sup> Based on this Rabbi Yosei bar Avin says: Come and see how beloved is a mitzva performed in its proper time, as the craftsmen stood before those who were fulfilling a mitzva, whereas they did not stand before Torah scholars. The Gemara responds: This does not prove that the same applies to all mitzvot performed in their proper times, as perhaps it is different there, with regard to the bringing of the first fruits; for if so, i.e., if one does not treat those who bring first fruits with such honor, they will not want to come at all, and you will cause them to stumble and sin in the future. Consequently, the Sages instituted that those bringing first fruits should be treated with special honor. This reasoning does not apply to people performing other mitzvot.

<sup>965</sup> The Master said previously: One might have thought that one should also stand before an Elder in the lavatory or in the bathhouse; therefore, the verse said: “You shall stand and you shall revere,” which indicates that the mitzva of standing applies only in a place where there is reverence. The Gemara asks: And does one not show honor in a lavatory? But Rabbi Ḥiyya was sitting in a bathhouse and Rabbi Shimon bar Rabbi Yehuda HaNasi passed by, and he did not stand before him.



And Rabbi Shimon bar Rabbi Yehuda HaNasi became angry and went and said to his father, Rabbi Yehuda HaNasi: I taught Rabbi Ḥiyya two of the five parts of the book of Psalms, and yet he did not stand before me. This indicates that a display of honor is appropriate even in a bathhouse.

<sup>966</sup> And furthermore, bar Kappara, and some say it was Rabbi Shmuel bar Rabbi Yosei, was sitting in a bathhouse. Rabbi Shimon bar Rabbi Yehuda HaNasi entered and passed by, and he did not stand before him. Rabbi Shimon became angry and went and said to his father: I taught him two of the nine parts of Torat Kohanim, the halakhic midrash on Leviticus, and yet he did not stand before me. And Rabbi Yehuda HaNasi said to Rabbi Shimon: Perhaps he was sitting and contemplating what you taught him and did not see you come in.

<sup>967</sup> The Gemara explains the proof: The fact that the reason he might have been exempt was that he was sitting and pondering the lessons indicates that if that were not so, Rabbi Yehuda HaNasi would not have justified such behavior. One must stand before a Sage even in a bathhouse.

<sup>968</sup> The Gemara answers that this is not difficult: This halakha, that one is not required to stand in a bathhouse, applies to the inner rooms, where everyone is naked; standing in a place of this kind certainly does not bestow honor. That halakha, that one is obligated to stand in a bathhouse, applies to the outer rooms, where people are still dressed. Standing is a sign of respect in these rooms.

<sup>969</sup> The Gemara comments: So too, it is reasonable that this is the correct explanation, as Rabba bar Ḥana says that Rabbi Yoḥanan says: One is permitted to contemplate matters of Torah everywhere, except for the bathhouse and the lavatory. Since Rabbi Yehuda HaNasi suggested that the student might have been sitting and pondering his studies, it can be assumed that the episode occurred in a location where only some of the halakhot governing one's behavior in a bathhouse apply, i.e., the outer rooms. The Gemara rejects this proof: Perhaps one whose studies are beyond his control is different; it is possible he was so absorbed in Torah study that he forgot that he was in a place where it is prohibited to think about sacred matters.

<sup>970</sup> It is taught in the same baraita: One might have thought that one may close his eyes like one who does not see the elder; therefore, the verse states: "Before the hoary head you shall stand, and you shall revere the face of an elder, and you shall fear your God" (Leviticus 19:32). The Gemara expresses surprise at this statement: Is that to say that we are dealing with wicked people who would intentionally act this way to avoid fulfilling a mitzva?

<sup>971</sup> Rather, this means: One might have thought that one may close his eyes before the obligation to stand arrives, i.e., when the elder is still far off. This would mean that when the obligation does arrive he will not see him, such that he would be required to stand before him. In this manner he thinks that he can avoid the obligation altogether. Therefore the verse states: "You shall stand...and you shall fear," i.e., one should fear He who knows the secrets of one's heart.

<sup>972</sup> § A Sage taught: What is the type of standing that indicates reverence? You must say that this applies when it is clear that one is standing in the elder's honor, which is within four cubits of him. Abaye said: We said this halakha, that one must stand within four cubits of the elder, only with regard to one who is not his primary teacher; but for his primary teacher he must stand when he is within his range of vision, i.e., as soon as he sees him, even if he is more than four cubits away.

<sup>973</sup> The Gemara likewise reports that Abaye would stand as soon as he saw the ear of Rav Yosef's donkey coming toward him. The Gemara relates: Abaye was riding a donkey along the bank of the

Sagya River. Rav Mesharshiyya and other rabbis were sitting on the other bank of the river, and they did not stand before him. Abaye said to them: Am I not your primary teacher? You are therefore required to stand before me, despite the fact that I am far away. They said to him: That did not enter our minds, i.e., we did not see you at all.

<sup>974</sup> § It was further stated in the baraita that Rabbi Shimon ben Elazar says: From where is it derived that an elder should not trouble others to honor him? The verse states: “And you shall revere the face of an elder, and you shall fear your God.” Abaye said: We have a tradition that if a Sage circumnavigates an area so that people will not have to stand before him, he will live a long life. The Gemara relates that Abaye would circumnavigate an area, and likewise Rabbi Zeira would circumnavigate an area.

<sup>975</sup> The Gemara cites another incident involving honor one demonstrates for his teacher. Once, when Ravina was sitting before Rabbi Yirmeya of Difti, a certain man passed before him and did not cover his head. Ravina said: How rude is this man, who does not show respect by covering his head in honor of a rabbi. Rabbi Yirmeya of Difti said to him: Perhaps he is from the city of Mata Meḥasya, where rabbis are common and the people living there are consequently not as careful to display honor as those in other places.

<sup>976</sup> § It was stated previously that Isi ben Yehuda says that as the verse states: “Before the hoary head you shall stand,” it indicates that even anyone of hoary head is included, not only a Torah scholar. Rabbi Yoḥanan said: The halakha is in accordance with the opinion of Isi ben Yehuda. The Gemara relates: Rabbi Yoḥanan himself would stand before Aramean, i.e., gentile, elders. He said: How many experiences [harpatkei] have occurred to these individuals. It is appropriate to honor them, due to the wisdom they have garnered from their long lives. Rava would not stand before them, but he displayed reverence to them.

<sup>977</sup> Abaye would extend a hand to elders so that they could lean on him. Rava would send his agent to help them. Rav Naḥman would send officers [goza’ei], his servants, to assist elders. He said: If not for the Torah, how many people named Naḥman bar Abba would there be in the marketplace? In other words, I am not permitted to treat my Torah study lightly by assisting them myself, as I can perform this mitzva through others.

<sup>978</sup> Rabbi Aivu says that Rabbi Yannai says:

<sup>979</sup> A Torah scholar is permitted to stand before his teacher only once in the morning and once in the evening, so that the teacher’s honor should not be greater than the honor of Heaven, as one recites the Shema, which is tantamount to greeting God, once in the morning and once in the evening. The Gemara raises an objection from an aforementioned opinion. Rabbi Shimon ben Elazar says: From where is it derived that an elder should not trouble others to honor him? The verse states: “An elder, and you shall fear” (Leviticus 19:32). The collocation of these words comes to teach that the elder, too, must fear God.

<sup>980</sup> The Gemara explains the objection: And if you say one may stand only in the morning and evening, why does the baraita say an elder should not trouble others? Standing for an elder only twice a day is an obligation for the people, not an imposition. Rather, is it not correct to say that one is obligated to stand before one’s teacher at any point during the day? The Gemara answers: No; actually one is obligated to stand only in the morning and evening, and even so, as much as it is possible for the elder, he should not trouble the people to stand.

<sup>981</sup> § Rabbi Elazar said: Any Torah scholar who does not stand before his teacher is called wicked, and he will not live a long life, and his studies will be forgotten, as it is stated: “But it shall not be well for the wicked, neither shall he prolong his days, which are as a shadow, because he does not fear before [millifnei] God” (Ecclesiastes 8:13). This fear mentioned in the verse, I do not know what it is. When the verse states: “And you shall revere the face [penei] of an elder, and you shall fear your God” (Leviticus 19:32), one can deduce that this fear mentioned in the verse is referring to standing. Consequently, this verse teaches with regard to one who does not stand that he is called wicked, he will not live a long life, and his studies will be forgotten, as indicated by the phrase: “It shall not be well.”

<sup>982</sup> The Gemara asks: But why not say that this is referring to fear of God stated with regard to interest (Leviticus 25:36), or the fear of God stated with regard to weights (Deuteronomy 25:13–16), as the fear of God is mentioned with regard to these prohibitions as well. The Gemara answers: Rabbi Elazar derives this halakha through a verbal analogy of “penei” and “penei,” as explained previously, not from a verbal analogy of the term “fear.”

<sup>983</sup> A dilemma was raised before them: With regard to one who is both a man’s son and his teacher, what is the halakha as to whether that son must stand before his father? The Gemara answers: Come and hear, as Shmuel said to Rav Yehuda: Big-toothed one, stand before your father. Although Rav Yehuda was a great Torah scholar and taught his father, he was still required to stand before him. The Gemara answers: Rav Yehezkel, Rav Yehuda’s father, is different, as he was a man of good deeds, and even Mar Shmuel himself would stand before him.

<sup>984</sup> The Gemara asks: Rather, what is Shmuel saying to Rav Yehuda? If he is not teaching him that one who is his father’s teacher must stand before his father, why did Shmuel say this to Rav Yehuda? The Gemara answers that this is what Shmuel said to him: Sometimes your father comes from behind me and I do not see him or stand before him. Nevertheless, you should stand before him and do not be concerned about my honor.

<sup>985</sup> Another dilemma was raised before them, with regard to one who is both a man’s son and his teacher, what is the halakha as to whether the father must stand before his son? The Gemara answers: Come and hear, as Rabbi Yehoshua ben Levi says: It is not appropriate for me to stand before my son solely due to his greatness in Torah, as I am greater than him. But due to the honor of the household of the Nasi I do stand before him, as his son was a son-in-law of the Nasi.

<sup>986</sup> It may be inferred from here that if his son were not in the household of the Nasi he would not stand for him, and the reason was that he could claim: I am his teacher and therefore I am not obligated to stand before him. Accordingly, Rabbi Yehoshua ben Levi is indicating that if he were my teacher I would stand before him. The Gemara rejects this proof: This is what Rabbi Yehoshua ben Levi is saying: It is not appropriate for me to stand before my son, even if he were my teacher, as I am his father. But due to the honor of the household of the Nasi I do stand before him.

<sup>987</sup> A dilemma was raised before them: If one’s teacher is riding on an animal, is that considered like walking, and therefore one must stand before him, or is he not obligated to stand before him, since he is stationary relative to the animal? Abaye said: Come and hear a resolution from a different issue (Nega’im 13:7): If a leper, who is ritually impure and transfers impurity through a tent, i.e., anyone who enters the location of the leper is rendered impure, is sitting under the branches of a tree, which

form a tent over him, and a pure person is standing under that tree, the pure person is rendered impure.

<sup>988</sup> If the impure person is standing under the tree and the pure person is sitting there, he remains pure. In this case, as the impure person is not settled there, he does not impart ritual impurity in a tent. But if the impure person sat and established his place there, the pure individual is rendered impure.

<sup>989</sup> That mishna adds: And the same halakha applies with regard to a stone afflicted with a leprous sore (see Leviticus, chapter 14), which also imparts impurity of a tent. If one carrying a stone of this kind sits under a tree, a pure person standing under the tree is rendered impure, whereas if the person carrying the stone stands, he does not render the other individual impure. And Rav Naḥman bar Kohen says: That is to say that riding is considered like walking, as although the stone is stationary relative to the person, it is considered to be moving. Conclude from it that in all cases riding is like walking.

<sup>990</sup> A dilemma was raised before them: What is the halakha as to whether one should stand before a Torah scroll? Rabbi Ḥilkiya and Rabbi Simon and Rabbi Elazar say that this dilemma can be resolved by an a fortiori inference: If one stands before those who study the Torah, is it not all the more so true that one should stand before the Torah itself?

<sup>991</sup> The Gemara relates: Rabbi Elai and Rabbi Ya'akov bar Zavdi were sitting and studying Torah. Rabbi Shimon bar Abba passed before them and they stood before him. Rabbi Shimon bar Abba said to them: You are not obligated to do this, for two reasons. One reason is that you are ordained scholars and I am only an associate, i.e., he had not been ordained. And furthermore, does the Torah stand before those who study it? Since you are engaged in Torah study at the present moment you are not required to stand before a Torah scholar.

<sup>992</sup> The Gemara comments: Rabbi Shimon bar Abba holds in accordance with the opinion of Rabbi Elazar, as Rabbi Elazar says: A Torah scholar may not stand before his teacher when he is studying Torah, because he is engaged in honoring the Torah itself. The Gemara adds: Even so, Abaye cursed anyone who acted in accordance with this ruling, as he would give the appearance of one who disrespected his teacher.

<sup>993</sup> § The Gemara continues to discuss the mitzva of standing before a Torah scholar. With regard to the verse: “And they looked after Moses until he was gone into the tent” (Exodus 33:8), Rabbi Ami and Rabbi Yitzḥak Nappaḥa disputed its correct interpretation. One said that this is stated unfavorably, and one said that it is meant favorably. The one who said it was stated unfavorably explains the verse as it is interpreted in the midrash. The one who said it was stated favorably interprets the verse in accordance with that which Ḥizkiyya says.

<sup>994</sup> As Ḥizkiyya says: Rabbi Ḥanina, son of Rabbi Abbahu, said to me that Rabbi Abbahu says that Rabbi Avdimi of Haifa says: If a Torah scholar is passing, one stands before him if he passes within four cubits of him, and once he passes four cubits from him he sits. If the president of the court is passing, one stands before him as soon as he comes within his range of vision. And once he passes four cubits from him, he sits. If the Nasi is passing, one stands before him as soon as he comes within his range of vision, and he does not sit until the Nasi sits in his place, as it is stated: “And they looked after Moses until he was gone into the tent,” and only afterward did they sit. According to this interpretation, the verse is praising the behavior of the Jews.

<sup>995</sup> § The mishna teaches that women are exempt from all positive, time-bound mitzvot. The Sages taught: What is a positive, time-bound mitzva? Examples include residing in a sukkah, and taking the lulav, and blowing the shofar on Rosh HaShana, all of which can be performed only at specific times of the year. And another example is donning ritual fringes, as the mitzva applies only during the daytime due to the verse which states: “Fringes, that you may look upon them” (Numbers 15:39), indicating that the fringes should be seen.

<sup>996</sup> And the donning of phylacteries (Deuteronomy 6:8), which are not worn at night or on Shabbat and Festivals, is also a positive, time-bound mitzva.

<sup>997</sup> And what is a positive mitzva that is not time bound? Examples include the affixing of a mezuzah (Deuteronomy 11:20), the construction of a parapet on a roof (Deuteronomy 22:8), returning a lost item (Deuteronomy 22:1–3), and the release of the mother bird from the nest, i.e., the mitzva of sending away a mother bird when one finds it sitting on chicks or eggs (Deuteronomy 22:6–7).

<sup>998</sup> The Gemara asks: But is this an established principle? But there are the mitzvot of eating matza on the first night of Passover (Exodus 23:15), of rejoicing on a Festival (Deuteronomy 16:9–11), and assembly on Sukkot following the Sabbatical Year (Deuteronomy 31:10–13). And each of these is a positive, time-bound mitzva, and yet women are obligated in them. And furthermore, one can raise a difficulty as follows: But there are the mitzvot of Torah study (Deuteronomy 6:7), procreation (Genesis 1:28), and redemption of the firstborn (Exodus 13:12–13), each of which is not a positive, time-bound mitzva, and yet women are exempt from them.

<sup>999</sup> Rabbi Yoḥanan says: One does not learn practical halakhot from general statements, i.e., when a general statement appears in a mishna and uses the term: All, it is not to be understood as an all-inclusive statement without exceptions. This is the case even in a place where it says: Except, to exclude a specific matter.

<sup>1000</sup> A proof for this is as we learned in a mishna (Eiruv 26b): One can establish a joining of houses in courtyards [eiruv ḥatzerot] and a joining of Shabbat boundaries [eiruv tehumin], and similarly, one can merge courtyards to permit carrying in a joint alleyway on Shabbat. This can be done with all types of food except for water and salt. This is stated as a halakha with specific exceptions, and yet one can ask: Is there nothing else that cannot be used for an eiruv? But there are truffles and mushrooms, which also cannot be used for an eiruv, because they do not offer nourishment. Rather, conclude from this that one may not learn from general statements, even in a place where it says: Except.

<sup>1001</sup> § The Gemara turns to the sources of this principle. From where do we derive that women are exempt from positive, time-bound mitzvot? It is derived by juxtaposition from the mitzva of phylacteries: Just as women are exempt from donning phylacteries, so too, women are exempt from all positive, time-bound mitzvot. And the exemption of women from donning phylacteries is derived from their exemption from Torah study: Just as women are exempt from Torah study, as derived from Deuteronomy 11:19, so too women are exempt from donning phylacteries, as the two issues are juxtaposed in the Torah (Deuteronomy 6:7–8).

<sup>1002</sup> The Gemara asks: And let us say the opposite and juxtapose phylacteries to mezuzah, which is also mentioned in that passage. Mezuzah is a mitzva in which women are also obligated. Based on this comparison, women would be obligated in phylacteries as well. The Gemara answers: Phylacteries are juxtaposed to Torah study in both the first paragraph and in the second paragraph of Shema,

whereas phylacteries are not juxtaposed to mezuzah in the second paragraph. It is therefore preferable to compare phylacteries to Torah study.

<sup>1003</sup> The Gemara says: But if so, let us juxtapose mezuzah to Torah study and say that women are also exempt from the obligation of a mezuzah. The Gemara rejects this suggestion: This could not enter your mind, as it is written with regard to the mitzvah of mezuzah: “That your days may be multiplied” (Deuteronomy 11:21). Can it be said that men need life but women do not need life? Since the reward for the performance of the mitzvah of mezuzah is extended life, this mitzvah applies to women as well.

<sup>1004</sup> The Gemara further asks: But there is the mitzvah of residing in a sukkah, which is a positive, time-bound mitzvah, as it is written: “In sukkot you shall reside seven days” (Leviticus 23:42), referring to seven specific days of the year. Nevertheless, the reason women are exempt from this mitzvah is that the Merciful One writes in the continuation of the verse: “All the homeborn in Israel shall reside in sukkot.” The definite article “the” is an exclusion, and serves to exclude the women from the obligation to reside in a sukkah. It may be derived from here that if that was not so, women would be obligated. This indicates that women do not receive a blanket exemption from every positive, time-bound mitzvah.

<sup>1005</sup> Abaye said: In the case of residing in a sukkah a special verse was necessary to exempt women, as otherwise it might enter your mind to say that since it is written: “In sukkot you shall reside,” this means that you should reside as you dwell in your permanent home: Just as a man and his wife live together in a residence, so too, a man and his wife are obligated to reside together in a sukkah.

<sup>1006</sup> And Rava said:

<sup>1007</sup> It is necessary to state this verse for another reason, as it might enter your mind to say: Derive a verbal analogy with regard to Sukkot, where the verse states: “On the fifteenth day of this seventh month is the festival of Sukkot” (Leviticus 23:34), from Passover, where the verse states: “And on the fifteenth day of the same month is the festival of Passover” (Leviticus 23:6). One would then say that just as there women are obligated to eat matza on the first night of Passover, despite the fact that it is a time-bound mitzvah, so too here, with regard to the mitzvah of residing in the sukkah, women are obligated. Therefore it was necessary for the verse to use the term “the homeborn” to exclude women from the obligation to reside in a sukkah.

<sup>1008</sup> The Gemara further asks: But there is the mitzvah of appearance, i.e., the obligation to bring a burnt-offering on pilgrimage Festivals, which is a positive, time-bound mitzvah. And the reason women are exempt from this obligation is that the Merciful One writes, with regard to this mitzvah: “Three times in the year all of your males shall appear before the Lord God” (Exodus 23:17), which serves to exclude women. It may be derived from here that if that were not so, women would be obligated. This indicates that women are not necessarily exempt from every positive, time-bound mitzvah.

<sup>1009</sup> The Gemara answers: It was necessary for the verse to teach the halakha in this case as well, as it might enter your mind to say: Derive a verbal analogy with regard to appearance, where the verse states: Three times in the year all of your males shall appear,” from the appearance stated with regard to the mitzvah of assembly, about which the verse states: “When all of Israel come to appear before the Lord your God” (Deuteronomy 31:11). One would then say that just as women are obligated in the mitzvah of assembly, so too they should be obligated to appear on a pilgrimage Festival. It is

therefore necessary for the Torah to state explicitly that women are exempt from the mitzva of appearance on a pilgrimage Festival.

<sup>1010</sup> With regard to the primary proof for the principle that women are exempt from positive, time-bound mitzvot, the Gemara asks: But before deriving the halakha from phylacteries, to exempt women from all positive, time-bound mitzvot, derive it from the mitzva of rejoicing on a Festival, in which women are obligated, to obligate women in all these mitzvot. Abaye said: The mitzva of rejoicing does not apply directly to women. Rather, a woman is rendered joyful by her husband, i.e., the mitzva is for him to gladden her on a Festival.

<sup>1011</sup> The Gemara asks: What can be said with regard to a widow, who no longer has a husband but is nevertheless obligated to be joyful on a Festival, as it is written: “And you shall rejoice before the Lord your God, you...and the widow” (Deuteronomy 16:11)? The Gemara answers that the mitzva does not apply directly to a widow; rather, it applies to the men with whom she is present, i.e., they have an obligation to ensure that widows rejoice on the Festivals.

<sup>1012</sup> The Gemara asks: But why not derive that women are obligated in all positive, time-bound mitzvot from the mitzva of assembly, in which women are explicitly obligated despite the fact that it is a time-bound mitzva. The Gemara answers: One cannot derive in this manner, because the verses concerning matza and assembly are two verses that come as one, i.e., to teach the same matter, that women are obligated in these mitzvot despite the fact that these are positive, time-bound mitzvot. And there is a principle that any two verses that come as one do not teach a precedent that applies to other cases. Rather, the two instances are considered exceptions.

<sup>1013</sup> The Gemara asks: If so, the verses concerning phylacteries and appearance are also two verses that come as one, as they both indicate that women are exempt from positive, time-bound mitzvot, and therefore the verses do not teach a precedent. The Gemara answers: These are not considered as two verses that come as one, as both are necessary, each for its own reason. As, if the Merciful One had written that women are exempt from donning phylacteries and had not written that they are exempt from the mitzva of appearance, I would say: Derive a verbal analogy to obligate women from the verse stated with regard to appearance from the appearance stated with regard to the mitzva of assembly. Therefore, it is necessary for the Torah to teach that women are exempt from the mitzva of appearance.

<sup>1014</sup> And if the Merciful One had written that women are exempt from appearance, and had not written that they are exempt from donning phylacteries, I would say: I will compare phylacteries to mezuzah, which would mean that women are obligated in the mitzva of phylacteries. Therefore, it is necessary to state this halakha for both phylacteries and appearance, and they are not two verses that come as one.

<sup>1015</sup> The Gemara asks: If so, the verses concerning matza and assembly are also necessary, each for its own reason, and they are not two verses that come as one either. The Gemara rejects this suggestion: For what purpose are both of them necessary? Granted, if the Merciful One had written that women are obligated in the mitzva of assembly but had not written that they are obligated in eating matza, I would say: Derive a verbal analogy with regard to Passover, where the verse states: “And on the fifteenth day of the same month is the festival of Passover” (Leviticus 23:6), from Sukkot, where the verse states: “On the fifteenth day of this seventh month is the festival of Sukkot” (Leviticus 23:34), teaching that women are exempt from eating matza, just as they are exempt from

residing in a sukkah. Therefore, it is necessary for a verse to teach that women are obligated in eating matza.

<sup>1016</sup> But let the Merciful One write that women are obligated in eating matza, and it would not be necessary to state the same halakha with regard to assembly, and I would say on my own: If children are obligated in assembly, as is stated explicitly in the verse “Assemble the people, the men and the women and the children” (Deuteronomy 31:12), are women not all the more so obligated? Therefore, as it is explicitly stated that women are obligated in assembly, the verses concerning matza and assembly are two verses that come as one, and consequently do not teach a precedent.

<sup>1017</sup> The Gemara asks: This works out well according to the one who says as a principle that two verses that come as one do not teach a precedent. But according to the one who says that two verses that come as one do teach a precedent, what can be said?

<sup>1018</sup> And furthermore, one can ask: From where do we derive that women are obligated in positive mitzvot that are not time bound? The Gemara answers that one derives this from the mitzva of fearing one’s mother and father: Just as women are obligated in the mitzva of fear (Leviticus 19:3), so too, women are obligated in every positive mitzva that is not time bound.

<sup>1019</sup> The Gemara asks: But why not derive the opposite from Torah study: Just as women are exempt from Torah study, so too they should be exempt from all positive mitzvot that are not time bound. The Gemara answers: One cannot derive an exemption for women from their exemption from Torah study, because Torah study and procreation are two verses that come as one, as in both cases women are exempt, despite the fact that these are not time-bound mitzvot. And any two verses that come as one do not teach a precedent.

<sup>1020</sup> The Gemara asks: And according to the opinion of Rabbi Yoḥanan ben Beroka, who says that with regard to both of them, men and women, the verse states: “And God blessed them, and God said to them: Be fruitful and multiply, replenish the earth and conquer it” (Genesis 1:28), what can be said? According to his opinion, women are exempt from only one positive mitzva that is not time bound, Torah study; why not derive other mitzvot from this case? The Gemara answers: The reason this is not a difficulty is because Torah study and the redemption of the firstborn son, from which women are also exempt, are two verses that come as one, and any two verses that come as one do not teach a precedent.

<sup>1021</sup> The Gemara asks: And according to the opinion of Rabbi Yoḥanan ben Beroka as well, let procreation, which he maintains applies to women, and fear of one’s mother and father be considered two verses that come as one and they should not teach a precedent. The Gemara answers: Both cases are necessary. As, if the Merciful One had written only that women are obligated in fear of their parents, and had not written that they are obligated in procreation, I would say that as the Merciful One states: “Be fruitful and multiply, replenish the earth and conquer it” (Genesis 1:28), this leads to the conclusion that women are exempt from procreation, by the following reasoning: As it is the manner of a man to go to war and to conquer, yes, he is obligated in procreation, but as it is not the manner of a woman to conquer, she is not obligated in procreation.

<sup>1022</sup> And if the Merciful One had written only that women are obligated in the mitzva of procreation, and had not written that they are obligated to fear their parents, I would say: With regard to a man, as it is in his power to perform this mitzva, yes, he is obligated to fear his mother and father, but with regard to a woman, as it is not in her power to perform this mitzva when she is married, since her



obligations to her husband may prevent her from doing so, she is not obligated. And as it is not in her power to perform this mitzva when she is married, perhaps women should not be obligated at all and there should be no difference between a married and an unmarried woman. Therefore, it is necessary for the Torah to state that women are obligated in both procreation and the fear of parents, and these are not considered two verses that come as one.

<sup>1023</sup> The Gemara notes that the earlier question remains difficult: This works out well according to the one who says that two verses that come as one do not teach a precedent. But according to the one who says that two verses that come as one do teach a precedent, what can be said? According to this opinion it can be derived that women are obligated in positive, time-bound mitzvot from matza and assembly, and that they are exempt from positive mitzvot that are not time bound, from Torah study and the redemption of the firstborn son. Rava said: The Sages of Pafunya know the reason for this matter.

<sup>1024</sup> The Gemara comments: And who is the scholar called by the nickname: The Sages of Pafunya? It is Rav Aḥa bar Ya'akov, who said as follows: The verse states with regard to phylacteries: "And it shall be a sign for you on your arm and for a memorial between your eyes, that the Torah of the Lord may be in your mouth" (Exodus 13:9). In this manner the entire Torah is juxtaposed to phylacteries: Just as donning phylacteries is a positive, time-bound mitzva and women are exempt from it, so too are women exempt from every positive, time-bound mitzva in the Torah. And from the fact that women are exempt from every positive, time-bound mitzva, one can learn by inference that women are obligated in every positive mitzva that is not time bound.

<sup>1025</sup> The Gemara asks: This works out well according to the one who says that the mitzva of donning phylacteries is a positive, time-bound mitzva. But according to the one who says that donning phylacteries is a positive mitzva that is not time bound, as it is applicable the entire year, day and night, what can be said? The Gemara answers: Who did you hear who said that donning phylacteries is a positive mitzva that is not time bound? It is Rabbi Meir, and he holds that matza and assembly are verses that come as one, and he further maintains that any two verses that come as one do not teach a precedent.

<sup>1026</sup> The Gemara asks: And according to the opinion of Rabbi Yehuda, who says that two verses that come as one do teach a precedent, and who also says that donning phylacteries is a positive mitzva that is not time bound, what can be said? The Gemara answers: It is not derived from here that women are obligated in positive, time-bound mitzvot because the verses that mention matza, rejoicing, and assembly are three verses that come as one, and everyone agrees three verses that come as one do not teach a precedent.

<sup>1027</sup> § The mishna further teaches: And with regard to all prohibitions, whether or not they are time bound, both men and women are obligated to observe them. The Gemara asks: From where are these matters derived? Rav Yehuda says that Rav says, and likewise the school of Rabbi Yishmael taught: The verse states with regard to a guilt-offering: "When a man or woman shall commit any sin that a person commits" (Numbers 5:6). The verse equates a woman to a man with regard to all punishments in the Torah, as a woman is also required to bring an offering for atonement.

<sup>1028</sup> The school of Rabbi Eliezer taught as follows. The verse states: "Now these are the ordinances which you shall set before them" (Exodus 21:1), stating "them" in the plural. This verse equates a woman to a man with regard to all judgments in the Torah, i.e., monetary cases and damages. The

school of Hīzkiyya taught: The verse states, with regard to the ransom one pays if his animal killed a person: “And killed a man or woman” (Exodus 21:29). Here too, the verse equates a woman to a man, with regard to all deaths in the Torah, i.e., the same halakha applies to an animal that kills either a man or a woman.

<sup>1029</sup> The Gemara comments: And it is necessary to state all three of these verses. As, if the Torah had taught us only this first case, with regard to a woman’s obligation to sacrifice guilt-offerings, I would say that the Merciful One has pity on her due to atonement, i.e., God gave her the possibility to atone for her sin through an offering. But with regard to monetary judgments, I would say that with regard to a man, who generally conducts business negotiations, yes, these halakhot apply to him, but in the case of a woman, who generally does not conduct business negotiations, no, the halakhot of monetary judgments do not apply to her.

<sup>1030</sup> And similarly if the Torah had taught us only this case of monetary judgments, I would say that these judgments apply to a woman, because there are circumstances where engaging in business is her livelihood. But with regard to the ransom that is paid when one’s animal killed someone, I would say:

<sup>1031</sup> If the animal killed a man, who is commanded in all mitzvot, yes, its owner should have to pay the ransom, but if the animal killed a woman, who is obligated in only some mitzvot, no, he is exempt from the ransom. And conversely: If the Torah had taught us that men and women are equated only in this case of the ransom, one might say that because there is the loss of life the Merciful One has pity on her and therefore the owner of the animal is always obligated to pay the ransom. But with regard to those two other categories, I might say no, a woman is not equated to a man. Therefore it was necessary to mention them all.

<sup>1032</sup> § The mishna teaches that women are obligated in all prohibitions except for the prohibitions of: Do not round the corners of one’s head, and: Do not destroy the corners of your beard, and: Do not contract ritual impurity from a corpse. The Gemara asks: Granted, a woman of priestly lineage is not obligated in the mitzva of: Do not contract ritual impurity from a corpse, as it is written: “Speak to the priests, the sons of Aaron, and say to them: None shall become impure for the dead among his people” (Leviticus 21:1). This verse teaches that the prohibition applies to the sons of Aaron, but not the daughters of Aaron. But from where do we derive the prohibitions of: Do not round the corners of one’s head, and: Do not destroy the corners of your beard?

<sup>1033</sup> The Gemara answers that this is as it is written: “You shall not round the corners of your head and you shall not destroy the corners of your beard” (Leviticus 19:27). The juxtaposition of the two prohibitions teaches that anyone who is included in the prohibition against destroying the beard is included in the prohibition against rounding the head. And since these women are not included in the prohibition against destroying, they are also not included in the prohibition against rounding the head.

<sup>1034</sup> The Gemara asks: And from where do we derive that women are not obligated in the prohibition against destroying the corners of one’s beard? The Gemara answers: If you wish, propose a logical reason, as ordinarily women do not have a beard. And if you wish, cite a verse that teaches this point, as the verse states: “You shall not round the corners of your head [roshekhem] and you shall not destroy the corners of your beard [zekanekha]” (Leviticus 19:27).

<sup>1035</sup> The Gemara explains: From the fact that the verse changed its language, as the term “your head [roshekhēm]” is in the plural while “your beard [zekanekha]” is in the singular, it can be inferred that if so, if the prohibition against destroying one’s beard applied to everyone, let the Merciful One write: And you shall not destroy the corners of your beards [zekanekhem], in the plural, so that the end of the verse parallels the beginning. What is indicated by the fact that the verse states: “And you shall not destroy the corners of your beard [zekanekha],” in the singular? This serves to teach: Your beard is included, but not your wife’s beard.

<sup>1036</sup> The Gemara asks: And is a woman not included in this prohibition? But isn’t it taught in a baraita (Tosefta, Nega’im 4:8): The beard of a woman and that of a eunuch, if they grow facial hair, are considered like a beard for all matters. What, is it not the case that this statement is referring to the prohibition against destroying?

<sup>1037</sup> Abaye said: You cannot say that the baraita is referring to destroying, as it is derived that a woman is exempt through the verbal analogy of “the corners of your beard” (Leviticus 19:27) here and “the corners of their beard” (Leviticus 21:5) from the sons of Aaron: Just as there, in the case of priests, women are certainly exempt from the mitzva, as the verse is referring to the male descendants of Aaron who perform the Temple service and not to women, so too here, with regard to the prohibition against destroying one’s beard, which is stated to all Jews, women are exempt. At this stage the Gemara assumes that the exclusion of women denoted by the verse: “Speak to the priests, the sons of Aaron” (Leviticus 21:1), which excludes women, is applied to all the mitzvot stated in that chapter, including destroying the corners of one’s beard.

<sup>1038</sup> The Gemara asks: But if we maintain that when the Merciful One writes: “The sons of Aaron” (Leviticus 21:1), it is written with regard to the entire manner of that chapter, including the prohibition against destroying one’s beard, let the verse, i.e., the Torah, be silent and not state about this prohibition concerning all Jews. And this halakha could be derived through an a fortiori inference, as I could say the following: And if with regard to priests, for whom the verse includes additional mitzvot, this prohibition applies only to the sons of Aaron and not the daughters of Aaron, is it not all the more so the case with regard to Israelites, who have fewer mitzvot, that only men should be obligated and not women?

<sup>1039</sup> The Gemara answers: Nevertheless, the verbal analogy is necessary. Were it not for the verbal analogy, I would say that the halakhot of ritual impurity concluded discussion of that matter. In other words, the exclusion of women denoted by the phrase “the sons of Aaron” applies only to the halakhot of impurity, which appear immediately after that phrase. Conversely, the other halakhot mentioned in this chapter, including the prohibition against destroying the beard, apply to women as well.

<sup>1040</sup> The Gemara asks: If so, now too, let us say that the halakhot of ritual impurity concluded discussion of that matter, and the daughters of Aaron are also prohibited to destroy their beards. And if you maintain that the reason the prohibition stated with regard to priests does not apply to women is due to the verbal analogy employing the term “the corners of,” which serves to connect the halakha stated with regard to priests with the halakha stated with regard to all Jews, that verbal analogy is necessary for that which is taught in a baraita: The verse states with regard to priests: “Neither shall they shave off the corners of their beard” (Leviticus 21:5). One might have thought that a priest would be liable even if he shaved his beard with scissors. Therefore the verse states, in a command

issued to all Jews: “And you shall not destroy the corners of your beard” (Leviticus 19:27). This teaches that one is liable only for destroying the beard to the root, which is not achieved with scissors.

<sup>1041</sup> The baraita continues: One might have thought that if he extracted his hairs with tweezers, which uproot hairs, or small planes [uvirhitni], he should likewise be liable for destroying his hair. The verse therefore states: “Neither shall they shave off the corners of their beard,” to teach that shaving alone is prohibited and these actions are not considered shaving. How can both these requirements for the prohibition be met? The verse is referring to a type of shaving that involves destruction. You must say this is shaving with a razor. According to this baraita, the verbal analogy is necessary to define the action included in the prohibition against destroying, not to teach who is included in the prohibition.

<sup>1042</sup> The Gemara explains: If it is so that the verbal analogy teaches only which action is included in the prohibition against destroying, let the verse write: That which is of your beard. What is added by the expression “the corners of your beard”? Conclude two conclusions from it, both the definition of the prohibition against shaving and the exemption of women.

<sup>1043</sup> The Gemara returns to its question. But that which is taught in the baraita: The beard of a woman and that of a eunuch, if they grew facial hair, are considered like a beard for all matters, with regard to what halakha is this stated? Mar Zutra says: It is stated with regard to ritual impurity from leprosy. A leprous sore in the beard of a woman or a eunuch is treated like an affliction of the beard, not like an affliction on the skin. Different halakhot apply to leprous sores that develop on various parts of the body.

<sup>1044</sup> The Gemara objects: Concerning ritual impurity from leprosy, it is written explicitly: “And when a man or woman has a plague upon the head or upon the beard” (Leviticus 13:29). This indicates that there is no difference between a man and woman with regard to the beard in the case of leprosy. The baraita would not state a halakha that is explicit in the verse. Rather, Mar Zutra says: This baraita is referring to ritual purification from leprosy, i.e., women can also be purified from leprosy of the beard.

<sup>1045</sup> The Gemara asks: With regard to ritual purification from leprosy it is also obvious: Since impurity applies to a woman, purity likewise applies to her. The Gemara answers: It was necessary to state this with regard to the impurity of afflictions of the beard, as it might enter your mind to say that this verse is written disjunctively, i.e., that the phrase: “And when a man or woman has a plague upon the head,” applies to both a man or a woman; whereas when it states: “Or upon the beard,” we have come back to the case of a man alone. Therefore the baraita teaches us that this phrase is not referring solely to a man, as there is no difference between a man and a woman with regard to leprosy.

<sup>1046</sup> Isi taught in a baraita: Women are also exempt from the prohibition: Do not make baldness upon your heads, a prohibition against tearing out one’s hair in grief over someone’s death. The Gemara asks: What is the reason of Isi? The Gemara explains that he teaches as follows: The verse states: “You are the sons of the Lord your God; you shall not cut yourselves, nor make any baldness between your eyes for the dead. For you are a holy people to the Lord your God” (Deuteronomy 14:1–2). This verse, which applies to sons and not daughters, is referring to causing baldness, and therefore this prohibition includes only men.

<sup>1047</sup> The Gemara asks: Do you say that this is referring to causing baldness, or is it perhaps referring only to the prohibition against cutting, which appears first? The Gemara answers that when it states: “For you are a holy people to the Lord your God,” it is stated with regard to the prohibition against cutting, and this verse applies to both men and women, as they are all members of God’s people. How then do I realize and explain the emphasis on sons and not daughters? This is referring to the prohibition against causing baldness.

<sup>1048</sup> The Gemara asks: And what did you see to include cutting and to exclude causing baldness? Perhaps the opposite is true, and causing baldness applies to men and women whereas cutting applies only to men. The Gemara answers: I include cutting, whose prohibition is broader, as it is applicable both in a place of hair and not in a place of hair; and I exclude causing baldness, which is more limited, as it applies only in a place of hair.

<sup>1049</sup> The Gemara asks: But one can say that the limitation of sons and not daughters applies both to causing baldness and to cutting, and when the verse writes: “For you are a holy people to the Lord your God,” that is written with regard to scoring oneself. The prohibition against scoring oneself is derived from a verbal analogy from a verse stated with regard to priests (see Leviticus 21:5), which applies to both men and women. The Gemara answers: Isi maintains that scoring oneself and cutting  
<sup>1050</sup> are one prohibition.

<sup>1051</sup> Abaye said that this is the reason of Isi for exempting women from the prohibition against baldness: As he learns the prohibition against causing baldness in grief over someone who is dead through a verbal analogy from the prohibition against causing baldness stated with regard to the sons of Aaron. The verse states with regard to priests: “They shall not make baldness upon their head” (Leviticus 21:5). Just as there, with regard to priests, women are exempt, as the expression “the sons of Aaron” serves to exclude the daughters of Aaron, so too here, women are exempt.

<sup>1052</sup> The Gemara asks: But if we maintain that when the Merciful One writes: “The sons of Aaron” (Leviticus 21:1), it is written with regard to the entire matter of that chapter, including the prohibition against causing baldness, let the verse be silent about this prohibition concerning all Jews. And this halakha could be derived through an a fortiori inference, as I could say the following: If in the case of priests, for whom the verse includes additional mitzvot, the prohibition against causing baldness applies only to the sons of Aaron and not the daughters of Aaron, is it not all the more so the case with regard to Israelites, who have fewer mitzvot, that only the men should be obligated and not the women?

<sup>1053</sup> The Gemara answers: Nevertheless, the verbal analogy is necessary. As, were it not for the verbal analogy I would say that the halakhot of ritual impurity concluded discussion of that matter, and the prohibition against causing baldness applies to all the descendants of Aaron, including women.

<sup>1054</sup> The Gemara asks: If so, now too, let us say that the halakhot of ritual impurity concluded discussion of that matter, and it is prohibited for the daughters of Aaron as well to cause baldness. And if you maintain that the reason the prohibition stated with regard to priests does not apply to women is due to the verbal analogy employing the term “make baldness,” which serves to connect the halakha stated with regard to priests with the halakha stated with regard to all Jews, this verbal analogy is necessary for that which is taught in a baraita: The verse states: “They shall not make baldness [yikreḥu korḥa]” (Leviticus 21:5). If the verse had stated only “yikreḥu,” one might have

thought that even if one made four or five patches of baldness he would be obligated for only one violation, as there is only one prohibition against making a bald spot. Therefore the verse also states “korḥa,” to render him liable for each and every one of the bald spots.

<sup>1055</sup> The baraita continues: What is the meaning when the verse states: “Upon their head” (Leviticus 21:5), with regard to the prohibition against a priest causing baldness? Because it is stated: “You shall not cut yourselves, nor make any baldness between your eyes for the dead” (Deuteronomy 14:1), one might have thought that he is obligated only for removing the hair between the eyes. From where is it derived to include the entire head in this prohibition? When the verse states “upon their head,” it serves to render a priest liable for removing hair on his entire head like the spot between the eyes.

<sup>1056</sup> The baraita continues: And I have derived only that this halakha applies to priests, for whom the verse includes additional mitzvot; from where do we derive that it applies to every Israelite, i.e., all Jews are liable for each and every bald spot and for the entire head? It is stated here, with regard to priests, “baldness,” and it is stated there, with regard to non-priests, “baldness.” Just as here, with regard to priests, one is obligated for each and every bald spot, and one is obligated for the entire head like the spot between the eyes, so too there, with regard to all Jews, one is obligated for each and every bald spot, and one is obligated for the entire head like the spot between the eyes.

<sup>1057</sup> The baraita continues: And conversely, just as there, in the case of Israelites, it is referring specifically to causing baldness over someone who is dead, so too here, with regard to priests, it is prohibited to cause baldness only over someone who is dead, not in other circumstances. This baraita shows that the verbal analogy is required for the halakhot of bald spots. How, then, can it teach the exemption of women? The Gemara answers: If it is so that it may be used only for one purpose, let the verse be written merely bald [kerah]. What is meant by the term “baldness [korḥa]”? Conclude two conclusions from it, both the verbal analogy that exempts women and the halakha that each bald spot constitutes a separate violation.

<sup>1058</sup> Rava said that this is Isi’s reason, as he derives the verbal analogy of “between your eyes” with regard to baldness from phylacteries, concerning which it says: “And they shall be for frontlets between your eyes” (Deuteronomy 11:18): Just as there, with regard to phylacteries, women are exempt, so too here, in the case of baldness, women are exempt. The Gemara asks: And what is the reason that Rava did not state the same reason as Abaye? The Gemara answers: Rava does not learn anything from the distinction between kerah and korḥa, as he maintains that no halakha can be derived from this slight difference in language.

<sup>1059</sup> The Gemara further asks: And what is the reason that Abaye did not state the same reason as Rava? The Gemara answers that Abaye could have said to you: Phylacteries themselves are derived from here, i.e., the meaning of the phrase “between your eyes” stated with regard to phylacteries is understood from the case of baldness: Just as there, with regard to a bald spot, “between your eyes” is referring to a place where baldness is formed, a spot where there is hair, which is on the upper part of the head but not actually between the eyes, so too, the place where phylacteries are donned is on the upper part of the head.

<sup>1060</sup> The Gemara asks: And both Abaye and Rava, what do they derive from this verse: “You are the sons to the Lord your God” (Deuteronomy 14:1)? According to the first explanation of Isi’s opinion, the exclusion of women is derived from this phrase, whereas they derive that halakha from a

different source. The Gemara answers: This verse is necessary for that which is taught in a baraita: The verse: “You are the sons to the Lord your God,” indicates that when you act like sons and cleave to the Holy One, Blessed be He, you are called sons, but when you do not act like sons you are not called sons. This is the statement of Rabbi Yehuda.

<sup>1061</sup> And Rabbi Meir says: Either way you are still called sons, as it is stated: “They are foolish sons” (Jeremiah 4:22). And it also states: “Sons in whom there is no faithfulness” (Deuteronomy 32:20). And it states: “A seed of evildoers, sons who deal corruptly” (Isaiah 1:4). And it states: “And it shall come to pass that, instead of what was said to them: You are not My people, it shall be said to them: Sons of the living God” (Hosea 2:1).

<sup>1062</sup> The Gemara asks: Why is it necessary to cite these additional proofs introduced by the phrase: And it states? All these verses apparently make the same point. The Gemara explains why all the quotes are necessary. And if you would say: Granted, when they are foolish they are still called sons, as the verse states: “Foolish sons,” but when they do not have faithfulness they are not called sons; therefore, come and hear another verse. And that verse states: “Sons in whom there is no faithfulness.”

<sup>1063</sup> And if you would say: It is when they do not have faithfulness that they are called sons, as stated, but when they worship idols they are not called sons anymore; therefore, come and hear: And the verse states: “A seed of evildoers, sons who deal corruptly,” which alludes to the corruption of idol worship. And if you would say that although they are called “sons who deal corruptly,” they are no longer called full-fledged sons of God once they have sinned, come and hear: And the verse states: “And it shall come to pass that, instead of what was said to them: You are not My people, it shall be said to them: Sons of the living God.” This verse indicates that when the Jews repent they are again called full-fledged sons of God.

<sup>1064</sup> MISHNA: With regard to the placing of hands on the head of an offering, and the waving of certain offerings, and the bringing near of meal-offerings to the corner of the altar, and the removal of a handful from meal-offerings, and the burning of sacrificial parts on the altar, and the pinching of bird-offerings, and the collecting of blood of offerings in a vessel, and the sprinkling of blood, these apply to men and not to women. All these mitzvot apply specifically to men and not to women, except for the meal-offering of a sota, and the meal-offering of a nazirite woman, which these women wave.

<sup>1065</sup> GEMARA: From where is it derived that placing of hands on the head of an offering applies only to men? As it is written: “Speak to the sons of Israel...and he shall place his hand” (Leviticus 1:2–4), which indicates that the sons of Israel place hands on offerings, but the daughters of Israel do not place hands.

<sup>1066</sup> The Gemara explains that the halakha of waving is derived from the following verse: “Speak to the sons of Israel...and he shall wave” (see Leviticus 7:29–30), which likewise teaches that the sons of Israel wave, but the daughters of Israel do not wave.

<sup>1067</sup> § With regard to bringing near, this is as it is written: “And this is the law of the meal-offering: The sons of Aaron shall bring it near” (Leviticus 6:7). This teaches that the sons of Aaron bring the meal-offering near, but not the daughters of Aaron.

<sup>1068</sup> With regard to the removal of a handful, this is as it is written: “And he shall bring it to the sons of Aaron, the priests, and he shall remove a handful” (Leviticus 2:2). This teaches that the sons of Aaron take a handful, but not the daughters of Aaron.

<sup>1069</sup> With regard to the burning of sacrificial parts, this is as it is written: “And the sons of Aaron shall burn it” (Leviticus 3:5). This teaches that it is the sons of Aaron who burn the parts, but not the daughters of Aaron.

<sup>1070</sup> With regard to pinching, this is as it is written: “And he shall pinch...and he shall burn” (Leviticus 1:15). The verse juxtaposes killing to burning, and just as the burning of an offering must be performed by men, so too pinching may be performed only by men.

<sup>1071</sup> With regard to receiving, this is as it is written: “And the sons of Aaron shall present the blood” (Leviticus 1:5). And the Master said in explanation of this verse:

<sup>1072</sup> “And the sons of Aaron shall present,” this is collecting the blood.

<sup>1073</sup> The Gemara discusses the mishna’s ruling that women do not perform sprinkling: To which sprinkling is this referring? If this is the sprinkling of the ashes of the red heifer, “Elazar” is written with regard to that action (Numbers 19:4), i.e., this sprinkling is performed by the deputy High Priest. If even other priests cannot perform it, certainly women cannot. If this is referring to the sprinkling performed inside the Holy of Holies, the phrase: “The anointed priest” (Leviticus 4:16), is written with regard to that rite, and consequently there is no question that women are ineligible. Rather, it is referring to sprinkling the blood of a bird-offering.

<sup>1074</sup> The Gemara explains that this is derived through an a fortiori inference from a sheep offering: If with regard to a sheep offering, concerning which the Torah did not establish a priest for its slaughter, since it may be slaughtered by anybody, the Torah nevertheless established a priest for its sprinkling, as the verse states: “And the sons of Aaron, the priests, shall sprinkle its blood” (Leviticus 1:11), is it not logical that with regard to a bird-offering, concerning which the Torah established a priest for its pinching, an act parallel to slaughtering a sheep, the Torah likewise established a priest for its sprinkling? This proves that the sprinkling of the blood of a bird-offering can be performed only by priests, not by women.

<sup>1075</sup> § The mishna teaches that these mitzvot apply specifically to men but not to women, except for the meal-offering of a sota and a nazirite woman, which these women wave. Rabbi Elazar said to Rabbi Yoshiya of his generation, i.e., the amora who was his contemporary, not the tanna with the same name who lived earlier: Do not sit down until you explain this statement to me; from where is it derived that the meal-offering of a sota requires waving? The Gemara expresses surprise: What is the meaning of the question: From where do we derive it? It is written in the chapter dealing with a sota itself: “And he shall wave the meal-offering” (Numbers 5:25). Rather, the question is as follows: From where do we derive that the waving is performed by the owners? Perhaps only the priest waves it?

<sup>1076</sup> Rabbi Yoshiya responded: This halakha is derived through the verbal analogy of the term “hand” stated with regard to a sota from the term “hand” stated with regard to a peace-offering. It is written here, with regard to the meal-offering of a sota: “And the priest shall take the meal-offering of jealousy from the woman’s hand and he shall wave the meal-offering” (Numbers 5:25), and it is



written there: “His own hands shall bring the offerings of the Lord made by fire; the fat with the breast shall he bring, that the breast may be waved before the Lord” (Leviticus 7:30).

<sup>1077</sup> Just as here, with regard to a sota, a priest performs the waving, so too there, with regard to a peace-offering, a priest performs the waving. And just as there, with regard to a peace-offering, the owner performs the waving, as indicated by the verse, so too here, with regard to a sota, the owner performs the waving. How so? How can both the priest and the owner perform the waving? The owner places his hands beneath the peace-offering, and the priest places his hand under the hand of the owner and waves it together with him.

<sup>1078</sup> The Gemara asks: We found a source for the meal-offering of a sota; from where do we derive that a nazirite woman also waves her meal-offering? The Gemara answers: It is derived through a verbal analogy of the term “palm” stated with regard to naziriteship from the term “palm” stated with regard to a sota. The verse concerning naziriteship states: “And he shall place them upon the palms of the nazirite” (Numbers 6:19), and the verse concerning a sota states: “And he shall place it on her palms” (Numbers 5:18). Just as a sota waves her meal-offering, so too, a nazirite woman waves hers.

<sup>1079</sup> MISHNA: Any mitzva that is dependent on the land [aretz] applies only in Eretz Yisrael, and any mitzva that is not dependent on the land applies both in Eretz Yisrael and outside of Eretz Yisrael.

<sup>1080</sup> This is apart from the mitzvot of orla and diverse kinds, which apply even outside of Eretz Yisrael. Rabbi Eliezer says: This is the halakha even with regard to the prohibition to eat from the new crop before the omer offering has been brought on the sixteenth of Nisan.

<sup>1081</sup> GEMARA: The Gemara asks: What is meant by mitzvot that are dependent on the land, and what is meant by mitzvot that are not dependent on the land? If we say that a mitzva is called dependent in a case where it is written in a verse with regard to it: Coming to Eretz Yisrael, and a mitzva that is not dependent on the land is one concerning which the verb: Coming, or the verb: Bringing, is not written in a verse with regard to it, that would lead to a difficulty: But aren't there the mitzvot of donning phylacteries and the redemption of the firstborn donkey, in which the verse states: Bringing, in the passage: “And it shall be when the Lord shall bring you to the land of the Canaanite...And every firstborn of a donkey you shall redeem with a lamb...And it shall be for a sign upon your hand, and for frontlets between your eyes” (Exodus 13:11–16), and yet those mitzvot apply both in Eretz Yisrael and outside of Eretz Yisrael.

<sup>1082</sup> Rav Yehuda said that this is what the mishna is saying: Any mitzva that is an obligation of the body, i.e., an obligation upon the person, applies both in Eretz Yisrael and outside of Eretz Yisrael. Conversely, an obligation of the land, that is, a mitzva that applies specifically to the earth and its growths, applies only in Eretz Yisrael.

<sup>1083</sup> The Gemara asks: From where are these matters derived? The Gemara answers: This is as the Sages taught in a baraita: The verse states: “These are the statutes and the ordinances that you shall observe to do in the land that the Lord, the God of your fathers, has given you to possess it, all the days that you live upon the earth” (Deuteronomy 12:1). This verse is interpreted as follows: The phrase “these are the statutes” means that these are the expositions that the Sages learn from verses. With regard to the phrase “and the ordinances,” these are monetary laws. With regard to “that you shall observe,” this is referring to the study of matters that must be observed for one to perform them. And as for the phrase “to do,” this is referring to action, the actual performance of mitzvot.

<sup>1084</sup> The baraita continues: From the phrase “in the land [ba’aretz],” one might have thought that all mitzvot apply only in Eretz Yisrael. Therefore, the verse also states “all the days that you live upon the earth,” i.e., wherever you live. Furthermore, if the Merciful One had written only the phrase “all the days,” one might have thought that all mitzvot should apply both in Eretz Yisrael and outside of Eretz Yisrael. Therefore, the verse also states “in the land.”

<sup>1085</sup> The baraita continues: Once the verse includes areas outside of Eretz Yisrael and also excludes areas outside of Eretz Yisrael, how is it determined which mitzvot apply outside the land and which do not? The baraita answers: Go and learn from what is stated with regard to a different issue that appears in the next verse: “You shall destroy all the places where the nations that you are to dispossess served their gods” (Deuteronomy 12:2). Just as the prohibition of idol worship is distinct in that it is an obligation of the body, and it applies both in Eretz Yisrael and outside of Eretz Yisrael, so too, any mitzva that is an obligation of the body applies both in Eretz Yisrael and outside of Eretz Yisrael. Conversely, mitzvot that are an obligation connected to the land apply only in Eretz Yisrael.

<sup>1086</sup> § The mishna teaches that all mitzvot that are dependent on the land apply only in Eretz Yisrael, apart from orla and the prohibition of diverse kinds. Rabbi Eliezer says: This is the halakha even with regard to the prohibition to eat from the new crop. A dilemma was raised before them: Does Rabbi Eliezer disagree with the first tanna with the intent to rule more leniently or does he disagree with the first tanna with the intent to rule more stringently?

<sup>1087</sup> The Gemara elaborates: It is possible that Rabbi Eliezer disagrees with the first tanna with the intent to rule more stringently, and this is what the first tanna is saying: All mitzvot that are dependent on the land apply only in Eretz Yisrael, apart from orla and diverse kinds, as we learned this halakha through a tradition transmitted to Moses from Sinai. Although one could say that each of them is an obligation of the land and should apply only in Eretz Yisrael, nevertheless they are obligatory outside of Eretz Yisrael as well. But the prohibition of the new crop, which is an obligation of the land, yes, it applies in Eretz Yisrael, but outside of Eretz Yisrael, no, it does not apply.

<sup>1088</sup> What is the reason of the first tanna? In the verse that states with regard to the new crop: “In all your dwellings” (Leviticus 23:14), the term dwelling does not mean that this halakha applies wherever Jews live. Rather, it means that the mitzva is applicable only in Eretz Yisrael, as this phrase indicates a time after inheritance and settlement of Eretz Yisrael by the Jewish people, when they are actually dwelling in the land, not when they are in the process of conquering it. This is the opinion of the first tanna.

<sup>1089</sup> And Rabbi Eliezer comes to say: Even the prohibition with regard to the new crop applies both in Eretz Yisrael and outside of Eretz Yisrael. What is the reason for his opinion? He explains that the term dwelling means wherever you dwell. This is one possible way to understand the dispute, according to which the opinion of Rabbi Eliezer is more stringent than that of the first tanna.

<sup>1090</sup> Or perhaps Rabbi Eliezer disagrees with the first tanna with the intent to rule more leniently, and this is what the first tanna is saying: All mitzvot that are dependent on the land apply only in Eretz Yisrael, apart from orla and diverse kinds, as we learned this halakha through tradition, and all the more so apart from the new crop, which applies outside of Eretz Yisrael, as the term dwelling indicates wherever you dwell. This is the opinion of the first tanna.

<sup>1091</sup> And Rabbi Eliezer comes to say: The prohibition of the new crop applies only in Eretz Yisrael, as the term dwelling indicates a time after inheritance and settlement of Eretz Yisrael by the Jewish people. The Gemara asks: And accordingly, what is the meaning of the word: Even, with which Rabbi Eliezer begins his statement? It is not referring to orla and diverse kinds, which apply outside of Eretz Yisrael, but to the first clause, which states that a mitzva that is dependent on the land applies only in Eretz Yisrael. Rabbi Eliezer adds that this principle includes the new crop as well.

<sup>1092</sup> Having presented the two ways in which one can explain the opinion of Rabbi Eliezer, the Gemara attempts to prove which is correct and suggests: Come and hear a proof from that which Abaye said: Who is the tanna who disagrees with Rabbi Eliezer? It is Rabbi Yishmael. As it is taught in a baraita with regard to the mitzva of bringing libations with offerings: This serves to teach you that wherever the term dwelling is stated, the mitzva in question applies only after the inheritance and settlement of Eretz Yisrael. This is the statement of Rabbi Yishmael.

<sup>1093</sup> Rabbi Akiva said to him: But there is the case of Shabbat, in which it is stated: “It is a Shabbat to the Lord in all your dwellings” (Leviticus 23:3), and this mitzva applies both in Eretz Yisrael and outside of Eretz Yisrael. Rabbi Yishmael said to Rabbi Akiva: Shabbat is derived through the following a fortiori inference: If less stringent mitzvot apply both in Eretz Yisrael and outside of Eretz Yisrael, is it not all the more so reasonable that Shabbat, which is a stringent mitzva, should apply everywhere?

<sup>1094</sup> The Gemara explains the proof. From the fact that Abaye said: Who is the tanna who disagrees with Rabbi Eliezer, it is Rabbi Yishmael, and Rabbi Yishmael says that the term dwelling means that the mitzva applies after Eretz Yisrael has been entirely settled, one can conclude from it that Rabbi Eliezer disagrees with the first tanna with the intent to rule more stringently, as he evidently maintains that the term dwelling means wherever Jews are located. The Gemara affirms: Conclude from that baraita that it is so.

<sup>1095</sup> The Gemara asks an incidental question with regard to Rabbi Yishmael’s opinion. Now, where does Rabbi Yishmael stand, i.e., to which specific mitzva is he referring? He is referring to the obligation to bring libations, from which he learns that all mitzvot that feature the term dwelling apply only after Eretz Yisrael had been conquered and settled. With regard to libations

<sup>1096</sup> both the term: Coming, and the term: Dwelling, are written: “When you come into the land of your dwellings” (Numbers 15:2). How, then, can Rabbi Yishmael cite this example to teach about cases where only the term dwelling is written? The Gemara answers that this is what the baraita is saying: This teaches that wherever both coming and dwelling are stated, it applies only after inheritance and settlement of Eretz Yisrael; this is the statement of Rabbi Yishmael.

<sup>1097</sup> The Gemara asks: If so, consider that Rabbi Akiva said to him: But there is the verse stated with regard to Shabbat (Leviticus 23:3), in which it is stated “dwellings,” and Rabbi Yishmael said to him: Shabbat is derived through an a fortiori inference. But let Rabbi Yishmael say to Rabbi Akiva instead: I say my principle only when coming and dwelling are both written, and in the case of Shabbat the verse states only the term dwelling. The Gemara answers: Rabbi Yishmael states one reason and adds another reason. One reason is that I say my principle only when coming and dwelling are written together. And another reason: With regard to that which you say that there is the case of Shabbat, in which it is stated “dwellings,” Shabbat is derived through an a fortiori inference.

<sup>1098</sup> The Gemara asks: With regard to what do Rabbi Yishmael and Rabbi Akiva disagree? The Gemara answers: They disagree with regard to whether the Jews sacrificed libations in the wilderness. Rabbi Yishmael maintains: They did not sacrifice libations in the wilderness, as the obligation to sacrifice libations came into effect only once they were living in Eretz Yisrael. And Rabbi Akiva maintains: They did sacrifice libations in the wilderness. Rabbi Akiva derives a different halakha from the term dwelling.

<sup>1099</sup> Abaye said: This statement of the tanna of the school of Rabbi Yishmael, that only when the terms coming and dwelling are both written does the mitzva takes effect after settling Eretz Yisrael, diverges from another statement of the tanna of the school of Rabbi Yishmael.

<sup>1100</sup> This is as the tanna of the school of Rabbi Yishmael taught: Since instances of coming to Eretz Yisrael are mentioned in the Torah in connection to several mitzvot, without specifying precisely when the Jewish people are considered to have arrived there, and the verse specified in one of its references that it applies only after inheritance and settlement of Eretz Yisrael, in the mitzva of appointing a king: “When you come to the land...and you inherit it and settle it” (Deuteronomy 17:14), so too, wherever coming to the land is mentioned without qualification, it means after inheritance and settlement. According to this opinion, there is no need for the verse to also mention the term dwelling.

<sup>1101</sup> And the other tanna of the school of Rabbi Yishmael, cited in the dispute with Rabbi Akiva, would say that this is no proof, because there is not only the case of a king but also the mitzva of first fruits, where the verse also uses the terms of coming, inheriting, and dwelling (see Deuteronomy 26:1). Consequently, these are two verses that come as one, i.e., to teach the same matter. And any two verses that come as one do not teach a precedent that applies to other cases.

<sup>1102</sup> And the other tanna, i.e., the tanna of the school of Rabbi Yishmael cited by Abaye, would answer: Both these cases are necessary, as one cannot be derived from the other. As, if the Merciful One had written this matter only with regard to a king, and had not written it concerning first fruits, I would say: This delay applies only to the mitzva of appointing a king, whereas with regard to the mitzva of first fruits, since one benefits from eating the fruit he should have to bring it immediately and not wait until the land has been inherited and settled. And conversely, had the Merciful One written this matter only with regard to first fruits and had not written it in the case of a king, I would say that as it is the manner of a king to conquer, one must be appointed immediately, even before entering Eretz Yisrael.

<sup>1103</sup> And the other, the tanna of the school of Rabbi Yishmael, cited in the dispute with Rabbi Akiva, would respond: Let the Merciful One write this with regard to a king, and it would not be required to write it in the case of first fruits, as I would say: And if a king, whose task is to conquer Eretz Yisrael, nevertheless is appointed only after inheritance and settlement, with regard to first fruits is it not all the more so reasonable that a similar halakha apply to them? If so, these are two verses that come as one, which do not teach a precedent.

<sup>1104</sup> And the other, i.e., the tanna of the school of Rabbi Yishmael cited by Abaye, would say: If the Merciful One had written this only with regard to a king, I would say that the Jews should be obligated in the mitzva of first fruits immediately upon entering Eretz Yisrael, and I would not derive the halakha of first fruits from that of appointing a king, just as it is with regard to the separation of

ḥalla, another priestly gift from one's produce, which applied immediately upon the entrance to Eretz Yisrael. Therefore the verse is necessary, as it teaches us that this is not so.

<sup>1105</sup> § The Gemara asks: And now that you said that an obligation of the body applies both in Eretz Yisrael and outside of Eretz Yisrael, why do I need the term “dwelling” that the Merciful One writes with regard to Shabbat (Leviticus 23:3)? The Gemara answers: It was necessary to say this, as it might enter your mind to say: Since the mitzva of Shabbat was written in the context of the Festivals, it should require sanctification by the court, like the Festivals, which rely on the sanctification of the New Moon by the court. Therefore the verse teaches us that this is not required.

<sup>1106</sup> The Gemara further asks: Why do I need the term dwelling, which the Merciful One writes with regard to the consumption of forbidden fat and blood in the verse: “A perpetual statute throughout your generations in all your dwellings, that you shall eat neither forbidden fat nor blood” (Leviticus 3:17)? The Gemara answers: It was necessary to state this, as it might enter your mind to say: Since these prohibitions are written in the context of the offerings, then when there is an offering and the priests sacrifice fat and blood upon the altar, i.e., when the Temple is standing, that is when forbidden fat and blood are forbidden for consumption. But when there is no offering, forbidden fat and blood are not forbidden. The verse therefore teaches us that they are always forbidden.

<sup>1107</sup> Additionally, the Gemara asks: Why do I need the term dwelling, which the Merciful One writes with regard to matza and bitter herbs, in the verse: “In all your dwellings you shall eat matza” (Exodus 12:20)? The Gemara answers: It was necessary to state this, as it might enter your mind to say that since it is written: “They shall eat the Paschal offering with matza and bitter herbs” (Numbers 9:11), when there is a Paschal offering, yes, one must eat it with matza and bitter herbs, but when there is no Paschal offering, i.e., when the Temple is not standing, there is no obligation to eat matza and bitter herbs. The verse therefore teaches us that these mitzvot apply every Passover, whether or not the Temple is standing.

<sup>1108</sup> The Gemara further asks: Why do I need the term coming, which the Merciful One writes with regard to phylacteries and the firstborn donkey, at the start of the Torah passage which discusses these mitzvot: “And it shall be when the Lord will bring you into the land of the Canaanite” (Exodus 13:11)? The Gemara answers: That verse is necessary for that which the tanna of the school of Rabbi Yishmael taught: Perform this mitzva of donning phylacteries, on account of which you shall be rewarded and enter Eretz Yisrael.

<sup>1109</sup> The Gemara asks about the term dwelling, written in connection to the prohibition of the new crop. Granted, according to the one who says that the term dwelling indicates wherever you dwell, this explains the fact that it is written with regard to the Jewish people immediately after they entered Eretz Yisrael: “And they ate the produce of the land on the morrow after the Passover” (Joshua 5:11). This means that on the day after the Passover they ate the produce of Eretz Yisrael, but initially, before that date, they did not eat it. Apparently,

<sup>1110</sup> they sacrificed the omer and only afterward did they eat.

<sup>1111</sup> But according to the one who says that the term dwelling indicates that the prohibition of the new crop applies only after inheritance and settlement of Eretz Yisrael, let the Jews eat the produce of the land immediately. The Gemara answers: They did not need to eat the new produce, as they still had manna. Although they did not eat the new crop of Eretz Yisrael, the reason was not that it was prohibited.

<sup>1112</sup> This is as it is written: “And the children of Israel ate the manna forty years until they came to a settled land; they ate the manna until they came to the borders of the land of Canaan” (Exodus 16:35). The Gemara analyzes this verse: One cannot say they ate “until they came to a settled land,” i.e., that they were still eating the manna when they entered Eretz Yisrael, as it is already stated: “To the borders of the land of Canaan,” which indicates that they stopped eating manna before entering Eretz Yisrael, on the plains of Moab. And one cannot say that they ate manna only until they reached “to the borders of the land of Canaan,” as it is already stated: “Until they came to a settled land.” How can these clauses be reconciled? Moses died on the seventh of Adar and the manna ceased falling, and they ate the manna that was left in their vessels until the sixteenth of Nisan, even after they entered Eretz Yisrael.

<sup>1113</sup> It is taught in another baraita with regard to the verse: “And the children of Israel ate the manna forty years” (Exodus 16:35). But did they really eat it for forty years? But didn’t they eat it for forty years less thirty days? The manna began to fall on the sixteenth of Iyyar in the first year in the wilderness, and they stopped eating it on the sixteenth of Nisan in the fortieth year. Rather, this verse comes to tell you that they tasted the taste of manna in the unleavened cakes that they took out from Egypt on the fifteenth of Nisan in their first year, and this sustained them until the manna fell.

<sup>1114</sup> It is taught in another baraita: Moses died on the seventh of Adar, and he was likewise born on the seventh of Adar. From where is it derived that Moses died on the seventh of Adar? As it is stated: “So Moses, the servant of the Lord, died there” (Deuteronomy 34:5), and it is written: “And the children of Israel wept for Moses in the plains of Moab thirty days” (Deuteronomy 34:8). And it is written: “Now it came to pass after the death of Moses, the servant of the Lord” (Joshua 1:1), and it is written: “Moses, My servant, is dead; now arise, cross this Jordan” (Joshua 1:2).

<sup>1115</sup> The baraita continues: And it is written: “Pass through the midst of the camp and command the people, saying: Prepare your victuals, for within three days you are to cross the Jordan” (Joshua 1:11). And it is written: “And the people came up out of the Jordan on the tenth day of the first month” (Joshua 4:19). Subtract retroactively from that date, the tenth of Nisan, the last thirty-three days, i.e., the thirty days of mourning for Moses and the three days of preparation before crossing the Jordan, and you learn from here that Moses died on the seventh of Adar.

<sup>1116</sup> The baraita continues: And from where is it derived that Moses was born on the seventh of Adar? It is as it is stated: “And he said to them, I am one hundred and twenty years old today; I can no more go out and come in” (Deuteronomy 31:2). As there is no need for the verse to state “today,” since Moses could have said simply: I am one hundred and twenty years old. What is the meaning when the verse states “today”? One can learn from it that Moses was born on that date, i.e., he was exactly one hundred and twenty years old. This teaches that the Holy One, Blessed be He, sits and completes the years of the righteous from day to day and from month to month, as it is stated: “The number of your days I will fulfill” (Exodus 23:26).

<sup>1117</sup> It is taught in a baraita that Rabbi Shimon ben Yoḥai says: The Jewish people were commanded to perform three mitzvot immediately upon entering Eretz Yisrael: The new crop, diverse kinds, and orla, and these apply both in Eretz Yisrael and outside of Eretz Yisrael.

<sup>1118</sup> And it is logical, i.e., one can derive through an a fortiori argument that each of these mitzvot should apply everywhere. If the prohibition of the new crop, whose prohibition is not a permanent prohibition, as it does not apply to grain that grows after the omer has been sacrificed on the

sixteenth of Nisan, and whose prohibition is not a prohibition against deriving benefit, since usages other than eating are permitted, and there is dissolution for its prohibition, i.e., grain that grew before the sixteenth of Nisan becomes permitted after the omer offering has been brought, applies both in Eretz Yisrael and outside of Eretz Yisrael, the same halakha should certainly apply to diverse kinds.

<sup>1119</sup> Rabbi Shimon ben Yoḥai elaborates: With regard to diverse kinds, whose prohibition is a permanent prohibition, as it never expires, and whose prohibition is a prohibition against deriving benefit, since one may not benefit in any manner from diverse kinds of the vine, and there is no dissolution for its prohibition, is it not logical that it should apply both in Eretz Yisrael and outside of Eretz Yisrael? And the same is true of orla with regard to two of those points. Orla is not a permanent prohibition, as it applies only for the first three years that a tree produces fruit, but one may not derive benefit from it, and produce from the first three years never becomes permitted.

<sup>1120</sup> Rabbi Elazar, son of Rabbi Shimon, says:

<sup>1121</sup> Any mitzva that the Jewish people were commanded to perform before entering Eretz Yisrael, i.e., it was not linked to entry into the land, applies both in Eretz Yisrael and outside of Eretz Yisrael. Conversely, any mitzva that they were commanded to perform after they entered Eretz Yisrael applies only in Eretz Yisrael, except for the abrogation of monetary debts in the Sabbatical Year (see Deuteronomy 15:1–2), and the emancipation of slaves in the Jubilee Year (see Leviticus 25:39–41). Even though the Jews were commanded with regard to these mitzvot that they were to perform them only after their entry into Eretz Yisrael, these mitzvot apply both in Eretz Yisrael and outside of Eretz Yisrael.

<sup>1122</sup> The Gemara questions the need for this ruling: The abrogation of monetary debts is an obligation of the body. Since this mitzva is not referring to the land, what is the novelty of the ruling that it applies even outside of Eretz Yisrael?

<sup>1123</sup> The Gemara answers: It is necessary to mention the cancellation of debts only for that which is taught in a baraita. As it is taught in a baraita that Rabbi Yehuda HaNasi says: The verse states in the context of the cancellation of debts: “And this is the manner of the abrogation: He shall abrogate” (Deuteronomy 15:2). The verse speaks of two types of abrogation: One is the release of land and one is the abrogation of monetary debts. Since the two are juxtaposed, one can learn the following: At a time when you release land, when the Jubilee Year is practiced, you abrogate monetary debts; at a time when you do not release land, such as the present time, when the Jubilee Year is no longer practiced, you also do not abrogate monetary debts.

<sup>1124</sup> The Gemara asks: But why not say that one can learn the following from this juxtaposition: In a place where you release land, i.e., in Eretz Yisrael, you abrogate monetary debts, and in a place where you do not release land, you do not abrogate monetary debts. If so, the abrogation of debts would apply only in Eretz Yisrael, despite the fact that this obligation is not related to the land. Therefore, the verse states: “Because the Lord’s abrogation has been proclaimed” (Deuteronomy 15:2), to indicate that this obligation applies in any case, even outside of Eretz Yisrael. This is the novelty of the statement of Rabbi Elazar, son of Rabbi Shimon.

<sup>1125</sup> The Gemara questions the need for the second ruling of Rabbi Elazar, son of Rabbi Shimon: The emancipation of slaves is also an obligation of the body, not one that applies to the land. What is novel about this ruling? The Gemara answers that it might enter your mind to say: Since it is written: “And proclaim liberty throughout the land unto all the inhabitants thereof” (Leviticus 25:10), one

could say: “Throughout the land,” yes, this mitzva applies, but outside of Eretz Yisrael, no, the emancipation does not take effect. Therefore the same verse also states the seemingly superfluous phrase: “It shall be a Jubilee” (Leviticus 25:10), to indicate that it applies in any case, in all places.

<sup>1126</sup> The Gemara asks: If so, what is the meaning when the verse states: “Throughout the land”? The Gemara answers that this phrase teaches: When the liberty of slaves applies in Eretz Yisrael, it also applies outside of Eretz Yisrael, and when the liberty of slaves does not apply in Eretz Yisrael, it does not apply outside of Eretz Yisrael. The mitzva depends on whether the Jubilee Year is in effect, not on the place in question.

<sup>1127</sup> We learned in a mishna there (Orla 3:9): The new crop is forbidden by Torah law everywhere; orla is forbidden outside of Eretz Yisrael according to a halakha, as the Gemara will immediately explain; and diverse kinds are forbidden outside the land by rabbinic law. The Gemara asks: What is this halakha, mentioned with regard to orla? Rav Yehuda says that Shmuel says: It is the local halakha, i.e., this was the practice of Jews in places where they settled. Ulla says that Rabbi Yoḥanan says: It is a halakha transmitted to Moses from Sinai.

<sup>1128</sup> Ulla said to Rav Yehuda: Granted, according to my opinion, as I say in the name of Rabbi Yoḥanan that the mishna means that this is a halakha transmitted to Moses from Sinai, this is the reason why we distinguish between fruit whose status as orla is uncertain, which is forbidden outside of Eretz Yisrael according to the halakha transmitted to Moses from Sinai, and produce whose status as diverse kinds is uncertain, which is permitted outside of Eretz Yisrael, as the prohibition of diverse kinds applies outside of Eretz Yisrael only by rabbinic law.

<sup>1129</sup> This is as we learned in a mishna (Orla 3:9): Fruit whose status as orla is uncertain is forbidden in Eretz Yisrael, and it is permitted in Syria with no concern about its uncertain status. Outside of Eretz Yisrael, a Jew may go down into the gentile’s field and purchase fruit that is orla from the gentile, provided that the Jew does not see him gather it.

<sup>1130</sup> Nevertheless, we learned in a mishna with regard to the halakhah of diverse kinds (Orla 3:9): If a vineyard has vegetables planted in it, and there are vegetables being sold outside the vineyard, but there is no proof that these vegetables came from the vineyard, in Eretz Yisrael they are forbidden. The reason is that as it is possible that the vegetables came from the vineyard, the halakha is stringent in a case involving a prohibition by Torah law. In Syria these vegetables are permitted.

<sup>1131</sup> Outside of Eretz Yisrael, if the gentile owner of a field containing diverse kinds goes down into his field and gathers produce, then, provided that the Jew does not gather it by hand, he may purchase the produce from the gentile. This indicates that outside of Eretz Yisrael there is a difference between orla of uncertain status and diverse kinds of uncertain status. This is understandable if orla is forbidden by a halakha transmitted to Moses from Sinai, while diverse kinds are forbidden by rabbinic law.

<sup>1132</sup> But according to your opinion, that neither orla nor diverse kinds is forbidden by Torah law,

<sup>1133</sup> let the mishna teach in the same manner in both cases, either by stating in both this case and that case that one may go down and purchase the produce, or by stating in both this case and that case that one may go down and gather the produce. The Gemara answers: Didn’t Shmuel say to Rav Anan that one should teach it either as stating in both this case and that case that one may go down and purchase the produce, or in both this case and that case that one may go down and gather the



produce? Mar, son of Rabbana, taught this mishna according to the following lenient version: In both this case and that case one may go down and gather the produce, provided that he does not gather it with his own hand.

<sup>1134</sup> § With regard to the prohibition of orla outside of Eretz Yisrael, the Gemara relates that Levi said to Shmuel: Aryokh, Shmuel's nickname, supply me with such food, as I will not pick it on my own, and if you do so I will eat it. There is no reason for concern with regard to orla outside of Eretz Yisrael. Rav Avya and Rabba bar Rav Ḥanan would supply produce whose orla status was uncertain for each other, as it is forbidden only if one takes the orla on his own. The sharp Sages of Pumbedita said: The prohibition of orla does not apply at all outside of Eretz Yisrael.

<sup>1135</sup> Rav Yehuda sent a question to Rabbi Yoḥanan concerning the halakha with regard to orla outside of Eretz Yisrael. Rabbi Yoḥanan sent him the following response: Conceal, i.e., do not publicize, the halakha that produce whose orla status is uncertain is permitted; and destroy, i.e., prohibit entirely, produce whose orla status is certain; and with regard to the produce of those who are lenient in this halakha, declare that it requires interment, as it is prohibited to derive benefit from such produce. And whoever says that there is no prohibition of orla outside of Eretz Yisrael will have neither a child nor a grandchild “who shall cast the line by lot in the congregation of the Lord” (Micah 2:5).

<sup>1136</sup> The Gemara asks: And in accordance with whose opinion do the sharp Sages of Pumbedita hold when they state this halakha? The Gemara answers: They hold in accordance with that which is taught in a baraita: Rabbi Elazar, son of Rabbi Yosei, says in the name of Rabbi Yosei ben Durmaska, who said in the name of Rabbi Yosei HaGelili, who said in the name of Rabbi Yoḥanan ben Nuri, who said in the name of Rabbi Eliezer the Great: The prohibition of orla does not apply outside of Eretz Yisrael.

<sup>1137</sup> The Gemara expresses surprise at this ruling: But does it not apply? Does Rabbi Eliezer maintain that the prohibition of orla does not apply outside of Eretz Yisrael? But didn't we learn in the mishna that Rabbi Eliezer says: Even the new crop, which indicates that he agrees that orla and diverse kinds are forbidden outside of Eretz Yisrael? The Gemara answers that one should not teach that Rabbi Eliezer said: Even the new crop, but rather teach only the words: The new crop, i.e., Rabbi Eliezer maintains that only this prohibition applies outside of Eretz Yisrael.

<sup>1138</sup> Rabbi Asi says that Rabbi Yoḥanan says: Orla is forbidden outside of Eretz Yisrael by a halakha transmitted to Moses from Sinai. Rabbi Zeira said to Rabbi Asi: But isn't it taught in a baraita: With regard to produce whose status concerning orla is uncertain, in Eretz Yisrael it is forbidden, in Syria it is permitted, and outside of Eretz Yisrael one goes down and gathers it? And if orla is forbidden outside of Eretz Yisrael by a halakha transmitted to Moses from Sinai, why is produce whose status concerning orla is uncertain permitted in Syria? Rabbi Zeira “was dismayed for a while” (Daniel 4:16), and then Rabbi Asi said to him: Say that it is stated like this, i.e., explain that the halakha transmitted to Moses from Sinai was that outside of Eretz Yisrael produce whose status concerning orla is uncertain is permitted, and produce whose status concerning orla is certain is forbidden.

<sup>1139</sup> § Rabbi Asi says that Rabbi Yoḥanan says: Offenders are flogged for transgressing the prohibition of diverse kinds outside of Eretz Yisrael by Torah law. Rabbi Elazar, son of Rabbi Yosei, said to him: But didn't we learn in the mishna (Orla 3:9) that the prohibition of diverse kinds applies by rabbinic law outside of Eretz Yisrael? The Gemara answers: This is not difficult. The mishna here is referring to diverse kinds in a vineyard, which is prohibited outside of Eretz Yisrael by rabbinic

law, whereas there, Rabbi Yoḥanan's statement is referring to the grafting of a tree onto a different species.

<sup>1140</sup> The Gemara adds that this halakha is in accordance with the opinion of Shmuel. As Shmuel says: The verse states: "You shall keep My statutes" (Leviticus 19:19), which means that one must keep even the statutes that I have already instituted for you when you were merely descendants of Noah, before the giving of the Torah. Shmuel elaborates: This is referring to the prohibitions stated in that same verse: "You shall not let your cattle gender with a diverse kind; you shall not sow your field with two kinds of seed" (Leviticus 19:19).

<sup>1141</sup> Additionally, the juxtaposition of these prohibitions teaches that just as the prohibition of diverse kinds stated with regard to your animal applies only to mating one species with another, so too, the prohibition of diverse kinds with regard to your field is referring only to grafting one type of tree to another type, and it does not apply to planting two species together. Furthermore, just as the prohibition of diverse kinds with regard to your animal applies both in Eretz Yisrael and outside of Eretz Yisrael, as this prohibition does not relate to the land, so too, the prohibition against grafting your field applies both in Eretz Yisrael and outside of Eretz Yisrael.

<sup>1142</sup> The Gemara asks: But isn't it written: "Your field," which indicates that the field belongs to you in your portion of Eretz Yisrael? The Gemara answers: That verse serves to exclude the prohibition of diverse kinds of seeds, which does not apply outside of Eretz Yisrael. Planting different types of seeds together is prohibited only in Eretz Yisrael.

<sup>1143</sup> § The Gemara relates: Rav Ḥanan and Rav Anan were once going together on a road outside of Eretz Yisrael and they saw a certain man planting seeds of diverse kinds together. One of them said to the other: Let the Master come and ostracize him, as he is performing a prohibited act. The other said to him: These halakhot are not understood by you.

<sup>1144</sup> And furthermore, they also saw a certain man who was planting wheat and barley between grapevines. One of them said to the other: Let the Master come and ostracize him. He again said to him: These halakhot are not clear to you. He explained: Don't we hold in accordance with the opinion of Rabbi Yoshiya, who says: One who sows diverse kinds is not liable by Torah law until he sows wheat, and barley, and a grape seed with a single hand motion, i.e., by sowing in the vineyard he violates the prohibition of diverse kinds that applies to seeds and to the vineyard simultaneously. Since this man was not planting in that manner, he should not be ostracized.

<sup>1145</sup> The Gemara relates: Rav Yosef was mixing diverse seeds and planting them. Abaye said to him: But didn't we learn in the mishna that mixing diverse kinds is prohibited outside of Eretz Yisrael by rabbinic law? Rav Yosef said to him: This is not difficult, as here, the mishna is referring to diverse kinds in a vineyard, and there, I am planting legally because I am planting only diverse kinds of seeds. The reason for the difference between these two cases is as follows: With regard to planting diverse kinds in a vineyard, which in Eretz Yisrael is prohibited even with regard to deriving benefit, the Sages issued a decree prohibiting this mixture outside of Eretz Yisrael as well. Conversely, with regard to planting diverse kinds of seeds, which in Eretz Yisrael is not prohibited with regard to deriving benefit, the Sages did not issue a decree prohibiting them outside of Eretz Yisrael.

<sup>1146</sup> Rav Yosef then said: The matter that I said, i.e., that diverse kinds of seeds are entirely permitted outside of Eretz Yisrael, is not so. The proof is that Rav planted the garden around the study hall in rows [mesharei] of different species. What is the reason that he did that rather than plant different

species together? Is it not because he was concerned about mixtures of diverse kinds? Abaye said to him: That is not proof. Granted, if he taught us this halakha through his actions,

<sup>1147</sup> and he was careful to plant four different species along the four sides of the garden bed and one in the middle, so that there would be space between them, it works out well. This would show that Rav was cautious not to plant diverse kinds together. But here, where Rav actually planted each species in its own bed, he did so due to beautification, i.e., to improve the appearance of the garden in front of the study hall. Alternatively, the reason Rav planted this way is due to the trouble that would be caused to the attendant. When his attendant would be sent to fetch a certain type of vegetable from the garden he would not need to search for it, but would know where the different vegetables were planted. Therefore, this does not prove that Rav was concerned about diverse kinds outside of Eretz Yisrael.

<sup>1148</sup> MISHNA: Anyone who performs one mitzva has goodness bestowed upon him, his life is lengthened, and he inherits the land, i.e., life in the World-to-Come. And anyone who does not perform one mitzva does not have goodness bestowed upon him, his life is not lengthened, and he does not inherit the land of the World-to-Come.

<sup>1149</sup> GEMARA: And the Gemara raises a contradiction from a mishna (Pe'a 1:1): These are the matters that a person engages in and enjoys their profits in this world, and the principal reward remains for him for the World-to-Come, and they are: Honoring one's father and mother, acts of loving kindness, hospitality toward guests, and bringing peace between one person and another; and Torah study is equal to all of them. This indicates that one is rewarded in this world only for fulfilling these mitzvot, but not for fulfilling all mitzvot.

<sup>1150</sup> Rav Yehuda said that this is what the mishna is saying: Anyone who performs one mitzva in addition to his other merits, and thereby tips the scale of all his deeds to the side of righteousness, has goodness bestowed upon him and is compared to one who fulfills the entire Torah. The Gemara asks: One can learn by inference from here that with regard to those mitzvot listed in the mishna in Pe'a one is rewarded even for one of them, notwithstanding the fact that overall his sins are more numerous. Rav Shemaya said: The other mishna serves to say that if one's sins and merits were of equal balance, i.e., he has accrued an equal amount of merit and sin, one of these mitzvot tilts the scale in his favor.

<sup>1151</sup> The Gemara further asks: And does anyone who performs one mitzva in addition to his other merits have goodness bestowed upon him in this world? The Gemara raises a contradiction from a baraita: Anyone whose merits are greater than his sins is punished with suffering in order to cleanse his sins in this world and enable him to merit full reward for his mitzvot in the World-to-Come. And due to this punishment he appears to observers like one who burned the entire Torah without leaving even one letter remaining of it. Conversely, anyone whose sins are greater than his merits has goodness bestowed upon him in this world, and he appears like one who has fulfilled the entire Torah without lacking the fulfillment of even one letter of it.

<sup>1152</sup> Abaye said: When the mishna said that he is rewarded, it means that he has one good day and one bad day. He is rewarded for the mitzvot he performs; nevertheless, occasionally he also has bad days which cleanse him of his sins, and the baraita is referring to those days. Rava said that the mishna and this baraita represent two different opinions. In accordance with whose opinion is this

baraita? It is in accordance with the opinion of Rabbi Ya'akov, who says: There is no reward for performance of a mitzva in this world, as one is rewarded for mitzvot only World-to-Come.

<sup>1153</sup> As it is taught in a baraita that Rabbi Ya'akov says: There is not a single mitzva written in the Torah whose reward is stated alongside it, which is not dependent on the resurrection of the dead, i.e., the reward is actually bestowed in the World-to-Come, after the resurrection of the dead. How so? With regard to honoring one's father and mother it is written: "That your days may be long, and that it may go well with you" (Deuteronomy 5:16). With regard to the dispatch of the mother bird from the nest it is written: "That it may be well with you, and that you may prolong your days" (Deuteronomy 22:7).

<sup>1154</sup> Despite this, it occurred that there was one whose father said to him: Climb to the top of the building and fetch me chicks. And he climbed to the top of the building and dispatched the mother bird and took the young, thereby simultaneously fulfilling the mitzva to dispatch the mother bird from the nest and the mitzva to honor one's parents, but upon his return he fell and died. Where is the goodness of the days of this one, and where is the length of days of this one? Rather, the verse "that it may be well with you" means in the world where all is well, and "that your days may be long" is referring to the world that is entirely long.

<sup>1155</sup> The Gemara asks: But perhaps this incident never occurred? It is possible that everyone who performs these mitzvot is rewarded in this world, and the situation described by Rabbi Ya'akov never happened. The Gemara answers: Rabbi Ya'akov himself saw an incident of this kind. The Gemara asks: But perhaps that man was contemplating sin at the time, and he was punished for his thoughts? The Gemara answers that there is a principle that the Holy One, Blessed be He, does not link a bad thought to an action, i.e., one is not punished for thoughts alone.

<sup>1156</sup> The Gemara asks: But perhaps he was contemplating idol worship at the time, and it is written with regard to idol worship: "So I may take the house of Israel in their own heart" (Ezekiel 14:5), which indicates that one is punished for idolatrous thoughts. The Gemara answers: Rabbi Ya'akov was saying this as well: If it enters your mind that there is reward for performing a mitzva in this world, why didn't these mitzvot protect him so that he should not come to contemplate idol worship? Since that man was not protected from thoughts of idol worship at the time, this indicates that the performance of mitzvot does not entitle one to merit reward in this world.

<sup>1157</sup> The Gemara asks: But didn't Rabbi Elazar say that those on the path to perform a mitzva are not susceptible to harm? How is it possible that this individual, who was sent by his father to perform a mitzva, could have died? The Gemara answers: There, Rabbi Elazar is referring those on their way to perform a mitzva, which is different, as one is not susceptible to harm when he is on his way to fulfill a mitzva. In this case the individual was harmed on his return, and one is not afforded protection after having performed a mitzva.

<sup>1158</sup> The Gemara asks: But didn't Rabbi Elazar say that those on the path to perform a mitzva are not susceptible to harm, neither when they are on their way to perform the mitzva nor when they are returning from performing the mitzva? The Gemara answers: In that case it was a rickety ladder, and therefore the danger was established; and anywhere that the danger is established one may not rely on a miracle, as it is written with regard to God's command to Samuel to anoint David as king in place of Saul: "And Samuel said: How will I go, and Saul will hear and kill me; and God said: Take

in your hand a calf and say: I have come to sacrifice an offering to God” (I Samuel 16:2). Although God Himself issued the command, there was concern with regard to the established dangers.

<sup>1159</sup> Rav Yosef said: Had Aḥer, literally Other, the appellation of the former Sage Elisha ben Avuya, interpreted this aforementioned verse: “That it may go well with you” (Deuteronomy 5:16), homiletically, as referring to the World-to-Come, as did Rabbi Ya’akov, son of his daughter, he would not have sinned. The Gemara asks: And what caused Aḥer to sin? There are those who say he saw a case like this, where a son went up to the roof on his father’s command, dispatched the mother bird, and then died. It was witnessing this episode that led Elisha ben Avuya astray.

<sup>1160</sup> And there are those who say that he saw the tongue of Ḥutzpit the disseminator after the latter was executed by the government, thrown in the street, and dragged along by something else, a euphemism for a pig. He said: Shall a mouth that produced pearls lap up dirt? For this reason he went out and sinned.

<sup>1161</sup> § Rav Tuvi bar Rav Kisna raises a contradiction to Rava and asked: We learned in the mishna that anyone who performs one mitzva has goodness bestowed upon him. This indicates that if one actually performed the mitzva, yes, he is rewarded, but if he did not perform the mitzva, no, he does not receive a reward. He raises a contradiction based on the following statement: If one sits and does not transgress, he receives a reward as one who performs a mitzva, despite the fact that he does not actually perform a mitzva. Rava said to him: There, when it is referring to one who sits and does not transgress, it does not mean that he was merely sitting; rather, it is speaking of a case where an opportunity to commit a sinful act presents itself to him and he is saved from it.

<sup>1162</sup> This is like an incident involving Rabbi Ḥanina bar Pappi, who was enticed by a certain noblewoman [matronita] to engage in sexual intercourse with her. He said a formula of an incantation and was covered with boils and scabs so as to render himself unattractive to her. She performed an act of magic and he was healed. He fled and hid in a bathhouse that was so dangerous, due to the demons that frequented the place, that when two people entered together even during the day they would be harmed. The next day the Sages said to him: Who protected you in that dangerous place? Rabbi Ḥanina bar Pappi said to them: There were angels who appeared like two

<sup>1163</sup> soldiers [nosei keisar] who guarded me all night. They said to him: Perhaps a matter of forbidden intercourse presented itself to you and you were saved from it, which is why a miracle occurred for you. As we learned: With regard to anyone to whom a matter of forbidden intercourse presented itself to him and he was saved from it, a miracle is performed for him. As it says: “Mighty in strength who fulfill His word, hearkening to the voice of His word” (Psalms 103:20). This is referring to one such as Rabbi Tzadok and his colleagues.

<sup>1164</sup> To what is this referring? Rabbi Tzadok was enticed by a certain noblewoman to engage in sexual intercourse with her. He said to her: My heart is weak and I am incapable at present; is there something to eat that can strengthen me? She said to him: There is something non-kosher. He said to her: What difference is there? One who performs such an act eats such food as well. She lit the oven and placed the non-kosher food in it to roast. He climbed and sat in the oven. She said to him: What is the meaning of this? He said to her: One who performs this act falls into this, i.e., the fires of Gehenna. She said to him: If I had known that the matter was so serious for you, I would not have caused you such anguish.

<sup>1165</sup> The Gemara further relates: Rav Kahana would sell baskets woven from palm leaves to women. He was enticed by a certain noblewoman to engage in intercourse with her. He said to her: Let me go and adorn myself beforehand. He ascended to the roof and fell from the roof toward the ground. Elijah the prophet came and caught him. Elijah the prophet said to Rav Kahana: You have troubled me to travel four hundred parasangs [parsei] to save you. Rav Kahana said to him: What caused me to be in this situation of temptation? Was it not poverty, as I am forced to engage in a trade that leads me to come into contact with women? Elijah gave him a basket [shifa] full of dinars, to spare him from having to work as a salesman.

<sup>1166</sup> § Rava raises a contradiction to Rav Nahman and asks: We learned in a mishna (Pe'a 1:1): These are the matters that a person engages in and enjoys their profits in this world, and the principal reward remains for him for the World-to-Come, and they are: Honoring one's father and mother, acts of loving kindness, and bringing peace between one person and another; and Torah study is equal to all of them.

<sup>1167</sup> Rava cites the source for each of these assertions. With regard to honoring one's father and mother, it is written: "That your days may be long, and that it may go well with you" (Deuteronomy 5:16), which indicates that one is rewarded in this world. With regard to acts of loving kindness it is written: "He who pursues righteousness and kindness shall find life, prosperity, and honor" (Proverbs 21:21), all of which apply in this world.

<sup>1168</sup> And with regard to bringing peace it is written: "Seek peace and pursue it" (Psalms 34:15). And Rabbi Abbahu says: This is derived through a verbal analogy between the term pursuing written with regard to pursuing peace and the term pursuing written in another verse. It is written here: "Seek peace and pursue it," and it is written there, with regard to acts of kindness: "Pursues righteousness and kindness." This teaches that one who pursues peace will also merit life, prosperity, and honor. With regard to Torah study it is written: "For that is your life and the length of your days" (Deuteronomy 30:20).

<sup>1169</sup> Rava asked: With regard to the dispatch of the mother bird from the nest it is also written: "That it may be well with you, and that you may prolong your days" (Deuteronomy 22:7), so let him also teach this mitzva. Rav Nahman answered: He taught some cases and omitted others, i.e., the tanna did not list everything. Rava said to him: The tanna taught: These are the matters, which indicates that only these mitzvot are included, and yet you say that he taught some and omitted others?

<sup>1170</sup> Rather, Rava said: Rav Idi explained the matter to me. The verse states: "Say you of the righteous who is good, that they shall eat the fruit of their actions" (Isaiah 3:10). And this verse is difficult, as is there a righteous person who is good and is there a righteous person who is not good? Rather, this verse should be understood as follows: One who is good both toward Heaven and toward people is a good righteous person; one who is good toward Heaven but bad toward people is a righteous person who is not good.

<sup>1171</sup> Rava continues: On a similar note, it is written: "Woe to the evil wicked one, for the work of his hands shall be done to him" (Isaiah 3:11). And is there a wicked man who is evil and is there one who is not evil? Rather, one who is evil toward Heaven and evil toward people is an evil wicked person; and one who is evil toward Heaven and not evil toward people is a wicked person who is not evil. With regard to the issue at hand, only one who performs mitzvot that benefit others receives the

profits of his mitzvot in this world. This does not apply to dispatching the mother bird, which is an act that does not benefit other people.

<sup>1172</sup> § With regard to the mishna in Pe'a, the Gemara states: An act of merit has a principal reward and it has profits, i.e., one receives additional reward beyond that which is granted for the mitzva itself, parallel to a principal sum and profits, as it is stated: "Say you of the righteous who is good, that they shall eat the fruit of their actions" (Isaiah 3:10). A sin has a principal penalty but it has no profits, i.e., no punishment beyond that, as it is stated: "Woe to the evil wicked one, for the work of his hands shall be done to him" (Isaiah 3:11), but no more than the work of his hands.

<sup>1173</sup> But how do I realize the meaning of the following verse that deals with sinners: "Therefore they shall eat of the fruit of their own way, and be filled with their own devices" (Proverbs 1:31)? This verse indicates that the penalty for sin goes beyond its principal, and the wicked receive additional punishments. The Gemara answers that this applies to a sin that produces profits, i.e., a case where there are practical consequences to one's sin. For example, if others learn to act in a similar manner, one's actions have profits with regard to punishment as well. Conversely, a sin that does not produce profits does not have profits as a punishment either.

<sup>1174</sup> The Gemara further teaches: The Holy One, Blessed be He, links a good thought to an action, as it is stated: "Then they that feared the Lord spoke one with the other, and the Lord listened, and heard, and a book of remembrance was written before Him, for them that fear the Lord, and that think upon His name" (Malachi 3:16). The Gemara explains: What is the meaning of the phrase "and that think upon His name"? Rav Asi said: Even if a person intended to perform a mitzva but due to circumstances beyond his control he did not perform it, the verse ascribes him credit as if he performed the mitzva, as he is among those that think upon His name.

<sup>1175</sup> But the Holy One, Blessed be He, does not link an evil thought to an action, as it is stated: "If I had regarded iniquity in my heart, the Lord would not hear" (Psalms 66:18). But how do I realize the meaning of the verse: "Behold I will bring upon these people evil, even the fruit of their thoughts" (Jeremiah 6:19)? In the case of an evil thought that produces fruit, i.e., that leads to an action, the Holy One, Blessed be He, links it to the action and one is punished for the thought as well. If it is a thought that does not produce fruit, the Holy One, Blessed be He, does not link it to the action.

<sup>1176</sup> The Gemara asks: But with regard to that which is written: "So I may take the house of Israel in their own heart" (Ezekiel 14:5), which indicates that one can be punished for thoughts alone, to what is this verse referring? Rav Aḥa bar Ya'akov said: That is written with regard to idol worship, as the Master says: Idol worship is very severe, as anyone who denies it is like one who admits the truth of the entire Torah. Conversely, one who embraces idolatry is considered to have rejected the entire Torah. Due to the severity of idol worship, one is punished even for contemplating this transgression.

<sup>1177</sup> Ulla said: This should be explained in accordance with a statement of Rav Huna, as Rav Huna says: When a person transgresses and repeats his transgression, it is permitted to him. The Gemara questions this statement: Can it enter your mind that the transgression is permitted to him because he has sinned twice? Rather, it becomes as if it were permitted to him, as he becomes accustomed to this behavior and no longer senses that it is a sin.

<sup>1178</sup> Rabbi Abbahu says in the name of Rabbi Ḥanina: It is preferable for a person to transgress in secret and not to desecrate the name of Heaven in public [befarhesya], as it is stated: "As for you,

house of Israel, so says the Lord God: Go you, serve everyone his idols, even because you will not hearken to Me, but My sacred name you shall not profane” (Ezekiel 20:39).

<sup>1179</sup> Rabbi Ilai the Elder says: If a person sees that his evil inclination is overcoming him, he should go to a place where he is not known, and wear black clothes, and he should cover himself in simple black garments, and he should do as his heart desires, but he should not desecrate the name of Heaven in public.

<sup>1180</sup> The Gemara asks: Is that so? But isn’t it taught in a baraita: With regard to anyone who does not care about his Creator’s honor, it is fitting for him not to have come into the world. What is this? Who is considered to be one who does not care about his Creator’s honor? Rabba says: This is one who gazes at a rainbow, which is described as: “The likeness of the glory of the Lord” (Ezekiel 1:28). Rav Yosef says: This is one who transgresses in secret, which shows that he fears other people but does not care about the honor of his Creator.

<sup>1181</sup> The Gemara answers: This is not difficult, as this source, which says that one who transgresses in secret does not care about his Creator’s honor, is referring to one who can overcome his evil inclination but nevertheless chooses to transgress in secret. And that source, which states that it is preferable for him to transgress in secret, is referring to one who cannot overcome his evil inclination.

<sup>1182</sup> We learned in a mishna there (see Avot 4:4): Credit is not given with regard to the desecration of God’s name, whether one sinned unintentionally or intentionally. The Gemara asks: What is the meaning of the phrase: Credit is not given [makkifin]? Mar Zutra says: This means that God does not act like a storekeeper and provide credit. Rather, one is punished without delay. Mar, son of Rabbana, says: This means to say that if one’s merit and sins were equal, the sin of the desecration of God’s name tilts the balance of the scales toward the side of his sins. In other words, if his sins include the transgression of desecrating God’s name, God does not wait for this individual to perform a mitzva to balance out the sin.

<sup>1183</sup> The Sages taught: Always

<sup>1184</sup> a person should view himself as though he were exactly half-liable and half-meritorious. In other words he should act as though the plates of his scale are balanced, so that if he performs one mitzva he is fortunate, as he tilts his balance to the scale of merit. If he transgresses one prohibition, woe to him, as he tilts his balance to the scale of liability, as it is stated: “But one sin destroys much good” (Ecclesiastes 9:18), which means that due to one sin that a person transgresses he squanders much good.

<sup>1185</sup> Rabbi Elazar, son of Rabbi Shimon, says: Since the world is judged by its majority, i.e., depending on whether people have performed a majority of mitzvot or a majority of sins, and an individual is likewise judged by his majority, each person must consider that if he performs one mitzva he is praiseworthy, as he tilts the balance of himself and the entire world to the scale of merit. Conversely, if he transgresses one prohibition, woe to him, as he tilts the balance for himself and the entire world to the scale of liability, as it is stated: “But one sin destroys much good,” i.e., due to one sin that this individual commits, he squanders much goodness from himself and from the entire world.



<sup>1186</sup> Rabbi Shimon ben Yoḥai says: Even if one was completely righteous all his life and he rebelled by sinning at the end of his life, he loses his early merit, as it is stated: “The righteousness of the righteous shall not deliver him on the day of his transgression” (Ezekiel 33:12). And similarly, even if one was completely wicked all his life and repented in the end, he is no longer reminded of his wickedness, as it is stated in the continuation of the verse: “And as for the wickedness of the wicked, he shall not stumble over it on the day that he turns from his wickedness.”

<sup>1187</sup> The Gemara asks: But an individual who performed mitzvot all of his life and then sins should at least be like one whose acts have been half sins and half merits, i.e., each should be of equal weight. Why, then, is he pronounced guilty? Reish Lakish said: This is not referring to an individual who has merely sinned but to one who regrets all the initial mitzvot he performed in the past. In this case the mitzvot he performed are not taken into account.

<sup>1188</sup> MISHNA: Anyone who is engaged in the study of Bible, and in the study of Mishna, and in the desired mode of behavior, i.e., he performs labor and generally acts in an appropriate manner, will not be quick to sin, as it is stated: “And a threefold cord is not quickly broken” (Ecclesiastes 4:12). One who is involved in all three of these activities will not sin easily. And anyone who does not engage in the study of Bible, nor the study of Mishna, nor the desired mode of behavior, is not part of society, i.e., he is not considered a civilized person at all.

<sup>1189</sup> GEMARA: Rabbi Elazar, son of Rabbi Tzadok, says: To what are the righteous in this world compared? To a tree that is standing entirely in a pure place and its branches hang over an impure place. If its branches are cut, it will stand entirely in a pure place. So too, the Holy One, Blessed be He, brings afflictions upon the righteous in this world to cleanse them of their few sins. He makes them suffer so that they will inherit the World-to-Come entirely, as it is stated: “And your beginning was in pain, your end shall greatly increase” (Job 8:7).

<sup>1190</sup> And to what are the wicked in this world compared? To a tree that stands entirely in an impure place and whose branches hang over a pure place. If its branches are cut off, it stands entirely in an impure place. So too, the Holy One, Blessed be He, bestows good upon the wicked in this world for the few mitzvot they have performed, in order to expel them and banish them to the lowest level of Gehenna in the future, as it is stated: “There is a way which seems right to a man, but its end are the ways of death” (Proverbs 14:12).

<sup>1191</sup> In connection to the mishna’s statement about the importance of Torah study, the Gemara relates the following incident: And there already was an incident in which Rabbi Tarfon and the Elders were reclining in the loft of the house of Nit’za in Lod, when this question was asked of them: Is study greater or is action greater? Rabbi Tarfon answered and said: Action is greater. Rabbi Akiva answered and said: Study is greater. Everyone answered and said: Study is greater, but not as an independent value; rather, it is greater as study leads to action.

<sup>1192</sup> It is taught in a baraita that Rabbi Yosei says: Torah study is greater, as it preceded the mitzva of separating ḥalla by forty years. The Torah was given to the Jewish people soon after they left Egypt, whereas the mitzva of separating ḥalla came into effect only after they entered Eretz Yisrael. And it preceded the mitzva of terumot and tithes by fifty-four years, as the Jews become obligated in these mitzvot only fourteen years after they entered Eretz Yisrael, once they had conquered and divided the land. Furthermore, the Torah preceded the observance of Sabbatical Years by sixty-one years, as they began to count the seven-year cycle only once they had divided the land. Finally, it preceded the

Jubilee Years by 103 years, as the fifty-year count to the first Jubilee Year began only after they had divided Eretz Yisrael.

<sup>1193</sup> The Gemara asks: Why does the baraita state 103 years? It was actually 104 years. If one adds fifty to the fifty-four years that passed before the Jews began fulfilling the mitzvot dependent on the land, one arrives at a total of 104. The Gemara answers: This tanna maintains that the Jubilee Year releases slaves and returns fields to their original owners from the start of the year. Therefore, 103 years passed before the mitzva of the Jubilee Year took effect.

<sup>1194</sup> And just as study comes before action, i.e., the mitzva of Torah study takes precedence over other mitzvot, so too, the judgment concerning Torah study precedes the judgment for an action of the performance of a mitzva. This is in accordance with the statement of Rav Hamnuna, as Rav Hamnuna says: The beginning of a person's judgment is only concerning matters of Torah, as it is stated: "The beginning of judgment is as one lets out water" (Proverbs 17:14). This is understood to refer to the sin of neglecting Torah, as the Torah is compared to water, which brings life to the world.

<sup>1195</sup> And just as the judgment concerning Torah study precedes the judgment for an action of the performance of a mitzva, so too does the reward for Torah study precede the reward for an action of the performance of a mitzva, as it is stated: "And He gave them the lands of nations, and they took the labor of peoples in possession, that they might observe His statutes and protect His laws" (Psalms 105:44–45). The first reward is for observing the statutes, and as explained on 37a, this is a reference to Torah study.

<sup>1196</sup> § The mishna teaches that anyone who does not engage in the study of Bible, nor the study of Mishna, nor the desired mode of behavior, is not part of society. Rabbi Yoḥanan says: And he is disqualified from bearing witness, as this individual cannot be trusted. The Sages taught: One who eats in the marketplace is comparable to a dog, as he disrespects himself through his lack of embarrassment over eating in public. And some say he is even disqualified from bearing witness. Rabbi Idi bar Avin said: The halakha is in accordance with the opinion cited in the name of: Some say.

<sup>1197</sup> Similarly, bar Kappara taught: An angry person

<sup>1198</sup> has managed to acquire only anger [ragzanuta], i.e., nothing beneficial comes through anger; in the end he is left with nothing but the anger itself. And a good person is given the fruit of his actions to taste. And with regard to any person who does not engage in the study of Bible, nor the study of Mishna, nor the desired mode of behavior, one should vow to not derive benefit from him, and one should have no contact with him, as it is stated: "Nor sat in the seat of the scornful" (Psalms 1:1). The seat of this person is certainly the seat of the scornful, as he is engaged in nothing but idle matters.

## Chapter 2

<sup>1</sup> MISHNA: A man can betroth a woman by himself or by means of his agent. Similarly, a woman can become betrothed by herself or by means of her agent. A man can betroth his daughter to a man when she is a young woman, either by himself or by means of his agent.

<sup>2</sup> GEMARA: The Gemara starts by questioning the need for the seemingly extraneous halakha stated in the mishna: Now that the mishna stated that one can betroth a woman by means of his agent, is it necessary to state that a man can betroth a woman by himself? Rav Yosef says: The mishna writes both halakhot to teach that although the betrothal is valid either way, it is more fitting that the mitzva be performed by the man himself than by means of his agent. This is like that story of Rav Safra, who would himself singe the head of an animal on Shabbat eve to prepare it to be eaten on Shabbat, and Rava, who would salt a turbot fish himself, to fulfill the mitzva to prepare for Shabbat, although this could have been done by others.

<sup>3</sup> There are those who say: With regard to this particular mitzva of betrothal, it also involves a prohibition, in accordance with that which Rav Yehuda says that Rav says, as Rav Yehuda says that Rav says: It is forbidden for a man to betroth a woman until he sees her, lest he see something repulsive in her after the betrothal, and she will become repugnant to him, which will cause him to hate her. And to prevent this violation of what the Merciful One states in the Torah: “And you shall love your neighbor as yourself” (Leviticus 19:18), the Sages ruled that a man must betroth a woman in person, to ensure that he approves of her.

<sup>4</sup> And if there is a prohibition against a man betrothing a woman by means of an agent, then when the statement of Rav Yosef was stated, that it is merely preferable that the betrothal be performed without an agent, it was stated with regard to the latter clause of the mishna: A woman can become betrothed by herself or by means of her agent. Now that the mishna stated that she can become betrothed by means of her agent, is it necessary to state that she can become betrothed by herself? It was in response to this that Rav Yosef says: It is more fitting that the mitzva be performed by the woman herself than by means of her agent. This is like that story of Rav Safra, who would himself singe the head of an animal on Shabbat eve to prepare it to be eaten on Shabbat, and Rava, who would himself salt a turbot fish.

<sup>5</sup> But in this case of a woman who appoints an agent, there is no prohibition, as that which Reish Lakish said. As Reish Lakish said: Women have a saying: It is better to sit as two bodies, i.e., be married, than to sit lonely like a widow. Once a woman has decided to marry, she will accept any husband whose betrothal her agent accepts on her behalf, and there is no concern that she will find her betrothed repulsive and violate the mitzva of loving one’s neighbor like oneself.

<sup>6</sup> The mishna teaches: A man can betroth his daughter to a man when she is a young woman. The Gemara infers: When she is a young woman, yes, he can betroth her; when she is a minor, no, he cannot betroth her. This statement supports the opinion of Rav, as Rav Yehuda says that Rav says, and some say it was said by Rabbi Elazar: It is prohibited for a person to betroth his daughter to a man when she is a minor, until such time that she grows up and says: I want to marry so-and-so. If a father betroths his daughter when she is a minor and incapable of forming an opinion of the husband, she may later find herself married to someone she does not like.

<sup>7</sup> § The mishna states that an agent has the power to effect betrothal. The Gemara asks: From where do we derive that there is halakhic agency? The Gemara answers: As it is taught in a baraita: The Torah states with regard to one who divorces his wife: “That he writes her a bill of divorce, and gives it in her hand, and sends her [veshillehah] out of his house” (Deuteronomy 24:1). The verse employs the verb: And he sends [veshillah]. The fact that the verse employs the term veshillah, as opposed to another verb denoting divorce, vegereshah, teaches that he can appoint an agent [shaliah], as both

words share the root shin, lamed, het. The husband does not have to personally give his wife the bill of divorce.

<sup>8</sup> Additionally, the fact that the term “and he sends her [veshillehah]” can also be read as: And she sends [veshillehah], teaches that she too can appoint an agent to accept her bill of divorce. Furthermore, in this same passage the verb is repeated in the phrases “and he sends,” “and he sends her” (Deuteronomy 24:1–3), which serves to teach that an agent can appoint another agent.

<sup>9</sup> The Gemara asks: We found a source for agency with regard to divorce; from where do we derive that there is agency with regard to betrothal? And if you would say that it is derived from divorce, i.e., just as a wife can be divorced from her husband by means of an agent, she can become betrothed to him in the same way, the two cases are not similar: What is unique about divorce is that it can be effected against her will, while betrothal cannot. Therefore, a means of effecting divorce cannot necessarily be used to effect betrothal. The Gemara answers: The verse states: “And she departs out of his house, and goes and becomes another man’s wife” (Deuteronomy 24:2). Because the verse juxtaposes becoming married to leaving a marriage, just as a husband can appoint an agent for the purpose of leaving a marriage, so too he can appoint an agent for the purpose of becoming married.

<sup>10</sup> The Gemara objects: But there is that which we learned in a mishna (Terumot 4:4): In the case of one who says to his agent: Go out and separate teruma from my field’s produce for me, the agent must separate teruma in accordance with the mindset of the owner. He must separate the amount that he assumes the owner would want to give, as there is no fixed measure for the amount that one must set aside as teruma. A generous person would give as much as one-fortieth of the produce as teruma, while a stingy person would give one-sixtieth. And if he does not know the mindset of the owner, he separates an intermediate measure, which is one-fiftieth of the produce.

<sup>11</sup> If the agent subtracted ten from the denominator and separated one-fortieth or added ten to the denominator and separated one-sixtieth, thereby giving more or less than the owner intended, his teruma is teruma. From where do we derive that one can appoint an agent to separate teruma? And if you would say that it is derived from divorce, one could argue: What is an aspect unique to divorce is that it is considered a non-sacred matter in relation to teruma and will have different halakhot, so one cannot learn from divorce that one can appoint an agent to separate teruma. The Gemara answers: The verse states with regard to teruma: “So you also shall set apart a gift unto the Lord of all your tithes” (Numbers 18:28). Once the verse states “you,” the addition of the word “also” in the term “you also” serves to include an agent.

<sup>12</sup> The Gemara asks: And let the Merciful One write in the passage concerning teruma that one can appoint an agent, and the halakha that one can appoint an agent to act on his behalf in these other matters, i.e., divorce and betrothal, can come and be derived from it. The Gemara answers: Agency in these matters cannot be derived in this manner because the derivation can be refuted: Separating teruma is different, in that it is able to be separated by mere thought. It is enough for one to decide that a certain portion of his produce shall be teruma to have that status take effect. Just as there is this leniency unique to separating teruma, perhaps the leniency that enables one to appoint an agent is also unique to separating teruma.

<sup>13</sup> The Gemara further clarifies the source for agency: Generally, the Paschal offering was brought by a group of people together. But there is that which we learned in a mishna (Pesahim 98b): In the case of a group whose Paschal offering was lost before it was sacrificed, and they said to one

member of the group: Go and search for our Paschal offering, and when you find it, slaughter it on our behalf; and this person went and found the lost animal and slaughtered it on behalf of the entire group, but meanwhile, despairing of his return, they took a different animal and slaughtered it as a Paschal offering, the halakha is as follows: If his Paschal offering was slaughtered first, he eats from his offering, and they eat and drink with him. This demonstrates that one can act as an agent to slaughter the Paschal offering.

<sup>14</sup> From where do we derive this halakha, that one can appoint an agent to slaughter an offering? And if you would say that it is derived from these other instances of agency, i.e., divorce and teruma, one could refute this derivation by saying: What is unique about these is that they are considered non-sacred matters relative to offerings, and perhaps offerings have their own set of halakhot.

<sup>15</sup> The Gemara answers: He derives it from that which Rabbi Yehoshua ben Korḥa says, as Rabbi Yehoshua ben Korḥa says: From where is it derived that the legal status of a person's agent is like that of himself? As it is stated with regard to the Paschal offering: "And the whole assembly of the congregation of Israel shall slaughter it in the afternoon" (Exodus 12:6). Is it so that the whole assembly slaughters the offering? But only one person from each group slaughters it. Rather, it can be derived from here that the legal status of a person's agent is like that of himself.

<sup>16</sup> In light of that exposition, the Gemara asks: Let the Merciful One write in the Torah the halakha of an agent with regard to offerings, and these, i.e., agency in the cases of betrothal, divorce, and teruma, can come and be derived from it. The Gemara answers: Agency in these matters cannot be derived in this manner because the derivation can be refuted: What is unique about offerings is that the majority of their actions are performed by means of an agent. Since most of the sacrificial service is performed by priests, who serve as the agents of those bringing the offerings, the general halakha of agency cannot be derived from there.

<sup>17</sup> The Gemara continues to ask: For the reasons stated, the halakha of agency cannot be derived for any one of these from any other one of them. Still, derive one of these from the other two. The Gemara clarifies: Which of them will be derived from the others?

<sup>18</sup> If you say: Let the Merciful One not write the halakha of agency with regard to offerings and derive agency with regard to offerings from these, i.e., divorce and teruma, that derivation can be refuted: What is unique about these is that they are considered non-sacred matters relative to offerings, as even teruma is not sacred compared to offerings, and sacred procedures such as offerings may have their own halakhot. If you say: Let the Merciful One not write the halakha of agency with regard to divorce, and derive agency with regard to divorce from these, i.e., teruma and offerings, this too can be refuted: What is unique about these is they can be designated by means of thought, and therefore may be easier to effect than divorce.

<sup>19</sup> Rather, it is the third derivation that is possible: Let the Merciful One not write the halakha of agency with regard to teruma, and derive agency from these, i.e., offerings and divorce. Although teruma is sacred, offerings are more sacred, and yet the halakha of agency applies to them. Although the separating of teruma can be accomplished by means of thought, as opposed to divorce, offerings can also be designated by means of thought. The Gemara answers: It is indeed so; this is the derivation for the applicability of agency to teruma.

<sup>20</sup> The Gemara asks: But then why do I need the derivation that once the verse states "you," the addition of the word "also" in the term "you also" serves to include an agent? The Gemara answers:

It is necessary to function as the source of the statement of Rabbi Yannai, as Rabbi Yannai says that from the term “you also,” the following is derived: Just as you, those who appoint agents, are members of the covenant, i.e., Jews, so too, your agents must be members of the covenant. A gentile cannot separate teruma even if appointed as an agent by a Jew.

<sup>21</sup> The Gemara asks: Why do I need a verse to teach this halakha? It is derived from that which Rabbi Ḥiyya bar Abba says that Rabbi Yoḥanan says, as Rabbi Ḥiyya bar Abba says that Rabbi Yoḥanan says: A slave cannot become an agent to receive a bill of divorce from the hand of a woman’s husband on her behalf because he is not included in the laws of bills of divorce and betrothal. This indicates that there is a principle that if certain matters do not apply to a person, he cannot act as an agent with regard to those matters. Therefore, since gentiles are not commanded to separate teruma, they cannot be agents for its separation.

<sup>22</sup> The Gemara answers: It was nevertheless necessary to derive this halakha for the case of teruma, because it cannot be derived from the statement of Rabbi Yoḥanan. This is as it might enter your mind to say: It is a slave who cannot serve as an agent to receive a bill of divorce, since he cannot release a woman by divorce at all; but a gentile, since he is included in his own teruma, as we learned in a mishna (Terumot 3:9): A gentile or a Samaritan who separated teruma from their own produce, their teruma is considered teruma, despite the fact that they are not obligated to do so, I will say that he can also be appointed as an agent. To counter this argument, the term “you also” teaches us that only members of the covenant can act as agents for separating teruma; gentiles cannot.

<sup>23</sup> The Gemara asks: But according to Rabbi Shimon, who exempts one from paying an additional penalty for the teruma of a gentile, this explanation cannot be stated. As we learned in a mishna (Terumot 3:9): If the teruma of a gentile gets mixed with regular produce, it is considered to be a mixture of teruma and non-sacred produce, and if a non-priest eats this mixture unwittingly he is liable to pay for it an additional one-fifth beyond its value, just as is the halakha with regard to one who unwittingly eats teruma. But Rabbi Shimon exempts him from paying the additional one-fifth, as he holds that the teruma of a gentile possesses no sanctity and is considered a mere gift to a priest. If so, if there is no need to learn the additional halakha that a gentile cannot act as an agent with regard to the separating of teruma, why do I need the derivation from “you” and “you also”?

<sup>24</sup> The Gemara answers: It was necessary to state this additional term, as it might enter your mind to say: Since the Master says that the word “you” is interpreted as a limitation, it means that “you,” but not sharecroppers, can separate teruma, as a sharecropper cannot separate teruma from the produce of the owner of the field; “you” can separate teruma but not partners from shared property without the consent of the other; “you” can separate teruma but not a steward [apotropos] from the estate that he is administering; and “you” can separate teruma but not one who separates teruma from produce that is not his, you might also say: “You” can separate teruma and not your agents. The verse therefore teaches us that “you also” indicates that one can appoint an agent to separate teruma.

<sup>25</sup> The Gemara poses a question with regard to the basic derivation of the halakha of agency: This works out well according to the opinion of Rabbi Yehoshua ben Korḥa, who explains that the verse: “And the whole assembly of the congregation of Israel shall slaughter it in the afternoon” (Exodus 12:6), teaches the halakha of agency with regard to offerings. But according to the opinion of Rabbi Yonatan, who derives a different exposition from this verse, from where do we derive the halakha of

agency with regard to offerings? As it is taught in a baraita that Rabbi Yonatan says: From where do we derive that all of the Jews can fulfill their obligations

<sup>26</sup> with one Paschal offering? Although it is impossible for all of the Jewish people to each eat an olive-bulk from one offering, they nevertheless fulfill their obligation to sacrifice the Paschal offering by sacrificing one animal, as it is stated with regard to the Paschal offering: “And the whole assembly of the congregation of Israel shall slaughter it in the afternoon” (Exodus 12:6). Is it so that the whole assembly slaughters it? But only one person from each group slaughters. Rather, it can be derived from here that all of the Jews can fulfill their obligations with one Paschal offering, despite the fact that not everyone will be able to eat from it. Since Rabbi Yonatan derives from this verse that one offering suffices, from where does he derive the halakha of agency with regard to offerings?

<sup>27</sup> The Gemara answers: He derives it from that very same verse, as it can be seen that one person slaughters the animal on behalf of the rest of the assembly. The Gemara rejects this: But perhaps it is different there, since the one slaughtering the animal has partnership with them in the offering. This does not prove that there is agency when the agent has no share in the offering.

<sup>28</sup> Rather, he derives agency with regard to offerings from here: “And they shall take to them every man a lamb, according to their fathers’ houses, a lamb for a household” (Exodus 12:3). This demonstrates that one person takes a lamb and slaughters it on behalf of the entire family. The Gemara asks: But perhaps there too there is agency since the one slaughtering the animal has partnership with them? The Gemara rejects this: If so, why do I need two verses to teach the same halakha? If the halakha stated in this verse is not applicable for where it belongs, i.e., with regard to an agent who is a partner in the offering, apply it to where it does not belong, so that even one who does not have a share in the offering can act as an agent.

<sup>29</sup> The Gemara rejects this: This verse is required for him to teach another halakha, that of Rabbi Yitzḥak, as Rabbi Yitzḥak says: This verse is the source for the halakha that a man, i.e., an adult, can acquire an item on behalf of others, but that a minor cannot acquire an item on behalf of others. The Gemara answers: That halakha, that only an adult can acquire an item on behalf of others, is derived from the verse: “According to every man’s eating you shall make your count for the lamb” (Exodus 12:4). By employing the term “man,” which indicates an adult, the verse teaches that only an adult can acquire an item on behalf of others.

<sup>30</sup> The Gemara asks another question: And still the verse “according to every man’s eating” is required for him to teach the halakha that one may slaughter a Paschal offering for an individual. It does not have to be “a lamb, according to their fathers’ houses,” as implied by the previous verse. A lamb may be slaughtered even by one person, i.e., “every man” for himself. The Gemara answers: Rabbi Yonatan holds in accordance with the opinion of the one who says that one may not slaughter a Paschal offering for an individual.

<sup>31</sup> The Gemara asks a question from a different source: But consider that which Rav Giddel says that Rav says: From where is it derived that the legal status of a person’s agent is like that of himself? It is as it is stated with regard to the division of Eretz Yisrael among the Jewish people: “And you shall take one prince of every tribe, to take possession of the land” (Numbers 34:18). This indicates that the prince of each tribe acted as the agent to claim the land for each member of his tribe. Let the halakha of agency be derived from here; why is there a need to have the sources quoted above? The Gemara answers: And how can you understand that this process of the princes claiming the land was

due to agency? But minors cannot be involved in agency, and the princes claimed the land for all members of their tribe, adults and minors alike.

<sup>32</sup> Rather, the distribution of the land by the princes follows a different principle, like that statement of Rava bar Rav Huna, as Rava bar Rav Huna says that Rav Giddel says that Rav says: From where is it derived that one can act in a person's interest in his absence? It is as it is stated: "And you shall take one prince." The princes were not appointed as agents and could act for the benefit of the minors. The Gemara asks: And how can you understand that it is a benefit? But it was also to their disadvantage, as there is one person for whom it is preferable to him to receive a portion on a hill and it is not preferable to him to receive a portion in a valley, and there is one person for whom it is preferable to him to receive a portion in a valley and it is not preferable to him to receive a portion on a hill. The prince might claim land for members of his tribe that they do not want, and one cannot act to another's disadvantage in his absence.

<sup>33</sup> Rather, the verse is required to teach a different halakha, like that statement of Rava bar Rav Huna, as Rava bar Rav Huna says that Rav Giddel says that Rav says: From where is it derived that if orphans came to divide their father's property, that the court appoints a steward for them, both to their disadvantage and to their benefit? Before the Gemara completes the quote, it analyzes the statement: Why would the court appoint a steward to their disadvantage? Rather, it means to their disadvantage in order to achieve their eventual benefit. Once a steward has been appointed to control the orphans' estate, he has the authority to act to their temporary disadvantage if they are ultimately likely to benefit from the action. And the source of this halakha is as the verse states: "And you shall take one prince of every tribe" (Numbers 34:18).

<sup>34</sup> § With regard to the halakhot of stewardship, Rav Naḥman says that Shmuel says: If orphans came to divide their father's property, the court appoints a steward for them, and they select for them, i.e., for each of the orphans, a fine portion. And when they have grown up, the orphans can protest the division and demand redistribution of the property. And Rav Naḥman said his own statement: When they have grown up, they cannot protest, as if so, what advantage is there to the power of the court over an ordinary person? In other words, to strengthen the authority of the court, it is required that its decisions not be questioned later on.

<sup>35</sup> The Gemara asks: And is Rav Naḥman of the opinion that there is a consideration of: If so, what advantage does the court have over an ordinary person? But didn't we learn in a mishna (Ketubot 99b): The halakha with regard to the appraisal by the judges of the value of a piece of property in order to sell it is as follows: Where they decreased the price by one-sixth of its market value or added one-sixth to its market value, their sale is void. Rabban Shimon ben Gamliel says: Their sale is valid. And Rabban Shimon ben Gamliel said: If so, if the sale is void, then what advantage is there to the power of the court over an ordinary person? And Rav Huna bar Ḥinnana says that Rav Naḥman says: The halakha is in accordance with the statement of the Rabbis. This indicates that Rav Naḥman does not accept the consideration of: What advantage is there to the power of the court over an ordinary person?

<sup>36</sup> The Gemara answers: This is not difficult.

<sup>37</sup> In this case, where Rav Naḥman ruled that their transaction is void, in accordance with the Rabbis, the court erred by one-sixth. But in that case, where Rav Naḥman ruled that the orphans cannot protest when they grow up, they did not err by one-sixth. The Gemara asks: If Rav Naḥman's ruling



that the orphans cannot protest is referring to a case where they did not err by one-sixth, why did Shmuel say that they can later protest; what is the nature of their protest? The Gemara answers: They can protest with regard to the locations. One of the orphans can contend that he prefers property in a different location than he was given.

<sup>38</sup> § Rav Nahman says: With regard to brothers who divided property received as an inheritance, they are considered like they are purchasers from each other, and the halakhot of fraud are like those for regular transactions: If there was an error of less than one-sixth in the distribution, the transaction is acquired, i.e., valid. If it was more than one-sixth, the transaction is void. If the error was precisely one-sixth, it is acquired, and the one who received more than his fair share must return the amount of the fraud.

<sup>39</sup> Rava says: That which we said, that with regard to less than one-sixth the transaction is valid and the item is acquired, we said only in a case where the brother receiving a smaller share did not appoint an agent to deal with the distribution on his behalf. But if the brother receiving a smaller share appointed an agent, this halakha does not apply, as the one who appointed the agent can say: I sent you to act for my benefit and not to my detriment. The agent's right to act in this capacity did not extend to a case where it was to the detriment of the one who appointed him.

<sup>40</sup> Rava continues: And that which we said, that if the brothers erred by more than one-sixth the transaction is void, we said only when the brother receiving a smaller share did not say: Let us divide the estate by an appraisal of the court. But if he said: Let us divide it by an appraisal of the court, the transaction is valid, as we learned in a mishna (Ketubot 99b): This is the halakha with regard to the appraisal of an article's value in order to sell it, as done by the judges: In a case where they decreased the price by one-sixth of its market value or added one-sixth to its market value, their sale is void. Rabban Shimon ben Gamliel says: Their sale is valid.

<sup>41</sup> Rava continues: And that which we said, that if the brothers erred by one-sixth the one receiving a larger share acquired it and he must return the amount of the fraud, we said only with regard to movable property. But with regard to land, the halakha is that there is no fraud with regard to land. And with regard to land, we said that the halakha of fraud does not apply only when they divided it according to the value of the land. But if they divided it by measure and erred in the measurement, we do not say that there is no fraud. This is in accordance with the statement of Rabba, as Rabba said: Any matter that is according to measure, or according to weight, or according to number, if it turned out to be in error, even if the error was less than the amount that constitutes fraud, it is also returned.

<sup>42</sup> § The Gemara returns to discuss various aspects of agency. And there is a difficulty from that which we learned in a mishna (Bava Kamma 59b): In the case of one who sends an item that causes a fire in the hands of a deaf-mute, an imbecile, or a minor, the one who sent it is exempt according to human laws but liable according to the laws of Heaven. If he sent it in the hands of a halakhically competent person, only the halakhically competent person is liable.

<sup>43</sup> But why is the halakhically competent person liable? Let us say that the legal status of a person's agent is like that of himself. The Gemara answers: There it is different, as there is no agency for transgression, as we say: When there is a conflict between the words of the Master, i.e., God, and the words of the student, i.e., a human being, whose words should be listened to? Consequently, the

agent is considered to have acted of his own accord, and the one who sent him bears no responsibility.

<sup>44</sup> The Gemara comments: And there is a difficulty from that which is taught in a baraita with regard to the halakhot of misuse of consecrated property: In the case of an agent who did not perform his agency but deviated from the instructions of the one who appointed him and made use of consecrated property, the agent has misused consecrated property and is liable to bring the guilt-offering for that sin. In the case of an agent who performed his agency, the owner has misused consecrated property and is liable to bring the offering. The Gemara asks: The baraita states that when the agent performed the agency of the owner, the owner has in any event misused consecrated property. Why? Let us say that there is no agency for transgression.

<sup>45</sup> The Gemara answers: The case of misuse of consecrated property is different, as it is derived by means of a verbal analogy of “sin” in this case and “sin” from teruma, as the verse states: “And sin through error” (Leviticus 5:15), with regard to misuse of consecrated property, and it states: “Lest they bear sin for it” (Leviticus 22:9) with regard to teruma: Just as with teruma one can appoint an agent, so too with misuse of consecrated property one can appoint an agent, although the latter is a transgression.

<sup>46</sup> The Gemara suggests: And let us derive a principle from misuse of consecrated property, that one can appoint an agent even to perform a transgression. The Gemara explains: This is not done because misuse of consecrated property and misappropriation of a deposit, i.e., a bailee using an item that was deposited with him, are two verses that come as one, i.e., they teach the same matter, that an agent can be appointed to perform a transgression. And any two verses that come as one do not teach their common aspect to apply to other cases. The Gemara clarifies this statement: The verse pertaining to misuse of consecrated property is that which we said, but what is the verse pertaining to misappropriation?

<sup>47</sup> This is as it is taught in a baraita: The Torah uses the inclusive term “every” with regard to one suspected of misappropriating a deposit: “For every matter of trespass” (Exodus 22:8). Beit Shammai say: This inclusive term “every” serves to render one liable for speech and thought, i.e., intent to misappropriate, like action. And Beit Hillel say: One is liable only if he actually misappropriates it, as it is stated: “Whether he has not put his hand unto his neighbor’s goods” (Exodus 22:7).

<sup>48</sup> Beit Shammai said to Beit Hillel: But isn’t it stated: “For every matter of trespass,” which indicates that one is liable without actually misappropriating the deposit? Beit Hillel said to Beit Shammai: But isn’t it stated: “Whether he has not put his hand unto his neighbor’s goods”? Beit Shammai said to Beit Hillel: If so, if one is liable only for actual misappropriation, why do I need: “For every matter of trespass”? Beit Hillel replied: It is necessary, as one might have thought that I have derived liability only if he himself misappropriated it; from where do I derive that he is liable also if he told his slave or his agent to do so? The verse states: “For every matter of trespass,” to teach that the bailee is liable if one acting on his behalf misappropriates the deposit.

<sup>49</sup> The Gemara explains further: This answer, that misuse of consecrated property and misappropriation are two verses that come to teach the same matter, works out well according to the opinion of Beit Hillel. But according to the opinion of Beit Shammai, who establish this verse as rendering one liable for thought like action and do not learn from here that the bailee is liable if one acting on his behalf misappropriates the deposit,

<sup>50</sup> let us derive a principle from misuse of consecrated property, that an agent can be appointed to perform a transgression. The Gemara answers: This is not done, because misuse of consecrated property and the slaughter or sale of a stolen cow or sheep are two verses that come as one, and any two verses that come as one do not teach their common aspect to apply to other cases. The Gemara clarifies: The verse pertaining to misuse of consecrated property is that which we said, but what is the verse with regard to slaughter or sale? The verse states: “And he slaughters it or sells it” (Exodus 21:37), juxtaposing selling to slaughtering: Just as a sale is necessarily performed by means of another, since every transaction involves two parties, so too slaughter can likewise be performed by means of another, and the thief is liable even if the act of slaughtering is performed by his agent.

<sup>51</sup> The Gemara quotes two other explanations. The school of Rabbi Yishmael taught that the word “or” in the verse “and he slaughters it or sells it,” serves to include an agent. The school of Hīzkiyya taught: When the verse states with regard to sale or slaughter: “He shall pay five oxen for an ox, and four sheep for a sheep” (Exodus 21:37), repetition of the word “for” is superfluous and serves to include an agent. It teaches that the one who appointed the agent is liable for the action of the agent.

<sup>52</sup> The Gemara asks: This works out well according to the one who said that two verses that come as one do not teach a precedent that applies to other cases, but according to the one who said that two verses do teach a precedent, what can be said? Why not derive from the case of misuse of consecrated property and that of slaughter or sale that an agent can be appointed to perform a transgression? The Gemara answers: The Merciful One reveals in the Torah that an agent cannot be appointed to perform a transgression in the case of an offering slaughtered outside the Temple, as it states: “It shall be considered blood for that [hahu] man; he has spilled blood” (Leviticus 17:4). The emphasis of “that man” teaches that he is liable for his actions, but he is not liable for the actions of his agent.

<sup>53</sup> The Gemara asks: We found a source for the halakha that an agent cannot be appointed to perform a transgression with regard to the prohibition of offerings slaughtered outside. From where do we derive that this halakha applies to the entire Torah? The Gemara answers: It is derived as a principle from the case of offerings slaughtered outside, by means of analogy.

<sup>54</sup> The Gemara asks: But before deriving that an agent cannot be appointed to perform a transgression from the case of offerings slaughtered outside, let us derive the halakha from these other cases, i.e., misuse of consecrated property and slaughter or sale, where the halakha is that an agent can be appointed to perform a transgression. The Gemara answers: The Merciful One again writes in that same verse in connection to the prohibition of slaughtering offerings outside the Temple: “And that [hahu] man shall be cut off from among his people” (Leviticus 17:4). If the halakha derived from the emphasis of the word hahu written in this part of the verse is not needed for this matter itself, since the verse already taught that he is liable only for his own act and not for that of his agent, apply it to the matter of the entire Torah, so that one is held liable only for one’s own actions and not for those of an agent.

<sup>55</sup> The Gemara asks: And according to the one who says that two verses that come as one do not teach a precedent, and there is no reason to learn from the misuse of consecrated property and slaughter or sale that one can appoint an agent to perform a transgression, what does he interpret those terms: “That man” and: “That man” to be teaching? Since he does not need to counter a derivation from the two verses, he should not require them to teach that one cannot appoint an agent

to perform a transgression. The Gemara answers: One of them serves to exclude from liability the case of two who hold a knife and slaughter an offering outside together. And the other one emphasizes: “That man” is liable, but not one who is compelled to slaughter the animal; “that man” is liable, but not one who does so unwittingly; and “that man” is liable, and not one who was mistaken, e.g., one who did not know that the animal was an offering. In order to be liable one must have acted with full awareness and completely willingly.

<sup>56</sup> The Gemara asks: And how does the other opinion, i.e., the one who holds that two verses that come as one do teach a precedent, which derives from the word “that [hahu]” that an agent cannot be appointed to perform a transgression, derive these halakhot? The Gemara answers: He derives them from the fact that the pronoun “hahu” is composed of two parts, the article ha, meaning: The, and the pronoun hu, meaning: He. He derives halakhot both from “hu” and from the additional article in “hahu.” Therefore, he is able to derive both the principle that an agent cannot be appointed to perform a transgression and the halakhot of two that slaughter and one who acts without full awareness. And the other opinion, i.e., the one who holds that two verses that come as one do not teach a precedent, which derives these halakhot from the entire word “hahu,” does not interpret the variation from “hu” to “hahu.” He holds that one cannot derive separate halakhot from each part of this word.

<sup>57</sup> The Gemara questions the statement that there is no agency for transgressions: But there is that which is taught in a baraita: One who says to his agent: Go kill a person, he, the killer, is liable if he kills, and the one who appointed him is exempt. Shammai the Elder says in the name of Haggai the prophet: The one who appointed him is liable, as it stated with regard to David, who directed Joab to kill Uriah: “Him you have slain with the sword of the children of Ammon” (II Samuel 12:9). David was held responsible for the death of Uriah.

<sup>58</sup> The Gemara asks: What is the reason of Shammai the Elder? How can he say that there is agency for transgression? The Gemara answers: He holds that two verses that come as one do teach a precedent, and therefore he learns from the two cases of misuse of consecrated property and slaughter or sale that there is agency for transgression. And as for the derivation from one who slaughters an offering outside the Temple, which teaches that there is no agent for transgression, Shammai does not interpret the variation from “hu” to “hahu.” And if you wish, say instead: Actually it is possible that he does interpret the variation, and he agrees that there is no agent for transgression. And what is the meaning of Shammai’s statement that the one who appoints him is liable? It means he is liable according to the laws of Heaven, although he cannot be punished by a human court.

<sup>59</sup> The Gemara asks: By inference, does this mean that the first tanna holds that he is exempt even according to the laws of Heaven? The one who appointed him must bear some responsibility. Rather, the first tanna also agrees that the one who appointed the killer is liable according to the laws of Heaven, and the difference between them pertains to a great judgment and a small judgment. According to Shammai, his liability is great, to the extent that Heaven considers him fully responsible, whereas the first tanna holds that his liability is of a lesser degree.

<sup>60</sup> And if you wish, say instead: Everyone agrees that there is no agent for transgression. Nevertheless, Shammai holds that there, with regard to killing, it is different, since the Merciful One

reveals: “Him you have slain with the sword of the children of Ammon,” explicitly rendering David accountable for this transgression and indicating that killing is different from all other transgressions.

<sup>61</sup> And the other opinion, i.e., the first tanna, who holds that the one who appoints the killer is exempt, explains the verse as follows: Behold this killing is for you like the sword of Ammon. Just as you are not punished for those killed by the sword of Ammon in the course of the war, so too you are not punished for the death of Uriah the Hittite, not even according to the laws of Heaven. What is the reason for this? Uriah was a rebel against the monarchy and was consequently liable to the death penalty, as he said to King David: “And my lord Joab, and the servants of my lord, are encamped in the open field” (II Samuel 11:11). By referring to Joab as his lord in front of the king, he indicated that he answered to Joab rather than to the king, which is tantamount to rebellion.

<sup>62</sup> Rava said: If you say that Shammai holds that two verses that come as one do teach a precedent, and he does not interpret the variation from “hu” to “hahu,” the combination of which would result in him holding that there is agency for transgression in all cases, even he concedes with regard to one who says to his agent: Go and engage in sexual intercourse with a forbidden relative, or: Go and eat forbidden fat, that the agent is liable and the one who appointed him is exempt, as we have not found in the entire Torah a case where this person physically benefits from the transgression but that one becomes liable.

<sup>63</sup> § It was stated that amora'im engaged in a dispute concerning the following issue: Rav says: An agent can become a witness. If one was appointed as an agent to perform a certain task, he can then serve as a witness that the action was performed. In the school of Rabbi Sheila they say: An agent cannot become a witness. The Gemara asks: What is the reason of the school of Rabbi Sheila? If we say it is because the one who appointed him did not say to the agent: Be a witness for me, and appointed him only as an agent; if that is so, if one betrothed a woman in the presence of two people and did not say to them: You are my witnesses, so too would they hold that it is not a betrothal? It is not necessary to explicitly appoint witnesses.

<sup>64</sup> Rather, the dispute is as follows. Rav says: An agent can become a witness, since we strengthen his words of testimony because he attests to a matter of which he is certain, as he is the one that performed the action. In the school of Rabbi Sheila they say: An agent cannot become a witness. Since the Master said that the legal status of a person's agent is like that of himself, the agent is considered like the one who appointed him himself. Just as one cannot testify with regard to a matter that concerns himself, the same applies to one's agent.

<sup>65</sup> The Gemara raises an objection from a baraita to the statement of Rav: If one said to three people: Go out and betroth the woman for me, then one of them is the agent for the betrothal and two of them serve as witnesses; this is the statement of Beit Shammai. And Beit Hillel say: They are all potential agents, and as an agent cannot become a witness none of them can be witnesses. Beit Shammai and Beit Hillel disagree only with regard to a case where one said this to three people. But with regard to two people, all agree that agents are not able to serve as witnesses.

<sup>66</sup> The Gemara answers: It was he, Rav, who said his ruling in accordance with the opinion of that tanna, i.e., the version of Beit Shammai as presented by Rabbi Natan. As it is taught in a baraita: Rabbi Natan says: Beit Shammai say that the agent and one witness are sufficient to carry out the agency and testify, and Beit Hillel say: The agent and two witnesses are needed. The Gemara questions this explanation: And would Rav rule in accordance with the opinion of Beit Shammai?

The Gemara answers: Reverse the opinions, so that it is Beit Hillel who said that the agent and one witness suffice. And Rav Aḥa, son of Rava, taught the dispute of the amora'im in the opposite manner. Rav says: An agent cannot become a witness, and in the school of Rabbi Sheila they say: An agent can become a witness. The Gemara concludes: And the halakha is that an agent can become a witness.

<sup>67</sup> Rava says that Rav Naḥman says: It follows that if one said to two people: Go and betroth the woman for me, the very same people who are his agents for the betrothal are his witnesses. And a similar halakha is true with regard to divorce: If a man sent a bill of divorce to his wife with two people, they serve both as agents of delivery and as witnesses to the divorce.

<sup>68</sup> And a similar halakha applies with regard to cases of monetary law. If one appoints agents to perform a transaction for him, e.g., paying a debt to his creditor, they can testify that he has paid.

<sup>69</sup> The Gemara comments: And it is necessary for Rav Naḥman to teach this halakha in each of these legal domains, as had he taught us this halakha only in the case of betrothal one could say that the agents can serve as witnesses because they are coming to render her forbidden to everyone else, and therefore there is no reason to suspect them of lying, as their testimony renders her forbidden to them as well. But with regard to divorce, we should be concerned that perhaps the agent cast his eyes upon her and is testifying falsely so that he can marry her.

<sup>70</sup> And had Rav Naḥman taught us this halakha only in the case of divorce, it could have been said that the agents are not suspected of lying because a woman is not fit for marrying two people, and since they testify as a pair there is no concern that they both might have designs upon her. But with regard to money, one might say that these two can divide it between them, and perhaps they never paid the debt but kept the money themselves. Therefore, all the examples are necessary.

<sup>71</sup> The Gemara asks: What does Rav Naḥman hold? If he holds that in the case of one who lends money to another in the presence of witnesses, the debtor must repay him in the presence of witnesses, then these agents are affected by their testimony. As, if they say: We did not repay him but returned the money to the one who appointed us, then the one who appointed them will say to them: Pay me back the money I gave you to repay the debt. The agents are considered as the debtors of the one who appointed them, as they took money from him. They would not be deemed credible to state that they returned the money to the one who appointed them, as they do not have witnesses that they did so. Consequently, they have a financial incentive to testify falsely that they fulfilled their agency and repaid the debt.

<sup>72</sup> Rather, Rav Naḥman actually holds that in the case of one who lends money to another in the presence of witnesses, the debtor does not need to repay him in the presence of witnesses. And since the agents are able to say: We returned the money to the debtor, even without there being witnesses to substantiate their claim, they can also be deemed credible to say: We repaid the creditor, as they have no financial incentive to lie.

<sup>73</sup> The Gemara comments: And now, since the time of Rav Naḥman, when the Sages instituted an oath of inducement, an oath instituted by the Sages in a case where a defendant completely denies a claim, these witnesses are affected by their testimony. If they were to claim that they returned the money to the one who appointed them, they would be required to take an oath of inducement to that effect. Consequently, they have an incentive to lie and claim that they fulfilled their agency and repaid the loan. Therefore, their testimony that they fulfilled their agency is not deemed credible.

Instead, these witnesses take an oath in court that they gave the money to him, i.e., the lender, and the lender in turn takes an oath that he did not take the money owed to him, and then the debtor pays the lender his debt a second time, as the Sages ruled in similar cases.

<sup>74</sup> § The mishna teaches that a man can betroth his daughter to a man when she is a young woman. We learned in a mishna there (Gittin 64b): With regard to a betrothed young woman, she and her father are each eligible to receive her bill of divorce. Rabbi Yehuda said: Two hands do not have the right to acquire an item on behalf of one person as one. If the young woman is able to acquire an item on her own, her father cannot receive her bill of divorce. Conversely, if she is not able to acquire an item on her own, only her father can receive the bill of divorce. Rather, her father alone receives her bill of divorce on her behalf. The mishna states another principle: And any female who is unable to safeguard her bill of divorce, either due to her young age or mental incompetence, is unable to be divorced, since a bill of divorce is effective only for one who understands the severing of ties that a divorce engenders.

<sup>75</sup> Reish Lakish says: Just as there is a dispute with regard to divorce, as to whether both a young woman and her father can accept her bill of divorce or only the father can do so, so too there is a dispute with regard to betrothal. And Rabbi Yoḥanan says: The dispute is with regard to divorce, but with regard to betrothal everyone agrees that her father has the right to accept it but not her.

<sup>76</sup> And Rabbi Yosei, son of Rabbi Ḥanina, said: What is the reason of Rabbi Yoḥanan, in accordance with the opinion of the Rabbis, that there is a distinction between divorce and betrothal? In the case of divorce, when she brings herself back into her father's authority by means of the bill of divorce, it is considered as though the father has obtained the bill of divorce via his daughter, and therefore either she or her father can receive it. In the case of betrothal, where she removes herself from her father's authority, she cannot do this by herself. Consequently, only her father can accept the betrothal, but not her.

<sup>77</sup> The Gemara asks: But isn't there the case of levirate betrothal, where the yevama removes herself from her father's authority, and yet we learned in a baraita:

<sup>78</sup> If a minor girl was widowed after her betrothal, a surviving brother of her betrothed can perform levirate betrothal only with the consent of her father. And in the case of a young woman, he can do so either with her consent [*mida'at atzmah*] or with the consent of her father, unlike the halakha with regard to standard betrothal. This indicates that a young woman can accept levirate betrothal on her own, despite the fact that it removes her from her father's authority.

<sup>79</sup> Rather, if it was stated, it was stated like this: Rabbi Yosei, son of Rabbi Ḥanina, says: What is the reason of Rabbi Yoḥanan, in accordance with the opinion of the Rabbis? With regard to betrothal, which takes effect only with the consent of the one who accepts the betrothal, her father can accept it but not her, since betrothal requires his approval. With regard to a bill of divorce, which can be given without her consent, either she or her father can receive it.

<sup>80</sup> The Gemara asks: But isn't levirate betrothal valid only with her consent, like other betrothals, and yet it teaches in the baraita that either she or her father can accept it? The Gemara answers: There it is referring to levirate betrothal that is performed against her will, and it is in accordance with the opinion of Rabbi Yehuda HaNasi. As it is taught in a baraita: If a yavam performs levirate betrothal with his yevama without her consent, Rabbi Yehuda HaNasi says: The yavam acquires her. And the Rabbis say: He does not acquire her.

<sup>81</sup> The Gemara clarifies: What is the reason of Rabbi Yehuda HaNasi? He derives the halakha of levirate betrothal from the halakha of sexual intercourse that a yavam engages in with a yevama: Just as intercourse with the yevama renders her acquired even if it is done against her will, so too here, in the case of levirate betrothal, the yavam can betroth her against her will. And the Rabbis hold that we derive the halakha of levirate betrothal from standard betrothal: Just as betrothal can be performed only with her consent, so too here, levirate betrothal can be performed only with her consent.

<sup>82</sup> The Gemara clarifies: With regard to what do they disagree? Rabbi Yehuda HaNasi holds that one should derive matters involving a yevama from other matters involving a yevama, and the marriage between a yevama and a yavam can be formalized against her will. And the Rabbis hold that one should derive matters involving betrothal from the halakhot of betrothal, as levirate betrothal is structured like standard betrothal in other respects.

<sup>83</sup> The Gemara comments: So too, it is reasonable to rule with regard to betrothal as Rabbi Yoḥanan explains, that only the father can accept betrothal, from the fact that it teaches in the latter clause of the baraita that with regard to levirate betrothal, in the case of a young woman, the yavam can perform it either with her consent or with the consent of her father, unlike the halakha with regard to standard betrothal. This indicates that she can be betrothed in standard betrothal only with her father's agreement. The Gemara asks: Then shall we say that this should be a conclusive refutation of the opinion of Reish Lakish, who holds that according to the Rabbis a young woman can also accept her own betrothal? The Gemara answers: Reish Lakish could have said to you: In accordance with whose opinion is this baraita? It is in accordance with the opinion of Rabbi Yehuda, who says: Two hands do not acquire an item as one.

<sup>84</sup> The Gemara asks: If it is in accordance with the opinion of Rabbi Yehuda, why does the baraita state: Unlike the halakha with regard to standard betrothal? It should have stated: Unlike the halakha with regard to divorce, as Rabbi Yehuda stated his opinion in the mishna with regard to divorce, not betrothal. The Gemara answers: Yes, it is indeed so, it should have referred to divorce, but since it taught the halakha of levirate betrothal, which is similar to betrothal, it also taught: Unlike the halakha with regard to standard betrothal.

<sup>85</sup> The Gemara asks: And according to the opinion of Rabbi Yehuda, in what way is levirate betrothal different from divorce? Why can a young woman accept the former but not receive a bill of divorce, when both levirate betrothal and divorce can be performed without her consent? The Gemara answers: The halakha of levirate betrothal is different. Since she is bonded to the yavam and standing in wait for him, acceptance of the betrothal money by the yevama suffices to effect the levirate betrothal. The Gemara comments: Now that you have arrived at this explanation, the statement of Rabbi Yoḥanan also should not pose a difficulty for you from the outset. One cannot question his statement with regard to the Rabbis' opinion in the case of betrothal. Levirate betrothal is different, since the yevama is bonded to the yavam and standing in wait for him.

<sup>86</sup> We learned in the mishna that a man can betroth his daughter to a man when she is a young woman, by himself or by means of his agent. The Gemara analyzes this: Yes, he can betroth her by himself or by means of his agent, but no, she cannot become betrothed by herself or by means of her agent. This is a conclusive refutation of Reish Lakish, who holds that according to the opinion of the Rabbis a young woman can accept her own betrothal. The Gemara answers: Reish Lakish could have said to you: This mishna too is in accordance with the opinion of Rabbi Yehuda.



<sup>87</sup> The Gemara asks: But can you establish this mishna in accordance with the opinion of Rabbi Yehuda? But the last clause, in the following mishna (46b), teaches: In the case of one who says to a woman: Be betrothed to me with this date and adds: Be betrothed to me with that date, she is betrothed only if one of them is worth one peruta on its own. And we say: Who is the tanna who taught that the two dates are valued separately only if he said: Become betrothed and: Become betrothed, in a separate statement when giving each date, but that if he said: Become betrothed, only once, the value of the two dates are added together?

<sup>88</sup> And Rabba said: It is Rabbi Shimon, who says that one is not liable to bring multiple offerings for taking false oaths to multiple people in the same utterance. For example, if one says: I take an oath that I do not have your item, nor yours, nor yours, he brings a single offering. This is the halakha unless one states an expression of an oath to each and every one of the plaintiffs, by stating: I take an oath I do not have yours; I take an oath I do not have yours, in which case he brings multiple offerings. Consequently, the tanna of this mishna is Rabbi Shimon, not Rabbi Yehuda.

<sup>89</sup> And if you would say that the tanna of the entire mishna concerning betrothal is Rabbi Yehuda, and that with regard to the specification of separate oaths he holds in accordance with the opinion of Rabbi Shimon, this cannot be. But does he in fact hold in accordance with the opinion of Rabbi Shimon with regard to the specification of separate oaths?

<sup>90</sup> But isn't it taught in a baraita: This is the principle with regard to one's liability to bring offerings for a false oath: If he included all the statements in one oath he is liable for only one oath, but if he specified them, he is liable for each and every one; this is the statement of Rabbi Meir. Rabbi Yehuda says: If one said: I take an oath that I do not have your deposit, nor yours, nor yours, nor yours, and he was found to have taken a false oath, he is liable to bring an offering for each and every one. Rabbi Eliezer says: If he said: I do not have yours, nor yours, nor yours, and nor yours, I take an oath, then he is liable for each and every one. Since he stated the oath at the end, it refers back to each element of his statement. Rabbi Shimon says: He is liable to bring more than one offering only if he states an expression of an oath for each and every one. This indicates that Rabbi Yehuda disagrees with Rabbi Shimon with regard to the question of when oaths are considered distinct.

<sup>91</sup> Rather, the Gemara explains in the opposite manner: The tanna of the entire mishna concerning betrothal is Rabbi Shimon, and with regard to the halakha of agency he holds in accordance with the opinion of Rabbi Yehuda, that only the father of a young woman can appoint an agent to accept her betrothal or receive her bill of divorce.

<sup>92</sup> The Gemara relates: One day Rabbi Asi did not go to the study hall. He found Rabbi Zeira and said to him: What was said today in the study hall? Rabbi Zeira said to him: I too did not go, but Rabbi Avin is the one who went, and he said: The entire coterie sided with the opinion of Rabbi Yoḥanan that there is a difference between betrothal and divorce in the case of a young woman. And Reish Lakish screamed at them like a crane: Doesn't the verse state: "And she departs out of his house and goes and becomes another man's wife" (Deuteronomy 24:2), juxtaposing the halakhot of divorce and betrothal? But no one paid any attention to him. Rabbi Asi said to him: Is Rabbi Avin reliable? Can one be sure that he transmitted an accurate report? Rabbi Zeira said to him: Yes, in this case he can be trusted, since the elapsed time was only like the interval between catching a fish from the sea and bringing it to a frying pan [tignei].

<sup>93</sup> Rav Naḥman bar Yitzḥak says: When I quote this statement, I do not state it in the name of Rabbi Avin, son of Rabbi Ḥiyya, nor Rabbi Avin bar Kahana, but in the name of Rabbi Avin, without specification. The Gemara asks: What difference is there? Why does it matter which Rabbi Avin is cited as the source of this statement? The Gemara answers: It would matter if one were to raise a contradiction between one of his rulings and another one of his rulings. If there were to be a conflicting opinion attributed to a specific Rabbi Avin, e.g., Rabbi Avin, son of Rabbi Ḥiyya, it would not be a true contradiction, as this statement might have been issued by a different Rabbi Avin.

<sup>94</sup> Rava asked Rav Naḥman:

<sup>95</sup> According to the Rabbis, who hold that a young woman can accept her own bill of divorce, what is the halakha with regard to the ability of a young woman to appoint an agent to receive her bill of divorce from the hand of her husband? The Gemara explains the two sides of this question: Since a young woman is under her father's jurisdiction, is she, with regard to acquisitions, considered like an extension of her father's hand, or is she considered like her father's courtyard? The Gemara clarifies: She might be considered like her father's hand, and just as her father can appoint an agent, so too she can appoint an agent. Or perhaps she is considered like her father's courtyard, and therefore she is not divorced until the bill of divorce actually reaches her possession, as a courtyard cannot appoint an agent, but it can receive a bill of divorce, in the sense that a bill of divorce thrown in his courtyard is considered to be in his possession.

<sup>96</sup> The Gemara asks: And is Rava uncertain about this matter? But doesn't Rava say: If one wrote a bill of divorce and placed it in the hand of his wife's slave, who is sleeping, but she is guarding him, then it is a valid bill of divorce. If the slave was awake, then it is not a valid bill of divorce. Why is it not a valid bill of divorce if he is awake? It is because the slave is for her a courtyard that is not consciously secured by her, i.e., when the slave is awake, he is not fully controlled by her. And if it enters your mind that a young woman is considered like her father's courtyard, then even when the bill of divorce reaches her possession she should not be divorced, since she is like a courtyard that is not consciously secured by her father.

<sup>97</sup> Rather, it is actually obvious to Rava that a young woman is considered like her father's hand and not like his courtyard, and this is what he was asking: Is she just as strong as her father's hand, to the extent that she can appoint an agent, or not? Rav Naḥman said to him: She cannot appoint an agent.

<sup>98</sup> Rava raised an objection to him from a mishna (Gittin 65a): In the case of a minor girl who said to an agent: Receive my bill of divorce for me, it is not a valid bill of divorce until the bill of divorce reaches her possession, since a minor is not considered halakhically competent and cannot appoint an agent. Rava inferred from this: But in the case of a young woman, it is a bill of divorce, which indicates that a young woman can appoint an agent. The Gemara answers: With what are we dealing here? With a situation where she does not have a father, and she can appoint an agent since she is of age and is under her own authority. But a betrothed young woman whose father is still alive is under his authority and cannot appoint an agent.

<sup>99</sup> The Gemara asks: But from the fact that the latter clause of that same mishna teaches: If her father said to an agent: Go out and receive a bill of divorce for my daughter, then if the husband seeks to retract his decision after he has given the bill of divorce to the agent he cannot retract it, since it is as though the bill of divorce reached her possession, by inference, one can say that in the first clause we are dealing with a case where she has a father. The Gemara answers: The mishna is incomplete and

this is what it is teaching: In the case of a minor girl who said: Receive my bill of divorce for me, it is not a bill of divorce until the bill of divorce reaches her possession. But in the case of a young woman, it is a bill of divorce as soon as it reaches her agent's possession. In what case is this statement said? It is said when she does not have a father. But if she has a father, and her father said to an agent: Go out and receive my daughter's bill of divorce on her behalf, and the husband seeks to retract his decision, he cannot retract it.

<sup>100</sup> § It was stated that amora'im disagreed in the case of a minor who became betrothed without her father's consent. Shmuel says: If her husband seeks to divorce her she requires a bill of divorce to sever the marriage, and she also requires refusal, which annuls a betrothal that is valid by rabbinic law but not by Torah law. Karna says: There are puzzling matters included within this statement, since it is self-contradictory: If she needs a bill of divorce, and the betrothal is evidently treated as a proper betrothal, why does she require refusal? Conversely, if she requires refusal, indicating that her betrothal was of no consequence by Torah law, why does she require a bill of divorce?

<sup>101</sup> The Sages said to him: Now that Mar Ukva and his court are in the town of Kafrei, let us pose the question to them. Furthermore, they reversed the names of the respective opinions of Shmuel and Karna and sent the question before Rav. He said to the messengers in the form of an oath: By God! She requires a bill of divorce and she requires refusal. And God forbid that the seed of Abba bar Abba, i.e., Shmuel, should say such a thing, that she does not require both.

<sup>102</sup> The Gemara asks: And what is the reason that there is a need for both a bill of divorce and refusal? Rav Aḥa, son of Rav Ika, said: She requires a bill of divorce because perhaps the father desired the betrothal, which would mean it would take effect retroactively. She also requires refusal because perhaps the father did not desire the betrothal, and it did not take effect. If she receives only a bill of divorce, and her former husband proceeds to betroth her sister, people will say that the betrothal does not take effect with her sister. The halakha is that betrothal can take effect with the sister of one's wife or former wife only after the first wife has died. She is therefore required to perform refusal, to indicate that the validity of her betrothal was uncertain. If he later betroths her sister, he would be required to divorce her due to the uncertainty if this second betrothal took effect.

<sup>103</sup> Rav Naḥman said: And this concern that the father of a minor might later state that he desired her betrothal is relevant only when they arranged the match before she betrothed herself, as in that case it is likely that the father desired the betrothal.

<sup>104</sup> The Gemara quotes another opinion. Ulla said: If a minor accepted betrothal without her father's consent, her betrothal does not take effect, and she does not even require refusal. The Gemara asks: Does Ulla's statement apply even though they arranged the match? The Gemara answers: He who teaches this does not teach that. The one who cited Ulla's statement does not hold that Shmuel's ruling applies only in the case of an arranged match, rather it applies in all cases. According to this opinion, Ulla stated his halakha only in a case where the match was not arranged. There are those who say that Ulla says: If a minor became betrothed without her father's consent, she does not even require refusal, including a case where the match was arranged.

<sup>105</sup> Rav Kahana raises an objection: The mishna in Yevamot (2a) teaches that if a potential yevama is in one of the fifteen categories of women forbidden to the yavam as a relative, not only is she forbidden to him, but he also may not perform levirate marriage with any of her rival wives. The Sages then clarified this halakha: And if, before the husband had died, any of those forbidden women

had died, or had performed refusal; or had been divorced; or had been found to be a sexually underdeveloped woman [ailonit], who is incapable of bearing children, then her rival wives are permitted to the yavam.

<sup>106</sup> Rav Kahana focuses on the case of one who performed refusal: With regard to this refusal that she performed, what type of betrothal did it follow? When she was betrothed by whom? If we say that her father betrothed her to the brother who died, is refusal alone enough for her to dissolve the marriage? Doesn't she require a proper bill of divorce? Rather, is it not referring to a case where she betrothed herself when she was a minor, and the mishna nevertheless teaches that she requires refusal. This presents a difficulty for Ulla, who holds that she does not need even refusal.

<sup>107</sup> The Gemara comments: Rav Kahana raised the objection and he resolved it: The mishna refers to a case where she became like an orphan in her father's lifetime, i.e., her father betrothed her to a man, and she was subsequently widowed or divorced while still a minor. In that case, the same halakha as that of an orphan applies to her, in that her father does not have the right to betroth her again, although he is still alive. If she then would betroth herself, her betrothal is not effective by Torah law, because she is still a minor. It does take effect by rabbinic law, and she can annul that marriage by performing refusal. This would not be a question for Ulla, as he stated his ruling in a case where it was the first betrothal of the minor.

<sup>108</sup> Rav Hamnuna raises an objection: It is taught in a baraita with regard to a Hebrew maidservant: A father cannot sell his minor daughter as a Hebrew maidservant to her relatives because the Torah requires that the one who purchases a maidservant be able to marry her. The Sages said in the name of Rabbi Elazar: He can sell her even to her relatives, as sometimes a Hebrew maidservant serves only in that capacity, without marrying the master.

<sup>109</sup> And they agree that he can sell her to a High Priest even if she is a widow, or to a common priest even if she is a divorcée or is a yevama who performed ḥalitza [ḥalutza]. Although such marriages are prohibited, they do take effect. The Gemara analyzes this: What are the circumstances of this widow who can be sold as a maidservant by her father? If we say that her father betrothed her and her husband subsequently died while she was still a minor, is he able to sell her after her betrothal? A person cannot sell his daughter into servitude after he has betrothed her. Rather, isn't the baraita referring to a case when she betrothed herself as a minor, and yet it calls her a widow, indicating that such a betrothal is effective, contrary to the opinion of Ulla.

<sup>110</sup> Rav Amram said that Rabbi Yitzḥak said: Here it deals with a minor girl widowed from a betrothal of designation, i.e., her father sold her as a Hebrew maidservant, and the master designated her as his wife but died before he married her. And this is in accordance with the opinion of Rabbi Yosei, son of Rabbi Yehuda, who says: The original money of the sale of the maidservant was not given for the purpose of betrothal. Rather, her betrothal goes into effect when her master relinquishes his rights to have her serve as a Hebrew maidservant. Since this betrothal was not accepted by the father, he is later permitted to sell her as a maidservant again.

<sup>111</sup> § It was stated: If a man who betrothed a minor without her father's consent died, and she happened before his brothers for levirate marriage, Rav Huna says that Rav says: She performs refusal for his levirate betrothal, i.e., if the yavam performed levirate betrothal with her, divorce is effected only by means of refusal in addition to a bill of divorce, but she does not perform refusal for his levirate bond to her. If he did not perform levirate betrothal, she does not require refusal as well

as ḥalitza. How so? If he performed levirate betrothal with her, she requires a bill of divorce, and she requires ḥalitza, and she requires refusal.

<sup>112</sup> The Gemara clarifies: She requires a bill of divorce, as perhaps the father desired the betrothal of only the second man. Levirate betrothal is performed in the same manner as standard betrothal, i.e., by giving money. If the father did not desire the first betrothal she is not a yevama, and the second betrothal goes into effect, requiring a bill of divorce to end the betrothal. She requires ḥalitza, as perhaps the father desired the betrothal of the first man, in which case she is a regular yevama, who requires ḥalitza to be released from the yavam. She requires refusal, as perhaps the father did not desire either the betrothal of the first man or the betrothal of the second man. If she receives a bill of divorce and performs ḥalitza, and the second man proceeds to betroth her sister, people will say that the betrothal does not take effect with her sister, as they will think that the first betrothal was fully valid.

<sup>113</sup> If he did not perform levirate betrothal with her, she requires only ḥalitza. The Gemara explains: If you say that she should require refusal as well, lest people say that betrothal does not take effect with her sister, that is unnecessary. Everyone knows that a sister of one's ḥalitza is forbidden by rabbinic law only; therefore, they also know that betrothal with the sister would be effective, and they would not permit the sister to marry others without receiving a bill of divorce. This is as Reish Lakish said with regard to the wording of a mishna (Yevamot 41a): Here Rabbi Yehuda HaNasi incidentally taught that a sister of one's divorcée is forbidden to him by Torah law, whereas a sister of one's ḥalitza is forbidden to him by rabbinic law.

<sup>114</sup> § The Gemara relates: There were these two people that were sitting and drinking wine under poplar trees [tzifei] in Babylonia. One of them took a cup of wine and gave it to his friend. He said: Betroth for me your daughter to my son by receiving this cup of wine. Ravina says: Even according to the one who says that in the case of a minor girl who became betrothed without her father's consent, we are concerned that perhaps the father desired the betrothal,

<sup>115</sup> and we do not say that perhaps the son desired the betrothal. The Sages said to Ravina: But perhaps the son appointed his father as an agent to betroth her, and the betrothal should take effect. He replied: A person is not so brazen as to appoint his father as his agent and thereby treat him as an assistant of sorts. They further inquired: But perhaps the son made his desire known to his father by speaking of his desire to marry the woman, and the father acted of his own accord upon his son's wishes and betrothed her to him. Rabba bar Shimi said to Ravina: This is not a concern, since the Master, i.e., Ravina, explicitly said that he does not agree with this opinion of Rav and Shmuel that when a minor girl accepts betrothal there is a concern that perhaps the father desired it. So too, there is no concern that a father can act for the son without his awareness.

<sup>116</sup> The Gemara relates: There was a certain man who betrothed a minor girl without her father's consent with a bundle of vegetables in the marketplace. Ravina says: Even according to the one who says that when a minor becomes betrothed without her father's consent we are concerned that perhaps the father desired the betrothal, this matter applies only if the man betrothed her in a dignified manner. But as the betrothal in this case was done in a degrading manner, there is no concern.

<sup>117</sup> Rav Aḥa of Difti said to Ravina: What was the degradation in this manner of betrothal? Was the degradation from the fact that he used vegetables, or was the degradation due to the betrothal having

been performed in the marketplace? The practical difference concerns cases where one betrothed a minor girl with money in the marketplace, or where one betrothed a minor girl with a bundle of vegetables in a house. What is the halakha? Ravina said to him: Both this and that, i.e., each of them is considered a degrading manner.

<sup>118</sup> The Gemara further relates: A couple wanted to marry off their minor daughter. That one, the father, said: I want to marry her off to my relative, while she, the mother, said she wanted to marry the daughter off to her relative. His wife pressured him and forced him until he said to her: Let the girl be married to her, i.e., the mother's, relative. While they were eating and drinking the festive meal before the betrothal, his relative came to the roof and betrothed her to himself.

<sup>119</sup> The Gemara assumes that the father did not desire this betrothal. Why? Abaye said: It is written: "The remnant of Israel shall not do iniquity, nor speak lies" (Zephaniah 3:13). The father had agreed that she would marry his wife's relative, and he would stand by his word. Since the betrothal of his minor daughter is dependent on his desire, there is no concern that the father desired his relative's betrothal. Rava said a different reason: There is a presumption that a person does not take the trouble of preparing a meal and then cause it to be lost. Since he prepared a festive meal in honor of his daughter's betrothal to his wife's relative, he would not desire a betrothal that would render his efforts for naught.

<sup>120</sup> The Gemara asks: What is the difference between these two explanations? The Gemara answers: The difference between them concerns a case where he did not take the trouble of preparing a meal. According to Rava, since he had not gone to any effort, there should be concern that the betrothal is valid. Abaye would hold that since he would not go back on his word, they are not betrothed.

<sup>121</sup> § If a minor became betrothed with her father's consent, and her father left for overseas, and she went ahead and got married of her own accord in her father's absence, Rav says: If she is an Israelite who married a priest, she may partake of teruma until her father comes and protests, explicitly stating that he does not agree to the marriage. Rav Asi said: She may not partake of teruma. Perhaps her father will come and protest, and it will be found retroactively that a non-priest has partaken of teruma. The Gemara relates: There was an incident of this kind, and Rav was concerned for this opinion of Rav Asi and did not allow a girl in this situation to partake of teruma.

<sup>122</sup> Rav Shmuel bar Rav Yitzhak says: And Rav concedes that if the minor girl dies, the husband does not inherit from her, because of the principle: Establish money in the possession of its owner. Since the validity of her marriage is a matter of uncertainty, as the father might protest it, the money remains with her previous inheritors.

<sup>123</sup> The Gemara cites another dispute between the Sages: If a minor became betrothed with her father's consent, and she married without his consent, and her father is here, i.e., present, Rav Huna said: She may not partake of teruma. Rav Yirmeya bar Abba said: She may partake of teruma.

<sup>124</sup> The Gemara explains the two opinions: Rav Huna said she may not partake of teruma, and even according to Rav, who said that if her father is overseas she may partake of teruma, this is so only there, in the case where the father is not present. But here, where the father is present, he does not consent to the marriage; the reason that he was silent in this situation and refrained from protesting is that he was so angry that he did not wish even to speak to her. Conversely, Rav Yirmeya bar Abba said: She may partake of teruma, and even according to Rav Asi, who said that she may not partake

of teruma, it is there that there is a concern that perhaps her father will come and protest. But here, from the fact that he was silent the assumption is that he is comfortable with the marriage.

<sup>125</sup> The Gemara cites another case: If a minor became betrothed without the consent of her father, and married without his consent, and her father is here, Rav Huna said: She may partake of teruma. Rav Yirmeya bar Abba said: She may not partake of teruma. Ulla said: This opinion of Rav Huna, that in this case she may partake of teruma, is irritating “as vinegar to the teeth, and as smoke to the eyes” (Proverbs 10:26), as it contradicts his earlier ruling. Now consider: And what about there, i.e., in a case where her betrothal was with her father’s consent, when there is at least betrothal by Torah law, you said she may not partake of teruma in case he did not consent to the marriage. Is it not all the more so the case that here, i.e., where even the betrothal was performed without her father’s consent, she should not be permitted to partake of teruma?

<sup>126</sup> Rather, the statement of the student seems reasonable. Although Rav Yirmeya bar Abba was like a student compared with Rav Huna, his opinion makes more sense. Rava said: What is the reason of Rav Huna? Since an action was done with her that renders her like an orphan in the lifetime of her father, she is considered married and may partake of teruma. The fact that her father ignored both her betrothal and her marriage indicates that he has waived his rights to control whom she marries. She is therefore considered like an orphan, whose marriage is valid with her own consent.

<sup>127</sup> § It was stated that amora’im disputed the following issue: In the case of a minor girl who became betrothed without her father’s consent, Rav says: Either she or her father is able to prevent the betrothal from taking effect. And Rav Asi says: Her father can prevent it but not she, since she initially agreed. Rav Huna raised an objection to Rav Asi, and some say it was Ḥiyya bar Rav who raised an objection to Rav Asi: The baraita states in the case of a seduced woman: “If her father refuses to give her to him, he shall pay money according to the dowry of virgins” (Exodus 22:16). The Sages expounded: I have derived only the halakha that her father can refuse to give her to the seducer in marriage; from where do I derive that she herself can also refuse? The verse states: “If he refuses [ma’en yema’en].” The repetition of the verb indicates that the right of refusal exists in any case. Despite the fact that she was seduced, she can change her mind and say that she does not want to marry him.

<sup>128</sup> Rav said to those who tried to offer support for his opinion: Do not go after the opposite, i.e., do not cite a proof from a source that could be understood in the opposite manner. Rav Asi can answer your argument by claiming that the baraita is referring to a case where he initially seduced her not for the sake of marriage. Their initial act of intercourse was not performed in order to effect betrothal, so they are not betrothed. The Gemara questions this: In the case of a seduction that is not for the sake of marriage, is a verse required to teach that she can refuse to marry him? Rav Naḥman bar Yitzḥak says: It serves to say that if she refuses to marry him despite her father’s consent to the match, the seducer nevertheless pays the fine like a standard case of a seduced woman. The obligation to pay the fine is not only for a case where her father refuses to let her marry the seducer.

<sup>129</sup> Rav Yosef said to him: If so, if the baraita is discussing a case where intercourse was not performed to effect betrothal, this is what we learned in a baraita with regard to a seduced woman: “He shall pay a dowry for her to be his wife” (Exodus 22:15). This teaches that she requires betrothal from him. And if the verse is speaking of one who seduced her for the sake of marriage, why do I need betrothal? The act of intercourse can serve as the betrothal. Rather, the baraita must be referring

to a case where he seduced her not for the sake of marriage. Abaye said to him: Even if he seduced her for the sake of marriage, she requires an additional betrothal with her father's consent, since she is a minor and became betrothed without it.

<sup>130</sup> MISHNA: In the case of one who says to a woman: Be betrothed to me with this date, and adds: Be betrothed to me with that one, then if one of the dates is worth one peruta she is betrothed, but if not, she is not betrothed, since he mentioned betrothal in connection with each date. But if he said: Be betrothed to me with this one, and with this one, and with this one, then even if all of them together are worth one peruta she is betrothed, but if not, she is not betrothed. If he gave her dates with the intention of betrothing her with them, and she was eating them one by one as she received them, she is not betrothed unless one of them is worth one peruta.

<sup>131</sup> GEMARA: Who is the tanna who taught that it is only if he says: Be betrothed to me, be betrothed to me, in connection with each date that each act of betrothal is considered distinct? Rabba says: It is the opinion of Rabbi Shimon, who said in the context of the laws of deposit oaths: He is never liable to bring more than one offering unless he will state an expression of an oath to each and every one.

<sup>132</sup> The mishna teaches: If one said: With this one, and with this one, and with this one, she is betrothed even if all of them together are worth one peruta. The mishna subsequently states that if she was eating the dates one by one, she is betrothed only if one of them is worth one peruta. The Gemara asks: To which clause of the mishna is the case of the woman eating the dates one by one referring? If we say it is referring to the first clause of the mishna, when he betrothed her separately with each date, why would the mishna specifically state that she ate them? Even if she placed them down without eating them the same halakha would also apply, as he said: Be betrothed to me with this date, so each date must be worth one peruta. Rather, it must be referring to the latter clause, when he said that he is betrothing her with all the dates. In such a situation, if she ate them one by one, she is betrothed only if one of them is worth one peruta.

<sup>133</sup> The Gemara proceeds to ask: And is she betrothed even if the first date is worth one peruta? But until he has given her all the dates for the betrothal, each individual date is considered to be a loan, because if he were to retract his betrothal before giving her all of the dates she would have to return them to him, and one cannot betroth a woman by giving her a loan. By the time he finishes giving her the dates, the first one has already been eaten, so it is not able to effect the betrothal. With regard to this difficulty Rabbi Yoḥanan says: There is a table, and there is meat, and there is a knife, and we have nothing to eat. In other words, everything in the mishna is explicit yet we cannot explain it.

<sup>134</sup> Rav and Shmuel both said: Actually, the case of the woman eating the dates one by one is referring to the first clause of the mishna, where one betrothed the woman with each date separately, and it is speaking utilizing the style of: It is not necessary. The mishna stated, for stylistic reasons, a halakha that it did not need to state, and should be understood as follows: It is not necessary to state the halakha in the case of a woman who placed the dates down, that if one of them is worth one peruta, yes, she is betrothed, and if not, she is not betrothed. But in a case where she was eating them, one might think that since her benefit is immediate, say that she has decided to transfer herself to him by means of that date, although it is worth less than one peruta. The mishna therefore teaches us that she is nevertheless not betrothed.



<sup>135</sup> Rabbi Ami said a different explanation: Actually, the case of the woman eating the dates one by one is referring to the latter clause of the mishna, where he betrothed her by giving her all of the dates. And what is the meaning of: Unless one of them is worth one peruta? It means: Unless the last of them is worth one peruta. But if one of the other dates is worth one peruta she is not betrothed, since they are considered a loan until all the dates have been given.

<sup>136</sup> Rava says: Conclude three conclusions from this statement of Rabbi Ami: Conclude from it that in the case of one who betroths a woman with a loan, she is not betrothed, since she is not betrothed with a date that she has already eaten. And conclude from it that in the case of one who betroths a woman by forgiving a loan and giving her one peruta, her mind is focused on the peruta although the debt is far larger, and she will be betrothed. In the latter case, although the value of the dates she ate was more than the value of the last date, which was merely worth one peruta, she is nevertheless betrothed.

<sup>137</sup> And conclude from it that generally, money that was given for a betrothal that did not take effect is returned. It is not viewed as a gift, but as a loan that must be repaid. This is evident from the fact that all the dates except the last one are considered a loan that must be repaid.

<sup>138</sup> § It was stated: In the case of one who betroths his sister by giving her money, Rav says: The money of the betrothal must be returned by his sister, as this betrothal does not take effect. And Shmuel says: This money is considered to be a gift that she may keep. The Gemara clarifies their respective opinions. Rav says: The money must be returned, since a person knows that betrothal does not take effect with his sister, and he decided to give the money to her for the sake of a deposit. The Gemara raises a difficulty: And let him explicitly say to her that he is giving her the money for the sake of a deposit. The Gemara answers: He thought she would not accept it from him.

<sup>139</sup> And Shmuel maintains: The money is considered to be a gift, because a person knows that betrothal does not take effect with his sister, and he decided to give the money to her for the sake of a gift. The Gemara again raises a difficulty: And let him explicitly say to her that he is giving it to her for the sake of a gift. The Gemara answers: He thought it would be embarrassing to her and she would refuse to accept the money. He therefore attempted to give it to her by an alternative method.

<sup>140</sup> Ravina raises an objection from a mishna (Ḥalla 2:5): In the case of one who separates his ḥalla, the portion of dough that must be given to a priest, from flour, before it has been made into dough, the portion he has separated is not ḥalla. Since the Torah states: “Of the first of your dough you shall set apart” (Numbers 15:20), ḥalla can be separated only from dough. And if the priest fails to return the flour it is considered stolen property in the priest’s possession. Ravina asks: And why is it stolen property in the priest’s possession? In this case too, let us say as Shmuel does: A person knows that one cannot separate ḥalla from flour, and he gave the flour for the sake of a gift.

<sup>141</sup> The Gemara answers: There it is different. The priest must return the flour because otherwise a ruinous situation may emerge from it. How so? Sometimes the priest has, on his own, less than five-fourths of a kav of flour, i.e., he has less than the amount necessitating the separation of ḥalla, and he also has this flour, which gives him a total of more than five-fourths of a kav, the amount necessitating the separation of ḥalla. He will knead all this flour together and will think his dough has been made ready with regard to ḥalla, since he did not have enough of his own flour to require the separation of ḥalla and he had added flour that had been separated as ḥalla to it. And he will then

come to eat it in its untithed state, as the flour he received was not in fact ḥalla. Therefore, the Sages required him to return the flour.

<sup>142</sup> The Gemara asks: But didn't you say that a person knows that one may not separate ḥalla from flour? How can the priest make such an error? The Gemara answers: He knows the halakha but he does not know the reason for the halakha. He knows that one cannot separate ḥalla from flour, but he does not know the reason, as he thinks: What is the reason one may not separate ḥalla from flour? Due to the labor of the priest, i.e., to prevent the priest from having to knead it himself. And as far as the labor of the priest goes, he thinks: I have relinquished the right to have the non-priest knead it for me.

<sup>143</sup> The Gemara asks a question based on a comparison to a similar case: But why must the priest go to the effort of returning the flour to its owner? Let the separated flour be considered teruma, i.e., ḥalla, by rabbinic law, and it should not be eaten by the priest until he removes ḥalla for it from somewhere else, in order to make it ready to be eaten. Didn't we learn in a mishna (Demai 5:10): If one separated teruma from produce grown in a perforated pot, which is obligated in terumot and tithes by Torah law, for produce that had grown in a non-perforated pot, which is not obligated in terumot and tithes according to Torah law; although the separating of teruma did not take effect, and the putative teruma is still untithed produce, it is considered to be teruma and remains in the possession of the priest, and it may not be eaten until he removes teruma and tithes for it from somewhere else. The same halakha should apply in the case of the ḥalla.

<sup>144</sup> The Gemara answers: With regard to things that are in two separate containers, the priest will listen. Since the priest is well aware of the difference between a perforated and a non-perforated pot, he will accept the ruling of the Sages to separate teruma an additional time. With regard to something that is in one container, he will not listen. He does not see any difference between receiving flour or dough, and he will not accept the ruling of the Sages to separate ḥalla an additional time. Consequently, they required him to return the flour.

<sup>145</sup> And if you wish, say that the tanna has a different concern: Actually, a priest will listen even with regard to something in a single container, and the concern is that the prior owner of the flour will think that his dough has been made ready to eat and he will come to eat it in its untithed state.

<sup>146</sup> The Gemara asks: But didn't you say that a person knows that one may not separate ḥalla from flour? The Gemara answers: He knows the halakha but he does not know the reason for the halakha. He knows that one cannot separate ḥalla from flour, but he does not know the reason, as he thinks: What is the reason one may not separate ḥalla from flour? It is due to the labor of the priest. And as far as the labor of the priest goes, he thinks: The priest has accepted that task upon himself.

<sup>147</sup> The Gemara makes a suggestion based on a comparison to a similar case: But let it be teruma, i.e., ḥalla, and he should separate teruma again. Didn't we learn a similar idea in a mishna (Demai 5:10): If one separated teruma from produce grown in a non-perforated pot for the produce of a perforated pot, it is teruma by rabbinic law, but he must separate teruma again to render the produce grown in the perforated pot ready to eat. The Gemara answers: We have already established that with regard to things that are in two separate containers, one will listen, but with regard to something that is in one container, one will not listen.

<sup>148</sup> The Gemara questions this assumption: And will one not listen to a ruling to separate teruma a second time from a single container? But didn't we learn in a mishna (Terumot 3:1): In the case of

one who separated a cucumber as teruma to give to a priest, and that cucumber was found to be so bitter that it was inedible, or if he separated a melon and it was found to be spoiled, his separation is still teruma, but he must separate teruma again? The Gemara answers: There it is different, as it is full-fledged teruma by Torah law, and even if he does not listen and separate teruma again, no Torah law will be violated.

<sup>149</sup> What is the source from which it is extrapolated that it is full-fledged teruma by Torah law? It is from a statement of Rabbi Ilai, for Rabbi Ilai says: From where is it derived that one who separates teruma from poor-quality produce for superior-quality produce, i.e., in order to fulfill the obligation of separating teruma from the high-quality produce, that his teruma is teruma? As it is stated with regard to teruma: “And you shall bear no sin by reason of it, seeing that you have set apart from it the best thereof” (Numbers 18:32). The verse is saying to give the best part as teruma, and one who gives a bad portion has committed a transgression. Nevertheless, the verse indicates that the separated produce is teruma; if it were not sacred as teruma why would one bear a sin? If one’s action were to no effect, he has not sinned. From here it is derived that if one separates teruma from poor-quality produce for superior-quality produce, his teruma is teruma.

<sup>150</sup> Rava said:

<sup>151</sup> The mishna taught that if she ate the dates one by one their value is not added together only if he said to her that she is betrothed: With this one, and with this one, and with this one, which indicates that she is not betrothed until she has received them all. But if he said to her that he is betrothing her: With these, i.e., with all of them together, even if she is eating them one by one she is also betrothed if their combined value is one peruta. The reason is that when she eats, she eats of her own food. Once she has accepted the dates as money for betrothal, they become her own property and she is betrothed.

<sup>152</sup> The Gemara comments: It is taught in a baraita in accordance with the opinion of Rava: If one said to a woman: Be betrothed to me with the fruit of an oak tree, i.e., an acorn, with a pomegranate, and with a nut, or if he said to her: Be betrothed to me with these, if combined they are worth one peruta, she is betrothed. But if not, she is not betrothed. If he said to her: Be betrothed to me with this one, and with this one, and with this one, if combined they are worth one peruta, she is betrothed. But if not, she is not betrothed. If he said to her: Be betrothed to me with this one, and she took it and ate it; with this one, and she took it and ate it; and also with this one and also with this one, she is not betrothed unless one of them is worth one peruta. This concludes the baraita.

<sup>153</sup> The Gemara proceeds to prove Rava’s ruling from the baraita. What are the circumstances in this first case, where he said: With the fruit of an oak tree, with a pomegranate, with a nut? If we say that he said to her: Either with the fruit of an oak tree, or with a pomegranate, or with a nut, why is the halakha that if combined they are worth one peruta she is betrothed? But didn’t he say: Or, which indicates that she is betrothed with only one of them, and that one item should need to be worth one peruta? But rather, if we say that he said to her: With the fruit of an oak tree, and with a pomegranate, and with a nut together, that is the same as saying: With this one, and with this one, and with this one. That halakha is stated in the subsequent clause of the baraita, and would be redundant. Rather, is it not referring to a case where he said to her: Be betrothed to me with these? But from the fact that the latter clause teaches: Or if he said to her: Be betrothed to me with these, it may be inferred that in the first clause we are not dealing with a situation where he said: These.

<sup>154</sup> The Gemara continues with the explication of the baraita: Rather, it is to be understood as an initial, general statement, which the tanna is then explaining, as follows: If one says to a woman: Be betrothed to me with the fruit of an oak tree, with a pomegranate, with a nut; the baraita pauses and explains the circumstances of the case: How so? For example, when he gave her these three items and said to her: Be betrothed to me with these.

<sup>155</sup> The Gemara continues with its proof: And the latter clause of the baraita teaches a second possibility: If he said to her that she is betrothed: With this one, and she took it and ate it, then if one of them is worth one peruta, she is betrothed. And if not, she is not betrothed.

<sup>156</sup> While in contrast to this, in the first clause of the baraita the tanna does not distinguish between a woman who is eating the items and one who is placing them in her possession. In either case, she is betrothed. You can conclude from the baraita that any case where he said to her: With these, if they were worth one peruta combined, then when she is eating them she is eating of her own food. It is not considered a loan. The Gemara affirms: Conclude from the baraita that Rava's statement is correct.

<sup>157</sup> The Gemara asks: This works out well according to the one, i.e., Rabbi Ami, who says that the case of the woman eating the dates one by one is referring to the latter clause of the mishna, where he said: Be betrothed to me with this and with that, and who explained: What is the meaning of: She is not betrothed unless one of them is worth one peruta? Unless the last one is worth one peruta. So too, the baraita can be explained: Unless the last one is worth one peruta.

<sup>158</sup> But according to Rav and Shmuel, who both say that the case of the woman eating the dates one by one is referring to the first clause of the mishna, how would they explain the statement of the baraita? In the first clause of the mishna, one said: Be betrothed to me with this, be betrothed to me with that, and if one of them is worth one peruta she is betrothed. And Rav and Shmuel explained that it was necessary for the tanna to mention the case of a woman who is eating to teach that despite her immediate benefit, one of the dates must be worth one peruta for her to be betrothed. The phrase: Unless one of them is worth one peruta, indicates that one alone must be worth one peruta. But here the baraita lists only groupings; it does not list individual items. The baraita states a case where he said to her: Be betrothed to me, only once, followed by a statement that the three items should serve as the betrothal money. Why, then, does one of them need to be worth one peruta?

<sup>159</sup> The Gemara answers: In accordance with whose opinion is this halakha of the baraita taught? It is that of Rabbi Yehuda HaNasi, who says with regard to the laws of piggul, which is an offering that was sacrificed with the intent to consume an olive-bulk of it after its appointed time or outside the boundaries of where it must be consumed: There is no difference whether he says that he intends to consume: An olive-bulk after its time, an olive-bulk outside its boundaries, i.e., without employing the word: And; or whether he said that he intends to consume an olive-bulk after its time and an olive-bulk outside its boundaries, i.e., employing the word: And. Both expressions are considered individual statements, since he is treating each statement separately, and in neither case does he intend to combine the two amounts. According to Rabbi Yehuda HaNasi, when one says: With this and with this, each statement is distinct. Consequently, although she derives immediate benefit by eating the dates she receives, she is betrothed only if one of them is worth one peruta on its own.

<sup>160</sup> § Rav says: With regard to one who betroths a woman with a loan, she is not betrothed, since a loan is given to be spent. Consequently, from the moment the money is lent it no longer belongs to the lender, and he cannot betroth a woman with it. The Gemara suggests: Let us say that this is

subject to a dispute between tanna'im, as it was taught in a baraita: With regard to one who betroths a woman with a loan, she is not betrothed, and some say she is betrothed. What, is it not that they disagree with regard to this: One Sage holds that a loan is given to be spent, and one Sage holds that a loan is not given to be spent?

<sup>161</sup> The Gemara questions this suggestion: And how can you understand it that way? Say the latter clause of that same baraita: And they agree with regard to the case of a sale that he acquires it. Although they disagree as to whether one can betroth a woman with a loan he has given her, they agree that a lender can purchase an item from the debtor in exchange for forgiving the money he has lent him. If you say that a loan is given to be spent, with what has he acquired it? There is no money with which to effect an acquisition. No proof can be derived from this baraita, which cannot be understood as stated.

<sup>162</sup> Rav Nahman says: Our colleague Rav Huna interprets the baraita as referring to other matters and not as referring to a straightforward case of a loan. And with what are we dealing here? A case where he said to her: Be betrothed to me with one hundred dinars, and it was found to be one hundred dinars less one dinar, the missing dinar is considered to be a loan that he has taken from her. One Sage, who said the woman is not betrothed, holds that the matter is embarrassing for her, preventing her from claiming the final dinar from him, and since he has failed to fulfill his statement she is not betrothed. And one Sage, who said that she is betrothed, holds that the matter is not embarrassing for her and is not preventing her from claiming the final dinar. He is therefore considered to have fulfilled his statement and borrowed one dinar from her, which he will repay in due course, but she is nevertheless betrothed.

<sup>163</sup> The Gemara asks: But rather, with regard to that which Rabbi Elazar says: If one said to a woman: Be betrothed to me with one hundred dinars, and he gave her one dinar, she is betrothed and he must later finish giving the full sum; let us say that his statement is parallel to a dispute between tanna'im. The Sages say to distinguish between the cases: Where he gave her one hundred dinars less a dinar, the matter is embarrassing for her, preventing her from claiming the final dinar from him, since he has given her almost the entire sum. But if he gave her one hundred dinars less ninety-nine, the matter is not embarrassing for her and is not preventing her from claiming the rest of the dinars. Therefore, all would agree that she is betrothed in the latter case.

<sup>164</sup> The Gemara raises an objection to the statement of Rav from a baraita: In the case of one who says to a woman: Be betrothed to me with the deposit that I have in your possession, and she went and found that the deposit had been stolen or that it had been lost, if the value of one peruta of it remains she is betrothed with that amount. And if not, she is not betrothed, since there is nothing to effect the betrothal. But if he said to her that he is betrothing her with a loan that he had given her, she is betrothed, even though the value of one peruta of it does not remain. Rabbi Shimon ben Elazar says in the name of Rabbi Meir: A loan

<sup>165</sup> is like a deposit. The Gemara analyzes this: They disagree only with regard to this: There is one Sage who holds that one can betroth a woman with a loan, even though the value of one peruta does not remain of it. And one Sage holds that if the value of one peruta remains from it, yes, he can betroth her with it, but if the value of one peruta does not remain of it, he cannot. But everyone agrees that if one betroths a woman with a loan, she is betrothed. This presents a difficulty for Rav, who stated that one cannot betroth a woman with a loan.

<sup>166</sup> Rava said to him: And how can you understand it that way? Is this baraita fully explainable? It is corrupted and cannot be cited as a proof.

<sup>167</sup> He explains why the baraita must be corrupted: What are the circumstances of this deposit discussed in the baraita? If she assumed financial responsibility to repay the owner for it if it is stolen or lost, it is the same as a loan, as even if it is entirely lost she must still repay its value. If she did not assume financial responsibility for it, then if so, rather than teaching in the latter clause of the baraita: But if he betroths her with a loan that he had given her, she is betrothed despite the fact that the value of one peruta of it does not remain; let him distinguish and teach the distinction within the case itself, as follows: In what case is this statement said, that she is not betrothed if less than the value of one peruta remains from the deposit? If she did not assume financial responsibility upon herself for it. But if she assumed financial responsibility upon herself, even though the value of one peruta did not remain from it, she is betrothed.

<sup>168</sup> Rather, since the wording of the baraita cannot remain as is, answer this way: But if he betroths her with a loan that he had given her, she is not betrothed, despite the fact that the value of one peruta of it remains.

<sup>169</sup> The baraita stated that Rabbi Shimon ben Elazar says in the name of Rabbi Meir: A loan is like a deposit. The Gemara asks: With regard to what principle do they disagree? Rabba said: I found the scholars in the study hall of Rav who were sitting and saying: They disagree with regard to the issue of whether a loan the debtor had not yet begun to spend is in the possession of the owner with regard to the possibility of retraction of the loan by the lender. And the same is true, i.e., they also disagree, with regard to who bears responsibility for accidents.

<sup>170</sup> As one Sage, the first tanna, holds: A loan stands in the possession of the debtor, i.e., even if it has not been spent, the lender cannot demand the return of the money. And the same is true with regard to responsibility for accidents, i.e., if the money is lost, it is considered lost from the debtor's possession and he bears responsibility for it. And one Sage, Rabbi Shimon ben Elazar, holds: A loan that the debtor has not yet begun to spend stands in the possession of the owner, and the same is true with regard to responsibility for accidents. He can therefore betroth a woman with the money he has already lent her, provided that she has not yet begun to spend it.

<sup>171</sup> Rabba continues: And I said to them: With regard to accidents, everyone agrees that it stands in the possession of the debtor and he is responsible for the money. What is the reason? A loan of money is no worse than borrowing an item. Just as in the case of borrowing an item, whereby the item is returned to its owner intact and yet the debtor is liable for accidents, as explicitly stated in the Torah, is it not all the more so that with regard to a loan, which the debtor spends and repays with other money, it should be considered in the debtor's possession and he should bear responsibility for it? Rather, here the practical difference between them concerns the question of a loan in the possession of the owner with regard to the possibility of retraction of the loan. The first tanna is of the opinion that he cannot retract the loan, whereas Rabbi Shimon ben Elazar holds that he can do so.

<sup>172</sup> The Gemara asks: But rather, with regard to that which Rav Huna says: In the case of one who borrows an ax from his friend for a certain period of time, if he chops wood with it he has acquired it in the sense that the lender cannot demand its immediate return. If he has not chopped wood with it he has not acquired it. Let us say that this halakha that Rav Huna stated is parallel to a dispute

between tanna'im. According to the explanation of Rabba, it would be a dispute between the first tanna and Rabbi Shimon ben Elazar.

<sup>173</sup> The Gemara rejects this suggestion: No, they disagree only with regard to a loan, which is not returned intact. Since there is no need for the debtor to return the same money to the lender, this means that the money has been transferred to the debtor's domain, and the first tanna holds that the lender may not retract the loan. But with regard to the borrowing of an item, for example the ax, which is returned intact, everyone agrees that if one chopped with it, yes, he has acquired it and is responsible for it. If he has not chopped with it, he has not acquired it.

<sup>174</sup> The Gemara suggests: Let us say that Rav's statement that one cannot betroth a woman with a loan is subject to a dispute between tanna'im. The baraita teaches: If one says to a woman: Be betrothed to me with a promissory note, or if he had a loan in the possession of others and he authorized her to collect the money for herself, Rabbi Meir says she is betrothed and the Rabbis say she is not betrothed. The Gemara clarifies: What are the circumstances of this promissory note? If we say it is a promissory note of others who owe him money, this is the same as a loan in the possession of others, and why would the baraita state it twice? Rather, is it not referring to her promissory note, i.e., a loan she has taken from him, and they disagree with regard to one who betroths a woman with a loan, whether forgiving the debt by returning the promissory note counts as betrothal money?

<sup>175</sup> The Gemara rejects this suggestion: Actually, the baraita is referring to a promissory note of others, and here they disagree in two cases: In the case of a loan with a promissory note and in the case of a loan by oral agreement.

<sup>176</sup> The Gemara explains: With regard to a loan with a promissory note, concerning what matter do they disagree? They disagree concerning the dispute between Rabbi Yehuda HaNasi and the Rabbis, as it is taught in a baraita: Letters, i.e., the content of a promissory note, are acquired by merely transferring the document. If the lender hands over a promissory note to a third party, the latter can collect the debt. This is the statement of Rabbi Yehuda HaNasi. And the Rabbis say: Whether one wrote a document of sale for the promissory note but did not transfer the promissory note itself, or whether he transferred the promissory note but did not write a document of sale for it, the recipient has not acquired the promissory note. The recipient acquires it only once the other writes a document of sale and transfers the promissory note.

<sup>177</sup> The suggestion is that one Sage, Rabbi Meir, is of the opinion that the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, and therefore one can betroth a woman by giving her a promissory note even without writing a document of sale for it. And one Sage, i.e., the Rabbis, is not of the opinion that the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, and she is not betrothed because she has not received anything.

<sup>178</sup> And if you wish, say instead the following answer: No one is of the opinion that the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, and here they disagree with regard to the statement of Rav Pappa, as Rav Pappa says: This one who sells a promissory note to his friend must write the following formula for him: Let it be acquired by you, it and all its liens. Otherwise, the debt discussed in the promissory note is not transferred. One Sage, i.e., the Rabbis, is of the opinion that the halakha is in accordance with the opinion of Rav Pappa. And one Sage, Rabbi Meir, is not of the opinion that the halakha is in accordance with the opinion of Rav Pappa. He holds that the debt is

acquired even if one did not write this phrase, and a man can betroth a woman by giving a promissory note to her.

<sup>179</sup> And if you wish, say instead: Everyone is of the opinion that the halakha is in accordance with the opinion of Rav Pappa, and even Rabbi Meir agrees that she is betrothed only if he wrote in the document: Let it be acquired by you, it and all its liens. And here they disagree with regard to the statement of Shmuel, as Shmuel says:

<sup>180</sup> In the case of one who sells a promissory note to another, and he, the seller, went back and forgave the debtor his debt, it is forgiven, since the debtor essentially had a non-transferable obligation to the creditor alone. And even the creditor's inheritor can forgive the debt. It can be explained that one Sage, i.e., the Rabbis, is of the opinion that the ruling is in accordance with the opinion of Shmuel. Since the man can forgive the debt, the woman will not rely on her ability to collect using the promissory note she has received for her betrothal. And one Sage, Rabbi Meir, is not of the opinion that the ruling is in accordance with the opinion of Shmuel; the woman relies on her ability to collect using the promissory note and is betrothed.

<sup>181</sup> And if you wish, say instead that everyone is of the opinion that the ruling is in accordance with the opinion of Shmuel, and here they disagree with regard to a woman who is becoming betrothed. One Sage, Rabbi Meir, holds that a woman relies on a promissory note she receives, since she says to herself: He would not leave aside my benefit and forgive the debt of others. And one Sage, i.e., the Rabbis, holds that even a woman who received the promissory note for betrothal does not rely on being able to collect the debt, since she is concerned he might forgive it.

<sup>182</sup> Having enumerated several possibilities for the dispute in the case of a loan with a promissory note, the Gemara explains the dispute in the case of a loan by oral agreement: In the case of one who betroths a woman with a loan by oral agreement, with regard to what do they disagree? They disagree with regard to the statement of Rav Huna, who quoted a statement that Rav says, as Rav Huna says that Rav says: If one said to another: I have one hundred dinars in your possession, give it to so-and-so, if he stated this in the presence of all three parties, i.e., the one who had the money, the one who was the owner of the money, and the intended recipient, the intended recipient has acquired it.

<sup>183</sup> One Sage, i.e., the Rabbis, holds that when Rav said that it can be acquired in the presence of all three parties, this applies in the case of a deposit, since the item is intact. But in the case of a loan, which is meant to be spent, he did not rule that it can be transferred this way, since there is no actual money but merely a debt. And one Sage, Rabbi Meir, holds: There is no difference whether it is a loan or a deposit. The third party acquires it in both cases. A woman is therefore betrothed if he gave her a loan in the above manner.

<sup>184</sup> The Gemara again suggests: Let us say that Rav's statement that one cannot betroth a woman with a loan is subject to a dispute between tanna'im. A baraita teaches: If one says to a woman: Be betrothed to me with a document, Rabbi Meir says she is not betrothed, and Rabbi Elazar says she is betrothed, and the Rabbis say the court appraises the paper the document is written on: If the paper itself has the value of one peruta, she is betrothed. But if not, she is not betrothed.

<sup>185</sup> The Gemara clarifies the case of this baraita: What are the circumstances of this document? If we say it is a promissory note of a debt owed him by others, then the statement of Rabbi Meir is difficult in light of another statement of Rabbi Meir, as he stated in the previous baraita that a woman can be



betrothed by giving her a promissory note. Rather, this baraita must be referring to a promissory note of a debt owed him by her, and they disagree with regard to the halakha of one who betroths a woman with a loan.

<sup>186</sup> Rav Naḥman bar Yitzḥak says that this is not necessarily so. With what are we dealing here? With a case where he betrothed her with a document of betrothal that had no witnesses to it.

<sup>187</sup> And Rabbi Meir conforms to his standard line of reasoning, as he says with regard to a bill of divorce: Signatory witnesses on the bill of divorce effect the divorce, and the same applies to a document of betrothal. Since no witnesses signed the document, it cannot be used for betrothal. And Rabbi Elazar conforms to his standard line of reasoning, as he says: Witnesses to the transmission of the bill of divorce effect the divorce, and she is betrothed if the document was handed over in the presence of witnesses. And the Rabbis are uncertain if the halakha is in accordance with the opinion of Rabbi Meir or if it is in accordance with the opinion of Rabbi Elazar. Therefore, they rule that the betrothal is not effected by means of the document, but it is betrothal effected by means of giving an item worth money. The court appraises the paper: If it has the value of one peruta, she is betrothed. But if not, she is not betrothed.

<sup>188</sup> And if you wish, say instead that this baraita is referring to a case where he wrote the document of betrothal not for her sake, i.e., not for this particular woman's sake. And they disagree with regard to a statement of Reish Lakish, as Reish Lakish asks: What is the halakha of a document of betrothal that the scribe wrote not for her sake? The Gemara clarifies the question: Do we juxtapose becoming a wife through betrothal to leaving a marriage through divorce and say: Just as in the document that causes her to leave the marriage we require that it be written for her sake, so too, in the document that causes her to become betrothed we require that it be written for her sake as well. Or perhaps we juxtapose different ways of becoming betrothed to each other: Just as in the act of becoming betrothed by means of money we do not require that money be minted for her sake and he can use any money, so too, with regard to the act of becoming betrothed by means of a document, we do not require that it be written for her sake.

<sup>189</sup> After Reish Lakish raised the dilemma, he then resolved it: The verse states: "And she departs out of his house and goes and becomes another man's wife" (Deuteronomy 24:2). The verse thereby juxtaposes the verb becoming to the verb leaving, so a bill of divorce and a document of betrothal must be written for her sake to be valid. One Sage, Rabbi Meir, is of the opinion that the halakha is in accordance with the opinion of Reish Lakish, and maintains that she is not betrothed if the document was not written for her sake. And one Sage, Rabbi Elazar, is not of the opinion that the halakha is in accordance with the opinion of Reish Lakish. The Rabbis remain uncertain, and therefore view the case as betrothal by means of giving an item worth money.

<sup>190</sup> And if you wish, say instead that everyone is of the opinion that the halakha is in accordance with the opinion of Reish Lakish, and with what are we dealing here? With a case where he wrote the document for her sake but unbeknownst to her. And they disagree concerning the dispute between Rava and Ravina, and Rav Pappa and Rav Sherevyā, as it was stated that these amora'im engaged in a dispute with regard to the following issue: If he wrote a document of betrothal for her sake but unbeknownst to her and gave it to her for betrothal, Rava and Ravina say she is betrothed; Rav Pappa and Rav Sherevyā say she is not betrothed.

<sup>191</sup> The Gemara again suggests: Let us say that Rav's statement that one cannot betroth a woman with a loan is subject to a dispute between these tanna'im, as it is taught in a baraita: If a woman gave gold to a goldsmith, instructing him: Make bracelets, earrings, and rings for me, and I will be betrothed to you as payment for your work, once he has made them she is betrothed; this is the statement of Rabbi Meir. And the Rabbis say: She is not betrothed until money enters her possession.

<sup>192</sup> The Gemara asks: What are the circumstances of this money mentioned by the Rabbis? If we say it means that very money, i.e., the jewelry she requested, then by inference the first tanna, Rabbi Meir, holds that even that same money is also not required to be given for her to be betrothed, but she is betrothed as soon as he made the jewelry. But with what does he betroth her? It is only with the jewelry that she is betrothed, since he has given her nothing but the jewelry. Rather, is the statement of the Rabbis not referring to when he betroths her with the other money, i.e., the payment she owes him for his service, and they hold that she is not betrothed? And conclude from it that Rabbi Meir and the Rabbis disagree with regard to one who betroths a woman with a loan, since the payment she owes him for making the rings is like a loan.

<sup>193</sup> The Gemara clarifies: And it must be they hold that everyone agrees that the obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end, i.e., the obligation to pay for a service begins when the hired party starts to work, and the sum owed increases as he proceeds. And it is therefore a loan, as when he gives her the finished article she was already obligated to pay for the work he had performed earlier. What, is it not the case that they disagree with regard to this, i.e., that one Sage, Rabbi Meir, holds that in the case of one who betroths a woman with a loan, she is betrothed, and one Sage, the Rabbis, holds that in the case of one who betroths a woman with a loan, she is not betrothed?

<sup>194</sup> The Gemara rejects this: No, it is possible that everyone agrees that in the case of one who betroths a woman with a loan, she is not betrothed, and here they in fact disagree over the question of whether or not the obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end. One Sage, Rabbi Meir, holds:

<sup>195</sup> The obligation to pay a wage is incurred only at the end of the labor, when he returns the item to her. Since it is at this stage that he forgives the money due him and converts it to money for betrothal, it was never considered to be a loan. And one Sage, i.e., the Rabbis, holds: The obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end, at which point the debt is viewed as a loan that has accumulated throughout the period of hire.

<sup>196</sup> And if you wish, say instead that everyone agrees that the obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end. And they also agree that in the case of one who betroths a woman with a loan, she is not betrothed. And here the case is not discussing a hired worker but a contractor, who is entitled to payment only upon completion of the job, and they disagree with regard to the question of whether or not a craftsman acquires ownership rights through enhancement of the vessel. Is it viewed that the contractor has acquired the item by improving it, and he is then selling it back to the one who hired him? Or is he merely being paid for his labor? One Sage, Rabbi Meir, holds: A craftsman acquires ownership rights through enhancement of the vessel, and since he partly owns the jewelry he can betroth a woman with it. And one Sage, i.e., the Rabbis, holds: A craftsman does not acquire ownership rights through enhancement of the vessel.

<sup>197</sup> And if you wish, say instead that everyone agrees that a craftsman does not acquire ownership rights through enhancement of the vessel, and also that the obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end. And everyone also agrees that in the case of one who betroths a woman with a loan, she is not betrothed. And with what are we dealing here? A case where he added a jewel [nofekh] of his own for her, as one Sage, Rabbi Meir, holds that if a man betroths a woman with a loan and one peruta, his mind is focused on the peruta. And one Sage, i.e., the Rabbis, holds that his mind is focused on the loan. Here too, the question is whether her intention is to become betrothed with the payment for the work, which is a loan, or with the jewel he added.

<sup>198</sup> And they disagree in the dispute between these tanna'im. As it is taught in a baraita (Tosefta 3:4): If one says to a woman: Be betrothed to me with the payment for that which I have worked for you, she is not betrothed because it is a loan, since she already owes him the money. But if he said: Be betrothed to me with the payment for that which I will work for you, she is betrothed, as at the moment he becomes entitled to the money it is considered as though he gives it to her for her betrothal. Rabbi Natan says: If he says: With the payment for that which I will work for you, she is not betrothed, as Rabbi Natan holds that the obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end, which means that by the end of the job it is a loan. And this is all the more so if he says: With the payment for that which I have worked for you.

<sup>199</sup> The baraita cites a third opinion: Rabbi Yehuda HaNasi says: Actually, they said that the halakha is that whether he said: With the payment for that which I have worked for you, or: With the payment for that which I will work for you, she is not betrothed. But if he added a nofekh of his own for her, she is betrothed.

<sup>200</sup> The Gemara clarifies the dispute: The difference between the first tanna and Rabbi Natan concerns a wage: Is the obligation incurred continuously or only at the end? The difference between Rabbi Natan and Rabbi Yehuda HaNasi is the issue of a loan and one peruta. One Sage, Rabbi Natan, holds that if a man betroths a woman with a loan and one peruta his mind is focused on the loan, and his jewel is disregarded. And one Sage, Rabbi Yehuda HaNasi, holds that his mind is focused on the peruta, and she is betrothed with the jewel.

<sup>201</sup> MISHNA: If a man said to a woman: Be betrothed to me with this cup of wine, and it was found to be a cup of honey; or if he said: With this cup of honey, and it was found to be a cup of wine; or if he said: With this dinar made of silver, and it was found to be made of gold; or if he said: With this dinar made of gold, and it was found to be made of silver; or if he said: On the condition that I am wealthy, and he was found to be poor; or if he said: On the condition that I am poor, and he was found to be wealthy, she is not betrothed in any of these cases. Rabbi Shimon says: If he misled her to her advantage by giving her something better than what he stated, or if his status was greater than he claimed, she is betrothed.

<sup>202</sup> GEMARA: The Sages taught: With regard to one who says to a woman: Be betrothed to me with this cup, without further specification, it is taught in one baraita (Tosefta 2:3) that the betrothal is effected with the cup and also with its contents. And it is taught in another baraita that the betrothal is effected with the cup but not with its contents. And it is taught in yet another baraita that the betrothal is effected with its contents but not with it. The Gemara comments: And this is not difficult: The

baraitot do not contradict one another since this one is stated with regard to a cup of water, this one is stated with regard to a cup of wine, and this one is stated with regard to a cup of oil.

<sup>203</sup> § The mishna teaches that Rabbi Shimon says: If he misled her to her advantage, she is betrothed. The Gemara asks: But doesn't Rabbi Shimon accept the statement of the mishna (Bava Batra 83a) that if one sells wine and it was found to be vinegar, or if he sold vinegar and it was found to be wine, both the buyer and the seller can retract from the sale? Although wine is more valuable than vinegar, the seller is not considered to have defrauded the buyer, in which case only the buyer could retract. Apparently, this is because there is one for whom it is preferable to have vinegar and there is one for whom it is preferable to have wine. Consequently, receiving wine instead of vinegar is not objectively better. If so, here too, there is one for whom it is preferable to have silver and it is not preferable for him to have gold. Why does Rabbi Shimon say that she is betrothed if he gave her gold instead of silver?

<sup>204</sup> Rav Shimi bar Ashi says: I found Abaye sitting and explaining this mishna to his son: With what are we dealing here? With a case where one said to his agent: Lend me a dinar made of silver and go and betroth for me such and such a woman with it, and he went and lent him a dinar made of gold and betrothed her with that. One Sage, the first tanna, holds that he is particular in his requirement that a silver dinar be used, and consequently she is not betrothed. And one Sage, Rabbi Shimon, holds that he is merely indicating his position to him. He stated silver only as a guideline, but does not care if it is gold.

<sup>205</sup> The Gemara raises a difficulty: If so, if the case involves an agent, why does the mishna state: Be betrothed to me? The mishna should have stated: Be betrothed to him. Furthermore, why does it say: He misled her to her advantage? The mishna should have stated: He misled him to his advantage, as the agent did not mislead the woman but the one who designated him. Similarly, there is a difficulty with regard to the wording: If it was found to be made of gold, as according to this explanation, from the outset, when the agent gave it to the woman, it was also known to be made of gold. This fact was not discovered later.

<sup>206</sup> Rather, Rava says: I and the lion of the group explained it, and the Gemara interjects: And who is the lion of the group? It is Rabbi Ḥiyya bar Avin: With what are we dealing here? With a case where she said to her agent: Go and accept my betrothal for me from so-and-so, who said to me: Be betrothed to me with a dinar made of silver, and the prospective husband went and gave the agent a dinar made of gold. One Sage, the first tanna, holds that she is particular about becoming betrothed with a silver dinar rather than a gold one. And one Sage, Rabbi Shimon, holds that she is merely indicating her position to him but does not care what the agent receives from the man. And what is the meaning of: It was found, as it was evident from the outset that it was gold? The mishna is referring to a case where the coin was wrapped in a cloth, and the agent was unaware that he was receiving a different dinar from what she had requested.

<sup>207</sup> Abaye said: With regard to Rabbi Shimon, and Rabban Shimon ben Gamliel, and Rabbi Elazar, they all hold that when one instructs an agent in such a manner he is merely indicating his position to him, as opposed to expressing an insistence on certain details. If the agent makes insignificant changes to the instructions the agency is still fulfilled. Rabbi Shimon holds this, as seen in this mishna that we just said. Rabban Shimon ben Gamliel holds this, as we learned in a mishna (Bava Batra 160a):

<sup>208</sup> In an ordinary document, its witnesses are to sign inside it, i.e., on the written side of the paper. In a folded and tied document, its witnesses are to sign on the back of it. With regard to an ordinary document whose witnesses wrote their signatures on the back of it, or a tied document whose witnesses wrote their signatures inside of it, both of these are not valid. Rabbi Ḥanina ben Gamliel says: A tied document whose witnesses wrote their signatures inside of it is valid, because one can transform it into an ordinary document by untying it. Rabban Shimon ben Gamliel says: Everything is in accordance with regional custom. If an ordinary document is generally used and one wrote a bound one, or vice versa, the document is invalid.

<sup>209</sup> And we discussed it: And does the first tanna not accept that one should follow the regional custom? It is not reasonable that he should take issue with such a basic concept. And Rav Ashi says that they have a dispute in a case where one instructed a scribe to write a document for him: If they are in a place where the custom is to write an ordinary document, and he made a tied one for him; alternatively, if they are in a place where the custom is to write a tied document, and he made an ordinary one for him; in both of these cases, everyone agrees that he was certainly particular in his instructions to the agent that he should follow the regional custom, and if the latter deviated from the custom the document is invalid.

<sup>210</sup> The situation in which they disagree is where they are in a place where the custom is to use either an ordinary document or a tied one, and the one requesting the document said to the scribe: Make an ordinary document for me, and the scribe went and made a tied document for him. In such a case, one Sage, the first tanna, holds that the one requesting the document was particular about wanting an ordinary document, and since the scribe wrote a tied document, it is considered to have been written without his consent. And one Sage, Rabban Shimon ben Gamliel, holds that the one requesting the document was merely indicating his position to the scribe, stating that if the scribe wanted to save himself the trouble of writing a tied document there would no objection.

<sup>211</sup> Rabbi Elazar also holds that when one instructs an agent in such a manner he is merely indicating his position to him, as we learned in a mishna (Gittin 65a): If there was a woman who said to her agent: Receive my bill of divorce for me from my husband in such and such a place, and he received her bill of divorce for her elsewhere, it is invalid. And Rabbi Elazar deems it valid. Apparently, he holds that she is merely indicating a place to him where he can receive the bill of divorce, but she does not insist that he accept it in that particular spot.

<sup>212</sup> § Ulla says: The dispute in the mishna between the first tanna and Rabbi Shimon is only where he misled her with enhanced monetary value, i.e., he gave her something worth more than the item he had stipulated. But where he misled her with enhanced lineage, so that she was under the impression that his genealogy was less impressive than it in fact is, everyone agrees that she is not betrothed. What is the reason for this? A woman says: I do not desire a shoe that is larger than my foot. She does not wish to marry a man whose social standing is far greater than her own. This is also taught in a baraita (Tosefta 2:6): Rabbi Shimon concedes that if he misled her with enhanced lineage, she is not betrothed.

<sup>213</sup> Rav Ashi says: The wording of the mishna is also precise, as the following mishna (49b) teaches: If one betroths a woman and states that the betrothal is: On the condition that I am a priest, and he was found to be a Levite; or: On the condition that I am a Levite, and he was found to be a priest; or: On the condition that I am a Gibeonite, a people prohibited by rabbinic law from marrying into the

congregation, i.e., from marrying a Jew of fit lineage, and he was found to be a mamzer, who is prohibited by Torah law from marrying into the congregation; or: On the condition that I am a mamzer, and he was found to be a Gibeonite, in all of these cases she is not betrothed. And Rabbi Shimon does not disagree with these rulings. This indicates that if one misled a woman with regard to his lineage, Rabbi Shimon concedes that she is not betrothed.

<sup>214</sup> Mar bar Rav Ashi objects to this inference: But what about that which is taught in the same mishna: If one betroths a woman and states that the betrothal is: On the condition that I have a grown daughter or maidservant, and he does not have one; or if one betroths a woman on the condition that he does not have a grown daughter or maidservant and he does have one, the latter of which is an issue of enhanced monetary value, as the difference between one who has a maidservant and one who does not impacts how hard the woman will have to work in the home; in these cases will you also say that Rabbi Shimon does not disagree simply because the mishna does not mention his opinion in that case?

<sup>215</sup> Rather, it must be that he disagrees in the first clause of the mishna with regard to enhanced monetary value, and the same is true with regard to the latter clause, i.e., he also disagrees in that clause, and it was not necessary to state his dispute another time. Here too, with regard to lineage, he disagrees in the first clause, and the same is true with regard to the latter clause.

<sup>216</sup> The Gemara rejects this: How can these cases be compared? There, where both this case and that case involve an inaccuracy of enhanced monetary value, it is possible that he disagreed in the first clause and the same is true in the last clause, and the mishna did not need to restate his opinion. But here, where it is a case of enhanced lineage, which is a different issue, if it is so that Rabbi Shimon disagrees, let him teach that explicitly. The fact that no dispute is recorded in the case of enhanced lineage is proof that he concedes in that case.

<sup>217</sup> If you wish, say instead: Here too, the issue of a daughter or maidservant involves enhanced lineage, not enhanced monetary value. His statement should be understood differently. Do you maintain that what is the meaning of his statement that he has a grown daughter or maidservant; that she is actually grown up, so that she can be of help to his wife? That is not the meaning of his statement. Rather, what is the meaning of: Grown? That she grows and plaits hair, i.e., he has a daughter or maidservant who is a hairdresser. Why might the potential bride view this as a drawback? Because she can say: It is not satisfactory for me to live in the house with a hairdresser, as she will take words she hears from me and will go pass them before my neighbors, meaning she will gossip about me to others. This concern is more akin to a matter of lineage than a matter of monetary value.

<sup>218</sup> § The Sages taught: If one said to a woman: Be betrothed to me on the condition that I am literate with regard to the Torah, once he has read three verses in the synagogue she is betrothed. Rabbi Yehuda says that she is not betrothed until he reads and translates the verses. The Gemara asks: Does Rabbi Yehuda mean that one translates according to his own understanding? But isn't it taught in a baraita (Tosefta, Megilla 3:21) that Rabbi Yehuda says: One who translates a verse literally is a liar, since he distorts the meaning of the text, and conversely, one who adds his own translation is tantamount to one who curses and blasphemes God? Rather, to which translation is Rabbi Yehuda referring? He is referring to our accepted translation.

<sup>219</sup> And this statement applies only if he said to her: I am literate, but if he said to her: I am a reader, this indicates that he is an expert in the reading of the Torah, and she is not betrothed unless he knows how to read the Torah, the Prophets, and the Writings with precision.

<sup>220</sup> The Gemara discusses a similar case: If one said to a woman: Be betrothed to me on the condition that I study [shoneh], Hizkiyya says it means that he studies halakhot, and Rabbi Yoḥanan says it means that he studies Torah, i.e., the written Torah.

<sup>221</sup> The Gemara raises an objection to Rabbi Yoḥanan from a baraita: What is the meaning of: Mishna? Rabbi Meir says halakhot, Rabbi Yehuda says homiletics. Neither of them, however, says that it refers to the written Torah.

<sup>222</sup> What is the meaning of: Torah, that Rabbi Yoḥanan said? It is homiletic interpretation of the Torah. And this statement applies only if he said to her: I study [taneina]. But if he says to her: I am a tanna [tanna ana], she is not betrothed unless he studies halakha, i.e., Mishna, Sifra and Sifrei, and Tosefta.

<sup>223</sup> If a man says to a woman: Be betrothed to me on the condition that I am a student of Torah, one does not say that he must be a student who is scholarly like Shimon ben Azzai or like Shimon ben Zoma, who were called students despite their great knowledge, as they were never ordained. Rather, it means anyone who, when he is asked one matter in any topic of his studies, responds appropriately and can say what he has learned, and this suffices even if his statement was in the tractate of Kalla. Similarly, if a man says to a woman: Be betrothed to me on the condition that I am a scholar, one does not say that he must be like the scholars of Yavne, like Rabbi Akiva and his colleagues. Rather, it is referring to anyone who, when he is asked about a matter of wisdom on any topic related to the Torah, responds appropriately and can say what he has learned.

<sup>224</sup> If a man says to a woman: Be betrothed to me on the condition that I am strong, one does not say that he must be as strong as Abner ben Ner, King Saul's cousin and general, or as strong as Joab ben Zeruiah, King David's nephew and general. Rather, it means anyone of whom others are afraid due to his strength. If a man says to a woman: Be betrothed to me on the condition that I am wealthy, one does not say he must be as wealthy as Rabbi Elazar ben Ḥarsom or as wealthy as Rabbi Elazar ben Azarya, but rather it can refer to anyone who is honored by the members of his town due to his wealth.

<sup>225</sup> If one says to a woman: Be betrothed to me on the condition that I am a righteous man, then even if he was a completely wicked man she is betrothed, as perhaps in the meantime he had thoughts of repentance in his mind and is now righteous. Similarly, if one says to a woman: Be betrothed to me on the condition that I am a wicked man, then even if he was a completely righteous man she is betrothed, as perhaps he had thoughts of idol worship in his mind, a serious sin that would earn him the label of wicked.

<sup>226</sup> § Apropos the discussion with regard to various attributes, the Gemara cites a related statement: Ten kav of wisdom descended to the world; Eretz Yisrael took nine of them and all the rest of the world took one. Ten kav of beauty descended to the world; Jerusalem took nine and all the rest of the world in its entirety took one. Ten kav of wealth descended to the world; Rome took nine and all the rest of the world in its entirety took one. Ten kav of poverty descended to the world; Babylonia took nine and all the rest of the world in its entirety took one. Ten kav of arrogance descended to the world; Eilam took nine and all the rest of the world in its entirety took one.

<sup>227</sup> The Gemara asks: But did arrogance not descend to Babylonia? But isn't it written: "Then I lifted my eyes and saw, and behold there came forth two women, and the wind was in their wings, for they had wings like the wings of a stork. And they lifted up the measure between the earth and the heaven. Then I said to the angel that spoke with me: 'To where do they take the measure?' And he said to me: 'To build her a house in the land of Shinar'" (Zechariah 5:9–11). And Rabbi Yoḥanan says: This refers to flattery and arrogance that descended to Babylonia, i.e., Shinar. This indicates that arrogance reached Babylonia as well.

<sup>228</sup> The Gemara answers: Yes, it descended to here, to Babylonia, and it made its way to there, to Eilam. The language of the verse is also precise, as it teaches: "To build her a house," which indicates that the original intention was to build a house in Babylonia, but it was not built there. The Gemara comments: Conclude from it that arrogance did not remain in Babylonia.

<sup>229</sup> The Gemara further asks: Is that so? But didn't the Master say: A sign of arrogance is poverty, and there is poverty in Babylonia, and not in Eilam. The Gemara answers: To what kind of poverty is this referring? It is poverty with regard to Torah, which was characteristic of Eilam. As it is written: "We have a little sister, and she has no breasts" (Song of Songs 8:8), and Rabbi Yoḥanan said: This refers to Eilam, whose inhabitants merited to learn but did not merit to teach. They did not produce Torah scholars capable of imparting their wisdom to others.

<sup>230</sup> The Gemara returns to its list of endowments of various groups: Ten kav of strength descended to the world; the Persians took nine and the rest of the world took one. Ten kav of lice descended to the world; Media took nine and the rest of the world took one. Ten kav of witchcraft descended to the world; Egypt took nine and the rest of the world took one. Ten kav of plagues descended to the world; pigs, which carry disease, took nine and the rest of the world took one. Ten kav of licentiousness descended to the world; Arabia took nine and the rest of the world took one.

<sup>231</sup> Ten kav of brazenness descended to the world; Meishan, near Babylonia, took nine and the rest of the world took one. Ten kav of conversation descended to the world; women took nine and the rest of the world took one. Ten kav of drunkenness descended to the world; the Kushites took nine and the rest of the world took one. Ten kav of sleep descended to the world; slaves took nine and all the rest of the world in its entirety took one.

<sup>232</sup> MISHNA: If one said to a woman: Be betrothed to me on the condition that I am a priest, and he was found to be a Levite; or if he said: A Levite, and he was found to be a priest; or if he said: Be betrothed to me on the condition that I am a Gibeonite, a people prohibited by rabbinic law from marrying into the congregation, i.e., from marrying a Jew of fit lineage, and he was found to be a mamzer, who is prohibited by Torah law to marry into the congregation; or he said: A mamzer, and he was found to be a Gibeonite; or if he said: Be betrothed to me on the condition that I am a resident of a small town, and he was found to be a resident of a large city; or he said: A resident of a city, and he was found to be a resident of a town; or if he said: Be betrothed to me on the condition that my house is close to the bathhouse, and it was found to be far; or he said: Far from the bathhouse, and it was found to be close, she is not betrothed.

<sup>233</sup> Or if he said that she is betrothed to him on the condition that he has a grown daughter or a maidservant, and he does not have one, or on the condition that he does not have one and he has one; or on the condition that he has no sons, and he has sons, or on the condition that he has sons and he does not have sons, then she is not betrothed. And in all these cases, despite the fact that she later



stated: I intended to become betrothed to him nevertheless, whether or not he fulfilled the condition, she is not betrothed. And similarly, if it was she who misled him by making the betrothal conditional upon a statement of hers that turned out to be incorrect, the betrothal will not take effect.

<sup>234</sup> GEMARA: The Gemara relates: There was a certain man who sold his property with the intention of ascending to Eretz Yisrael, but at the time that he sold the property he did not say anything with regard to his intention. Ultimately, he did not ascend to Eretz Yisrael, and he wished to renege on the sale. Rava said: Since he did not explicitly state that he was selling his property on the condition that he ascend to Eretz Yisrael, that is an unspoken matter that remained in the heart, and unspoken matters that remain in the heart are not significant matters. The Gemara asks: From where does Rava learn this principle? If we say it is from that which we learn in a baraita:

<sup>235</sup> With regard to one who pledges to bring a burnt-offering, the verse states: “If his offering be a burnt-offering of the herd, he shall offer it a male without blemish; he shall bring it to the door of the Tent of Meeting, according to his will, before the Lord” (Leviticus 1:3). The seemingly superfluous words “he shall offer it” teaches that they coerce him to bring the offering. I might have thought that it can be offered entirely against his will, by taking it from his possession and sacrificing it; therefore, the verse states: “According to his will.”

<sup>236</sup> How can these texts be reconciled? They coerce him until he says: I want to bring the offering. The Gemara asks: But why should this be effective; but in his heart it is not satisfactory for him to bring the offering, and it is not according to his will. Rather, is it not because we say: Unspoken matters that remain in the heart are not significant matters, and his intention is rendered irrelevant by his explicit statement? The Gemara rejects this: But perhaps there it is different, since it is clear to us that it is satisfactory for him to achieve atonement, despite his earlier statement to the contrary.

<sup>237</sup> Rather, the Gemara derives a proof from the latter clause of that same baraita: And similarly, you find with bills of divorce of women and bills of manumission of slaves that when the court rules that a man must divorce his wife or free his slave and he does not want to, they coerce him until he says: I want to divorce my wife, or: I want to free my slave. But why should this be effective; but in his heart it is not satisfactory for him to divorce her or to free him. Rather, is it not because we say that unspoken matters that remain in the heart are not significant matters? The Gemara rejects this proof as well: But perhaps there it is different, because it is a mitzva to listen to the statements of the Sages, and the assumption is that when he is required to divorce his wife or free his slave, his true desire is to perform the mitzva.

<sup>238</sup> Rather, Rav Yosef says: The proof is from here (64a): In the case of one who betroths a woman and he said: I thought that she was the daughter of a priest, and she is in fact the daughter of a Levite; or I thought she was the daughter of a Levite, and she is found to be the daughter of a priest; I thought she was poor, and she is wealthy; or I thought she was wealthy, and she is poor, she is betrothed despite his mistaken assumption, because she did not mislead him. But why is she betrothed; but he said: I thought that she had a different characteristic, and he betrothed her with that in mind? Rather, it is because we say that unspoken matters that remain in the heart are not significant matters. Abaye said to him: Perhaps it is different there, since the ruling there is that she requires a bill of divorce only as a stringency, and they are not definitively betrothed.

<sup>239</sup> Rather, Abaye said that the proof is from here, from the mishna: And in all these cases, despite the fact that she later stated: I intended to become betrothed to him nevertheless, she is not betrothed.

But why should her betrothal not take effect at all; but she said: I intended to become betrothed? This clause of the mishna teaches that unspoken matters that remain in the heart are not significant. The Gemara rejects this proof: But perhaps it is different there, as, since he stipulated explicitly that a certain condition was true, it is not in her power to uproot his condition through thoughts alone.

<sup>240</sup> Rather, Rav Ḥiyya bar Avin says: There was an incident of this kind in Rav Ḥisda's study hall, and Rav Ḥisda brought the case to Rav Huna's study hall, and they resolved it from this mishna (Me'ila 21a): In the case of one who says to his agent: Bring me such and such an item from the window ledge or from the box [hadeluskema], forgetting that the item in question was consecrated property and any use of it would constitute misuse of consecrated property, and the agent brought it to him, then although at that point the owner said: My intention was that you bring the item only from this other place, once he brought the item to him from that place that he had mentioned, once the agent uses it the owner is liable for having misused consecrated property. But why should he be responsible; but he said: My intention was for the other place, so the agent did not fulfill his mission. Rather, is it not because we say that unspoken matters that remain in the heart are not significant matters?

<sup>241</sup> The Gemara rejects this: But perhaps it is different there, since it is suspected that he is coming to exempt himself from bringing an offering for his misuse by claiming that he intended a different item. Since there is cause to question the truth of his statement that he had intended that the agent bring the item from the other place, his claim is not accepted. This cannot serve as a proof that in general, unspoken matters that remain in the heart are not significant.

<sup>242</sup> The Gemara responds: If all he wanted to do was exempt himself from the obligation to bring an offering, he could have said that the misuse was intentional, as one who misuses consecrated property intentionally is not obligated to bring an offering. Therefore, there is no cause to question the truth of his statement that he had intended that the agent bring the item from the other place. The Gemara counters: It is not common for a person to place himself in the category of a wicked person by claiming to have committed a transgression intentionally. Therefore, once again, there is cause to question the truth of his statement that he had intended that the agent bring the item from the other place.

<sup>243</sup> The Gemara continues to ask: To exempt himself from the obligation to bring an offering, he could have said: After the agent left I remembered that it was consecrated property. Such a claim would also have rendered him exempt, as we learned in that same mishna (Me'ila 21a): If one sent an agent to bring a particular item, and the owner remembered that it was consecrated and the agent did not remember but proceeded to fulfill his agency, it is the agent who has misused consecrated property and is liable to bring an offering, not the one who designated him, since the latter remembered and canceled the agency. There is no cause to question the truth of his statement that he had intended that the agent bring the item from the other place. Therefore, the fact that this statement is not accepted can serve as a proof that in general, unspoken matters that remain in the heart are not significant.

<sup>244</sup> The Gemara relates: There was a certain man who sold his property with the intention of ascending to Eretz Yisrael and explicitly stated this intention to the buyer. He ascended to Eretz Yisrael but he was not able to settle there. Upon his return to Babylonia, he sought to nullify the sale. Rava said: Whoever ascends to Eretz Yisrael does so with the intention of settling there, and as he

was not able to settle there he can nullify the sale. There are those who say a different version, that Rava said the opposite: He intended to ascend to Eretz Yisrael, and he ascended, so he cannot nullify the sale.

<sup>245</sup> The Gemara relates a similar incident: There was a certain man who sold his property with the intention of ascending to Eretz Yisrael, but ultimately he did not ascend there. Rav Ashi said: If he had wanted to do so, he could have ascended. Since the matter depended upon him, there are no grounds for nullifying the sale. There are those who say Rav Ashi said as follows: If he had wanted to do so, couldn't he have ascended? Since nothing prevented him from leaving, the sale is not nullified. The Gemara asks: What is the difference between the two versions of Rav Ashi's statement? The Gemara answers: There is a difference between them in a case when circumstances beyond his control occurred along the way, preventing him from going. According to the first version of the statement of Rav Ashi, the sale is upheld; but according to the second version, where Rav Ashi responded in the form of a question, the implication is that if there actually had been something that prevented him from ascending, the sale would be nullified.

<sup>246</sup> MISHNA: In the case of one who says to his agent: Go and betroth for me so-and-so in such and such a place, and the agent went and betrothed her in a different place, she is not betrothed, since he instructed that the betrothal take place in a particular location. But if he said: Go and betroth the woman for me, she is in such and such a place; and the agent betrothed her in a different place, she is betrothed, since he did not mean that the agent should betroth her specifically there, but was merely telling him where to find her.

<sup>247</sup> GEMARA: The Gemara comments: And we also learned in a mishna with regard to bills of divorce (Gittin 65a): With regard to one who says to his agents: Give this bill of divorce to my wife in such and such a place, and they gave it to her in another place, the divorce is invalid. If he said to them: She is in such and such a place, and they gave it to her in another place, it is valid.

<sup>248</sup> The Gemara comments: And it is necessary to state this halakha with regard to both betrothal and divorce, because had the tanna taught us only with regard to betrothal, you might say: In a case when he is coming to draw her near to him through betrothal, he thinks: They love me in this place and will not say negative remarks about me, but they hate me in that place and will say negative remarks about me. Therefore, he told the agent to perform the betrothal in a certain place and is particular that it take place only there. But with regard to bills of divorce, when he is coming to distance her from him, you might say he does not care where the divorce itself is performed. The tanna therefore informs us that this is not the case.

<sup>249</sup> And conversely, if the tanna had taught us only with regard to divorce, I would have said that he is particular only in the case of divorce, because in this place it is acceptable for him to degrade himself through divorce, whereas in that place it is not acceptable for him to do so; but with regard to betrothal, which involves no degradation, you might say he does not care where he betroths her. Therefore, it is necessary to state the halakha in both cases.

<sup>250</sup> MISHNA: In the case of one who betroths a woman on the condition that there are no vows incumbent upon her to fulfill, and it was found that there were vows incumbent upon her to fulfill, she is not betrothed, since his condition was not fulfilled. If he married her without specification, and it was found that there were vows incumbent upon her to fulfill, the marriage takes effect. Nevertheless, he has the right to divorce her, and she is divorced without receiving payment of her

marriage contract, as it is assumed that he would not have married her had he known that she was limited by her vows.

<sup>251</sup> Similarly, if he betrothed her on the condition that there are no blemishes upon her, and she was discovered to have blemishes, she is not betrothed. In a case where he married her without specification and she was discovered to have blemishes, he has the right to divorce her, and she is divorced without receiving payment of her marriage contract. As to what is defined as a blemish, the rule is that all the blemishes that disqualify priests from performing the Temple service, as detailed in tractate Bekhorot, also disqualify women from receiving their marriage contract in case of divorce.

<sup>252</sup> GEMARA: The Gemara comments: And we also learned a mishna like this with regard to the halakhot of marriage contracts, as the same mishna appears in tractate Ketubot (72b). The Gemara explains: Here it was necessary for the tanna to mention this halakha with regard to betrothal, and he taught the halakha of marriage contracts due to teaching the halakha of betrothal; there it was necessary for the tanna to mention this halakha with regard to marriage contracts, and he taught the halakha of betrothal due to teaching the halakha of marriage contracts.

<sup>253</sup> MISHNA: In the case of one who betroths two women together with an item worth one peruta, so that the value of each woman's share was not worth one peruta, or who betroths one woman with an item worth less than one peruta, despite the fact that he later sent the traditional gifts [sivlonot] of a groom to the bride,

<sup>254</sup> she is not betrothed, because he sent the gifts on account of the first betrothal, i.e., the item whose value to the woman was less than one peruta, and not to effect betrothal. And similarly, if there was a minor who betrothed a woman, and he sent her gifts after he became an adult, the assumption is that he sent them on account of his betrothal when he was still a minor, and since betrothal performed by a minor is of no account, she is not betrothed.

<sup>255</sup> GEMARA: And it is necessary for all these cases to be stated in the mishna, despite their apparent similarity. As, had the tanna taught us only the case of one who betroths two women with an item worth one peruta, we would have said: Since enough of his money for betrothal goes out, i.e., is spent, he errs and thinks that he can betroth two women with one peruta, and the gifts he later sends are not for the sake of betrothal. But if he betrothed a woman with an item worth less than one peruta, you might say: He knows that betrothal does not take effect with an item worth less than one peruta, and when he later sends gifts he sends them with the intention of betrothal, and she should consequently become betrothed with them. The mishna therefore teaches us that she is not betrothed even in that case.

<sup>256</sup> And had he taught us only these two cases, we would have said that they were necessary because the difference in halakha between betrothal performed with an item worth one peruta and betrothal performed with an item worth less than one peruta is not established or clear to people, and as he might have thought in those cases that his initial betrothal was valid despite each woman receiving less than one peruta, the gifts he sent later were not sent for the sake of betrothal. But in the case of a minor who betroths a woman, everyone knows that the betrothal of a minor is nothing, and you might say that when he later sends gifts, he sends them for the sake of betrothal, and she is betrothed. The mishna therefore teaches us that the same halakha applies in this case as well.

<sup>257</sup> It was stated that amora'im discussed the following matter. Rav Huna says: One must be concerned about gifts. If a woman agreed to a betrothal and the prospective husband sent her gifts in

the presence of witnesses, one must be concerned about the possibility that he sent them for the sake of betrothal. Therefore, the woman may not become betrothed to another man without first receiving a bill of divorce from this one. And Rabba similarly says that one must be concerned about gifts. Rabba says: And we raised an objection against this halakha of ours, as the mishna teaches: Even if he sent gifts later, she is not betrothed. Abaye said to him: There, in the mishna, the reason is as it teaches: Because he sent the gifts on account of the first betrothal. Therefore, there is no concern that he might have sent them for the sake of betrothal. But in this case, where he had not betrothed her beforehand, he might have intended to betroth her by sending her gifts.

<sup>258</sup> There are those who say a different version of this discussion. Rabba says: From where do I say this halakha, that one must be concerned about gifts? I have learned it from the reason she is not betrothed, as the mishna teaches: Because he sent the gifts on account of the first betrothal. This indicates that it is here that there is no concern for that he betrothed her, since he erred and thinks she is already betrothed to him by the first act of betrothal, and that there is no need to betroth her again. But generally, where this type of mistake is not possible, the sending of gifts does effect betrothal.

<sup>259</sup> And Abaye rejects this proof, as perhaps the tanna of the mishna is speaking utilizing the style of: It is not necessary. The mishna stated, for stylistic reasons, a halakha that it did not need to state, and it should be understood as follows: It is not necessary to state this halakha in general, in a case that does not involve a prior act of betrothal, when he had not entered the laws, i.e., begun the process, of betrothal at all, and it would never have entered his mind that the gifts should be considered to be for betrothal. Rather, even here in the case of the mishna, when he has already entered the laws of betrothal by attempting to betroth this woman with less than one peruta, one might say that the gifts should be considered given for the sake of betrothal. The tanna therefore teaches us that there is no concern for betrothal even in that case. It is thereby possible to object to this inference of Rabba.

<sup>260</sup> The Gemara asks: What conclusion was reached about it; must one be concerned that the gifts might have been given for the sake of betrothal or not? The Gemara answers: Rav Pappa says: In a place where the custom is that men first betroth women and afterward send gifts we are concerned that he might already have betrothed her or is sending the gifts for the sake of betrothal, since that is the only situation in which gifts are typically sent. But in a place where men first send gifts and afterward betroth women we are not concerned that the gifts are for betrothal.

<sup>261</sup> The Gemara questions this: In a place where they betroth women and afterward send gifts, it is obvious that if a man sends a woman gifts he must already have betrothed her. The Gemara clarifies: No, it is necessary to teach this halakha due to a place where most men betroth women and afterward send gifts, and a minority of men send gifts and afterward betroth women. Lest you say we should be concerned about the minority and say she is not betrothed, Rav Pappa therefore teaches us that the behavior of the minority is not taken into account.

<sup>262</sup> The Gemara discusses a related topic: Rav Aḥa bar Rav Huna inquired of Rava: If a woman's marriage contract was established, i.e., seen, by people in the marketplace, what is the halakha; is she assumed to be married? Rava said to him: And should we establish her as a married woman because a marriage contract was established in the marketplace? Since a marriage contract can be written by a man even before betrothal and without the woman's consent, its existence does not prove that she is married. The Gemara asks: What conclusion was reached about it? The Gemara answers: Rav Ashi says: In a place where men first betroth women and afterward write a marriage contract, we are

concerned that he had betrothed her; but in a place where they write the marriage contract first and afterward betroth women, we are not concerned.

<sup>263</sup> The Gemara questions this: In a place where men first betroth women and afterward write the marriage contract it is obvious that there should be a concern that he has betrothed her. The Gemara clarifies: No, it is necessary to teach this halakha due to a place where a scribe is not commonly available. Lest you say that he wrote the marriage contract early because there was a scribe who happened to be there, and the prospective husband took the opportunity to avail himself of the scribe's services while intending to perform the betrothal later, Rav Ashi therefore teaches us that there is no concern that he might have done so since the custom is to first betroth the woman.

<sup>264</sup> MISHNA: In the case of one who betroths a woman and her daughter or a woman and her sister in one act of betrothal, by saying: You are both betrothed to me, neither of them is betrothed. And an incident occurred involving five women, and among them were two sisters, and one person gathered a basket of figs that were from their field, and the fruit was of the Sabbatical Year, and he said: You are hereby all betrothed to me with this basket, and one of them accepted it on behalf of all of them. And the Sages said: The sisters are not betrothed.

<sup>265</sup> GEMARA: With regard to the halakha that betrothal does not take effect if one betroths these two women simultaneously, the Gemara asks: From where are these matters derived? Rami bar Hama said: It is as the verse states: "And you shall not take a woman to her sister, to be a rival to her" (Leviticus 18:18). The Torah states: When he betroths them together so that they would become rival wives to one another, he will not be able to take, i.e., betroth, even one of them. Rava said to him: If so, how would you explain this, that it is written at the end of the passage: "Whoever shall do any of these abominations, even the souls that do them shall be cut off from among their people" (Leviticus 18:29); if betrothal does not take effect with her, what renders him liable to receive excision from the World-to-Come [karet]? If he is not betrothed to either woman, and he engages in intercourse with either one, he is not liable for karet, as this punishment is incurred for this sin only if he engaged in intercourse with the sister of his wife.

<sup>266</sup> Rather, Rava says: The verse is discussing a case where he betrothed them consecutively. He first betrothed one sister and then engaged in intercourse with the other, which accounts for the punishment of karet. And the mishna is to be explained in accordance with the statement of Rabba, as Rabba says: Any matters that cannot be accomplished sequentially cannot be accomplished even if one performs them simultaneously. Here too, since he is unable to betroth the mother and daughter or the two sisters sequentially, his betrothal of both of them simultaneously does not take effect.

<sup>267</sup> The Gemara analyzes the matter itself. Rabba says: Any matters that cannot be accomplished sequentially cannot be accomplished even if one performs them simultaneously. Abaye raised an objection to his opinion from a baraita (Tosefta, Demai 8:10):

<sup>268</sup> In the case of one who increases tithes, i.e., he tithes two-tenths instead of one-tenth of his produce, the remainder of his produce is rendered fit for consumption, as he tithed it properly, but the tithes are ruined, as the additional tithe is neither a tithe nor tithed produce. Since it is unclear which of the two-tenths is the actual tithe and which is not, the entire two-tenths may be treated neither as a tithe nor as tithed produce. But according to Rabba's opinion, why is this produce rendered fit for consumption? Let us say that any matters that cannot be accomplished sequentially cannot be accomplished even if one performs them simultaneously. Since one cannot designate a tithe of two-

tenths sequentially, one-tenth followed by a second tenth, he should be precluded from simultaneously designating two-tenths of his produce as a tithe. Accordingly, it should be considered as though he had not designated any tithe at all, and his produce should not be regarded as tithed.

<sup>269</sup> Rabba said to him: The case of tithe is different, as tithe status takes effect partially, i.e., on less than a unit of produce. As, if one said: Let half of each grain of wheat be designated as tithe, he has designated it. Just as one can designate an entire grain of wheat as a tithe, he can likewise designate a half a grain. In this case too, when one tithes two-tenths of the produce, the ruling is not that one-tenth is the actual tithe and the other tenth is untithed produce. Instead, half of each grain of the designated portion is tithe, while the other half of each grain is not. Accordingly, the remainder of the produce is tithed, as one-tenth of the total has been designated as first tithe. The portion designated as the tithe is ruined, because it is impossible to identify which part of each grain is designated.

<sup>270</sup> The Gemara raises another objection to Rabba's opinion: But isn't there the case of animal tithe, which does not take effect partially, as one cannot consecrate half an animal for his tithe. And likewise there is no possibility to separate animals sequentially, as once one has designated one animal as animal tithe he cannot designate another animal for the same purpose. And Rava says: If two animals emerged from the enclosure together as the tenth, and he called them both the tenth, the tenth and eleventh animals are intermingled with each other. One is consecrated with the sanctity of animal tithe while the other remains a peace-offering, but there is no way to determine which is which. The question arises: If the principle that any matters that cannot be accomplished sequentially cannot be accomplished even if one performs them simultaneously is correct, neither animal is consecrated, as one cannot designate both the tenth and the eleventh animals as animal tithe, one after the other.

<sup>271</sup> The Gemara rejects this: Animal tithe is different, as two animals can be designated as animal tithe one after the other in the case of an error. Although one cannot designate the tenth and eleventh animals as the animal tithe *ab initio*, if he did so in error they are both consecrated. As we learned in a mishna (Bekhorot 60a): If one erred and called the ninth animal the tenth, and erred again and called the tenth animal the ninth and the eleventh animal the tenth, all three animals are consecrated. The first is consecrated because it was designated as the tenth, the second because it actually is the tenth, and the third because it was designated as the tenth. Apparently, more than one animal can be consecrated as the animal tithe, if designated in error. In Rava's example as well, a modicum of sanctity applies to the two animals that emerged together and were together designated as the tenth.

<sup>272</sup> The Gemara raises another objection to Rabba's principle. There is the case of the forty loaves that accompany a thanks-offering, which are not consecrated if they were designated in error, and are also not consecrated if two sets of loaves were designated for the same offering sequentially. And yet it was stated that amora'im disagreed with regard to a thanks-offering that was slaughtered accompanied by eighty loaves, twice the required amount. Hizkiyya said: Forty of the eighty loaves are consecrated, even though their identity cannot be determined. And Rabbi Yoḥanan said: Not even forty of the eighty loaves are consecrated. It would appear that these amora'im disagree with regard to whether or not sanctity that cannot take effect in sequence can take effect simultaneously.

<sup>273</sup> The Gemara rejects this contention: Wasn't it stated with regard to this dispute that Rabbi Yehoshua ben Levi said: All, both Hizkiyya and Rabbi Yoḥanan, concede that anywhere that the one bringing the thanks-offering said: Let forty of the eighty loaves be consecrated, the forty are

consecrated; and in a case where he said: Forty loaves should not be consecrated unless all eighty are consecrated, everyone agrees that they are not consecrated.

<sup>274</sup> They disagree only with regard to a case where the one bringing the thanks-offering designates eighty loaves without specification of how many loaves he wants consecrated. One Sage, Hizkiyya, holds: Although he designated eighty loaves, he wants to consecrate only forty, and when he sets aside eighty loaves, he merely intends to ensure that he will have forty. He therefore brought the extra loaves so that if the first forty loaves are lost or become ritually impure the second forty will be consecrated in their place. Consequently, the first forty loaves are consecrated. And one Sage, Rabbi Yoḥanan, holds: He intends to bring a large offering of eighty loaves, and therefore none of the loaves are consecrated. Rabbi Yehoshua ben Levi's explanation of the dispute accords with Rabba's opinion.

<sup>275</sup> The Gemara turns from its analysis of Rabba's opinion to the original issue: And why does Rava explain the mishna in accordance with the opinion of Rabba? Let him derive the halakha in accordance with a principle of his own, as elsewhere (9a) he establishes that betrothal that is not given to consummation is not betrothal at all, and all of these cases are in this category. Any betrothal in which it is prohibited for the couple to engage in sexual intercourse is not considered betrothal at all. Following this principle, the ruling of the mishna can be explained as follows: Since both women would be forbidden to the man in the event that they were both betrothed to him, as each would be the relative of his betrothed, the betrothals are not given to consummation. Therefore, they do not take effect at all.

<sup>276</sup> The Gemara answers: Rava could have explained the mishna this way, but he stated his explanation in accordance with the statement of Rami bar Ḥama. Rava should be understood as saying: Your opinion that the ruling of the mishna is derived from a verse is incorrect, as the verse is referring only to one who betroths the two sisters or the mother and daughter sequentially. Instead, you should explain the mishna as referring to one who betroths them at the same time, with the reason being that any matters that cannot be accomplished sequentially cannot be accomplished even if one performs them simultaneously.

<sup>277</sup> § It was stated that amora'im had a dispute: With regard to betrothal that is not given to consummation, Abaye says it is betrothal, since the prohibition against engaging in sexual intercourse does not affect the betrothal itself. Rava says: It is not betrothal. Rava says: The Sage bar Ahina explained to me that this halakha is derived from the verse: "When a man takes a woman and engages in sexual intercourse with her" (Deuteronomy 24:1), as it indicates that betrothal that is given to permitted consummation is betrothal, whereas betrothal that is not given to consummation is not betrothal.

<sup>278</sup> The Gemara proceeds to analyze these two opinions. We learned in the mishna: In the case of one who betroths a woman and her daughter or a woman and her sister in one act of betrothal neither of them is betrothed. The Gemara analyzes this: But if he said he is betrothing only one of this pair, i.e., the woman or her daughter, or one of that pair, i.e., the woman or her sister, without specifying which of them, she is betrothed. Nevertheless, in practice it is prohibited for him to engage in intercourse with either of them, as it cannot be determined which woman he betrothed and which woman is the relative of his betrothed. But why should the betrothal take effect? These are each a betrothal that is



not given to consummation, and should not be valid according to Rava. Shall we say this is a conclusive refutation to the opinion of Rava?

<sup>279</sup> The Gemara answers: Rava could have said to you in response: And according to your reasoning that a betrothal that is not given to consummation is still betrothal, say the latter clause of the mishna: An incident occurred involving five women, and among them were two sisters. And one man gathered a basket of figs that were from their field, and the fruit was of the Sabbatical Year. And he said: You are hereby all betrothed to me with this basket, and one of them accepted it on behalf of all of them. And the Sages said: The sisters are not betrothed. This indicates that it is the sisters who are not betrothed, but the unrelated women, the other three women who are not related to each other, are betrothed.

<sup>280</sup> The Gemara continues to explain what Rava could have said. What are the circumstances? If we say that he said: You are all betrothed to me, this is comparable to one who gives something to another and says: Let you and the donkey acquire this item. And in a situation where someone would say: Let you and the donkey acquire it, the recipient has not acquired the item. Since the donkey cannot acquire items the person does not acquire it either, because the owner linked the two acquisitions. Here too, since he tried to give the item of the betrothal to all of the women, some of whom, the sisters, he cannot betroth together, the betrothal should not take effect even with the other women despite the fact that they are suitable for him.

<sup>281</sup> Rather, is it not referring to a case where he said to them: One of you is betrothed, and it teaches that the sisters are not betrothed, because with regard to the sisters the betrothal is not given to consummation? The Gemara comments: If so, the first clause of the mishna is difficult for Rava, while the last clause is difficult for Abaye. The Gemara presents a resolution: Abaye explains the last clause according to his line of reasoning, and Rava explains the first clause according to his line of reasoning.

<sup>282</sup> Abaye explains it according to his line of reasoning, as follows: In the case of one who betroths a woman and her daughter or a woman and her sister in one act of betrothal neither of them is betrothed. But if he betrothed one of a pair consisting of a woman and her daughter or a woman and her sister by saying: One of you is betrothed to me, each of them is betrothed as a matter of uncertainty and requires a bill of divorce, despite the fact that the betrothal is not given to consummation, in case he is in fact betrothed to the other one.

<sup>283</sup> The Gemara continues Abaye's explanation: And if he explicitly said: The one of you fit for sexual intercourse shall be betrothed to me, neither of them is betrothed, as he cannot engage in intercourse with either, not knowing which of them is his betrothed and which is his betrothed's relative. And an incident also occurred involving five women, and among them were two sisters. And one man gathered a basket of figs and said: The one among you fit for intercourse with me shall be betrothed to me with this basket, and the Sages said: The sisters are not betrothed.

<sup>284</sup> And Rava explains according to his line of reasoning: In the case of one who betroths one of a pair consisting of a woman and her daughter or one of a pair consisting of a woman and her sister it becomes as one who simultaneously betrothed a woman and her daughter or a woman and her sister, and they are not betrothed, since betrothal that is not given to consummation is not considered betrothal. And an incident also occurred involving five women, and among them were two sisters. And one man gathered a basket of figs and said: All of you, and one of the two sisters, are hereby

betrothed to me with this basket. And the Sages said: The sisters are not betrothed. Since the mishna can be read in either of these two ways, nothing can be proven from it with regard to the issue of betrothal that is not given to consummation.

<sup>285</sup> The Gemara suggests: Come and hear a proof from a mishna (64b): In the case of one who betroths his daughter to a man without specification, i.e., without specifying which daughter he meant, the grown women are not included among those who might be betrothed, since he does not have the right to betroth them. The Gemara analyzes this: One can infer that the minor daughters are included, and each is betrothed as a matter of uncertainty. But why are the minor daughters betrothed? Each of these betrothals is a betrothal that is not given to consummation, since he did not specify which of his minor daughters he had in mind. Therefore, according to Rava betrothal should not take effect with regard to any of them, and this is a conclusive refutation of the opinion of Rava.

<sup>286</sup> The Gemara answers: Rava could have said to you: With what are we dealing here? It is when there is only one adult daughter and one minor daughter. Consequently, once the adult daughter is removed from consideration, it is clear that the father has betrothed the minor daughter, and the betrothal is given to consummation.

<sup>287</sup> The Gemara questions this explanation: But that mishna teaches: Grown women, in the plural. The Gemara answers: What is the meaning of grown women? Grown women in general. In other words, whenever people betroth their daughters without further specification, only the minor daughters, and not the adult daughters, are included. The Gemara asks: If so, that there are only two daughters, what is the purpose of stating this; what novel halakha does it teach?

<sup>288</sup> The Gemara answers: With what are we dealing here? It is a situation where his adult daughter designated him as her agent to betroth her. Lest you say that when he accepts betrothal from someone on behalf of his daughter without further specification he accepts it with her in mind, and he intended to betroth her rather than his minor daughter, the mishna therefore teaches us that a person does not set aside something from which he has benefit, e.g., the betrothal of his minor daughter, where he keeps the betrothal money, in favor of something from which he has no benefit, e.g., the betrothal of his adult daughter, where she keeps the betrothal money.

<sup>289</sup> The Gemara raises a difficulty: Aren't we also dealing with a case where the adult daughter said to him: When you betroth me, my betrothal money is for you? Accordingly, he derives benefit from her betrothal as well. The Gemara explains: Even so, the father would not have intended to betroth his adult daughter, since a person does not set aside a mitzva that is incumbent upon him, e.g., the betrothal of his minor daughter, and perform a mitzva that is not incumbent upon him, e.g., the betrothal of his adult daughter.

<sup>290</sup> The Gemara further suggests: Come and hear a proof from a mishna (64b): With regard to one who has two groups of daughters from two women, e.g., he has multiple daughters from his first wife, and after his first wife died he remarried and had multiple daughters with his second wife, and he said: I betrothed my elder daughter to someone, but I do not know if it was the eldest of the older group of daughters or if it was the eldest of the younger group of daughters, or if it was the youngest of the older group, who is nevertheless older than the eldest of the younger group; all the daughters are prohibited from marrying someone else without first receiving a bill of divorce, except for the youngest of the younger group, who is certainly not betrothed. This is the statement of Rabbi Meir. This betrothal is not given to consummation, since each daughter could be the sister of his actual

betrothed, and yet the betrothal is considered valid, as otherwise they would all be permitted to marry without requiring a bill of divorce.

<sup>291</sup> The Gemara rejects this: With what are we dealing here? It is a situation where they were identified and later intermingled. In other words, this mishna is not dealing with one who betrothed a daughter without specifying which one; rather, he initially stated which daughter he intended to betroth but subsequently forgot. The actual betrothal is given to consummation, so the daughters are betrothed due to the uncertainty. The Gemara comments: The language of the mishna is also precise, as it teaches that he said: I do not know, in the first person and in the present tense, indicating that he did know who it was at one point but does not know now, and it does not teach that he said: It is not known. The Gemara affirms: Learn from the language of the mishna that we are indeed dealing with a case where the daughters were intermingled after they were identified.

<sup>292</sup> The Gemara asks: If so, what is the purpose of stating this; what novel halakha does it teach? The Gemara answers: The mishna serves to exclude the opinion of Rabbi Yosei, who says: A person does not place himself into a situation of uncertainty, and when he said elder daughter he must have meant the eldest of the older group, who is the absolute eldest. Rabbi Meir teaches us that a person does place himself into a situation of uncertainty, and the uncertainty applies to each of his daughters, except for the youngest of the younger group.

<sup>293</sup> The Gemara further suggests: Come and hear a proof from a mishna (Yevamot 23b): In the case of one who betrothed one of two sisters and he does not know which one he betrothed, he must give a bill of divorce to this one and a bill of divorce to that one, due to the uncertainty. This betrothal is not given to consummation, so why do they require bills of divorce? The Gemara answers: With what are we dealing here? It is when they were identified and later intermingled. The actual betrothal was given to consummation, so the sisters are betrothed due to the uncertainty. The Gemara comments: The language of the mishna is also precise, as it teaches the phrase: He does not know, indicating that he did know who it was at one point but now does not know, and it does not teach the phrase: It is not known.

<sup>294</sup> The Gemara poses a question: If so, what is the purpose of stating this; what novel halakha does it teach? The Gemara answers: It was necessary to teach the latter clause of that mishna: If this man died and he had one brother, the brother performs *ḥalitza* with both of the sisters, but he cannot perform levirate marriage with either because one of them is the sister of his yevama, who is forbidden to him by rabbinic law. If he had two brothers, one of them performs *ḥalitza* with one of the sisters but may not take her in levirate marriage, due to the possibility that she is the sister of a woman with whom he has a levirate bond. And then one takes the other in levirate marriage if he so desires. If both brothers married the sisters before consulting the court, the court does not remove them from their marriage and they are permitted to remain married. Although the first couple should have performed *ḥalitza*, the court does not force them to divorce.

<sup>295</sup> The Gemara explains the novelty of the latter clause: This is effective specifically if one brother first performs *ḥalitza* and afterward the second brother performs levirate marriage, but if one brother first performs levirate marriage and afterward the other brother performs *ḥalitza*, the levirate marriage would not take effect, as he is possibly encountering the sister of the woman bound to him by ties of levirate marriage. Until the yevama is released through *ḥalitza*, her sister is considered, to a

certain extent, the sister of his wife, due to the ties of levirate marriage. The one who performs levirate marriage might have chosen the sister of the woman betrothed by the dead brother.

<sup>296</sup> The Gemara further suggests: Come and hear a proof from the continuation of that mishna: In the case of two unrelated men who betrothed two sisters, where this one does not know which sister he betrothed and that one does not know which sister he betrothed, this one gives two bills of divorce, one to each of the women, and that one gives two bills of divorce. Their betrothal is not given to consummation, so according to Rava why do they require a bill of divorce? The Gemara answers: Here too, it is discussing a case where they were identified and later intermingled. The actual betrothal was given to consummation, so the sisters are betrothed due to the uncertainty. The Gemara comments: The language of the mishna is also precise, as it teaches using the phrase: Does not know, indicating that at one point he did know who it was but now does not know, and it does not teach: It is not known. The Gemara affirms: Learn from it that we are indeed dealing with a case where the sisters were identified and later intermingled.

<sup>297</sup> The Gemara asks: If so, what is the purpose of stating this; what novel halakha does it teach? The Gemara answers: It was necessary to teach the latter clause of that mishna: If each man died before he divorced, and this one had a brother and that one had a brother, then this brother performs ḥalitza with both of them, and that brother performs ḥalitza with both of them. Neither man may perform levirate marriage, lest he perform levirate marriage with the sister of his yevama. If this one had one brother and that one had two brothers,

<sup>298</sup> the one brother performs ḥalitza with both of them, and of the two brothers, one performs ḥalitza with one of the sisters and one, if he so desires, performs levirate marriage with the other sister. If they married the widows before consulting the court, the court does not remove them from the marriage, and they are permitted to remain married.

<sup>299</sup> The Gemara explains the novelty of the latter clause: This is effective specifically if one of the two brothers first performs ḥalitza and afterward the other brother performs levirate marriage, but if one of the two brothers first performs levirate marriage and afterward the other brother performs ḥalitza, the levirate marriage would not take effect, as he is possibly encountering a yevama getting married to a member of the public. This is because it is possible that the woman he married was not his yevama but someone else's yevama, and until the other man's brother performs ḥalitza with her it is still prohibited for her to marry other men.

<sup>300</sup> The Gemara derives a proof: Come and hear, as the Sage Tavyumei taught the following baraita: If this man had five sons and that man had five daughters, and the first man said: One of your daughters is betrothed to one of my sons, each and every one of the daughters requires five bills of divorce, one from each of the sons, due to the uncertainty of who is betrothed to whom. If one of the sons died before giving his bill of divorce, each and every one of the daughters requires four bills of divorce, one from each of the surviving brothers, and ḥalitza from one of them, in case she was betrothed to the deceased son. The ḥalitza of one of the brothers suffices to release her from her levirate bond. According to Rava this betrothal should not be valid, as it is not given to consummation. Why, then, do they each require bills of divorce?

<sup>301</sup> And if you would say that here too it is referring to a case where they were identified and later intermingled, that cannot be. This is as the baraita teaches: One of your daughters to one of my sons, indicating that the betrothal could never have been given to consummation, and yet it is a valid

betrothal. The Gemara concludes: The refutation of the opinion of Rava is a conclusive refutation. The Gemara further notes: And the halakha is in accordance with the opinion of Abaye when he has a dispute with Rava with regard to six halakhot, as represented by the mnemonic yod, ayin, lamed, kuf, gimmel, mem: Despair that is not conscious [yeush shelo mida'at], conspiring witnesses [eidim] who are disqualified retroactively, a side post [lehi] standing alone, betrothal [kiddushin] that is not given to consummation, revealing intent with a bill of divorce [get], and an apostate [mumar] who sins rebelliously. Although the halakha generally is in accordance with the opinion of Rava in his disputes with Abaye, in these six cases the halakha is in accordance with the opinion of Abaye.

<sup>302</sup> § The mishna teaches: An incident occurred involving five women, and among them were two sisters. And one person gathered a basket of figs that were from their field, and the fruit was of the Sabbatical Year. And he said: You are hereby all betrothed to me with this basket, and one of them accepted it on behalf of all of them. And the Sages said: The sisters are not betrothed. Rav says: One can learn four halakhot from the mishna. The Gemara adds: And Rav held three of them in his hand, i.e., knew what they were, but he was uncertain about the fourth.

<sup>303</sup> Rav clarifies: Learn from it that with regard to one who betroths a woman with produce of the Sabbatical Year, she is betrothed, and you do not say that this produce can be used only for eating and not for any other purpose. And learn from it that if one betroths a woman with a stolen item, even if it was her stolen item, she is not betrothed. You do not say that her accepting from him an item that he stole from her indicates that she released him from his obligation to return it, rendering it his to use in order to betroth her. From where can these two halakhot be deduced? It is from the fact that it teaches that the produce was from their field, and was of the Sabbatical Year, which indicates: The reason it could be used for betrothal is that the produce was of the Sabbatical Year, which causes the figs to be ownerless property. But if it was one of the other years of the seven-year Sabbatical cycle, the betrothal would not take effect with stolen property, even if she accepted it for her betrothal.

<sup>304</sup> And learn from it: A woman can become an agent to accept a betrothal for another woman, and this is so even in a situation where she thereby becomes the rival wife of the other, as in the case of the mishna.

<sup>305</sup> The Gemara asks: And what is the other halakha, the fourth one mentioned by Rav? It is the halakha of betrothal that is not given to consummation. The Gemara suggests: And let Rav also count this halakha. The Gemara explains: He does not do so, because he is uncertain whether the correct interpretation of the mishna is in accordance with the explanation of Abaye, who maintains that such a betrothal is valid, or whether the correct interpretation of the mishna is in accordance with the explanation of Rava, which would mean it is not betrothal.

<sup>306</sup> The Gemara relates: When Rabbi Zeira ascended to Eretz Yisrael he stated this halakha before Rabbi Yoḥanan, who said to him: Did Rav actually say so? This indicates that Rabbi Yoḥanan disagreed with the statement of Rav that these halakhot can be learned from the mishna, which leads the Gemara to ask: But didn't he himself say so? And didn't Rabbi Yoḥanan say: If one robbed another of an item and its owner has not despaired of recovering it, neither of them can consecrate the stolen item? This one, the robber, cannot consecrate it because it is not his, and that one, the owner, cannot consecrate it because it is not in his possession. By the same logic, one should not be able to betroth a woman with stolen property, as it is not his. The Gemara answers that Rabbi

Yohanan was not objecting to Rav's opinion, but this is what he said to him: Did Rav actually say in accordance with my opinion?

<sup>307</sup> The Gemara raises an objection against Rav's opinion that one cannot betroth a woman with stolen property, from a baraita (Tosefta 4:5): If one betrothed her with an item taken in robbery, in a forced transaction, or in theft, or if he grabbed a sela from her hand and betrothed her with it, she is betrothed. This indicates that one can betroth a woman with stolen property. The Gemara answers: There it is referring to her stolen property, and by accepting it from him as betrothal, she indicates that she has released him from his obligation to return it.

<sup>308</sup> The Gemara asks: But from the fact that the last clause of the baraita teaches: Or if he grabbed a sela of hers, it may be inferred that in the first clause we are dealing with property stolen from others. The Gemara explains: These are not two separate cases. Instead, the tanna is explaining his earlier statement: If one betrothed a woman with an item taken in robbery, in a forced transaction, or in theft; how so? For example, if he grabbed a sela from her hand and betrothed her with it.

<sup>309</sup> The Gemara questions this analysis: But doesn't the mishna deal with a case where the stolen item is hers, and yet Rav says she is not betrothed. The Gemara answers: This is not difficult; this case, in the baraita, is referring to a situation where he had arranged to betroth her beforehand, which indicates that she has released him from his obligation to return it, but that case, in the mishna, is referring to a situation where he had not arranged his marriage with her, so it is stolen property and she is not betrothed.

<sup>310</sup> The Gemara relates: There was a certain woman who was washing her feet in a vessel of water. A certain man came along, grabbed a few dinars from another person, and threw them to her, and said to her: You are betrothed to me. That man subsequently came before Rava, to inquire as to the status of the woman. Rava said: There is not anyone who is concerned for this opinion of Rabbi Shimon, who said: In an ordinary case of robbery the owner has despaired of recovering the stolen item, and it belongs to the robber. Rather, the assumption is that the owner has not despaired of recovering the stolen item. In this case, since the stolen dinars do not belong to the man, his betrothal is of no effect.

<sup>311</sup> The Gemara relates another incident: There was a certain sharecropper who betrothed a woman with a handful [bemoza] of onions [deshamkhei] taken from the field where he worked. He came before Rava to ask about the status of the woman. Rava said to him: Who relinquished these onions to you? Since the owner did not allow you to take them, they are stolen property, and the woman is not betrothed. The Gemara comments: And this matter applies only to a handful, but if he took a bundle of onions and betrothed a woman with them, the sharecropper can say to the owner: I took a bundle, you take a bundle; one bundle for another bundle. Since in any case they divide the crop between them, it is not considered theft.

<sup>312</sup> The Gemara relates another incident: There was a certain brewer [sarseya] who was making date beer for someone, who betrothed a woman with sediment [bifruma] from the beer. The owner of the beer came and found him. The owner said to him: Why don't you give her the betrothal from this, the sharp sediments that are of better quality than the kind you chose? The brewer came before Rava to ask whether the owner's comment indicated that he had relinquished his rights to the sediment, which would mean the woman is betrothed. Rava said to him: The Sages said that if the owner discovers that someone has taken something of his without permission and says: Go to and take the

item of better quality, that it is a sign he agrees with the man's action only with regard to teruma alone, and you did not have the right to use the sediment.

<sup>313</sup> The Gemara explains the previous statement: As it is taught in a baraita (Tosefta, Terumot 1:5): When did they say that in the case where one separates teruma without the owner's consent, his teruma is considered teruma? The baraita clarifies: In a case where there was someone who entered another's field and gathered produce from it, and separated teruma without the owner's permission, if the owner is concerned about his actions and view it as robbery, his teruma is not teruma, but if he is not concerned, his teruma is teruma.

<sup>314</sup> The baraita continues: And from where would the gatherer know whether he should be concerned that the owner objects and views it as robbery or not? If the owner came and found him separating teruma and said to him: Go to take the produce of better quality and separate teruma from that, then if produce of better quality than the produce he had separated is found, his teruma is considered teruma, since the owner is assumed to have been sincere and pleased that the other has separated teruma from his produce. But if not, his teruma is not teruma, as it may be assumed that the owner was angry at him and was speaking sarcastically. The baraita adds: If the owners were gathering and adding to the teruma he had separated, indicating that they agree to his act of separation, either way, whether or not better-quality produce was found, his teruma is considered teruma.

<sup>315</sup> Rava concludes the explanation of his ruling: This halakha applies only to teruma, which is a mitzva that the owner must in any case perform. But here, in the case of the brewer who betrothed a woman with sediment from the beer, the owner acts because of embarrassment, and while he does not feel comfortable protesting, he did not in fact relinquish his rights to the sediment, and she is not betrothed.

<sup>316</sup> MISHNA: With regard to a priest who betroths a woman with his portion of offerings, whether he did so with offerings of the most sacred order or whether he did so with offerings of lesser sanctity, she is not betrothed. One who betroths a woman with second tithe, whether unwittingly or intentionally, has not betrothed her; this is the statement of Rabbi Meir. Rabbi Yehuda says: If he did so unwittingly he has not betrothed her, but if he did so intentionally he has betrothed her.

<sup>317</sup> And with regard to one who betroths a woman with consecrated property belonging to the Temple treasury, if he does so intentionally he has betrothed her, and if he does so unwittingly he has not betrothed her; this is the statement of Rabbi Meir. Rabbi Yehuda says the opposite: If he does so unwittingly he has betrothed her, but if he does so intentionally he has not betrothed her.

<sup>318</sup> GEMARA: The Gemara suggests: Shall we say that the mishna is not in accordance with the opinion of Rabbi Yosei HaGelili? As it is taught in a baraita that the verse states with regard to the obligation to bring an offering for taking a false oath concerning unlawful possession of the property of another: "If any one sin, and he commits a trespass against the Lord, and deal falsely with his neighbor in a matter of deposit, or of pledge, or of robbery, or have oppressed his neighbor" (Leviticus 5:21). As the verse is discussing property belonging to another, the phrase "a trespass against the Lord" serves to include in the obligation of an offering a false oath with regard to possession of offerings of lesser sanctity of another person, which are the property of the owner; this is the statement of Rabbi Yosei HaGelili. According to Rabbi Yosei HaGelili, the portion of an offering of lesser sanctity that the priest receives belongs to him, so he should be able to betroth a woman with it.

<sup>319</sup> The Gemara rejects this: You can even say that the mishna is in accordance with the opinion of Rabbi Yosei HaGelili, as Rabbi Yosei HaGelili says that an offering of lesser sanctity belongs to its owner only while the animal is still alive, but after its slaughter it does not belong to the priest who receives portions from it. What is the reason for this? When the priests receive their portion after the animal has been slaughtered they receive their portion from the table of the Most High, and do not own the portion itself.

<sup>320</sup> The Gemara adds: The language of the mishna is also precise, as it teaches: With regard to a priest who betroths a woman with his portion of offerings, whether he did so with offerings of the most sacred order or whether he used offerings of lesser sanctity, has not betrothed her. The mishna does not speak of a priest who betroths a woman with a living offering of lesser sanctity but of one who betroths with the portion of the slaughtered animal he has received. The Gemara concludes: Learn from it that it is only in this case that she is not betrothed.

<sup>321</sup> The Sages taught: After the death of Rabbi Meir, Rabbi Yehuda said to his students: Do not let the students of Rabbi Meir enter here into our house of study, because they are vexatious [kanteranim]. And they do not come to study Torah, but rather they come to overwhelm me with halakhot. Sumakhos, a student of Rabbi Meir, pushed and entered anyway. He said to them: This is what Rabbi Meir taught me: With regard to a priest who betroths a woman with his portion of the offerings, whether he did so with offerings of the most sacred order or whether he used offerings of lesser sanctity, he has not betrothed her.

<sup>322</sup> Upon hearing this, Rabbi Yehuda became angry with his students. He said to them: Didn't I say this to you: Do not let the students of Rabbi Meir enter here into our house of study, because they are vexatious? And they do not come to study Torah, but rather they come to overwhelm me with halakhot. Rabbi Yehuda explained his objection to the statement of Rabbi Meir: This halakha is not relevant, as from where would a woman appear in the Temple courtyard? Women may not enter the area of the Temple courtyard where the priests eat the offerings of the most sacred order, so there is no reason to address an impossible scenario.

<sup>323</sup> Rabbi Yosei, who was present, said: They will say: Meir died, Yehuda grew angry, and Yosei remained silent; what will become of the words of Torah? He said: In fact, this halakha is relevant; but isn't it common for a man to accept betrothal for his daughter in the Temple courtyard? There is no need to give the betrothal item directly to the woman; it can be given to her father. And additionally, isn't it common for a woman to designate an agent for herself to accept her betrothal in the courtyard? And furthermore: What would be the halakha if the woman pushed and entered? Since it is possible for her to do so, the halakha in such a case must be determined.

<sup>324</sup> It is taught in a baraita that the Sages discussed the issue of a priest who betroths a woman with his portion of offerings of the most sacred order: Rabbi Yehuda says she is betrothed, and Rabbi Yosei says she is not betrothed. Rabbi Yoḥanan says: Both of them derived their opinions from one verse, which states that the priests have a right to a portion of offerings of the most sacred order, but they explained it in different ways. The verse states: "This shall be yours of the most holy things, reserved from the fire" (Numbers 18:9). Rabbi Yehuda holds that the term "yours" indicates that the portion the priest receives is intended for you, i.e., a priest, and for all your needs, including betrothing a woman. And Rabbi Yosei holds that the verse compares the priest's portion to the fire on



the altar: Just as the portion burned on the fire is for the fire's consumption, so too, the priest's portion is also for consumption alone, and not for any other purpose.

<sup>325</sup> Rabbi Yoḥanan says:

<sup>326</sup> They counted the opinions among the Sages, and they concluded: With regard to one who betroths a woman with his portion of the offerings, whether he did so with offerings of the most sacred order or whether he used the offerings of lesser sanctity, he has not betrothed her, in accordance with the opinion of Rabbi Yosei. And Rav says: It is still a matter of dispute and they did not reach that conclusion. Abaye said: It is reasonable to rule in accordance with the report of Rabbi Yoḥanan, who says that the halakha was decided in accordance with the opinion of Rabbi Yosei.

<sup>327</sup> Abaye quotes an extended baraita indicating that even Rabbi Yehuda accepted that the halakha was decided in accordance with the opinion of Rabbi Yosei. As it is taught in a baraita: From where is it derived that priests may not receive a share of meal-offerings in exchange for portions of animal offerings, i.e., they may not exchange their portion of a meal-offering for the meat of an animal sacrifice of which they did not receive a portion? The verse states: "And every meal-offering that is baked in the oven...shall all the sons of Aaron have" (Leviticus 7:9–10). This verse emphasizes that the sons of Aaron must divide the meal-offering equally among themselves, without exchanging it for a portion of any other offering.

<sup>328</sup> The baraita continues: One might have thought that they may not receive a share of meal-offerings in exchange for portions of animal offerings since they do not substitute for them in the case of poverty. Even one who is too poor to afford to bring an animal offering, e.g., in the case of a sin-offering determined on a sliding scale, does not bring a meal-offering in its stead. Since meal-offerings can never be brought in place of animal offerings, there is clearly no connection between them. But perhaps they may receive a share of meal-offerings in exchange for portions of bird-offerings, since they do substitute for them in the case of poverty. If one is so destitute that he cannot afford to bring a bird-offering he brings a meal-offering. Therefore, the same verse states: "And all that is prepared in the deep pan...shall all the sons of Aaron have," again stressing that all must have an equal share in that meal-offering.

<sup>329</sup> The baraita continues: One might have thought that they may not receive a share of meal-offerings in exchange for portions of bird-offerings since these, bird-offerings, are types of offerings that involve blood sprinkled on the altar, and those, meal-offerings, are types of offerings made of flour. But perhaps they may receive a share of portions of bird-offerings in exchange for portions of animal offerings, since both categories are types of offerings that involve blood sprinkled on the altar. Therefore, the same verse states: "And on a griddle," a seemingly superfluous phrase, which teaches that one may not receive a share even of bird-offerings in exchange for portions of animal offerings.

<sup>330</sup> The baraita continues: One might have thought that they may not receive a share of bird-offerings in exchange for portions of animal offerings because the actions, i.e., killing, of these birds is by hand, by pinching the neck, and the actions, i.e., killing, of those animals is with a utensil, by slaughtering with a knife. But perhaps they may receive a share of meal-offerings in exchange for portions of other meal-offerings, since the actions with both these and those are by hand. Therefore, the next verse states: "And every meal-offering mingled with oil...shall all the sons of Aaron have" (Leviticus 7:10).

<sup>331</sup> The baraita continues: One might have thought that they may not receive a share of a meal-offering prepared on a griddle in exchange for portions of a meal-offering prepared in a deep pan, or portions of a meal-offering prepared in a deep pan in exchange for portions of a meal-offering prepared on a griddle, since the actions with this deep pan result in a soft product, and the actions with that griddle result in a hard product. But perhaps they may receive a share of a meal-offering prepared on a griddle in exchange for the portions of a meal-offering prepared on a griddle, or a share of a meal-offering prepared in a deep pan in exchange for portions of a meal-offering prepared in a deep pan, since the actions with both these and those result in a hard product, in the case of a griddle, or alternatively, with regard to a deep pan, the actions result in a soft product. Therefore, the same verse states: “Or dry, shall all the sons of Aaron have” (Leviticus 7:10).

<sup>332</sup> The baraita continues: One might have thought that they may not receive a share of offerings of the most sacred order, e.g., meal-offerings, in exchange for a portion of another similar offering, but they may receive a share of offerings of lesser sanctity in exchange for a portion of another similar offering. Therefore, the same verse states with regard to meal-offerings: “Shall all the sons of Aaron have, one as well as another” (Leviticus 7:10), and near it appears the verse: “If he offers it for a thanks-offering” (Leviticus 7:12), from which is derived: Just as one may not receive a share of one offering in exchange for a portion of another similar offering in the case of offerings of the most sacred order, so too, one may not receive a share of one offering in exchange for a portion of another similar offering in the case of offerings of lesser sanctity, e.g., a thanks-offering.

<sup>333</sup> The baraita expounds this verse further: It states: “One as well as another [ish ke’ahiv],” which teaches that with regard to priests, a man [ish] who is an adult receives a share even if he is blemished, but a priest who is a minor may not receive a share even if he is unblemished. This baraita is found in the Sifra, a collection of halakhic midrashim on the book of Leviticus. And who is the tanna to whom unattributed statements in the Sifra are assigned? It is Rabbi Yehuda, and here he says that no law of receiving a share applies to it at all, which means that priests cannot exchange one portion of any type of offering for another portion, so they cannot use it to betroth a woman. Conclude from it that Rabbi Yehuda retracted his opinion and subscribes to the opinion that a priest does not own the portion of the offerings he receives.

<sup>334</sup> Rava said: But isn’t it taught in a baraita in accordance with the opinion of Rav? But isn’t it taught in a baraita (Tosefta, Sota 13:7): When the priests receive their portion of the shewbread each week, the modest ones withdraw their hands and do not take it, and the gluttons receive all the shares of the bread. This indicates that offerings may be apportioned according to the priests’ wishes. The Gemara rejects this: What is the meaning of receive the shares? It does not mean that they exchange one portion for another with halakhic sanction; it means that they would snatch their colleagues’ portions, as it teaches in the latter clause of that same baraita: An incident occurred involving one who snatched his share and his colleague’s share, and they called him ben Ḥamtzan, son of the snatcher, until the day he died.

<sup>335</sup> Rabba bar Rav Sheila said: What is the verse from which is derived that ḥamtzan means one who snatches? The verse states: “My God, rescue me out of the hand of the wicked, out of the grasp of the unrighteous and grasping man [ḥometz]” (Psalms 71:4). Rabba said: It is derived from here: “Learn to do well; seek justice, relieve the oppressed [ḥamotz]” (Isaiah 1:17), i.e., restore property stolen from victims of theft.

<sup>336</sup> § The mishna teaches: One who betroths a woman with second tithe, whether unwittingly or intentionally, has not betrothed her; this is the statement of Rabbi Meir. Rabbi Yehuda says: If he did so unwittingly he has not betrothed her, but if he did so intentionally he has betrothed her. The Gemara asks: From where are these matters derived? From where does Rabbi Meir derive that second tithe cannot be used for betrothal? Rav Aḥa, son of Rava, says in the name of tradition: The verse states: “And all the tithe of the land, whether of the seed of the land, or of the fruit of the tree, is the Lord’s; it is holy to the Lord” (Leviticus 27:30). This verse indicates that it is for the Lord, but not for betrothing a woman with it.

<sup>337</sup> The Gemara questions this derivation from several instances where similar wording is employed in a different verse, yet one may use those items for betrothal. But there is teruma of the tithe, about which it is written: “So you also shall set apart a gift of the Lord of all your tithes” (Numbers 18:28)? And we learned in a mishna (58a): With regard to one who betroths a woman with teruma, she is betrothed. The Gemara answers: Teruma of the tithe is different, as “to the Lord” is not written with regard to it, indicating that it can be used for betrothal.

<sup>338</sup> The Gemara asks: But there is ḥalla, the portion of dough that one must separate and give to a priest, about which it is written: “Of the first of your dough you shall give to the Lord” (Numbers 15:21)? And we also learned in that same mishna: With regard to one who betroths a woman with terumot, of which ḥalla is one type, she is betrothed. The Gemara answers: Although the verse does write “to the Lord,” ḥalla is different, as the word “holy” was not written with regard to it.

<sup>339</sup> The Gemara asks: But there is produce of the Sabbatical Year, about which it is written: “It is a Jubilee, it shall be holy to you” (Leviticus 25:12)? And we learned by inferring from a mishna (50b) that in the case of one who betroths a woman with produce of the Sabbatical Year, she is betrothed. The Gemara answers: With regard to produce of the Sabbatical Year, the verse writes “holy,” but “to the Lord” is not written with regard to it.

<sup>340</sup> The Gemara asks: But there is teruma, about which it is written: “The Jewish people are the Lord’s holy portion, His first fruits of the increase” (Jeremiah 2:3)? And we learned in a mishna (58a) that in the case of one who betroths a woman with teruma, she is betrothed. The Gemara answers: That verse was written with regard to the Jewish people, who are called the Lord’s holy portion, but not with regard to teruma itself.

<sup>341</sup> The Gemara asks: But don’t you understand it by itself from this verse? Since the verse compares the Jewish people to teruma, the categorization of “holy” evidently applies to teruma as well. Ravin the Elder interpreted it before Rav: The difference is that with regard to tithe the verse states: “It is for the Lord,” which indicates: As it is, it should be, as consecrated.

<sup>342</sup> § The mishna teaches: And if he betrothed a woman with consecrated property belonging to the Temple treasury, if he does so intentionally he has betrothed her, and if he does so unwittingly he has not betrothed her; this is the statement of Rabbi Meir. Rabbi Yehuda says the opposite: If he did so unwittingly he has betrothed her, but if he does so intentionally he has not betrothed her. Rabbi Ya’akov said: I learned two halakhot from Rabbi Yoḥanan, the halakha of an unwitting error involving tithe according to the opinion of Rabbi Yehuda and the halakha of an unwitting error involving consecrated items according to the opinion of Rabbi Meir. In both of these cases the woman is not betrothed with the items.

<sup>343</sup> He proceeds to explain. One of these halakhot is because the woman does not want to become betrothed with the item, and the reason for the other is because neither the man nor the woman wants it. He adds: And I do not know which of them is due to the woman alone, and which is due to both parties. Rabbi Yirmeya said: Let us see which reason is applicable to which case. It must be that with regard to second tithe, which may be eaten only in Jerusalem, it is not satisfactory for her to be betrothed with it due to the trouble of transporting it all the way to Jerusalem to enjoy it, whereas it is satisfactory for him to betroth her with it, since he acquires a woman by itself, i.e., by the tithe alone, without having to spend additional money of his own. But in the case of consecrated items, it is not satisfactory for the two of them that consecrated property be desacralized by their using it for betrothal.

<sup>344</sup> And Rabbi Ya'akov said the opposite is more reasonable. Couldn't it be said that in the case of second tithe it is not satisfactory for her to be betrothed with it due to the trouble of transporting it all the way, and it is not satisfactory for him to betroth her with it due to the danger of an accident along the way. If the second tithe gets lost on the way to Jerusalem, she will not have derived any benefit from it. It will cause her distress to think she received nothing for her betrothal, and he does not want to cause her distress. But in the case of consecrated items, granted that with regard to her, it is not satisfactory for her that consecrated property be desacralized through her, but why wouldn't it be satisfactory for him to acquire a woman by itself, without the expenditure of redeeming a consecrated item? Therefore, the reasons for Rabbi Yoḥanan's statement cannot be determined by logic alone.

<sup>345</sup> Rava inquired of Rav Ḥisda: According to Rabbi Meir, a woman cannot be betrothed by receiving consecrated money, but what is the halakha with regard to the money he gives her for betrothal: Does the money become desacralized as a result of the act of betrothal, as is usually the case when one uses a consecrated item for his own benefit? Rav Ḥisda said to him: If the woman is not betrothed, how can the money become desacralized? Since the money has not actually been used, nothing has changed with regard to its status.

<sup>346</sup> Rav Ḥiyya bar Avin inquired of Rav Ḥisda: What is the halakha with regard to a sale: If one unwittingly uses consecrated money to purchase an item, does the sale take effect? Rav Ḥisda said to him: Even with regard to a sale he does not acquire the item.

<sup>347</sup> Rav Ḥiyya bar Avin raised an objection to him: The halakha is that if a man deposited a bundle of money with a money changer, the latter may not use the money. If the money changer untied the bundle and used the money, and it turned out that it was consecrated, the money changer is liable to bring an offering for the misuse of consecrated property, since he acted without the permission of the depositor. If the money was not in a bundle, the money changer has the right to use it, since the depositor knows that a money changer frequently distributes money. Consequently, in this case, if the money was consecrated, it is the depositor who is liable to bring an offering for the misuse of consecrated property, since the money changer is considered to have acted with his awareness. If one deposited the money with a homeowner, i.e., not a money changer, the latter may not use it in either case, and he is liable to bring an offering for the misuse of consecrated property if he does. With regard to a storekeeper, the tanna'im disagree: The same halakha applies to a storekeeper as to a homeowner; this is the statement of Rabbi Meir. But Rabbi Yehuda says: The same halakha applies to a storekeeper as to a money changer.

<sup>348</sup> The Gemara analyzes this: They disagree only with regard to that issue: As one Sage, Rabbi Yehuda, holds that the same halakha applies to a storekeeper as to a money changer, and one Sage, Rabbi Meir, holds that the same halakha applies to a storekeeper as to a homeowner. But everyone agrees that if the storekeeper did spend the money, he has misused consecrated property. This indicates that even according to the opinion of Rabbi Meir, whatever transaction he performed did take effect. The Gemara rejects this: Rabbi Meir stated his opinion in accordance with the statement of Rabbi Yehuda, as follows: According to me, if he spent the money he has also not misused consecrated property, but according to you, at least concede to me that the same halakha applies to a storekeeper as to a homeowner. And Rabbi Yehuda said to him: No, I do not concede to you even with regard to this point, as I hold that the same halakha applies to a storekeeper as to a money changer.

<sup>349</sup> The Gemara records a discussion as to the reasons for the rulings of Rabbi Meir and Rabbi Yehuda. Rav says:

<sup>350</sup> We reviewed all angles of the opinion of Rabbi Meir, i.e., we have examined all of Rabbi Meir's statements with regard to consecrated property, and we did not find that he holds that consecrated property is not desacralized if it is misused unwittingly but it is desacralized if misused intentionally.

<sup>351</sup> And as for our mishna, which indicates that this is Rabbi Meir's opinion, it should not be understood as Rabbi Meir's opinion with regard to consecrated property in general, but with regard to a case where a priest betrothed a woman using priestly tunics that have not worn out and that can still be worn during the Temple service. If a priest betrothed a woman with such garments, Rabbi Meir holds that if he did so unwittingly she is not betrothed, since clothes of this kind are not desacralized, and do not become hers. This is because they were initially given on the condition that the priests may benefit from them even when not performing the Temple service, since the Torah was not given to the ministering angels. It is impossible for a priest to wear the garments only at the moment he is performing the service and at no other time. Therefore, these garments are desacralized only if he intended to desacralize them.

<sup>352</sup> The Gemara raises a difficulty with Rav's statement. Come and hear: With regard to priestly tunics that have worn out, one misuses property consecrated to the Temple by using them; this is the statement of Rabbi Meir. What, is it not so that this halakha would apply even if they had not worn out, and the tanna wanted to teach the additional halakha that it is still a transgression even after they are no longer fit for use? The Gemara rejects this: No, this halakha applies specifically to garments that have worn out. Since these cannot be used by priests, the permission to use them for non-sacred purposes lapses, and they are like other consecrated property that is subject to the halakhot of misuse.

<sup>353</sup> The Gemara raises a difficulty with the explanation of Rabbi Meir's statement. Come and hear: One is liable for misuse of property consecrated to the Temple by using new shekels, i.e., those given this year, which are used to purchase animals for this year's offerings, but one is not liable for misuse of property consecrated to the Temple by using old shekels, given by those who failed to give the previous year's half-shekel, since these old shekels are used not to purchase offerings but for Temple maintenance; this is the statement of Rabbi Yehuda. Rabbi Meir says: One is liable for misuse of property consecrated to the Temple even by using old shekels, as Rabbi Meir would say: One is liable for misuse of property consecrated to the Temple not only by using money designated to

purchase offerings, but even with the remainder of the chamber, i.e., the money that remained in the chamber after money was taken to purchase the animals used in communal offerings.

<sup>354</sup> The Gemara continues the question: But why should one be liable for using the old shekels? Let us say the same logic: One is not liable, because they were initially given on the condition that people may benefit from them, since the Torah was not given to the ministering angels and people could not help but benefit from them. This is as the money to repair the wall of the city and its towers comes from the remainder of the chamber, as we learned in a mishna (Shekalim 4:2): The wall of the city, its towers, and all of the requirements of the city of Jerusalem come from the remainder of the chamber. It is not possible for passersby to avoid benefiting from the shade provided by the walls of the city. The Gemara answers: Do not say that the opinion that one is liable for misuse of property consecrated to the Temple by using money from the remainder of the chamber is that of Rabbi Meir. Rather, emend the mishna and say that it is the opinion of Rabbi Yehuda.

<sup>355</sup> Come and hear another proof: As it is taught in a baraita: Rabbi Yishmael bar Rabbi Yitzḥak said: With regard to stones of the walls and towers of Jerusalem that fell, one is liable for misuse of property consecrated to the Temple by using them; this is the statement of Rabbi Meir. This indicates that according to Rabbi Meir, the use of even such stones renders one liable, despite the fact that it is not possible for people to avoid benefiting from them. The Gemara again answers: Do not say that this baraita is recording the statement of Rabbi Meir. Rather, emend the baraita and say that it is in accordance with the opinion of Rabbi Yehuda.

<sup>356</sup> The Gemara challenges this explanation: If it is in accordance with the opinion of Rabbi Yehuda, is Jerusalem consecrated at all? But didn't we learn in a mishna (Nedarim 10b): If one says that an item shall be considered like the lamb of the daily offering, like the animals designated as offerings and kept in special enclosures, like the wood of the altar, like the fires on the altar, like the Sanctuary, like the altar, or like Jerusalem, it is a vow and he is prohibited to derive benefit from the item, as he has compared it to something consecrated. The essence of a vow creating a prohibition is the statement that a certain item shall be like a consecrated item. Rabbi Yehuda says: Anyone who says that an item shall be considered Jerusalem has not said anything, indicating that Rabbi Yehuda holds that Jerusalem is not consecrated.

<sup>357</sup> And if you would say that Rabbi Yehuda's reason is not that he holds that Jerusalem is not consecrated, but because the one stating the vow did not say: Like Jerusalem, but stated only that the item shall be considered Jerusalem, which is not a clear expression of a vow, but isn't it taught in a baraita (Tosefta, Nedarim 1:6) that Rabbi Yehuda says: Anyone who says that an item shall be considered like Jerusalem has not said anything, until he vows by comparing the item to an item that is sacrificed in Jerusalem. This indicates that he holds that Jerusalem itself is not consecrated.

<sup>358</sup> The Gemara answers: The baraita and the mishna in tractate Nedarim are two tanna'im and they disagree with regard to the opinion of Rabbi Yehuda concerning whether or not he holds that Jerusalem itself was sanctified.

<sup>359</sup> Ulla said a different opinion in the name of bar Padda: Rabbi Meir would say: Consecrated property is desacralized if misused intentionally; it is not desacralized if misused unwittingly. And they said that consecrated property that is misused unwittingly is desacralized only with regard to an offering, i.e., the one who misused it is liable to bring a guilt-offering for his action, but the property

remains consecrated. The Gemara asks: But since it is not desacralized when misused unwittingly, for what reason is he rendered liable to bring an offering, as the action had no effect?

<sup>360</sup> Rather, when Ravin came from Eretz Yisrael he explained it this way in the name of bar Padda: Rabbi Meir would say: Consecrated property is desacralized if misused intentionally; it is not desacralized if misused unwittingly. And they said that consecrated property that is misused unwittingly is desacralized only with regard to eating. If one ate consecrated food, thereby consuming it completely, he is liable to bring an offering. If he merely misused consecrated money it retains its sanctity and is not desacralized, and he is not liable to bring an offering.

<sup>361</sup> § Rav Nahman says that Rav Adda bar Ahava says: The halakha is in accordance with the opinion of Rabbi Meir with regard to second tithe in that it is considered consecrated, as the tanna taught us an unattributed mishna in accordance with his opinion. And the halakha is in accordance with the opinion of Rabbi Yehuda with regard to consecrated property, as the tanna taught us an unattributed mishna in accordance with his opinion.

<sup>362</sup> The Gemara clarifies this statement: What is the unattributed mishna that is in accordance with the opinion of Rabbi Meir with regard to second tithe? It is as we learned (Pe'a 7:6): It is prohibited to eat or derive benefit from fruit during the first three years after the tree is planted. The fruit of the fourth year is to be taken to Jerusalem and eaten there. With regard to a vineyard in its fourth year, Beit Shammai say: It does not have the halakha of adding one-fifth, i.e., if the owner himself redeems the fruit to bring money to Jerusalem to spend on food there, as one may also do with second tithe, he does not add one-fifth to its value but redeems it for its true value. And it also does not have the halakha of disposal, i.e., there is no obligation to dispose of it on the eve of Passover of the fourth year of the Sabbatical cycle, when all tithes that have not yet been separated must be disposed of. And Beit Hillel say: It does have the halakha of adding one-fifth and the halakha of disposal.

<sup>363</sup> That mishna continues: Furthermore, Beit Shammai say: It has the mitzva requiring the owner of the vineyard to leave individual fallen grapes for the poor [peret], and it has the mitzva requiring the owner to leave incompletely formed clusters of grapes for the poor [olelot]. Since the vineyard is considered the owner's property during this year, he must leave these gifts for the poor. And Beit Hillel say: All of it goes to the winepress to make wine. Since the grapes have sanctity, he is not obligated to leave these gifts for the poor.

<sup>364</sup> The Gemara explains: What is the reason for the opinion of Beit Hillel? They derive a verbal analogy from the word "holy" stated with regard to a fourth-year vineyard, as the verse states: "Holy, for giving praise to the Lord" (Leviticus 19:24), from "holy" stated with regard to second tithe, as the verse states: "Holy to the Lord" (Leviticus 27:30). This verbal analogy teaches the following: Just as second tithe has the halakha of adding one-fifth and it has the halakha of disposal, so too, the fourth-year vineyard has the halakha of adding one-fifth and it has the halakha of disposal. And Beit Shammai do not derive the verbal analogy of "holy" with regard to a fourth-year vineyard and "holy" from second tithe.

<sup>365</sup> The Gemara proceeds to clarify the opinions of Beit Hillel and Beit Shammai with regard to the obligation to leave peret and olelot from a fourth-year vineyard. And with regard to Beit Hillel, who say that the halakha of fourth-year produce is like the halakha of second tithe, in accordance with whose opinion do they hold with regard to second tithe? If they hold in accordance with the opinion

of Rabbi Yehuda, why does all of it go to the winepress? Didn't Rabbi Yehuda say that second tithe is itself common, i.e., non-sacred, property, and the owner must therefore leave peret and olelot? Rather, is it not the case that they hold in accordance with the opinion of Rabbi Meir, who says that second tithe is consecrated property? The mishna aligning the opinion of Beit Hillel with that of Rabbi Meir is tantamount to there being an unattributed mishna in accordance with Rabbi Meir's opinion, as the halakha is generally in accordance with the opinion of Beit Hillel.

<sup>366</sup> The Gemara continues with the explanation of Rav Nahman's statement: What is the unattributed mishna that is in accordance with the opinion of Rabbi Yehuda with regard to consecrated property? As we learned (Me'ila 21a): In a case where one sent an agent to buy something on his behalf and unwittingly gave him consecrated money to use, if he sent it in the possession of a halakhically competent person and remembered that it was consecrated money before the agent reached the storekeeper, the storekeeper will have misused consecrated property when he will later spend the money. This indicates that one is liable for misuse of consecrated property even when one acts unwittingly, as the storekeeper did.

<sup>367</sup> The Gemara asks: But didn't we learn an unattributed mishna in accordance with the opinion of Rabbi Yehuda with regard to second tithe? But didn't we learn (Ma'aser Sheni 4:3): With regard to one who redeems his own second tithe, he adds to it its one-fifth, whether the tithe was from his crop or given to him as a gift. The Gemara clarifies: In accordance with whose opinion is this mishna? If we say it is in accordance with the opinion of Rabbi Meir, can one give second tithe to another as a gift? But didn't he say that second tithe is property belonging to the Most High, which means it is not one's own to give to another as a gift? Rather, is it not in accordance with the opinion of Rabbi Yehuda, who holds that second tithe is common property, and consequently this unattributed mishna is in accordance with the opinion of Rabbi Yehuda with regard to second tithe?

<sup>368</sup> The Gemara answers: No, actually it is in accordance with the opinion of Rabbi Meir, and with what are we dealing here? It is not a situation where one gave second tithe itself as a gift, but where he gave him his entire crop in its state of being untithed produce. Consequently, the portion he gave him included tithes that had not yet been separated, and he holds that gifts that have not been separated are not considered as though they have been separated. One does not categorize the untithed produce as a mixture of regular produce and tithes, but as a non-sacred category in and of itself. Since the second tithe has not yet been separated, the produce has no sanctity, and he can give it as a gift.

<sup>369</sup> The Gemara continues its line of inquiry: Come and hear another unattributed mishna in accordance with the opinion of Rabbi Yehuda (Ma'aser Sheni 4:6): With regard to one who redeems his own fourth-year produce, he adds to it its one-fifth, whether the produce was from his crop or was given to him as a gift. The Gemara inquires: In accordance with whose opinion is this mishna? If we say it is in accordance with the opinion of Rabbi Meir, can one give produce of the fourth year to another as a gift? But didn't he derive that one must add one-fifth from the verbal analogy of "holy" for fourth-year fruit from "holy" from second tithe? This would mean that fourth-year fruit, like second tithe, is property of the Most High and cannot be given as a gift. Rather, is it not in accordance with the opinion of Rabbi Yehuda?

<sup>370</sup> The Gemara answers: Actually, it is in accordance with the opinion of Rabbi Meir, and with what are we dealing here? It is not a situation where one gave fully grown fourth-year fruit but where he



gave him the fruit when it was a bud. And this is not in accordance with the opinion of Rabbi Yosei, who says: A bud of a fruit is forbidden as orla, because it is already considered a fruit. Rabbi Meir, by contrast, holds that a fruit bud is not considered fruit. Therefore, the halakhot of orla and fourth-year fruit apply only to fruit that has grown, whereas beforehand it can be given as a gift.

<sup>371</sup> The Gemara continues its line of inquiry: Come and hear another unattributed mishna in accordance with the opinion of Rabbi Yehuda (Ma'aser Sheni 4:6): If one was selling second-tithe produce, and the buyer pulled tithe worth a sela from him, thereby acquiring it, and did not manage to redeem it until its value stood at two sela, and he had not yet paid the seller, the buyer gives a sela to the seller, and he thereby gains a sela and the second tithe is his, since he acquired it when he pulled it and the price was fixed at that point. The Gemara inquires: In accordance with whose opinion is this mishna? If we say it is in accordance with the opinion of Rabbi Meir, why does the buyer gain a sela? The Merciful One states in the Torah with regard to the redemption of consecrated property: And he will give the money and it will be assured to him (see Leviticus 27:19), from which it is derived that one acquires consecrated property only after paying money. This means that the value of the second tithe increased before he acquired it. Rather, is it not in accordance with the opinion of Rabbi Yehuda, who holds that second tithe is common property, and it is acquired from the moment he pulled it?

<sup>372</sup> The Gemara confirms: Actually, this mishna is in accordance with the opinion of Rabbi Yehuda. Nevertheless, Rav Nahman's statement that the halakha with regard to second tithe is in accordance with the opinion of Rabbi Meir is still correct, as here there is one unattributed mishna that is in accordance with the opinion of Rabbi Yehuda, while here there are two unattributed mishnayot that indicate that Beit Hillel's opinion is in accordance with the opinion of Rabbi Meir, the one in tractate Ma'aser Sheni, and one in tractate Eduyyot (4:2).

<sup>373</sup> The Gemara asks: But if an unattributed mishna is stated that way specifically to teach the halakha, what difference is there to me if it is one unattributed mishna or two unattributed mishnayot? The Gemara suggests an alternate reasoning. Rav Nahman bar Yitzhak said: The halakha is in accordance with the opinion of Rabbi Meir, since we learned in a mishna in the preferred tractate, Eduyyot, in accordance with his opinion. Since the halakha is ruled in accordance with all of the mishnayot in Eduyyot, the fact that the opinion of Beit Hillel in that tractate is in accordance with the opinion of Rabbi Meir means that the halakha should be decided accordingly.

<sup>374</sup> The Gemara continues its discussion of the desacralizing of consecrated property. We learned in a mishna there (Shekalim 20a): If there was an animal fit for the altar that was found straying, from Jerusalem and as far as Migdal Eder, and similarly if it was found within that distance from Jerusalem in any other direction, it is presumed that the animal came from Jerusalem. Most of the animals in Jerusalem were designated for offerings, and presumably this one was as well. Males are presumed to be burnt-offerings, as only males can be brought as burnt-offerings. Females are presumed to be peace-offerings, as it is permitted to bring a female peace-offering.

<sup>375</sup> The Gemara questions this: But are males only burnt-offerings and not also peace-offerings? As peace-offerings can be male or female, a male animal that was found might have been designated as a peace-offering. Rabbi Oshaya said: We are not speaking here of bringing the animals themselves as offerings. Rather, we are dealing with one who comes to obligate himself to consecrate their value. The finder wants to consecrate the value of the animal in case it had been designated as an offering,

thereby redeeming the animal and desacralizing it, and this is what the mishna is saying: In the case of males we are concerned that perhaps they are burnt-offerings, so the money must be consecrated for the purpose of burnt-offerings as well as peace-offerings. And this is in accordance with the opinion of Rabbi Meir, who says: Consecrated property is desacralized if it is misused intentionally. Therefore, he may redeem the animal and must use the money to purchase both a peace-offering and a burnt-offering, thereby avoiding all uncertainty.

<sup>376</sup> The Gemara asks: And can something that has inherent sanctity, such as an animal that has been designated as an offering, be desacralized? But didn't we learn in a mishna (Me'ila 19b): There is no misuse after misuse with regard to consecrated property? This means that if one misuses consecrated property, the item is immediately desacralized and the prohibition of misuse no longer applies to it. This is so apart from the case of the misuse of an animal designated as an offering and apart from the case of the misuse of service vessels alone. These do not become desacralized when misused, because they have inherent sanctity.

<sup>377</sup> That mishna continues: How so? If someone was riding on a consecrated animal, and another came after him and also rode on it, and yet another came and rode on it, they have all misused consecrated property. Similarly, if one was drinking from a golden cup used in the Temple service, and another came and drank from it, and yet another came and drank from it, they have all misused consecrated property. The Gemara asks: As this indicates that an item that has inherent sanctity is never desacralized, how can it be redeemed? The Gemara answers: That mishna, from tractate Me'ila, is in accordance with the opinion of Rabbi Yehuda, whereas this mishna, from tractate Shekalim, is in accordance with the opinion of Rabbi Meir.

<sup>378</sup> The Gemara asks: Let us hear, i.e., infer, from the opinion of Rabbi Yehuda to the opinion of Rabbi Meir: Didn't Rabbi Yehuda say that consecrated property is desacralized if used unwittingly, and yet those items that have inherent sanctity are not desacralized. According to Rabbi Meir as well, although consecrated property is desacralized if used intentionally, items that have inherent sanctity should not be desacralized. The Gemara answers that there is a difference between the two opinions. There, in the case underlying Rabbi Yehuda's opinion, the one who misuses the consecrated item unwittingly does not intend to withdraw it to a non-sacred state but merely to use it, which is why an item that has inherent sanctity is not desacralized; whereas here, in the case underlying Rabbi Meir's opinion, one who acts intentionally does intend to withdraw it to a non-sacred state, so even an item that has inherent sanctity can be desacralized.

<sup>379</sup> The Gemara questions Rav Oshaya's explanation of the mishna: Say that you have heard Rabbi Meir express the opinion that one can desacralize a consecrated item in the case of offerings of the most sacred order, but did you hear him express this opinion in the case of offerings of lesser sanctity, e.g., a peace-offering? If Rabbi Meir holds that offerings of lesser sanctity cannot be desacralized, the explanation of Rabbi Oshaya would be insufficient, as it does not account for the possibility that the animal is a peace-offering. One of the Sages, and his name was Rabbi Ya'akov, said to him: This is learned by means of an a fortiori inference: If offerings of the most sacred order can be desacralized, is it not all the more so the case that this halakha would apply to offerings of lesser sanctity?

<sup>380</sup> It was also stated: Rabbi Ḥama, son of Rabbi Akiva, says that Rabbi Yosei, son of Rabbi Ḥanina, says that Rabbi Meir would say: Consecrated property is desacralized when misused intentionally,

but it is not desacralized when misused unwittingly. This applies both to offerings of the most sacred order and to offerings of lesser sanctity, by means of an a fortiori inference: If offerings of the most sacred order can be desacralized, is it not all the more so the case that this halakha would apply to offerings of lesser sanctity?

<sup>381</sup> Rabbi Yoḥanan wondered about Rabbi Oshaya's explanation of the mishna: And does one say to a person: Arise and sin in order that you may gain? Even if consecrated property can be desacralized intentionally, one is not allowed to redeem an animal designated to be an offering. Rather, Rabbi Yoḥanan says: The mishna does not refer to redeeming an unblemished animal but to a case where the one who found the animal waits for it until it develops a blemish. At that point it would no longer have inherent sanctity but merely sanctity that inheres in its value, so the animal may be redeemed. And he brings two unblemished animals of the same value, and stipulates that if the animal he found was a burnt-offering, the first animal should be a burnt-offering in its stead while the other should be a voluntary peace-offering. And if the animal he found was a peace-offering, the second animal should be a peace-offering in its stead and the first should be a voluntary burnt-offering. After doing so he may eat the animal he found.

<sup>382</sup> The Gemara continues to clarify the mishna. The Master says (55a): Males are presumed to be burnt-offerings, as only males may be brought as burnt-offerings. The Gemara asks: Why should a male necessarily be a burnt-offering; perhaps it is a thanks-offering, which can also be brought from a male animal? The Gemara answers: The mishna means that he must also bring a third animal and make a similar stipulation, that it should be either a thanks-offering in its stead or a voluntary one. The Gemara asks: But if he brings a third animal as a thanks-offering, doesn't a thanks-offering require the bringing of bread as well? The Gemara answers: He brings bread as well.

<sup>383</sup> The Gemara asks: But perhaps it is a guilt-offering, which is also brought only from male animals? The Gemara answers: The animal for a guilt-offering is in its second year, and the mishna is referring to a case where an animal in its first year was found. The Gemara asks: But perhaps it is the guilt-offering of a leper or the guilt-offering of a nazirite, which are brought from animals in their first year? The Gemara answers: Lepers and nazirites are not common, and there is no need to be concerned about that possibility.

<sup>384</sup> The Gemara asks: But perhaps it is a Paschal offering, which is also brought from male animals? The Gemara answers: That is not likely, because with regard to a Paschal offering, if it is up to or in its time to be slaughtered, the owners carefully guard it to prevent it from going missing. And if it is a Paschal offering that is not offered in its proper time, but was left over and is offered later, it has the same halakha as a peace-offering.

<sup>385</sup> The Gemara asks: And perhaps the animal he found is a firstborn animal, which can only be brought from male animals, or animal tithe, which can be brought from male animals? The Gemara answers: With regard to which halakha would the possibility that it is a firstborn or animal tithe need to be taken into account? It is with regard to the halakha that one is permitted to eat them in their blemished state, as firstborns and animal tithes do not need to be redeemed if they develop a blemish, but are eaten as such. These found animals as well are eaten only in their blemished state, as one may not redeem and eat them until they develop a blemish, as explained previously.

<sup>386</sup> The Master says above: Females are presumed to be peace-offerings, as it is permitted to bring a female peace-offering. The Gemara asks: Perhaps it is a thanks-offering, which can also be brought

from female animals? The Gemara answers: The mishna means that he must also bring a third animal and make a similar stipulation, that it is either a thanks-offering in the stead of the found animal, or a gift offering. The Gemara asks: But if he brings a third animal as a thanks-offering, doesn't a thanks-offering require the bringing of bread as well? The Gemara answers: He brings bread as well.

<sup>387</sup> The Gemara asks: But perhaps it is a sin-offering, as it is permitted to bring a female sin-offering? The Gemara answers: The animal for a sin-offering is always in its first year, and the mishna is referring to a case where an animal in its second year was found. The Gemara asks: But perhaps it was a sin-offering whose year had passed without having been sacrificed? The halakha in such a case is that the animal is left to die. The Gemara answers: Such a case is not common, and there is no need to be concerned about such a possibility.

<sup>388</sup> The Gemara asks: This is the case if the animal was in its second year, but what is the halakha if it was found when it was in its first year? The Gemara answers: It is taught in a baraita: Ḥananya ben Ḥakhinai says: If one found a goat in its first year, it is brought as a sin-offering. The Gemara asks: Can it enter your mind that it is brought as a sin-offering? How can he sacrifice the animal as a sin-offering due to a mere possibility that it had been designated as a sin-offering? One cannot bring a voluntary sin-offering. Rather, Abaye says: He treats it as though it were a sin-offering, i.e., he conveys it into a cell and it dies on its own. Since it might be a lost sin-offering, it must be left to die.

<sup>389</sup> The Sages taught (Tosefta, Ma'aser Sheni 1:15): One may not purchase an animal with second-tithe money outside of Jerusalem,

<sup>390</sup> and if one purchased an animal unwittingly, without realizing he was using second tithe money, the money returns to its place, meaning that it is considered to be an erroneous transaction and is void, because the purchaser would prefer to bring the second tithe money to Jerusalem rather than to travel with an animal to bring as an offering. If he purchased it intentionally, the animal is brought up and eaten in its proper place, i.e., in Jerusalem. Rabbi Yehuda said: In what case is this statement said? It is said with regard to one who acted with intent, and purchased the animal from the outset for the sake of a peace-offering, and in any case had to bring the animal to Jerusalem. But with regard to one who acted with intent to withdraw the second-tithe money from its consecrated state to a desacralized state, whether his act was unwitting, in which case it is an erroneous transaction, or intentional, the money returns to its place.

<sup>391</sup> The Gemara questions this statement: But didn't we learn in the mishna that Rabbi Yehuda says: If the second tithe was used intentionally, he has betrothed the woman with it, and the betrothal, which is a type of acquisition, is effective? Rabbi Elazar said: The halakha in the mishna is based upon the assumption that a woman knows that second-tithe money is not desacralized by her acceptance of the betrothal, and it is as though she has agreed that she would ascend and eat it in Jerusalem.

<sup>392</sup> Rabbi Yirmeya objects to this: But there are cases of a non-kosher animal, slaves, or land, with regard to which a person knows that second-tithe money is not desacralized by being used to purchase them, and we learned in a mishna (Ma'aser Sheni 1:7): One may not purchase a non-kosher animal, slaves, or land with second-tithe money, even in Jerusalem. And if one did purchase them, he must eat other food corresponding to their value. He must take an equivalent sum of money and use it to desacralize the money in the seller's possession, after which he proceeds to bring this money to Jerusalem and use it to buy food, which he will then consume. In this case, the seller is also

presumably aware that the money is second tithe and that he himself will need to take it to Jerusalem, as was presumed in the case of the betrothed woman, so why is the halakha not the same?

<sup>393</sup> Rather, it must be that here, in the case of the mishna, we are dealing with a woman devoted to the meticulous observance of mitzvot, especially the halakhot of ritual purity, teruma, and tithes [ḥavera], who knows the laws of tithes, and accepts it for betrothal with the awareness that she must take it to Jerusalem. An ordinary person, however, is not well-versed in these halakhot, so in the case of the purchase of an animal the seller thinks that the second-tithe money has been desacralized through the purchase of the non-kosher animal.

<sup>394</sup> The Master said: If one did purchase them, he must eat other food corresponding to their value. The Gemara asks: But why should he do so? Why not say that the money must return to its place, just as was the ruling there, as Rabbi Yehuda said with regard to one who acted with intent to desacralize the second tithe, where the seller was penalized for acquiescing to the sale?

<sup>395</sup> Shmuel says:

<sup>396</sup> The case here is where the seller fled with the money, and there is no way of voiding the sale and returning the money to the purchaser. The Gemara comments: And the reason is that he fled, but had he not fled, we would penalize the seller by requiring him to return the money. The Gemara asks: And let us penalize the buyer and require him to take an equivalent sum of money to Jerusalem. The Gemara answers: It is not the mouse that steals, but the hole that steals. In other words, a mouse cannot steal an item unless he has a hole in which to hide it. Here too, the money would not have been desacralized without the help of the seller.

<sup>397</sup> The Gemara questions this logic: But if not for the mouse, what has the hole done? Since they both are integral to the prohibited act, each of them is deserving of a penalty. The Gemara answers: It stands to reason that anywhere that the forbidden item is, i.e., anywhere that the money is, and in this case it is with the seller, there we should penalize.

<sup>398</sup> MISHNA: With regard to one who betroths a woman with orla, i.e., fruit grown during a tree's first three years, or with diverse kinds in a vineyard, i.e., grain and grapes planted together, or with an ox that is sentenced to be stoned, or with a heifer whose neck is broken, or with the leper's birds which are designated for his offering, or with a nazirite's hair, or with a firstborn donkey, or with meat cooked in milk, or with non-sacred animals that were slaughtered in the Temple courtyard, if he betroths her with any of these items, the woman is not betrothed, since it is prohibited to derive benefit from any of these items. By contrast, if one sold them and betrothed a woman with the money received from their sale, she is betrothed, as in these cases one may derive benefit from the money he receives in exchange for the forbidden item.

<sup>399</sup> GEMARA: The Gemara explains the source of the halakha that it is prohibited to derive benefit from the items mentioned in the mishna. With orla: From where do we derive that one is prohibited from deriving benefit from orla? The Gemara answers: As it is taught in a baraita: "And shall have planted all manner of trees for food, then you shall count the fruit thereof as forbidden; three years shall it be as forbidden [arelim] to you; it shall not be eaten" (Leviticus 19:23). From this verse, I have derived only a prohibition against eating it. From where do I derive that one may not even derive benefit from it? From where do we derive that one may not derive benefit from it in another manner, and one may not paint with the dye that can be extracted from the fruit, and one may not

light a lamp with its oil? The verse states: “Then you shall count the fruit thereof [orlato] as forbidden [araltem]” (Leviticus 19:23), to include all these types of benefit in the prohibition.

<sup>400</sup> The mishna stated that one may not betroth a woman with diverse kinds in a vineyard. From where do we derive that one is prohibited from deriving benefit from diverse kinds in a vineyard? Hizkiyya said: The verse states: “You shall not sow your vineyard with diverse kinds; lest the growth of the seed that you have sown be forbidden [pen tikdash], together with the yield of the vineyard” (Deuteronomy 22:9). Hizkiyya expounds “lest the growth of the seed that you have sown be forbidden [pen tikdash]” as: Lest it be burned [pen tukad esh], indicating that the seed of diverse kinds must be destroyed by fire, so that no benefit is derived from it.

<sup>401</sup> Rav Ashi says that the phrase “pen tikdash” indicates that it is comparable to consecrated property, as if it said: Lest it become consecrated [kodesh], and one is therefore prohibited from deriving benefit from it, just as one may not derive benefit from consecrated property. The Gemara questions Rav Ashi’s interpretation: If diverse kinds in a vineyard is compared to consecrated property, then just as consecrated property transfers its sanctity to the money with which it is redeemed and becomes desacralized, so too, diverse kinds in a vineyard should transfer their sanctity to the money with which they are redeemed and become desacralized. Contrary to this logic, the mishna taught that if one sells diverse kinds in a vineyard, the proceeds can be used for betrothal, indicating that it is not forbidden to derive benefit from this money. Rather, it is clear that the correct derivation is as that of Hizkiyya.

<sup>402</sup> The Gemara continues its analysis of the mishna: From where is it derived that one is prohibited from deriving benefit from an ox that is sentenced to be stoned? The Gemara answers: As it is taught in a baraita: It is taught by inference from that which is stated with regard to an ox that killed a person: “And if an ox gore a man or a woman, that they die, the ox shall be stoned, and its flesh shall not be eaten; but the owner of the ox shall be clear” (Exodus 21:28). Don’t I know from this verse that the stoning makes it an unslaughtered animal carcass, and it is prohibited to eat an unslaughtered animal carcass? What is the meaning when the verse states: “Its flesh shall not be eaten”? The verse is telling you that even if one slaughtered the ox after its verdict had been reached but before it was stoned, it is still prohibited to eat it.

<sup>403</sup> The baraita continues: From where is it derived that one is prohibited from deriving benefit from the ox as well? The verse states: “But the owner of the ox shall be clear.” The Gemara asks: From where may it be inferred that one may not derive benefit from this ox? Shimon ben Zoma says: This is like a person who says to another: So-and-so was left clear [naki] of his property, and he has no benefit from it at all. Similarly, “But the owner of the ox shall be clear” means that he may not derive any benefit from the ox.

<sup>404</sup> The Gemara asks: From where is it known that this phrase: “Its flesh shall not be eaten,” comes to teach a halakha with regard to a case where he slaughtered the ox after its verdict was reached, but before it was stoned? Perhaps it is permitted to eat the ox if he slaughtered it after its verdict had been reached. And this phrase: “Shall not be eaten,” comes to teach a halakha with regard to a case where they had already stoned it, but not to teach a prohibition against eating it, as that is already known due to the fact that it was stoned. Rather, it comes to prohibit deriving benefit from the ox, and that would be in accordance with the statement of Rabbi Abbahu who says the following, citing Rabbi Elazar.

<sup>405</sup> The Gemara continues the question: As Rabbi Abbahu says that Rabbi Elazar says that wherever it is stated: “It shall not be eaten”; or “you,” singular, “shall not eat”; or “you,” plural, “shall not eat”; both a prohibition against eating and a prohibition against deriving benefit are indicated. This is so unless the verse specifies for you that one may derive benefit, in the manner that it specified for you with regard to an animal carcass, from which the verse explicitly permits one to derive benefit, as it states: “You may sell it to a foreigner” (Deuteronomy 14:21). Here, too, with regard to the ox that is stoned, the phrase: “Its flesh shall not be eaten,” may serve to teach that one may not derive benefit from the stoned ox.

<sup>406</sup> The Gemara answers: This statement of Rabbi Abbahu applies only to a case where we derive the prohibition against eating from the words: “It may not be eaten,” which is interpreted to include any manner of consumption. But here, the prohibition against eating is derived from: “It shall be stoned,” from which it is understood that since the ox becomes an unslaughtered animal carcass, it may not be eaten. As if it enters your mind that the phrase: “Its flesh may not be eaten,” is written to prohibit one from deriving benefit, let the verse state: “One may not derive benefit.” Why does it refer to eating if that prohibition has already been derived?

<sup>407</sup> Alternatively, even if one would say that the phrase: “It shall not be eaten,” can be used to indicate that it is prohibited to derive benefit from the ox, why do I need the additional words “its flesh”? These words must teach that although he slaughtered the ox like one does with kosher meat, after it was condemned to be stoned, it remains forbidden and cannot be eaten.

<sup>408</sup> Mar Zutra objects to this: But say that this prohibition against eating the ox applies only where he examined a sharp stone to ensure that it had no nicks, and slaughtered with it in a halakhically acceptable manner. That action could be considered like stoning, since in any event the ox was killed by a stone. The Torah teaches that even if it was killed in this manner, one is prohibited from eating it. But if he slaughtered it with a knife, he should not be prohibited from eating it. The Gemara expresses surprise at this reasoning: Was a knife written in the Torah? If one slaughters the animal in a halakhically acceptable manner, this is called slaughtering, not stoning. And moreover, it is taught in a baraita (Tosefta, *Hullin* 1:2): One may slaughter with anything that cuts cleanly, whether with a stone, whether with glass, whether with the stalk of a reed. Consequently, there is no difference in the halakha with regard to using a knife or a sharp stone.

<sup>409</sup> The Gemara asks: And now that we have derived both the prohibition against eating and the prohibition against benefiting from an ox sentenced to be stoned from: “It shall not be eaten,” what halakha does that other phrase: “But the owner of the ox shall be clear,” come to teach? The Gemara answers: It comes to teach the prohibition against deriving benefit from its hide after it has been killed. Were it not for this phrase, it might enter your mind to say that since it is written: “Its flesh shall not be eaten,” only its flesh is forbidden, but its hide is permitted. Therefore, the words “and the owner of the ox is clean” teach that its hide is forbidden as well.

<sup>410</sup> The Gemara asks: And according to those tanna'im who expound this phrase: “The owner of the ox shall be clear,” to teach that the owner of an innocuous ox, i.e., one that is not known to cause damage with the intent to injure, is exempt from the payment of half of the indemnity incurred if that ox killed a person, or that he is exempt from payment of damages for miscarried offspring if his ox gores a pregnant woman and causes her to miscarry; from where do they derive this prohibition against benefiting from the ox's hide?

<sup>411</sup> The Gemara answers: They derive it from the wording: “Its flesh may not be eaten [velo ye’akhel et besaro].” The verse could have been formulated: Velo ye’akhel besaro, which already means: And its flesh shall not be eaten. The addition of the word “et” teaches that the prohibition applies also to that which is secondary to the flesh, i.e., the hide. The Gemara asks: And the other tanna, who derives the prohibition against benefiting from the hide from the verse: “But the owner of the ox shall be clear,” what does he learn from the additional word “et”?

<sup>412</sup> The Gemara answers: This Sage does not interpret the word “et” as a means to derive new halakhot. He considers the word “et” to be an ordinary part of the sentence structure and not a source for exegetical exposition. As it is taught in a baraita: Shimon HaAmasoni, and some say that it was Nehemya HaAmasoni, would interpret all occurrences of the word “et” in the Torah, deriving additional halakhot with regard to the particular subject matter. Once he reached the verse: “You shall fear the Lord your God” (Deuteronomy 6:13), which is written with the added word “et,” he withdrew from this method of exposition, as whose fear could be an extension of the fear of God?

<sup>413</sup> His students said to him: Our teacher, what will be with all the occurrences of the word “et” that you interpreted until now? He said to them: Just as I received reward for the exposition, so I received reward for my withdrawal from using this method of exposition. The word “et” in this verse was not explained until Rabbi Akiva came and expounded: “You shall fear the Lord your God”: The word “et” serves to include Torah scholars, i.e., that one is commanded to fear them just as one fears God. In any event, Shimon HaAmasoni no longer derived additional halakhot from the word et.

<sup>414</sup> § The mishna teaches that if a man betroths a woman with a heifer whose neck is broken, she is not betrothed. The Gemara clarifies: From where do we derive that one is prohibited from deriving benefit from a heifer whose neck is broken? The school of Rabbi Yannai said: An expression of atonement was written with regard to it. The verse: “Atone for Your people Israel” (Deuteronomy 21:8), was written with regard to a heifer whose neck was broken, as was also written with regard to sacrificial animals. Therefore, one is prohibited from deriving benefit from it, just as one may not benefit from an offering.

<sup>415</sup> § The mishna teaches that if a man betroths a woman with the leper’s birds, she is not betrothed. The Gemara clarifies: From where do we derive that one is prohibited from deriving benefit from a leper’s birds? As the school of Rabbi Yishmael taught: A mitzva that enables is stated in the verses with regard to a leper, and the Torah also discusses a mitzva that atones, both of which are performed inside the Temple. Here, a mitzva that enables is a reference to the leper’s guilt-offering, which enables him to partake of offerings; and a mitzva that atones is a reference to all other offerings. And a mitzva that enables is stated in the verses with regard to a leper, and the Torah also discusses a mitzva that atones, both of which are performed outside the Temple. Here, a mitzva that enables is a reference to the leper’s birds, which permit him to reenter the camp; and a mitzva that atones is a reference to the heifer whose neck is broken, which atones for the inhabitants of the city nearest to an unsolved murder.

<sup>416</sup> Just as in the case of the enabling and atoning rites stated in the Torah that are performed inside the Temple the Torah made the item of the enabling rite, i.e., the leper’s guilt-offering, from which one is prohibited from deriving benefit, like the item of the atoning rite, i.e., offerings in general, so too, in the case of the enabling and atoning rites stated in the Torah that are performed outside the Temple the Torah made the item of the enabling rite, i.e., the leper’s birds, from which one is



prohibited from deriving benefit, like the item of the atoning rite, i.e., the heifer whose neck is broken.

<sup>417</sup> It was stated that the amora'im disputed the following issue: From when is one prohibited from deriving benefit from the leper's birds? Rabbi Yoḥanan says: From the moment of their slaughter; and Reish Lakish says: From the moment they are taken and designated to be a leper's birds. The Gemara explains their respective opinions: Rabbi Yoḥanan says: From the moment of their slaughter, because it is the slaughter that prohibits them, since they are not consecrated beforehand. Reish Lakish says: From the moment they are taken, since this halakha is derived from the heifer whose neck is broken. Just as one is prohibited from deriving benefit from a heifer whose neck is broken during its lifetime, so too, one is prohibited from deriving benefit from the leper's birds during their lifetime.

<sup>418</sup> The Gemara asks: And with regard to it, the heifer whose neck is broken, itself, from when is it a forbidden item? Rabbi Yannai said: I heard the boundary, i.e., stage, beyond which it is forbidden, but I have forgotten what it is. But the group of scholars were inclined to say that its descent to a hard valley, where its neck is broken, is the action that renders it forbidden. The Gemara asks: If so, just as with a heifer whose neck is broken, it is not forbidden from the moment it is taken but only afterward, so too, the leper's birds should also not be forbidden from the moment they are taken. The Gemara rejects this: How can these cases be compared? There, in the case of the heifer, it has another boundary that can render it forbidden, namely its descent to the valley; here, in the case of the leper's birds, does it have another boundary? It is taken and immediately slaughtered.

<sup>419</sup> Rabbi Yoḥanan raised an objection to Reish Lakish from a baraita: The verse states: "Of all clean birds you may eat" (Deuteronomy 14:11). The superfluous word "all" is stated to include one of the leper's birds, which is sent away to freedom, while the words: "But these are they of which you shall not eat" (Deuteronomy 14:12), are stated to include in the prohibition the other, slaughtered bird. Rabbi Yoḥanan asks: And if it enters your mind to say that the bird is forbidden from when it is alive, is a verse necessary to teach that it is forbidden after its slaughter? The Gemara answers: The verse is necessary, lest you say: Just as it is in the case of sacrificial animals, where one is prohibited from deriving benefit from them when they are alive, and the act of slaughter comes and renders them fit to be eaten, so too with regard to the bird. The verse teaches us that with regard to the leper's bird this is not the case, and it remains forbidden even after it has been slaughtered.

<sup>420</sup> Rabbi Yoḥanan raised another objection to Reish Lakish: The mishna (Nega'im 14:5) teaches that if one slaughtered one of the leper's birds and it was found to be a bird with a condition that would have caused it to die within twelve months [tereifa], a partner is taken for the second, i.e., remaining, bird, while with regard to the first bird, i.e., the tereifa, one is permitted to derive benefit from it. And if it enters your mind that the bird is forbidden from when it is alive, why is one permitted to derive benefit from the first one, if the prohibition took effect before it was slaughtered? Reish Lakish said to him: With what are we dealing here? We are dealing with a case where the slaughtered bird was found to be a tereifa in its inner organs, so that the consecration did not take effect at all, as the bird was not fit to be used for this purpose.

<sup>421</sup> Rabbi Yoḥanan raised another objection to Reish Lakish from a baraita (Tosefta, Nega'im 8:8): If he slaughtered the bird without bringing a hyssop, or without bringing cedar wood, or without bringing a scarlet thread, which were all used in the rite, Rabbi Ya'akov says: Since the bird was set

aside for its mitzva, it is forbidden anyway. Rabbi Shimon says: Since it was not slaughtered in accordance with its mitzva, it is permitted.

<sup>422</sup> Rabbi Yoḥanan infers from this: They disagree only with regard to this issue, that one Sage, Rabbi Ya'akov, holds that an act of slaughter that is not fit for accomplishing its full ritual purpose is nevertheless considered an act of slaughter, and the bird is therefore forbidden; and one Sage, Rabbi Shimon, holds that an act of slaughter that is not fit for accomplishing its full ritual purpose is not considered an act of slaughter at all, and therefore one is permitted to derive benefit from the bird. But everyone agrees at least that one is not prohibited from deriving benefit from it when it is alive, but only after it has been slaughtered.

<sup>423</sup> Reish Lakish replied: I concede that this baraita does not accord with my opinion, but this issue is a dispute between the tanna'im. As the school of Rabbi Yishmael taught: A mitzva that enables is stated in the verses with regard to a leper, and the Torah also discusses a mitzva that atones, both of which are performed inside the Temple. And a mitzva that enables is stated in the verses with regard to a leper, and the Torah also discusses a mitzva that atones, both of which are performed outside the Temple.

<sup>424</sup> The baraita continues: Just as in the case of the enabling and atoning rites stated in the Torah that are performed inside the Temple the Torah made the item of the enabling rite like the item of the atoning rite, so too, in the case of the enabling and atoning rites stated in the Torah that are performed outside the Temple, the Torah made the item of the enabling rite like the item of the atoning rite. The baraita of the school of Rabbi Yishmael compares the leper's birds to a heifer whose neck is broken, and therefore would also prohibit one from deriving benefit from the birds before they are slaughtered. The opinion of Reish Lakish is therefore in accordance with that baraita.

<sup>425</sup> With regard to the matter itself, the baraita teaches: The verse states: "Of all clean birds you may eat" (Deuteronomy 14:11). The superfluous word "all" is stated to include one of the leper's birds, which is sent away to freedom, while the words: "But these are they of which you shall not eat" (Deuteronomy 14:12), are stated to include in the prohibition the other, slaughtered bird.

<sup>426</sup> The Gemara questions this interpretation: And I will reverse the exposition, and say that one may derive benefit from the slaughtered bird and not from the one that was sent away. Rabbi Yoḥanan says in the name of Rabbi Shimon ben Yoḥai: The reason to expound the verse as the baraita does is that we have not found kosher living creatures that are permanently forbidden with regard to eating. Therefore, it stands to reason that the slaughtered bird is forbidden, not the living one. Rav Shmuel bar Rav Yitzḥak objects to this explanation: But haven't we found kosher living animals that are permanently forbidden? But there are

<sup>427</sup> the cases of an animal set aside as an offering to an idol, and an animal that was itself worshipped as an idol, which are living creatures and yet are permanently forbidden. The Gemara answers: There is a difference, as when they are forbidden, they are forbidden only to be used for the Most High, i.e., to be used as offerings in the Temple service, but it is permitted for a common Jew to derive benefit from them.

<sup>428</sup> Rabbi Yirmeya objects to the explanation of Rabbi Yoḥanan: But an animal that copulated with a woman, and an animal that copulated with a man, in the presence of witnesses, they are living creatures and yet they are permanently forbidden, as the halakha is that these animals are killed, and one is prohibited from deriving benefit from them once they have been sentenced. Rather, the above

explanation should be emended to say: Rabbi Yoḥanan says in the name of Rabbi Shimon ben Yoḥai: We have not found most kosher living creatures that are permanently forbidden while they are still alive, and it can be assumed that the inclusion of the verse is referring to that which is generally forbidden, even if there are exceptions.

<sup>429</sup> The Gemara offers another answer to the question of how the baraita knew which bird the verse is permitting. The school of Rabbi Yishmael taught: The verse states: “And shall let go the living bird into the open field” (Leviticus 14:7), which indicates that the bird is like a field: Just as a field is permitted, so too, this bird is also permitted. The Gemara asks: Is that word “field” coming to teach this? That word is necessary for that which is taught in a baraita: The word “field” teaches that one may not stand in Jaffa and throw the bird that is set free to the sea, or stand in Gevat and throw it to the desert, and that he may not stand outside the city and throw it inside the city. Rather, any manner in which he is standing in the city and throws it outside the wall to the field is valid. The word “field” teaches that one must set it free only to the field and nowhere else, not to teach that the bird is permitted.

<sup>430</sup> And the other tanna, the school of Rabbi Yishmael, who derives that one is permitted to derive benefit from the bird based on the word “field,” replies: If so, that this was the only halakha the word is teaching, let the Torah write “field”; what is the significance of “the field”? Conclude two conclusions from it, i.e., both the place to throw the bird and the permission to derive benefit.

<sup>431</sup> Rava says a different answer to the question of how the baraita knew which bird the verse is permitting: The Torah did not say “let go” for it to serve as a stumbling block. If the bird sent free was forbidden, the Torah would not have commanded him to send it away, since people might eat it unwittingly.

<sup>432</sup> § The mishna teaches that if a man betroths a woman with a nazirite’s hair, she is not betrothed. The Gemara asks: From where do we derive that one is prohibited from deriving benefit from a nazirite’s hair? The Gemara answers: As the verse states with regard to a nazirite: “He shall be holy [kadosh], he shall let the locks of the hair of his head grow long” (Numbers 6:5), which teaches: His hair growth shall be holy.

<sup>433</sup> The Gemara asks: If the hair of a nazirite can be compared to consecrated property by use of the term “holy,” then just as with regard to consecrated property, it transfers its sanctity to the money with which it is redeemed and it becomes desacralized, so too, a nazirite’s hair should transfer its sanctity to the money with which it is redeemed and the hair itself should become desacralized. This is not the halakha. The Gemara answers: Do we read holy [kodesh] in this verse, which is the term the verse uses for a consecrated item (see Leviticus 22:14)? We read “holy [kadosh].” Since a different conjugation of the term is used, the halakhot of the hair of a nazirite are not derived from those of consecrated property.

<sup>434</sup> § The mishna teaches that if a man betroths a woman with a firstborn donkey, she is not betrothed. The Gemara suggests: Shall we say the mishna is not in accordance with the opinion of Rabbi Shimon? As it is taught in a baraita: With regard to a firstborn donkey, deriving benefit from it is prohibited; this is the statement of Rabbi Yehuda. And Rabbi Shimon permits it. Rav Naḥman said that Rabba bar Avuh said: The mishna can be referring to one who betrothed a woman with a firstborn donkey after it has had its neck broken, and everyone agrees that it is prohibited to derive benefit from the donkey once its neck is broken.

<sup>435</sup> § The mishna teaches that if a man betroths a woman with meat cooked in milk, she is not betrothed. The Gemara asks: From where do we derive that one is prohibited from deriving benefit from meat cooked in milk? The school of Rabbi Yishmael taught: The Torah states three times: “You shall not cook a kid in its mother’s milk” (Exodus 23:19; Exodus 34:26; Deuteronomy 14:21). One verse serves to teach the prohibition against eating meat cooked in milk, and one verse serves to teach the prohibition against deriving benefit from meat cooked in milk, and one verse serves to teach the prohibition against cooking meat in milk.

<sup>436</sup> The Gemara comments: The mishna is not in accordance with the opinion of this tanna, as it is taught in a baraita: Rabbi Shimon ben Yehuda says: It is prohibited to eat meat cooked in milk but one is permitted to derive benefit from it, as it is stated: “For you are a holy people to the Lord your God. You shall not cook a kid in its mother’s milk” (Deuteronomy 14:21), and it states there with regard to the prohibition of an unslaughtered animal carcass: “And you shall be holy men to Me” (Exodus 22:30). Since both verses employ the term “holy” he derives: Just as there, in the case of an animal carcass, it is prohibited to eat it but one is permitted to derive benefit from it, as the Torah explicitly states that it may be sold to a gentile, so too here, with regard to meat cooked in milk, it is prohibited to eat it but one is permitted to derive benefit from it.

<sup>437</sup> § The mishna teaches that if a man betroths a woman with the items it enumerated, or with non-sacred animals that were slaughtered in the Temple courtyard, she is not betrothed. The Gemara asks: From where are these matters, i.e., that one is prohibited from deriving benefit from a non-sacred animal that was slaughtered in the Temple courtyard, derived? Rabbi Yoḥanan said in the name of Rabbi Meir: The Torah said: Slaughter for Me, i.e., for offerings to God, in My place, inside the Temple courtyard, and your non-sacred animals that are intended for eating should be slaughtered in your place, outside the Temple courtyard. Just as one is prohibited from deriving benefit from My consecrated animals if they were slaughtered in your place, as one is prohibited from deriving benefit from a consecrated animal slaughtered outside the Temple, so too, one is prohibited from deriving benefit from your non-sacred animals if they were slaughtered in My place.

<sup>438</sup> The Gemara asks: If so, just as the act of slaughtering My consecrated animals in your place is punishable by karet, so too, to the act of slaughtering your non-sacred animals in My place should be punishable by karet. To counter this logic, the verse states: “If a man from the house of Israel slaughters an ox or lamb...and has not brought it to the door of the Tent of Meeting to sacrifice an offering to the Lord...and that man shall be cut off” (Leviticus 17:3–4). This teaches that it is only for an offering that one slaughtered outside the Tent of Meeting of the Tabernacle, or the Temple courtyard, that he is punishable with karet, but for non-sacred animals that one slaughtered in the Temple courtyard he is not punishable with karet.

<sup>439</sup> The Gemara asks: In light of the above difference in halakha between these two cases, the entire comparison can be refuted in the following manner: What is an aspect unique to slaughtering My consecrated animals in your place? It is that it is punishable by karet, and is therefore a severe prohibition, which could explain the halakha that one is prohibited from deriving benefit from them. The prohibition against slaughtering a non-sacred animal in the Temple courtyard, which is not punishable by karet, could be regarded as a less severe prohibition, and perhaps in this case it is permitted to derive benefit from the slaughtered animal. Therefore, the halakha that one is prohibited

from deriving benefit from a non-sacred animal that was slaughtered in the Temple courtyard still does not have a source.

<sup>440</sup> Abaye quotes a lengthy baraita that serves as a source for the halakha that one is prohibited from deriving benefit from a non-sacred animal slaughtered in the Temple courtyard. Rather, Abaye said it is derived from here: The Torah states three verses that have a superfluous element with regard to the various species from which one may bring a peace-offering: The verse “and he slaughters it” (Leviticus 3:2), the verse “and he shall slaughter it” (Leviticus 3:8), and the verse “and he shall slaughter it” (Leviticus 3:13). The Torah could simply have stated: “And he shall slaughter,” without adding: “It.” Why must the verse state the term “it” these three times?

<sup>441</sup> The baraita continues: The source for the halakha is because it is stated with regard to the ritual slaughter of animals for meat consumption: “If the place which the Lord your God shall choose to put His name there be too far from you, then you shall slaughter of your herd and of your flock” (Deuteronomy 12:21), from which it is derived: When you are far from the place, i.e., the Temple, you may slaughter non-sacred animals for meat consumption, but you may not slaughter non-sacred animals in a near place, i.e., in the Temple. The verse serves to exclude non-sacred animals, thereby teaching that they may not be slaughtered in the Temple courtyard.

<sup>442</sup> The baraita continues: And I have derived the prohibition against slaughtering a non-sacred animal in the Temple courtyard only with regard to unblemished animals, which are fit to be sacrificed. From where do I know to include even blemished animals, which are not fit to be sacrificed, in this prohibition? I include blemished animals since they are at least of the type that is fit to be sacrificed. From where do I know to include the undomesticated animal, which is never sacrificed as an offering, in this prohibition? I include the undomesticated animal since it is rendered fit for consumption by means of slaughtering, like a domesticated animal. From where do I know to include fowl, as the Torah does not mention slaughter with regard to fowl, in this prohibition? The verse states: “And he slaughters it,” “and he shall slaughter it,” as well as “and he shall slaughter it,” employing the additional term “it” each time. These three verses teach that one may not slaughter any non-sacred animal in the Temple courtyard.

<sup>443</sup> The baraita continues: One might have thought that one may not slaughter *ab initio* but if he did slaughter it would be permitted for him to eat it. Therefore, the verse states: “If the place which the Lord your God shall choose to put His name there be too far from you, then you shall slaughter of your herd and of your flock, which the Lord has given you, as I have commanded you, and you shall eat within your gates, after all the desire of your soul” (Deuteronomy 12:21), which is expounded as follows: That which you slaughter in a far place, outside the Temple, you may eat, but you may not eat that which you slaughter in a near place, which excludes non-sacred animals that were slaughtered in the Temple courtyard. Therefore, it is prohibited to eat a non-sacred animal slaughtered in the Temple courtyard even after the fact.

<sup>444</sup> The baraita continues: And I have derived only that the prohibition against eating the meat after the fact applies to unblemished animals,

<sup>445</sup> which are fit to be sacrificed. From where do I know to include blemished animals in this prohibition? I include blemished animals since they are at least of the type that is fit to be sacrificed. And from where do I know to include the undomesticated animal in this prohibition? I include the undomesticated animal since it is rendered fit for consumption by means of slaughtering, like a

domesticated animal. From where do I know to include birds, as the Torah does not mention slaughter with regard to birds, in this prohibition? The verse states: “And he slaughters it,” “and he shall slaughter it,” as well as “and he shall slaughter it,” employing the additional term “it” each time. These three verses teach that one may not eat from a non-sacred animal that was slaughtered in the Temple courtyard

<sup>446</sup> The baraita continues: One might have thought that he may not slaughter a non-sacred animal in the Temple courtyard *ab initio*, but if he did slaughter it, he may cast it before the dogs, i.e., derive benefit from it. The verse states: “Therefore you shall not eat any flesh that is torn of beasts in the field; you shall cast it to the dogs” (Exodus 22:30), which teaches that although one is prohibited from eating the meat of a *tereifa*, one may derive benefit from it. The word “it” serves to emphasize and exclude: You may cast it, i.e., a *tereifa*, to the dogs, but you may not cast non-sacred animals that have been slaughtered in the Temple courtyard, as it is prohibited to derive any benefit from them.

<sup>447</sup> The Gemara relates: Mar Yehuda found Rav Yosef and Rav Shmuel, son of Rabba bar bar Ḥana, standing at the entrance of Rabba’s study hall. He said to them: It is taught in a baraita: With regard to one who betroths a woman with a firstborn donkey, with meat cooked in milk, or with non-sacred animals slaughtered in the Temple courtyard, Rabbi Shimon says she is betrothed, and the Rabbis say she is not betrothed. Apparently, according to Rabbi Shimon, the prohibition against deriving benefit from non-sacred animals slaughtered in the Temple courtyard is not by Torah law, which is why the betrothal takes effect.

<sup>448</sup> And Mar Yehuda raises a contradiction against this inference from a different baraita: Rabbi Shimon says: Non-sacred, domesticated, animals slaughtered in the Temple courtyard must be burned, as well as a non-sacred undomesticated animal slaughtered in the Temple courtyard. This indicates that it is prohibited to derive benefit from them. They were silent and had no answer.

<sup>449</sup> They came before Rabba and told him about this difficulty. He said to them: A quarrelsome person has put you up to asking this question. With what are we dealing here in the first baraita? We are dealing with a case where it was slaughtered and found to be a *tereifa*, and Rabbi Shimon conforms to his standard line of reasoning that an act of slaughter which does not render the animal permitted to be eaten is not called slaughter, so the animal does not have the status of a non-sacred animal slaughtered in the Temple courtyard.

<sup>450</sup> As it is taught in a baraita (Tosefta, Ḥullin 2:4): With regard to one who slaughters a known *tereifa*, as well as one who slaughters an animal and it was found to be a *tereifa*, and this and that were non-sacred animals slaughtered in the Temple courtyard, Rabbi Shimon permits one to derive benefit from them, as explained previously. And the Rabbis prohibit one from deriving benefit from them, since they do not distinguish between an act of slaughter that does render the animal permitted to be eaten and one that does not. It is only in a case where the man betrothed her with a *tereifa* that was slaughtered in the Temple courtyard that Rabbi Shimon says she is betrothed, but not when the animal was not a *tereifa*.

<sup>451</sup> § The mishna teaches that if one sold any of the items from which one is prohibited to derive benefit and betrothed a woman with the money received from their sale, she is betrothed. With regard to the possibility of deriving benefit from money received in exchange for items from which benefit is forbidden, the Gemara asks: From where do we derive that this is permitted? The Gemara answers: It is from the fact that the Merciful One reveals in the Torah with regard to an object of idol worship:

“And you shall be banned like it” (Deuteronomy 7:26), which teaches that anything that you cause to come from it, i.e., in exchange for it, is like it. It can be understood by inference that with regard to all the other prohibitions of the Torah, monies received for items from which benefit is forbidden are permitted.

<sup>452</sup> The Gemara suggests: But let us derive a general principle concerning other prohibitions from the case of idolatry. The Gemara answers: This derivation is not applied, because an object of idol worship and produce of the Sabbatical Year are two verses that come as one, i.e., to teach the same matter, since both prohibitions also extend to the money obtained for them, and any two verses that come as one do not teach their common aspect to apply to other cases.

<sup>453</sup> The Gemara clarifies: The source indicating that this is true of an object of idol worship is what we said. What is the source indicating that this halakha applies to produce of the Sabbatical Year? The verse states: “It is a Jubilee, it shall be holy to you” (Leviticus 25:12), from which it is derived: Just as consecrated property transfers its sanctity to the money with which it is redeemed, so too, produce of the Sabbatical Year, which has the same status as the Jubilee Year, transfers its sanctity to the money with which it is redeemed. Consequently, money used to acquire the produce of the Sabbatical Year will be subject to the same halakhot as the produce itself.

<sup>454</sup> If so, one could also say that just as with consecrated property, it transfers its sanctity to the money with which it is redeemed and becomes desacralized, so too, produce of the Sabbatical Year should transfer its sanctity to the money with which it is redeemed and becomes desacralized. Nevertheless, the verse states: “Shall be,” meaning: As it is, so it shall be, indicating that the Sabbatical-Year produce does not become desacralized.

<sup>455</sup> The Gemara explains: How so? If one purchased meat with produce of the Sabbatical Year, both these and those, i.e., the meat and the produce, are disposed of in the Sabbatical Year. The sanctity of the Sabbatical Year takes effect with regard to the meat as well. It is treated like the produce, and must be disposed of when the obligation to dispose of the Sabbatical-Year produce goes into effect. If he then purchases fish with this meat, the meat loses its consecrated status, and the fish assumes the consecrated state. If he then purchases wine with these fish, the fish loses its consecrated status and the wine assumes the consecrated state. If he then purchases oil with the wine, the wine loses its consecrated status and the oil assumes the consecrated state. How so? The final item purchased has the sanctity of the Sabbatical Year transferred to it, and the Sabbatical-Year produce itself remains forbidden.

<sup>456</sup> The Gemara asks: This works out well according to the one who says that any two verses that come as one do not teach their common aspect to apply to other cases. But according to the one who says that they do teach their common aspect to apply to other cases, what can be said? Why is it not learned from these examples that money received from the sale of an item from which benefit is forbidden, is likewise forbidden? The Gemara answers: Expressions of restriction are written in both cases. Here, with regard to idol worship, it is written: “For it is banned” (Deuteronomy 7:26), which indicates only that it is banned, i.e., has its prohibition extend to money received from its sale, while other prohibited items are not. And there, with regard to produce of the Sabbatical Year, it is written: “It is a Jubilee” (Leviticus 25:12), which teaches that with regard to “it,” yes, this halakha applies; but this halakha does not apply to anything else.

<sup>457</sup> MISHNA: With regard to one who betroths a woman with terumot, or with tithes, or with the foreleg, cheeks, and stomach of an animal, which are given as gifts to priests, or with the water of purification, which is sprinkled on an impure person during the purification rite for impurity imparted by a corpse, or with the ashes of purification, which were mixed with the water sprinkled on an impure person during the purification rite for impurity imparted by a corpse, in all of these cases she is betrothed, and this is so even if the man betrothing her is an Israelite, not a priest or a Levite.

<sup>458</sup> GEMARA: Ulla says: The benefit of discretion, i.e., the benefit accrued from the option of giving teruma and tithes to whichever priest or Levite one chooses, does not have monetary value. Rabbi Abba raised an objection to Ulla from the mishna: With regard to one who betroths a woman with terumot, or with tithes, or with gifts, with the water of purification, or with the ashes of the red heifer, she is betrothed, and this is so even if the man betrothing her is an Israelite. This indicates that although an Israelite cannot consume the priestly gifts, he may nevertheless betroth a woman with them, since he possesses the option to give them to the priest or Levite of his choice. That benefit has monetary value, and it is that value that he uses to betroth a woman, who can then give them to whichever priest or Levite she chooses.

<sup>459</sup> Ulla said to him: You have misunderstood the case of the mishna, since here the case is with an Israelite who came into possession of untithed produce as an inheritance from the household of his mother's father, who was a priest, and the tanna of the mishna holds that gifts that have not been separated are considered as though they have been separated. The untithed produce is not viewed as one entity, but rather is viewed as a mixture of regular produce, teruma, and tithes. This teruma belonged to his grandfather, who was a priest. Since he has inherited this teruma, he has ownership rights to it in addition to the benefit of discretion. While he cannot consume this produce because he is an Israelite, he can sell it to a priest and keep the money. Since it has actual value, it can be used to betroth a woman.

<sup>460</sup> With regard to this issue, Rabbi Ḥiyya bar Avin inquired of Rav Huna: Does the benefit of discretion have monetary value, or does it not have monetary value? Rav Huna said to him: You learned it in the mishna: With regard to one who betroths a woman with terumot, or with tithes, or with gifts, or with the water of purification, or with the ashes of the red heifer, she is betrothed, and this is so even if the man betrothing her is an Israelite. This indicates that the benefit of discretion has monetary value. Rabbi Ḥiyya bar Avin said to him: But didn't we establish it, in accordance with the opinion of Ulla, as referring to an Israelite who came into possession of untithed produce as an inheritance from the household of his mother's father, who was a priest?

<sup>461</sup> Rav Huna said to him: You are out [hotza'a]. Rabbi Ḥiyya bar Avin was embarrassed, as he thought Rav Huna told him he was out, i.e., wrong, due to the halakha he stated. Sensing Rabbi Ḥiyya bar Avin's embarrassment, Rav Huna said to him: This is what I said: You are a Hutzla'a, as Rav Asi, from the town of Huzal, stands in accordance with your opinion.

<sup>462</sup> The Gemara suggests: Let us say that it is parallel to a dispute between tanna'im. The baraita (Tosefta, Ma'aser Sheni 3:9) taught: One who steals another's untithed produce pays him the full value of the other's untithed produce; this is the statement of Rabbi Yehuda HaNasi. Rabbi Yosei, son of Rabbi Yehuda, says: He pays only the value of the non-sacred produce that it contains. What, is it not the case that they disagree about this issue: That one Sage, Rabbi Yehuda HaNasi, holds that the



benefit of discretion has monetary value, so he must be compensated beyond the value of the non-sacred produce; and one Sage, Rabbi Yosei, son of Rabbi Yehuda, holds that the benefit of discretion does not have monetary value, and only the non-sacred produce is of value to the owner.

<sup>463</sup> The Gemara rejects this: No, everyone agrees that the benefit of discretion does not have monetary value, and here the case is with an Israelite who came into possession of untithed produce as an inheritance from the household of his mother's father, who was a priest. And they disagree with regard to the question of whether or not gifts that have not been separated are considered as though they have been separated. One Sage, Rabbi Yehuda HaNasi, holds that they are considered as though they have been separated, which means that the grandson inherited the teruma itself from his grandfather, so the thief must repay him the value of the terumot and tithes as well. And one Sage, Rabbi Yosei, son of Rabbi Yehuda, holds that such gifts are not considered as though they have been separated; and the produce is viewed as regular untithed produce, where the Israelite has only the benefit of discretion, which is of no monetary value.

<sup>464</sup> And if you wish, say instead that everyone agrees that the gifts are considered as though they have been separated, and that the benefit of discretion does not have monetary value. The case is not concerning an Israelite who came into possession of untithed produce as an inheritance from the household of his mother's father; rather, it is concerning regular untithed produce, and here they disagree with regard to a statement of Shmuel. As Shmuel says: By Torah law, even one grain given as teruma exempts the entire heap, since the Torah does not specify a minimum amount for teruma.

<sup>465</sup> As one Sage, Rabbi Yehuda HaNasi, is of the opinion that the ruling is in accordance with the opinion of Shmuel, so the thief must pay the value of the untithed produce as well, since the owner can say that he would separate a single grain as teruma for the entire heap and the rest would remain non-sacred produce. And one Sage, Rabbi Yosei, son of Rabbi Yehuda, is of the opinion that the ruling is not in accordance with the opinion of Shmuel, which means that when the owner makes his claim he must subtract at least one-sixtieth of the total amount as teruma.

<sup>466</sup> And if you wish, say instead that everyone is of the opinion that the ruling is not in accordance with the opinion of Shmuel; and here, this is the reasoning of Rabbi Yehuda HaNasi: Although the benefit of discretion does not have monetary value, and by right should not lead to reimbursement, the Sages penalized the thief. If he did not need to pay for the teruma contained in the produce, he would have been able to keep it, as no priest has the legal ability to demand that the teruma be given specifically to him.

<sup>467</sup> And if you wish, say instead that everyone is of the opinion that the ruling is in accordance with the opinion of Shmuel, and here, this is the reasoning of Rabbi Yosei, son of Rabbi Yehuda: The Sages penalized the owner, since he should not have left his untithed produce in that state, and should have separated teruma without delay.

<sup>468</sup> We learned in the mishna: With regard to one who betroths a woman with terumot, or with tithes, or with the gifts given to priests, or with the water of purification, or with the ashes of the red heifer, in all of these cases she is betrothed, and this is so even if the man betrothing her is an Israelite. And the Gemara raises a contradiction to this from the following baraita (Tosefta, Bekhorot 3:5): With regard to one who accepts payment to judge, his judgments are nullified. Similarly, with regard to one who accepts payment to testify, his testimony is nullified. With regard to one who accepts payment to sprinkle the purification water on one who was impure from impurity imparted by a

corpse, or to sanctify the purification water by placing the ashes of the red heifer in them, his water is considered cave water, which is generally foul, and his ashes are burnt ashes. Using these items to betroth a woman is analogous to being paid for them, so they should be considered as having no monetary value, and the betrothal should not take effect.

<sup>469</sup> Abaye said: This is not difficult, since here, the mishna is referring to one who betroths a woman with the value of the payment for bringing and filling the vessel with the purification waters, for which one is permitted to accept payment. Performing this act for the woman is comparable to giving her an item of value, since she will not have to pay someone to bring and fill the vessel for her. There, the baraita dealing with one who accepts payment for sprinkling or sanctifying the water is referring to payment for the actual sprinkling and sanctifying.

<sup>470</sup> The Gemara comments: According to this answer, the language of the mishna and the baraita is also precise, as it teaches here, in the mishna, that she is betrothed with the water of purification or with the ashes of purification, which indicates that the water and ashes have not yet been mixed together; and it teaches there, in the baraita: To sprinkle or to sanctify, indicating that he receives payment for the actual sprinkling and sanctification. The Gemara affirms: Learn from it that this is the correct explanation of the mishna and the baraita.

## Chapter 3

<sup>1</sup> MISHNA: With regard to one man who says to another: Go and betroth so-and-so to me, and the latter went and betrothed her to himself, she is betrothed to the second man. And similarly, with regard to one who says to a woman: You are hereby betrothed to me after thirty days, and another man came and betrothed her within those thirty days, she is betrothed to the second man. This is a full-fledged betrothal, so that if she is an Israelite woman betrothed to a priest, she may partake of teruma.

<sup>2</sup> If the first man said to the woman: You are hereby betrothed to me from now, and only after thirty days shall the betrothal take effect, and another man came and betrothed her within those thirty days, there is uncertainty whether she is betrothed or whether she is not betrothed to each of them. Consequently, if she was the daughter of a non-priest betrothed to a priest, or the daughter of a priest betrothed to an Israelite, she may not partake of teruma. Since her betrothal is uncertain, the daughter of a non-priest cannot be considered the wife of a priest, and similarly a priest's daughter who is doubtfully married to an Israelite loses her right to partake of teruma as the daughter of a priest.

<sup>3</sup> GEMARA: The mishna teaches that in the case of one man who says to another: Go and betroth so-and-so to me, and the latter went and betrothed her to himself, she is betrothed to the second man. A tanna taught concerning this issue: What he did is done; it is effective and the woman is betrothed to the second man, but he has treated him, i.e., the first man, in a deceitful manner, and it is prohibited to act in this fashion. The Gemara explains: And the tanna of our mishna, when he teaches the apparently superfluous term: Went, also indicates that he went and acted deceitfully.

<sup>4</sup> § The Gemara asks a question concerning the language of the mishna: What is different here that the mishna teaches: With regard to one man who says to another,

<sup>5</sup> and what is different there, in the previous chapter (50a), that the tanna teaches: With regard to one who says to his agent, go and betroth a certain woman for me in such and such a place, and he went and betrothed her in a different place, she is not betrothed? Why does the mishna there label him an agent, and here it labels him simply another?

<sup>6</sup> The Gemara answers: Here the mishna teaches us a novel element and there it teaches us a novel element, through its use of these terms. The Gemara elaborates: The mishna here teaches us a novel element, as had it taught: His agent, I would say that it is his agent who is considered a scoundrel in that case, as one who sends an agent relies upon him, thinking: He will perform my agency for me, since he was sent for that purpose. But with regard to the use of the term: Another, who was not appointed and upon whom he does not rely, as he is not his agent, you might say that he should not be considered a scoundrel.

<sup>7</sup> Similarly, the mishna there teaches us a novel element, as had it taught: One who says to another, I would say that it is in the case of another that she is not betrothed if he betrothed her in a different place, as he thinks that this person would not go to the trouble of looking for her elsewhere, and therefore he authorized him to betroth the woman only in that particular place. But with regard to his agent, who is assumed to take special trouble to fulfill his agency, you might say he is merely showing him the place where she is likely to be found, and she is betrothed in any case. The mishna therefore teaches us that even when he appointed an agent she is not betrothed if he does not find her in the place the putative husband specified.

<sup>8</sup> The Gemara relates: Ravin the Pious was appointed an agent and went to betroth a woman to his son, but in the end he betrothed her to himself. The Gemara raises a difficulty: But isn't it taught in the aforementioned baraita: What he did is done, but he has treated him in a deceitful manner? How could a pious individual act in this fashion? The Gemara answers: The woman's family would not give her to the son, and agreed only to let her marry the father. The Gemara further asks: Even so, before betrothing her he should have first informed his son that they refuse to let her marry him. The Gemara explains that Ravin thought: In the meantime, while I am busy reporting back to my son, someone else will come and betroth her.

<sup>9</sup> The Gemara relates a similar story: Rabba bar bar Ḥana gave money to Rav and said: Purchase this land for me. Rav went and purchased it for himself. The Gemara asks: But isn't it taught in the baraita with regard to an agent who acts in this manner: What he did is done, but he has treated him in a deceitful manner? The Gemara answers: The land was located in a valley inhabited by violent men, who treated Rav with respect and were prepared to sell the land to him, but who did not treat Rabba bar bar Ḥana with respect. As in the case of Ravin, the Gemara questions this behavior: Nevertheless, Rav should have informed him. The Gemara responds that Rav thought: In the meantime someone else will come and purchase the land.

<sup>10</sup> The Gemara further relates: Rav Giddel was engaging in the acquisition of a certain plot of land. In the meantime Rabbi Abba went and purchased it. Rav Giddel went and complained about Rabbi Abba to Rabbi Zeira. Rabbi Zeira went and complained about Rabbi Abba to Rav Yitzḥak Nappaḥa. Rav Yitzḥak Nappaḥa said to him: Wait until Rabbi Abba ascends to visit us for the pilgrimage Festival, when all come to hear the Festival sermon, on which occasion we can discuss this matter with him. When Rabbi Abba ascended Rav Yitzḥak Nappaḥa found him and said to him: If a pauper

is engaging in the acquisition of a loaf of bread that he found, and another came and took it from him, what is the halakha?

<sup>11</sup> Rabbi Abba said to him: The one who took it away is called wicked. Rabbi Yitzḥak Nappaḥa replied: But if so, what is the reason that the Master acted this way? Rav Giddel was negotiating the purchase of this land and you purchased it. Rabbi Abba said to him: I did not know that Rav Giddel was trying to acquire the land. Rabbi Yitzḥak Nappaḥa retorted: Now too, the Master should give it to him, since you have been made aware that he submitted the first offer. Rabbi Abba said to him: As for selling, I will not sell it, as it is the first land I have ever purchased, and this matter of selling one's first acquisition is not a good omen. If he wants to accept it as a gift, let him take it.

<sup>12</sup> Rav Giddel did not descend to claim this plot of land, as it is written: "But he who hates gifts shall live" (Proverbs 15:27), and therefore he did not wish to accept the land as a gift. Rabbi Abba also did not descend to it, because Rav Giddel was already engaging in the acquisition of it when he acquired the land. In this manner, this Sage did not descend to take the plot of land, and that Sage did not descend to take care of it, and it was called the land of the Sages.

<sup>13</sup> § The mishna teaches: And similarly, with regard to one who says to a woman: Be betrothed to me after thirty days, and another came and betrothed her within this period, she is betrothed to the second man. The Gemara asks: In a case where another did not come and betroth her within the thirty days, what is the halakha? Rav and Shmuel both say: She is betrothed after thirty days, even if the money he gave for her betrothal has been used before the end of this period, as the betrothal takes effect from when the money is given.

<sup>14</sup> The Gemara clarifies: What is the reason that she is betrothed despite the lack of money at the end of the thirty days? The Gemara explains that these dinars given for her betrothal are not comparable to a loan, nor are they comparable to a deposit that was transferred into her possession and subsequently lost. In both of these cases she would not be betrothed.

<sup>15</sup> The Gemara elaborates: They are not comparable to a deposit, as a deposit is used in its owner's possession, i.e., any loss is incurred by the owner, whereas these are used in her own possession, as he gave her the money to keep. These dinars are also not comparable to a loan; a loan is given for spending and therefore no money remains at the time of the betrothal, whereas these dinars were given to her from the outset for the purpose of betrothal.

<sup>16</sup> The Gemara asks: If another did not come and betroth her, and she retracted her consent to the betrothal within thirty days, what is the halakha? Rabbi Yoḥanan said: She can retract her consent. Why? This statement, by which she changes her mind, comes and nullifies her previous statement when she agreed to the betrothal. Reish Lakish said: She cannot retract her consent, as her second statement does not come and nullify her previous statement.

<sup>17</sup> Rabbi Yoḥanan raised an objection to Reish Lakish from a mishna (Terumot 3:4): In a case where someone appointed an agent to separate teruma from his produce on his behalf, and he subsequently canceled the agency, the halakha depends on the following: If he canceled the appointment before the agent separated the teruma, his teruma is not teruma. And here it is a case involving one statement and a second statement, as the owner of the produce appointed the agent and rescinded his appointment by speech. This shows that a statement comes and nullifies a previous statement. Reish Lakish replied: Giving money to a woman is different, as it is considered like an action, and a mere statement does not come and nullify the action of the transfer of money.

<sup>18</sup> Rabbi Yoḥanan raised a further objection to Reish Lakish: With regard to one who sends a bill of divorce to his wife, and later the husband encountered the agent or sent another agent after him and in this manner said to him: The bill of divorce that I gave you is nullified, it is thereby nullified. And giving a bill of divorce to an agent is considered to be like giving money to a woman, and yet this baraita teaches that it is nullified, which indicates that speech can override even an action.

<sup>19</sup> Reish Lakish answered: There too, as long as the bill of divorce has not reached the woman's hand it is considered a case of one statement and a second statement. There is no halakhic significance to the transmitting of a bill of divorce to an agent, as only its delivery to the wife is considered an action. Therefore, the act of transferring the bill of divorce to the agent is of no consequence and in this particular case a statement comes and nullifies a previous statement.

<sup>20</sup> Reish Lakish raised an objection to Rabbi Yoḥanan: All vessels descend into their state of contracting ritual impurity by means of thought. Although an unfinished vessel cannot become ritually impure, if the craftsman decided not to work on it any further, it immediately assumes the status of a completed vessel and can become ritually impure. But they ascend from their state of ritual impurity only by means of a change resulting from an action. A ritually impure vessel, once it undergoes physical change, is no longer ritually impure.

<sup>21</sup> An action undertaken to improve the vessel negates both the status created by an earlier action that supposedly completed the vessel and the status created by the thought not to perform more work on the vessel. In that case the vessel cannot contract ritual impurity until the craftsman has finished working on it. By contrast, a thought to improve the vessel negates neither status created by action nor status created by thought. Reish Lakish finds this difficult for the following reason: Granted, thought does not negate action, as a statement does not come and nullify action. But it should at least offset thought. This halakha indicates that a statement does not nullify a previous statement.

<sup>22</sup> The Gemara answers: Thought in the case of ritual impurity is different, as it is considered like action, and this is in accordance with the opinion of Rav Pappa. As Rav Pappa raises a contradiction: With regard to the halakha that produce must become wet in order for it to contract ritual impurity, the verse states: "But if water is placed [vekhi yuttan] upon the seed, and any part of a carcass falls upon it, it is impure" (Leviticus 11:38). The word yuttan is written defective, and is written as if it says ki yitten. Accordingly, this would mean that one must actively place the water on the produce. Yet we read it, based on the tradition as to its correct pronunciation, "ki yuttan," which includes any situation where the produce becomes wet. How so? How can the way the verse is written and the way it is read be reconciled?

<sup>23</sup> Rav Pappa explains that the standard of "if water is placed [ki yuttan]" is similar to: If one places [ki yitten]; just as the term places [yitten] indicates that it is satisfactory to the owner for the produce to become wet, as he himself is placing the water, so too, the term "is placed [yuttan]" means that it is satisfactory to the owner that the produce becomes wet, despite the fact that he did not place the water himself. This is proof that thought is equivalent to action with regard to ritual impurity, as if one is satisfied with the produce becoming wet it is considered as though he actively placed the water himself. By the same reasoning, thought which renders a vessel susceptible to ritual impurity is powerful enough to require an action to counteract its effect.

<sup>24</sup> The Gemara presents another version of the discussion: Rav Zevid taught this dispute with regard to this halakha: And similarly, in a case where she gave permission to her agent to accept betrothal

for her and she subsequently went and accepted betrothal herself from someone else, if her betrothal came first, her betrothal is a valid betrothal, but if the betrothal of her agent came first, her betrothal is not a betrothal.

<sup>25</sup> The Sages discuss this halakha: If she did not accept betrothal herself and retracted her appointment of the agent, what is the halakha? Rabbi Yoḥanan says: She can retract her appointment; and Reish Lakish says: She cannot retract her appointment. The Gemara clarifies their respective opinions. Rabbi Yoḥanan said: She can retract her appointment, as a statement comes and nullifies a previous statement, by which she appointed the agent. Reish Lakish said: She cannot retract her appointment, as a statement does not come and nullify a previous statement.

<sup>26</sup> Rabbi Yoḥanan raised an objection to Reish Lakish from the aforementioned mishna (Terumat 3:4) with regard to one who appointed an agent to separate teruma on his behalf and subsequently canceled the agency: If he canceled the appointment before the agent separated teruma, his teruma is not teruma. This shows that a statement nullifies a previous statement. Rava says: With what are we dealing here? With a case where the homeowner preceded the agent and separated teruma from his heap himself, which is an action, and an action certainly nullifies a statement.

<sup>27</sup> Reish Lakish raised an objection to Rabbi Yoḥanan: All vessels descend into their state of contracting ritual impurity by means of thought. But they ascend from their state of ritual impurity only by means of a change resulting from an action. An action undertaken to improve the vessel negates both the status created by an earlier action that supposedly completed the vessel and the status created by the thought not to perform more work on the vessel. By contrast, a thought to improve the vessel negates neither status created by action nor status created by thought. Reish Lakish explains his objection: Granted, thought does not negate action, as a statement does not come and nullify action. But it should at least offset thought.

<sup>28</sup> Rabbi Yoḥanan said to Reish Lakish: Thought in the case of ritual impurity is different, as it is considered like action, and this is in accordance with the opinion of Rav Pappa. As Rav Pappa raises a contradiction: The word yuttan is written defective, and is written as if it says ki yitten. Yet we read it “ki yuttan.” How so? The standard of “if water is placed [ki yuttan]” is similar to: If one places [ki yitten]; just as the term places [yitten] indicates that it is satisfactory to the owner for the produce to become wet, as he himself is placing the water, so too, the term “is placed [yuttan]” means that it is satisfactory to the owner that the produce becomes wet, despite the fact that he did not place the water himself.

<sup>29</sup> Rabbi Yoḥanan raised an objection to Reish Lakish: With regard to one who sends a bill of divorce to his wife, and later the husband encountered the agent or sent another agent after him and in this manner said to him: The bill of divorce that I gave you is nullified, it is thereby nullified. This indicates that the appointment of an agent can be nullified even by a statement. The Gemara concludes: The refutation of the opinion of Reish Lakish is in fact a conclusive refutation.

<sup>30</sup> The Gemara adds: And the halakha is in accordance with the opinion of Rabbi Yoḥanan, and this is even according to the first version of their dispute, with regard to a woman who retracts from her betrothal after accepting the money for it. And even though there is room to say that giving money to a woman for betrothal is different, as it is considered like an action, even so, a statement comes and nullifies a previous statement with regard to her consent to the betrothal, provided that the betrothal has yet to take effect.

<sup>31</sup> The Gemara asks: The halakha recorded here is difficult with regard to the halakha recorded elsewhere. You said that the halakha is in accordance with the opinion of Rabbi Yoḥanan, and yet we maintain that the halakha is in accordance with the opinion of Rav Naḥman. As a dilemma was raised before the Sages: What is the halakha in the case of a bill of divorce sent by an agent that the husband nullified before it was received by his wife? Can the husband return and divorce his wife with the very same bill of divorce?

<sup>32</sup> Rav Naḥman says: He can return and divorce her with it, and Rav Sheshet says: He cannot return and divorce her with it. And we maintain that the halakha is in accordance with the opinion of Rav Naḥman in this case. By contrast, according to the ruling of Rabbi Yoḥanan, since the husband has nullified the bill of divorce it should no longer be valid. The Gemara answers: This is not difficult, as, although the husband has nullified the agent from his status as an agent, he has not nullified the bill of divorce itself from its status as a bill of divorce.

<sup>33</sup> § The mishna teaches that if a man betroths a woman and stipulates that the betrothal will take effect in thirty days' time and another man betroths her within that period, she is betrothed to the second man. Rav says: She is betrothed to the second forever, i.e., the betrothal is fully effective, and Shmuel says: She is betrothed to the second until the thirty days pass. After thirty days have passed, the betrothal of the second lapses, and the earlier betrothal of the first man is completed.

<sup>34</sup> Rav Ḥisda sat and found this difficult: By what means is the betrothal of the second man abrogated? When the second betrothal took effect, the first betrothal was not yet in effect. Why, then, is the second betrothal abrogated? Rav Yosef said to him: The Master teaches this dispute with regard to the first clause of the mishna, and therefore he finds it difficult, whereas Rav Yehuda teaches it with regard to the latter clause of the mishna, and consequently he does not find it difficult.

<sup>35</sup> Rav Yehuda's version of the dispute is as follows: The mishna teaches that if the first man says to her: You are hereby betrothed to me from now and after thirty days, and another man betrothed her within those thirty days, there is uncertainty whether she is betrothed or whether she is not betrothed. Rav says: This means that there is uncertainty whether she is betrothed or whether she is not betrothed forever, and her only option is to receive a bill of divorce from both men. And Shmuel says: There is uncertainty whether she is betrothed or whether she is not betrothed only until thirty days have elapsed, whereas after thirty days the betrothal of the second is abrogated, and the betrothal of the first is completed.

<sup>36</sup> The Gemara explains their respective opinions: Rav is uncertain what the first man meant. Is it a condition, i.e., the man is saying: If I do not change my mind within thirty days, you are betrothed to me from now, or is it a retraction, that is, he immediately retracted after he said: From now, in favor of a betrothal that will take effect only after thirty days have elapsed. This uncertainty remains even after the end of the thirty days. It is obvious to Shmuel that it is a condition. Consequently, the uncertainty whether or not she is betrothed to the second man applies during the thirty-day period, as the first man might yet change his mind. After the completion of thirty days, the betrothal from the first man retroactively takes effect from the moment he gave it, and therefore the betrothal of the second man is abrogated.

<sup>37</sup> The Gemara comments: And Rav and Shmuel disagree in the dispute between these tanna'im. As it is taught in a baraita: If one says to his wife upon giving her a bill of divorce that it should take effect: From today and after my death, there is uncertainty whether it is a valid bill of divorce or

whether it is not a valid bill of divorce. This is the statement of the Rabbis. The Rabbis are uncertain whether he meant that the bill of divorce should take effect retroactively from that moment, in which case it is valid; or whether he changed his mind and meant for it to take effect only after his death, which would mean that it is not a valid bill of divorce. Rabbi Yehuda HaNasi says: A document like this is a valid bill of divorce. The husband meant his statement as a condition that the bill of divorce should, after his death, take effect retroactively from now, and therefore it is a valid bill of divorce.

<sup>38</sup> The Gemara asks: And let Rav, instead of explaining his own opinion, say that the halakha is in accordance with the opinion of the Rabbis, and let Shmuel say that the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi. The Gemara answers: It is necessary for Rav and Shmuel to state their disagreement explicitly. As had Rav merely said that the halakha is in accordance with the opinion of the Rabbis, I would say: There, in the case of a bill of divorce, when he comes to distance her from himself, one can say that he has changed his mind with regard to the divorce. But here, in the case of betrothal, when he comes to draw her near, you might say that Rav concedes to Shmuel that it is certainly a condition, as he wants to betroth her as soon as possible.

<sup>39</sup> And conversely, had Shmuel said only that the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, I would say: It is in that case there that Rabbi Yehuda HaNasi said it is a valid bill of divorce, as there is no bill of divorce after death, and therefore it is unlikely that he changed his mind and attempted to give a bill of divorce that will take effect only after the death of the husband. But here, where there is the possibility of betrothal after thirty days, and he might well have intended to retract the betrothal, you might say that Shmuel concedes to Rav. Consequently, it was necessary to state the dispute between Rav and Shmuel concerning betrothal in explicit terms.

<sup>40</sup> Abaye said: And according to the reasoning of Rav, if one man came and said the following ambiguous statement to her: You are hereby betrothed to me from now and after thirty days. And another man came during these thirty days and said to her: You are hereby betrothed to me from now and after twenty days,

<sup>41</sup> and another man came and said to her: You are hereby betrothed to me from now and after ten days, she requires a bill of divorce from the first man and last man, but she does not require a bill of divorce from the middle one.

<sup>42</sup> Abaye explains: This is the halakha whichever way you look at this case: If this expression is a condition that she should be betrothed from now if he does not retract within thirty days, the betrothal of the first man is a betrothal, whereas the betrothals of those other men are not betrothals. If it is a retraction, i.e., if after saying: From now, he changed his mind and delayed the moment of betrothal, then only that betrothal of the last one is a betrothal, whereas the betrothals of those first two men are not betrothals, as they both postponed their betrothals to a later date. Either way, the betrothal of the middle man is of no consequence.

<sup>43</sup> The Gemara asks: It is obvious that this is the case; what is the novelty of Abaye's statement? The Gemara answers: Lest you say that this formulation means a condition and also means a retraction, and therefore she should require a bill of divorce from each and every one of them, including the middle man, due to the uncertainty. It is possible the first man retracted while the second one imposed a condition, in which case only the betrothal of the second person takes effect. Abaye therefore teaches us that according to the opinion of Rav, the uncertainty concerns the meaning of this expression itself, and there is no uncertainty with regard to the intention of each individual



person who says this formula. Consequently, there is no possibility that this woman is betrothed to the middle man.

<sup>44</sup> Ulla says that Rabbi Yoḥanan says: Even if one hundred betrothed her in this manner, their betrothal is effective with regard to her. And similarly, Rabbi Asi says that Rabbi Yoḥanan says: Even the betrothal of one hundred is effective with regard to her. Rav Mesharshiyya, son of Rav Ami, said to Rabbi Asi: I will explain to you the reason of Rabbi Yoḥanan: These one hundred men have rendered themselves like a row [sheraga] of bricks, each and every one of whom leaves a gap for the other. Since there is a period of time before the betrothal of each man takes effect, another betrothal can intervene in the meantime.

<sup>45</sup> Rav Ḥanina raises an objection to this ruling from a baraita: If one says to his wife: This is your bill of divorce from today and after my death, there is uncertainty whether it is a valid bill of divorce or whether it is not a valid bill of divorce. And therefore if he dies she performs ḥalitza, but does not enter into levirate marriage. Since she might not be divorced, the obligation of levirate marriage applies to her, but in practice she cannot perform levirate marriage in case she was in fact divorced and is thereby forbidden to her late husband's brother, a transgression which is punishable by karet.

<sup>46</sup> Rav Ḥanina explains his objection: Granted, according to the opinion of Rav, the baraita supports him, as Rav maintains that the meaning of this expression is uncertain. According to the opinion of Shmuel as well, although he claims that the phrase is a condition rather than a retraction, he can explain as follows: In accordance with whose opinion is this baraita? It is in accordance with the opinion of the Rabbis, who claim in that case that it is uncertain if she is divorced, and I, Shmuel, say my ruling in accordance with the opinion of Rabbi Yehuda HaNasi.

<sup>47</sup> But according to the opinion of Rabbi Yoḥanan, who said that this is a phrase that leaves room for additional betrothals, in a case where he uses this phrase with regard to a bill of divorce, this should not be the halakha, as there is a principle: Any bill of divorce that leaves a remnant of the marital bond is not worth anything, as a bill of divorce must completely sever the marital bond between the husband and the wife. If this bond is not fully severed, she is not divorced. Therefore, her late husband's brother should be allowed to enter into levirate marriage with her.

<sup>48</sup> Rava said: Since a bill of divorce serves to remove a wife from her husband, and death also serves to remove her and dissolve their marital ties, permitting the woman to remarry, one can say that whatever part is left over from that bill of divorce is nevertheless completed by death, and therefore there is a complete act of severance. Abaye said to him: Are the two comparable; can these stages be viewed as completing one another? A bill of divorce removes her not only from her husband's authority but also from the authority of the yavam, as a divorced woman does not perform levirate marriage, whereas death brings her into the authority of the yavam, because it renders her obligated in levirate marriage.

<sup>49</sup> Rather, Abaye said: One must reject the above explanation, and ask what is the reason there for the concern about that bill of divorce, according to the opinion of Rabbi Yoḥanan? It is not because the bill of divorce is in any way valid. Rather, it is a rabbinic decree due to the case of one who says to his wife: This is hereby your bill of divorce from today if I die. Everyone agrees that this is a bill of divorce that goes into effect from that day if he dies. Since one might confuse the two cases, the Sages decreed that if one says: This is hereby your bill of divorce from today and after my death, the bill of divorce is considered valid to the extent that the woman does not enter into levirate marriage.

<sup>50</sup> The Gemara asks: But let us also issue a decree in a case where he said: This is hereby your bill of divorce from today if I die, that she should perform ḥalitza, due to its similarity to a bill of divorce that includes the stipulation: This is hereby your bill of divorce from today and after my death. The Gemara answers: The Sages do not require her to perform ḥalitza, as, if you say that she performs ḥalitza, people will mistakenly think that the yavam performed ḥalitza because he did not want to marry her, and if he had wanted to she could have entered into levirate marriage. In fact, she is divorced and is forbidden to the yavam, and a decree of this kind could mislead people and result in a later transgression.

<sup>51</sup> The Gemara asks: Here too, in the case of where he says: This is hereby your bill of divorce from today and after my death, if you say that she performs ḥalitza, people will mistakenly say that she could have entered into levirate marriage. The Gemara answers: This concern is not important, as let her perform levirate marriage and there is no problem with that. The fact that she is treated as a divorcée and is forbidden to the brother-in-law is merely a concern of the Sages, who enacted a decree due to the similarity of the case where one says: This is hereby your bill of divorce from today if I die, whereas it is in fact not a bill of divorce and it is permitted for her to enter into levirate marriage.

<sup>52</sup> MISHNA: With regard to one who says to a woman: You are hereby betrothed to me with this peruta on the condition that I will give you two hundred dinars, she is betrothed immediately and he shall give her the money. If he said to her that the betrothal is: On the condition that I will give you a particular sum of money from now and until thirty days, if he gave the money to her within thirty days she is betrothed, but if not, she is not betrothed.

<sup>53</sup> If he said to her that the betrothal is: On the condition that I have two hundred dinars, she is betrothed if he has this sum. If he said to her that the betrothal is: On the condition that I will show you two hundred dinars, she is betrothed, and he shall show the money to her. And if he is a moneychanger and shows her money belonging to others on the moneychangers' table, she is not betrothed, as his statement means that he will show her money of his own.

<sup>54</sup> GEMARA: It was stated that the amora'im disagreed with regard to the text of this mishna: Rav Huna says that it reads: And he shall give, i.e., it is a valid betrothal from the outset, and the man is obligated to give her the promised amount. Rav Yehuda says that the correct version of the mishna is: When he gives, meaning that the betrothal takes effect only when he actually gives her the money. The Gemara elaborates: Rav Huna says that the phrase: And he shall give, indicates that this is a condition stipulated by the man, which means that the woman is immediately betrothed and he merely proceeds to fulfill the condition. Rav Yehuda says that the mishna reads: When he gives, which indicates that when he will give the money it will be a betrothal, but for now at least it is not a betrothal.

<sup>55</sup> The Gemara asks: What is the difference between the explanations of Rav Huna and Rav Yehuda? Both agree that if he does not give her the money she is not betrothed. The Gemara answers: The difference between them is in a case where she extended her hand and accepted betrothal from another man during the period between the initial betrothal and the delivery of the money. According to the opinion of Rav Huna the betrothal of the second man is not a valid betrothal, as he maintains that when the first man gives her the money the betrothal takes effect retroactively from the time of his earlier statement. According to the opinion of Rav Yehuda, the betrothal of the second man is a

valid betrothal, as the betrothal of the first man does not take effect until after he actually gives her the money.

<sup>56</sup> The Gemara comments: And we also learned a mishna concerning bills of divorce like this case (Gittin 74a): With regard to one who says to a woman: This is your bill of divorce on the condition that you will give me two hundred dinars, she is divorced and she shall give him the two hundred dinars. It was stated that the amora'im disputed the correct version of this statement. Rav Huna says: And she shall give; Rav Yehuda says: When she gives. The reasons are as stated above in the discussion about betrothal: Rav Huna says: And she shall give, as it is a condition, and therefore she proceeds to fulfill the condition. Rav Yehuda says: When she gives, as when she will give the money to him it will be a valid bill of divorce, but now, in any event, it is not a valid bill of divorce.

<sup>57</sup> What is the difference between the explanations of Rav Huna and Rav Yehuda? Even Rav Huna agrees that she cannot marry someone else until she gives him the money. Until that point the bill of divorce does not come into effect and she remains married to the first man. The Gemara answers: The difference between them is in a case where the bill of divorce was torn or lost after she received it but before she gave him the money. According to the opinion of Rav Huna it is a valid bill of divorce, as the divorce takes effect from the moment he gives her the document. According to the opinion of Rav Yehuda it is not a valid bill of divorce, as he maintains that the bill of divorce goes into effect only later, which is impossible as it is either torn or lost.

<sup>58</sup> The Gemara comments: And it is necessary to state both disputes, the one with regard to betrothal and the one with regard to divorce, as neither halakha could be derived from the other. As had it taught us only that the two Sages disagree with regard to betrothal, one might have said that it is there that Rav Huna says that the betrothal takes effect immediately, despite the fact that he must still give her the money, because betrothal comes to draw her near to him. Therefore, it is likely that he meant for the betrothal to take immediate effect. But with regard to divorce, when he comes to distance her, you might say that Rav Huna concedes to Rav Yehuda that the divorce comes into effect only from the moment she gives him the money.

<sup>59</sup> And conversely, if the dispute had been stated only with regard to this case concerning a bill of divorce, one might have claimed that Rav Huna says that the bill of divorce comes into immediate effect only in this situation, because he is not ashamed to demand the money from her whenever he wants, and therefore he divorces her immediately. But here, concerning a betrothal, when she is ashamed to claim the money from him, you might say that Rav Huna concedes to Rav Yehuda that the woman does not accept the betrothal until she actually receives the money. It is therefore necessary for the dispute to be stated in both cases.

<sup>60</sup> The Gemara raises an objection to the opinion of Rav Yehuda from a baraita (Tosefta, Gittin 5:5): If one says to his wife: This is your bill of divorce on the condition that you will give me two hundred dinars, even if the bill of divorce was torn or lost she is divorced. But she may not marry another man until she gives him the money. This ruling apparently accords with Rav Huna's opinion that the bill of divorce goes into immediate effect from the moment it is given.

<sup>61</sup> And it is further taught in a baraita: With regard to a man who said to his wife: This is your bill of divorce on the condition that you will give me two hundred dinars, and he died childless, if she gave him the money she is not bound by a levirate bond to the yavam, as she is already divorced. But if she did not give him the money she is bound by a levirate bond to the yavam. Rabban Shimon ben

Gamliel says: If she did not give it to her husband during his lifetime she may give the money to her late husband's brother, or to his father, or to one of the relatives who inherit from him, and by doing so she fulfills the condition and is retroactively divorced.

<sup>62</sup> The Gemara analyzes this ruling: The tanna'im disagree only with regard to the following: One Sage, the first tanna, holds that by the phrase: On the condition that you will give me, he meant: To me specifically but not to my heirs. Consequently, if she does not give the money to him she is not divorced, as she cannot fulfill the condition by giving the money to his heirs. And one Sage, Rabban Shimon ben Gamliel, holds that the husband meant: Even to my heirs. In any event, everyone agrees that it is a condition and the divorce takes effect from the moment the bill of divorce is given. This is apparently a conclusive refutation of the opinion of Rav Yehuda.

<sup>63</sup> The Gemara answers: Rav Yehuda could say to you: In accordance with whose opinion is this baraita? It is the opinion of Rabbi Yehuda HaNasi, as Rav Huna says that Rabbi Yehuda HaNasi says: Anyone who states a condition employing the language: On the condition, is like one who states that the agreement will take effect retroactively from now, even though the condition is fulfilled only later on. Rabbi Yehuda HaNasi maintains that the phrase: On the condition, indicates that an action should take effect now provided that a certain action is fulfilled later. And the Rabbis disagree with him, claiming that this expression does not mean that the action should take immediate effect, but only from when the condition is fulfilled. And Rav Yehuda would conclude by adding: And I spoke in accordance with the opinion of the Rabbis.

<sup>64</sup> The Gemara analyzes the matter itself. Rav Huna says that Rabbi Yehuda HaNasi says that anyone who states a condition employing the language: On the condition, is like one who states that the agreement will take effect retroactively from now, even though the condition is fulfilled only later on. Rabbi Zeira said: When we were in Babylonia we would say: With regard to that which Rav Huna says that Rabbi Yehuda HaNasi says: Anyone who states a condition employing the language: On the condition, is like one who states that the agreement will take effect retroactively from now, that is Rabbi Yehuda HaNasi's opinion, but the Rabbis disagree with him.

<sup>65</sup> When I ascended to there, to Eretz Yisrael, I found Rabbi Asi sitting and saying the following ruling in the name of Rabbi Yoḥanan: All concede that with regard to one who says to his wife: On the condition, he is like one who states that the divorce will take effect retroactively from now. They disagreed only with regard to one who said to his wife: From today and after my death, whether he is considered to have added a condition or to have retracted from his initial statement.

<sup>66</sup> And it is taught in a baraita that if one says to his wife: This is your bill of divorce from today and after my death, it is uncertain whether it is a valid bill of divorce or whether it is not a valid bill of divorce. This is the statement of the Rabbis. The Rabbis are uncertain whether he has changed his mind from his initial intention of giving the document that day, and now wishes to give a bill of divorce after his death, which is not effective, or whether he was merely adding a condition that the bill of divorce should take effect from today only when he dies. Conversely, Rabbi Yehuda HaNasi says: A document like this is a valid bill of divorce.

<sup>67</sup> The Gemara asks: And according to the opinion of Rav Yehuda, who said that the tanna'im also disagree with regard to one who says to his wife: On the condition, instead of disagreeing with regard to the case where one says to his wife: From today and after my death, let them disagree with regard to a case where the husband used the expression: On the condition.

<sup>68</sup> The Gemara answers: Rav Yehuda maintains that they disagree over both cases, and the baraita taught the dispute in this manner to convey to you the far-reaching nature of the opinion of Rabbi Yehuda HaNasi, who maintains that even if the husband says to his wife: From today and after my death, this is also a valid bill of divorce. The Gemara asks: And let them disagree with regard to a husband who says to his wife: On the condition, to convey to you the far-reaching nature of the opinion of the Rabbis, who hold that it is not a valid bill of divorce even in that case. The Gemara answers: It is preferable to emphasize the power of leniency. It is always better to formulate a dispute in a manner that emphasizes the extent of the lenient opinion.

<sup>69</sup> § The mishna teaches: With regard to one who says to a woman: You are hereby betrothed to me on the condition that I will give you a particular sum of money from now and until thirty days have elapsed, if he gives her the money within the allotted time she is betrothed. The Gemara questions the need for this ruling: It is obvious that this is the case. The Gemara explains: This ruling is necessary, lest you say that the specified time period is not a proper condition, and he said so only to motivate himself to prove the sincerity of his intentions. The mishna therefore teaches us that the time period is an essential part of his condition, and if he fails to give her the money within this period the betrothal is void.

<sup>70</sup> The mishna further teaches that if he says to her: You are hereby betrothed to me on the condition that I have two hundred dinars, if he in fact possesses the specified amount, she is betrothed, but if he does not, she is not betrothed. The Gemara asks: And let us be concerned that perhaps he has this sum, although he fails to show it to her. How can his betrothal be nullified if there is no conclusive evidence that he does not have the money? And furthermore, it is taught in a baraita that we are concerned that perhaps he has the money.

<sup>71</sup> The Gemara answers: It is not difficult, as this case, in the mishna, is referring to a definite betrothal, which is not established in this case, as he has failed to demonstrate that he has the funds. By contrast, that case, in the baraita, is referring to an uncertain betrothal. The betrothal cannot be entirely disregarded, as he might have the money after all.

<sup>72</sup> The mishna teaches that if a man says to her: You are hereby betrothed to me on the condition that I will show you two hundred dinars, she is betrothed and he must show her the money. A Sage taught (Tosefta 3:6): This woman intended to see only his own money, not simply to be shown any two hundred dinars. With regard to the subsequent ruling of the mishna: And if he showed her the money on the table she is not betrothed, the Gemara comments: This is obvious, as the woman wants to see his own money. The Gemara explains: No, it is necessary to teach that even if he holds somebody else's money as part of a joint business venture, nevertheless, as the money does not actually belong to him he has failed to fulfill the condition.

<sup>73</sup> MISHNA: With regard to one who says to a woman: You are hereby betrothed to me on the condition that I possess tillable land of a beit kor of earth, she is betrothed, provided that he possesses such land. If he said to her that the betrothal is: On the condition that I possess land in such and such a place, if he possesses land in that place she is betrothed, but if not she is not betrothed. If he said to her: You are hereby betrothed to me on the condition that I will show you a beit kor of earth, she is betrothed, and he shall show her. And if he showed her land in a valley, i.e., a field that does not belong to him among other fields, she is not betrothed.

<sup>74</sup> GEMARA: With regard to the statement of the mishna that she is betrothed only if he actually possesses a beit kor of earth, the Gemara asks: And let us be concerned that perhaps he in fact possesses land of this size. And furthermore, it is explicitly taught in a baraita that we are concerned in this situation that perhaps he possesses land of this size. The Gemara answers: It is not difficult, as this case, the one in the mishna, is referring to a definite betrothal, which has not yet been established because he has not proven he owns a field of this kind; and that case, the one in the baraita, is referring to an uncertain betrothal.

<sup>75</sup> The Gemara asks: Why do I need this mishna to teach this halakha with regard to land, and why do I also need the previous mishna to teach the same ruling with regard to money? There is no clear difference between the two cases. The Gemara answers: It is necessary to state the halakha in both cases, as had one mishna taught us this halakha only with regard to money one might have said that it is only in that case that it is uncertain whether she is betrothed, because people tend to hide their money, and therefore his financial status might not be well known. But in the case of land, you might say that if he had land this fact would generate publicity, as one cannot hide land. The mishna therefore teaches us that it is also possible for him to own land without people being aware of it.

<sup>76</sup> § The mishna teaches: If one says to a woman: You are hereby betrothed to me on the condition that I possess land in such and such a place, if he possesses land in that place she is betrothed, but if not, she is not betrothed. The Gemara questions the need for this ruling: It is obvious that if he does not possess land in that place she is not betrothed, as that was precisely his condition. The Gemara explains that this ruling is necessary lest you say that he can say to her: What difference does it make to you whether the field is in that location or elsewhere, as even if it is farther away I will go to the trouble of bringing the produce from the field to our house, so what loss have you incurred? The mishna therefore teaches us that despite this claim the betrothal is invalid, due to his failure to fulfill the condition.

<sup>77</sup> § The mishna further teaches: If a one says to a woman: You are hereby betrothed to me on the condition that I will show you a beit kor of earth, she is betrothed, provided that he possesses such land. A Sage taught (Tosefta 3:6): The woman intended to see only his own land. The mishna further teaches: And if he showed her a plot of land in a valley, she is not betrothed. The Gemara asks: This is obvious; after all, this land does not belong to him. The Gemara answers: No, it is necessary in a case where he maintains the field as a sharecropper [distora], i.e., he owns a share in it. Nevertheless, as the land does not belong to him she did not have this field in mind, and consequently she is not betrothed.

<sup>78</sup> The Gemara comments: With regard to consecrated property, we learned in a mishna (Arakhin 25a):

<sup>79</sup> With regard to one who consecrates his field during the time of the Jubilee Year, i.e., in an era when the halakhot of the Jubilee Year are observed, if he wishes to redeem it from the Temple treasury he gives fifty silver shekels for an area that yields a ḥomer, i.e., a kor, of barley seed. If the field had crevices, i.e., deep fissures in its surface, ten handbreadths deep, or boulders ten handbreadths high, they are not measured with it, i.e., in the calculation of land that requires redemption. If the crevices or boulders are less than that, they are measured with it.

<sup>80</sup> And we discussed the following problem: Granted, that these areas are not consecrated together with the field, as they are ten handbreadths higher or lower than the rest of the land; but let the

crevices and boulders be consecrated by themselves, so that they should require their own redemption of fifty silver shekels per beit kor. And if you would say that as long as an area does not amount to a beit kor it is not important, the Gemara raises a contradiction against this claim from a baraita.

<sup>81</sup> The verse states with regard to one who consecrates his field: “Part of a field of his possession” (Leviticus 27:16). What is the meaning when the verse states this? Since it is stated in the same verse: “The sowing of a homer of barley shall be valued at fifty shekels of silver,” I have derived only that this halakha applies to one who consecrated in this manner, i.e., consecrated an area fit to sow a homer of barley. From where do I derive that this halakha includes a smaller area, e.g., one suitable for sowing a half-kor, and half of a half-kor, and the area for a se’a, and a tarkav, which is half a se’a, and half a tarkav, and even the area of a quarter-kav? The baraita restates its question: From where is it derived that these areas of land can also be consecrated and redeemed based on the fixed values of the Torah? The verse states “a field” in any case.

<sup>82</sup> Therefore, the Gemara’s question remains: Why aren’t the crevices and boulders measured by themselves? Mar Ukva bar Ḥama said: Here we are dealing with crevices filled with water. Due to the fact that they are not fit for sowing, the crevices are not considered a field. The Gemara comments: The language of the mishna is also precise, as it teaches the case of crevices, similar to the case of high boulders, which are also unsuitable for sowing. The Gemara affirms: Learn from this comparison that this explanation is correct.

<sup>83</sup> The Gemara asks: If so, i.e., if the crevices, like the boulders, are unfit for sowing, then even if there is a disparity of less than ten handbreadths as well, the crevices and boulders should likewise not be measured as part of the field. The Gemara answers: If they are separated from the field by less than ten handbreadths, these crevices are called the cracks in the ground. Similarly, boulders less than ten handbreadths high are called the spine of the ground. They are considered regular features of fields, which typically have a few pits and mounds.

<sup>84</sup> With regard to a sale of a field, we learned in a mishna (Bava Batra 102b): In the case of one who says to another: I am selling you a beit kor of earth, if there were crevices ten handbreadths deep or boulders ten handbreadths high in the field, they are not measured with it; if the crevices or boulders were less than that, they are measured with it. And Mar Ukva bar Ḥama says: Even if they are not filled with water, nevertheless they are not included.

<sup>85</sup> The Gemara asks: What is the reason for this difference between the two rulings of Mar Ukva bar Ḥama? Why in the case of a sale are crevices not considered part of the field even if they are not filled with water? Rav Pappa says: Because a person who buys a field does not want to give his money for one field and yet it appears to him like two or three places. When purchasing a parcel of land, it is important to the purchaser that the land be one contiguous unit so as to enable farming it without difficulty. Therefore, these areas of ten handbreadths are not measured as part of the field regardless of whether or not they are filled with water.

<sup>86</sup> Having discussed the halakhot of a field with regard to consecration and sales, the Gemara asks: What is the halakha here, with regard to measuring a field to see if it fulfills the condition stipulated by one who betroths a woman, if it contains large crevices that are not filled with water? Do we compare it to the halakha of consecrated property and include these places, or do we compare it to the halakha of a sale, which means that they are not included? The Gemara answers: It stands to

reason that we compare it to the case of consecrated property, as the husband can say to her: I will go to the trouble of sowing and bringing the produce from the lower or higher areas as well. Although the labor requires additional effort, he does possess a *beit kor* of land.

<sup>87</sup> MISHNA: Rabbi Meir says: Any condition that is not doubled, i.e., which does not specify both the result of fulfilling the condition and the result of the condition remaining unfulfilled, like the condition Moses stipulated with the children of Gad and the children of Reuben who sought to settle on the eastern side of the Jordan, is not a valid condition and is not taken into account at all. As it is stated: “And Moses said to them, if the children of Gad and the children of Reuben pass over the Jordan with you, every man armed for battle before the Lord, and the land shall be subdued before you, then you shall give them the land of Gilead for a possession” (Numbers 32:29). And it is written afterward: “But if they will not pass over armed with you, they shall receive a possession among you in the land of Canaan” (Numbers 32:30).

<sup>88</sup> Rabbi Ḥanina ben Gamliel says: One cannot derive the requirements of conditions in general from that particular case, as with regard to the nullification of the condition of the children of Gad and Reuben it was necessary to state the matter, as otherwise, if the verse had not specified both sides of the condition, it might have been thought it meant that they will not inherit even in the land of Canaan. One might have thought that if the tribes of Gad and Reuben would not fulfill the condition, they would forfeit their right to inherit anywhere. It was therefore necessary to specify that they would not lose their portion in Eretz Yisrael. Consequently, it is possible that with regard to a standard condition, where no such misunderstanding is likely to take place, it is not necessary to mention both sides.

<sup>89</sup> GEMARA: Rabbi Ḥanina ben Gamliel is saying well, i.e., presenting a reasonable objection, to Rabbi Meir. He apparently refuted Rabbi Meir’s opinion entirely. How would Rabbi Meir respond? The Gemara answers: Rabbi Meir could have said to you: If it enters your mind that the verse does not come to teach the requirement of a compound condition to stipulate both positive and negative outcomes, let it merely write: But if they will not pass over they shall receive a possession among you, which would indicate that they have a portion in the land. The verse actually proceeds to state: “In the land of Canaan.”

<sup>90</sup> Why do I need this extra phrase? Conclude from it that it comes to teach the requirement of a compound condition.

<sup>91</sup> And Rabbi Ḥanina ben Gamliel says: If the Merciful One had not written: “In the land of Canaan,” I would say that the requirement: “They shall receive a possession among you” (Numbers 32:30) is referring to the land of Gilead, i.e., this land must be shared with the other tribes. But they would not inherit in the land of Canaan at all. The Gemara asks: And how does Rabbi Meir respond to this claim? He maintains that the expression: “Among you,” means anywhere that you have taken possession, including the land of Canaan. Therefore, the subsequent phrase “the land of Canaan” is superfluous and serves to teach that the condition must be doubled.

<sup>92</sup> It is taught in a baraita with regard to this issue that Rabbi Ḥanina ben Gamliel said: Hear a parable: To what is this matter, i.e., the condition of the children of Gad and Reuben, comparable? It is comparable to a person who was dividing up his property among his sons, and said: My son so-and-so shall inherit such and such a field; and my son so-and-so shall inherit such and such a field;



and my son so-and-so shall give two hundred dinars and inherit such and such a field, and if he does not give the money he will inherit a part of the remainder of the property with his brothers.

<sup>93</sup> What causes the last brother to inherit a part of the remainder of the property with his brothers? The father's double formulation of the condition causes him to inherit in this manner. It was therefore necessary for the father to state both sides and explain what will happen if the third brother fails to give the money. Had the father not repeated the condition, upon failing to give the two hundred dinars the son would not have received any portion of the property.

<sup>94</sup> The Gemara asks: But the parable is not similar to the mishna, as there the mishna teaches: It might have been thought it meant that if they do not fulfill the condition they will not inherit even in the land of Canaan, and certainly not in the land of Gilead. This apparently indicates that the double formulation is also effective for them to inherit the land of Gilead with the other tribes. Otherwise, the children of Gad and Reuben would not receive any part of the Gilead either.

<sup>95</sup> And yet here the baraita teaches: What causes the last brother to inherit a part of the remainder of the property with his brothers? The father's double formulation causes him. This apparently indicates that the double formulation is effective for the rest of the property, whereas he would have received that portion of the field linked to the condition in any case. According to this reasoning, the children of Gad and Reuben would have been granted a portion in the land of Gilead even without the double formulation.

<sup>96</sup> The Gemara answers: This is not difficult, as this case, referring to Rabbi Ḥanina ben Gamliel's ruling in the mishna, was stated before Rabbi Meir said to him that the verse could simply have stated: "They shall receive a possession among you." At that stage, Rabbi Ḥanina ben Gamliel maintained that if the two tribes did not fulfill the condition they would not inherit even in the land of Gilead, as indicated by his use of the term: Even, in the mishna.

<sup>97</sup> Whereas that case, referring to the parable in the baraita, was taught after Rabbi Meir said to Rabbi Ḥanina ben Gamliel that when the phrase: "They shall receive a possession," appears by itself it is referring to the land of Canaan. As stated previously, Rabbi Ḥanina ben Gamliel responded by explaining that had the verse not stated: "In the land of Canaan," one would have said that the requirement: "They shall receive a possession among you" (Numbers 32:30), is referring to the land of Gilead, and they would not inherit in the land of Canaan. In other words, even without the compound condition they would have received a portion in Gilead, which is similar to the parable.

<sup>98</sup> § The Gemara proceeds to analyze these two opinions: Granted, according to the opinion of Rabbi Meir, who requires a compound condition, this is the reason that it is written, with regard to God's rebuke of Cain: "If you do well, shall it not be lifted up? And if you do not do well, sin crouches at the door" (Genesis 4:7). However, according to the opinion of Rabbi Ḥanina ben Gamliel, why do I need both sides of this stipulation to be specified? The Gemara answers: Were it not for the double formulation it might enter your mind to say that the verse means: If you do well shall you not receive a reward? And if you do not do well you will receive neither reward nor punishment. The double formulation of the verse teaches us that if Cain fails to do well he will be actively punished.

<sup>99</sup> The Gemara asks another question: Granted, according to the opinion of Rabbi Meir, this is the reason that it is written, with regard to Abraham's instruction to Eliezer to bring a wife for Isaac: "Then you shall be clear from my oath...if they will not give her to you" (Genesis 24:41). However,

according to the opinion of Rabbi Ḥanina ben Gamliel, why do I need this addition? The positive formulation of the oath already indicates the negative.

<sup>100</sup> The Gemara answers: It was necessary for this to be stated; if Abraham had stated only: “And take a wife for my son” (Genesis 24:38), it might enter your mind to say: In a case where the arrangement is satisfactory for her, but not satisfactory for her family, he should bring her against their wishes. The verse therefore teaches us that Eliezer is not obligated to bring her against her family’s wishes.

<sup>101</sup> The Gemara inquires about another verse in that chapter: “If the woman is not willing to follow you” (Genesis 24:8). Why do I need this clause? The Gemara answers: It was necessary, since it might enter your mind to say: If it is satisfactory for them but not satisfactory for her, he should bring her against her wishes. The verse therefore teaches us that he should not bring her against her wishes.

<sup>102</sup> The Gemara asks a related question: Granted, according to the opinion of Rabbi Meir, this is the reason that it is written: “If you walk in My statutes” (Leviticus 26:3), you will receive blessings; conversely: “And if you shall reject My statutes” (Leviticus 26:15), you will receive curses. However, according to the opinion of Rabbi Ḥanina ben Gamliel, why do I need both of these clauses? The Gemara answers: They are both necessary, as it might enter your mind to say: If you follow My statutes you will receive a blessing, whereas if you reject My statutes you will receive neither a blessing nor a curse. The verse therefore teaches us that the rejection of God’s statutes warrants a curse.

<sup>103</sup> The Gemara again inquires: Granted, according to the opinion of Rabbi Meir, this is the reason that it is written: “If you are willing and obedient you shall eat the good of the land” (Isaiah 1:19), whereas: “But if you refuse and rebel you shall be devoured by the sword” (Isaiah 1:20). But according to the opinion of Rabbi Ḥanina ben Gamliel, why do I need the double formulation? The Gemara answers in a similar fashion: It is necessary, as it might enter your mind to say: “If you are willing” you will receive good, i.e., reward, “but if you refuse” you will receive neither good nor bad. The verse therefore teaches us that this is not the case, and one who rebels will receive punishment.

<sup>104</sup> In connection with the verse from Isaiah, the Gemara asks: What is the meaning of the phrase:

<sup>105</sup> “You shall be devoured by the sword” (Isaiah 1:20)? Rava says: This verse should be interpreted as if it states: You shall devour the sword, i.e., you shall eat food that harms the body like a sword, e.g., coarse grains [gelalenita] of salt, hard barley bread, and onions. As the Master said: Dried bakery [purnei] bread eaten with salt and onions harms the body like swords.

<sup>106</sup> The Gemara asks: Granted, according to the opinion of Rabbi Ḥanina ben Gamliel, this is the reason that it is written with regard to a sota: “If no man has lain with you, and if you have not gone aside to uncleanness, being under your husband, you shall be free [hinnaki]” (Numbers 5:19), without specifying the negative side of this condition. But according to the opinion of Rabbi Meir, the verse should have stated: And if a man has lain with you, you should choke [ḥinnaki] and die. According to the opinion of Rabbi Meir, the verse should have clarified the other side of the condition and its ensuing punishment. Rabbi Tanḥum said: Indeed, a truncated form of hinnaki without the letter yod is written. This indicates that the word should be interpreted in two ways, as both hinnaki and ḥinnaki.

<sup>107</sup> The Gemara continues: Granted, according to the opinion of Rabbi Meir, this is the reason that it is written hinnaki without the yod, to allude to the other side of the condition. But according to the opinion of Rabbi Ḥanina ben Gamliel, why do I need this word to be written in this way? The Gemara answers: It is necessary, as it might enter your mind to say: If no man has lain with you, you shall be free, and if he has lain with you, you should neither be free nor choke; rather, it is merely a prohibition that does not warrant a severe punishment. The unusual form of the term hinnaki teaches us that this is not the case.

<sup>108</sup> Granted, according to the opinion of Rabbi Meir, this is the reason that it is written, with regard to one being purified with the water of purification from contact with a corpse: “He shall purify himself with it on the third day and on the seventh day, and he shall be pure; but if he does not purify himself on the third day and on the seventh day he shall not be pure” (Numbers 19:11–12). But according to the opinion of Rabbi Ḥanina ben Gamliel, why do I need this double formulation?

<sup>109</sup> The Gemara answers: It is necessary, as it might enter your mind to say: The mitzva of sprinkling the water of purification must be performed on the third and seventh days *ab initio*, but if he performed it on one of them alone, the ritual is considered performed and he is purified after the fact. The verse therefore teaches us that this is not the case.

<sup>110</sup> The Gemara asks about a later verse in the same chapter: “And the pure shall sprinkle on the impure on the third day and on the seventh day” (Numbers 19:19). Why do I need this repetition of the command? This was already stated earlier. The Gemara answers: It is necessary, as it might enter your mind to say that the third day excludes the second, i.e., he cannot receive the sprinkling of the water of purification before the third day, and similarly the seventh excludes the sixth day, because he thereby decreases the days of purity before the sprinkling. But if he performed the sprinkling on the third and on the eighth days, in which case he increases and adds to the days of purity, you might say that this is proper. The verse therefore teaches us that there must be a fixed interval of four days between each sprinkling ritual.

<sup>111</sup> The Gemara further analyzes this verse: Why do I need the phrase: “And on the seventh day he shall purify him” (Numbers 19:19)? The Gemara answers: It is necessary, as it might enter your mind to say: This matter, i.e., the requirement to receive the sprinkling twice, applies only for eating and touching consecrated meat; but for partaking of *teruma* one sprinkling is also sufficient. The verse therefore teaches us that this is not the case.

<sup>112</sup> MISHNA: With regard to one who betroths a woman and later says: When I betrothed her I thought that she was the daughter of a priest, and it turned out that she is the daughter of a Levite, or if he claims that he thought she was the daughter of a Levite and she is actually the daughter of a priest, or if he claims that he thought she was poor and she is wealthy; or wealthy and she is poor, in all of these cases she is betrothed, because she did not mislead him, and no explicit condition was stated with regard to these matters.

<sup>113</sup> With regard to one who says to a woman: You are hereby betrothed to me after I convert, or: After you convert, or if he was a Canaanite slave and says: After I am emancipated, or if she was a Canaanite maidservant and he says: After you are emancipated, or if he says to a married woman: After your husband dies, or to his wife’s sister: After your sister dies, or if he says to a woman awaiting levirate marriage or *ḥalitza* from a brother-in-law [*yavam*], who in the opinion of this tanna

cannot be betrothed by another man: After your yavam performs ḥalitza for you, in all these cases she is not betrothed. Since he cannot betroth her at the present time, his attempt at betrothal is ineffective.

<sup>114</sup> And similarly, with regard to one who says to another: If your wife gives birth to a female the child is hereby betrothed to me, even if she becomes pregnant, or is pregnant but her pregnancy is not known, if she gives birth to a girl, that child is not betrothed to him. But if he said this when the wife of the other man was pregnant and her fetus was discernible at the time, i.e., her pregnancy was known, his statement is upheld, and therefore if she gives birth to a girl, the child is betrothed to him.

<sup>115</sup> GEMARA: We learned in a mishna there (Terumat 1:5): One may not separate teruma from produce that has been detached from the ground for, i.e., to render permitted, produce that is attached to the ground. Produce still attached to the ground is not included in the obligation of teruma. And if he separated teruma in this manner, his teruma is not teruma, even after the produce has been detached from the ground.

<sup>116</sup> Rav Asi raised a dilemma before Rabbi Yoḥanan: What is the halakha if one said: The detached produce of this garden bed should be teruma for the attached produce of this garden bed; or: The attached produce of this garden bed should be teruma for the detached produce of this garden bed, not now but when they will be detached; and the produce was subsequently detached? Rabbi Yoḥanan said to him: Anything that is in one's power to perform is not considered lacking in its action. Since he could theoretically detach the produce at this very moment, teruma can be separated from it.

<sup>117</sup> Rav Asi raised an objection to the opinion of Rabbi Yoḥanan from the mishna. With regard to one who says to a woman: You are hereby betrothed to me after I convert, or: After you convert, or: After I am emancipated, or: After you are emancipated, or: After your husband dies, or: After your sister dies, or: After your yavam performs ḥalitza for you, in all of these cases she is not betrothed.

<sup>118</sup> Rav Asi explains his objection: Granted, in all of these cases but one it is not in his power to bring about the situation when he will be able to betroth her, but in the case of a convert, the matter is in his power, as he could convert now if he so chooses. According to the opinion of Rabbi Yoḥanan, any action that could potentially be performed is considered as though it has actually been performed. The Gemara responds: In the case of a convert, it is also not in his power to convert whenever he wants, as Rabbi Ḥiyya bar Abba says that Rabbi Yoḥanan says:

<sup>119</sup> A convert requires the presence of three Jews for his conversion. What is the reason for this requirement? It is written with regard to a convert: "You shall have one manner of law, for the convert as for the homeborn" (Leviticus 24:22), which indicates that a conversion is considered a judgment that requires three judges. And if he requires three judges, who says that those three will be available to him? Since he cannot convert at a time of his choosing, it is not considered within his power to convert.

<sup>120</sup> Rabbi Abba bar Memel objects to this: If that is so, and anything that is in one's power to perform is not considered lacking in its action, one who gives one peruta to his Canaanite maidservant and says: You are hereby betrothed to me after I emancipate you, so too will you say that it is a betrothal because he has the power to emancipate her? The Gemara rejects this suggestion: How can these cases be compared? There, the Canaanite maidservant initially had the legal status of an animal, i.e., she is not subject to betrothal at all, whereas now she has an independent mind. Once

she has been emancipated she has the status of a Jew and is not considered the same person at all. Consequently, the attempted betrothal is certainly considered lacking an action.

<sup>121</sup> The Gemara asks: But that which Rabbi Oshaya says: With regard to one who gives one peruta to his wife and says to her: You are hereby betrothed to me after I divorce you, she is not betrothed, so too according to the opinion of Rabbi Yoḥanan will you say that it is a betrothal because he has the power to divorce her? The Gemara answers: Although he has the power to divorce her, does he have the power to betroth her against her will? It is not in his power to effect the betrothal, as once she has divorced him the matter is no longer exclusively dependent upon him.

<sup>122</sup> The Gemara comments: Being that it is not in his power to effect the betrothal, you can use this logic to resolve the dilemma raised by Rav Oshaya: What is the halakha with regard to one who gives two perutot to a woman, and with one he says to her: Be betrothed to me today, and with the other one he says to her: Be betrothed to me after I divorce you? What is her status after he divorces her? That dilemma was left unanswered, and the Gemara suggests that you can resolve from here that it is not a betrothal. The Gemara explains that this case is different, and Rav Oshaya's dilemma was actually as follows: Perhaps in that situation, just as the betrothal is effective now, it is also effective afterward. Since she is currently under her own authority and agrees to betroth herself to him, it is possible that she can now consent to a betrothal that will take effect at a later time.

<sup>123</sup> The Gemara comments: It is taught in a baraita in accordance with the opinion of Rabbi Yoḥanan: One may not separate teruma from the detached for the attached, and if he separated teruma, his teruma is not teruma. How so? If he said: The detached produce of this garden bed will be teruma for the attached produce of this garden bed, or: The attached produce of this garden bed will be teruma for the detached produce of this garden bed, he has not said anything of consequence, as the obligation to separate teruma applies only to detached produce. But if he said that the attached produce will be teruma when they will be detached, and they become detached, his statement is valid, as he has the power to detach them.

<sup>124</sup> Moreover, Rabbi Eliezer ben Ya'akov said that even if one said: The detached produce of this garden bed will be teruma for the attached produce of this garden bed, or: The attached produce of this garden bed will be teruma for the detached produce of this garden bed when they, i.e., the attached produce, will reach one-third of their growth and are detached, although at the time they had yet to ripen which means that the obligations of terumot and tithes do not apply to them, when they will reach one-third of their growth and are detached, his statement is upheld.

<sup>125</sup> Rabba says: Rabbi Eliezer ben Ya'akov says this ruling only with regard to fodder, produce that has grown stalks even if it is not yet ripe. But he did not refer to produce that is still completely soft [agam]. Rav Yosef says: He even referred to soft produce. In relation to this dispute, the Gemara asks: From where may it be inferred that this word agam is a term of growth [butzlana]? The Gemara answers that Rabbi Elazar said that this is as the verse states: "Is it to bow down his head as a bulrush [ke'agmon]" (Isaiah 58:5), i.e., like a soft, drooping plant.

<sup>126</sup> § The Gemara asks: In accordance with whose opinion is that which is taught in the following baraita: With regard to one who says to another: If your wife gives birth to a female she is betrothed to me, he has not said anything? And Rabbi Ḥanina says: They taught this halakha only in a case where the other's wife is not pregnant. But if his wife is pregnant his statement is upheld. In accordance with whose opinion is this ruling? The Gemara answers: The baraita can be explained in

accordance with everyone's opinion. If it is in accordance with the opinion of Rabba, it is referring to a situation where her fetus was already noticeable, just as the stalks of fodder are recognizable. If it is in accordance with the opinion of Rav Yosef, the halakha of the baraita applies even if her fetus was not yet noticeable.

<sup>127</sup> And there are those who say a different version of this dispute. Rabba says: Rabbi Eliezer ben Ya'akov says his ruling only with regard to fodder of a non-irrigated field, which is not watered. But he did not speak about fodder of an irrigated field. Since the produce of this field will not grow on its own if it is not watered, it is not considered as if this produce has entered the world. Rav Yosef said: Rabbi Eliezer ben Ya'akov referred even to fodder of an irrigated field, as this produce too is treated as having entered the world when it reaches the stage of fodder.

<sup>128</sup> The Gemara asks: According to this version of the dispute, in accordance with whose opinion is that which is taught in the following baraita: If one says to another: If your wife gives birth to a female she is betrothed to me, he has not said anything? And Rabbi Ḥanina says: They taught this only when his wife is not pregnant, but if his wife is pregnant his statement is upheld. In accordance with whose opinion is this ruling? The baraita must be referring to a case where her fetus was noticeable, and therefore everyone agrees with this ruling. The baraita is in accordance with the opinions of both Rabba and Rav Yosef, as even Rav Yosef agrees that Rabbi Eliezer ben Ya'akov was referring only to fodder whose stalks were already noticeable.

<sup>129</sup> Abaye says: Rabbi Eliezer ben Ya'akov, and Rabbi Yehuda HaNasi, and Rabbi Meir all hold the following principle: A person can transfer an entity that has not yet come into the world. That is, one can perform an act of acquisition for an item that is not yet in existence. The opinion of Rabbi Eliezer ben Ya'akov is referring to that which we just said, that one can separate teruma even for produce not yet included in this mitzva. Where does Rabbi Yehuda HaNasi state a similar opinion? As it is taught in a baraita:

<sup>130</sup> With regard to the verse: "You shall not deliver a slave to his master" (Deuteronomy 23:16), Rabbi Yehuda HaNasi says: The verse is speaking of one who acquires a slave, not to enslave him but in order to emancipate him. The court may not deliver the slave to this master, as this master has no right to enslave him. The Gemara asks: What are the circumstances of this case? Rav Naḥman bar Yitzḥak says: For example, if the new master wrote to the slave in his bill of manumission: When I will purchase you, you are hereby acquired to yourself from now. In that case the slave acquires himself from that moment, despite the fact that the buyer does not own him. This shows that Rabbi Yehuda HaNasi maintains that a person can transfer an item that has not yet entered the world, as one can emancipate his slave before acquiring him.

<sup>131</sup> Rabbi Meir also holds that one can transfer an entity that has not yet come into the world, as it is taught in a baraita: With regard to one who says to a woman: You are hereby betrothed to me after I convert, or: After you convert, or: After I am emancipated, or: After you are emancipated, or: After your husband dies, or: After your sister dies, or: After your yavam performs ḥalitza for you, she is not betrothed. Rabbi Meir disagrees and says: She is betrothed. Rabbi Yoḥanan HaSandlar says: She is not betrothed.

<sup>132</sup> Rabbi Yehuda HaNasi says that in some of these cases, by Torah law she is betrothed. And for what reason did the Sages say she is not betrothed? Due to enmity. Giving betrothal to a married woman that will take effect after her husband dies can engender enmity between the woman and her

husband. Giving betrothal to one sister that depends on the death of the other can engender enmity between the sisters. Nevertheless, Rabbi Meir and Rabbi Yehuda HaNasi maintain that one can betroth a woman who is currently forbidden to him.

<sup>133</sup> The Gemara asks: And let us also count Rabbi Yehuda HaNasi among those who maintain that a person can acquire an entity that has not yet come into the world. The reason it asks is that Rabbi Yehuda HaNasi is merely called Rabbi above. The Gemara answers: Rabbi Yehuda HaNasi is the same as Rabbi Yehuda HaNasi; they are one person.

<sup>134</sup> The Gemara asks: And let us also count Rabbi Akiva, as it is taught in a mishna (see Nedarim 85a): If a woman stated a vow to her husband: I will not produce anything for you, including the work that she is obligated to do for him according to the terms of her marriage contract, as that is *konam*, i.e., forbidden like an offering, for me, her husband need not nullify the vow at all. It is automatically void, since she is obligated to perform those tasks.

<sup>135</sup> Rabbi Akiva says: He should nevertheless nullify the vow, as perhaps she will exceed the required amount of work and do more for him than is fitting for him to receive. If she does more than the fixed amount of work that a woman is obligated to perform for her husband, the vow will be valid with respect to the excess to which he is not legally entitled, and he might inadvertently come to benefit from something that is forbidden to him. That excess is an entity that has not yet come into the world. The Gemara rejects this suggestion: Wasn't it already stated with regard to this ruling that Rav Huna, son of Rav Yehoshua, says: This is referring to a woman who says: Let my hands be sanctified to their Maker? She sanctifies her actual hands, and these hands exist in the world; therefore the vow takes effect.

<sup>136</sup> MISHNA: With regard to one who says to a woman: You are hereby betrothed to me on the condition that I will speak in your favor to the authorities, e.g., to help her address some legal matter, or: On the condition that I will act for you as a laborer, if he spoke in her favor to the authorities or acted for her as a laborer, she is betrothed. But if not, she is not betrothed.

<sup>137</sup> GEMARA: Reish Lakish says: And this halakha applies only if he gave her an item worth one peruta at the time of the betrothal. She is not betrothed via his recommendation to the authorities or via the work itself, as these are merely conditions appended to the betrothal. The Gemara asks: And is she not betrothed by the monetary value of his recommendation or action? But isn't it taught in a baraita that if one says to a woman: You are hereby betrothed to me by the monetary value you received when I had you ride on a donkey, or: By the monetary value you received when I had you sit on a wagon [*karon*], or: By the monetary value you received when I had you ride in a boat, she is not betrothed, as she has already done the action and therefore owes him this debt, and one cannot betroth a woman with a loan.

<sup>138</sup> But if he says to her: By the monetary value you will receive when I will have you ride on a donkey, or: By the monetary value you will receive when I will have you sit on a wagon, or: By the monetary value you will receive when I will have you ride in a boat, she is betrothed. And if you would say that here too, it is referring to a case where he gave her an item worth one peruta, the baraita says: By the monetary value, which indicates that she is betrothed via this sum.

<sup>139</sup> And furthermore, it is taught in a baraita that if a woman says to a man: Sit together with me and I will be betrothed to you, or: Perform entertainment before me, or: Dance before me, or: Perform work for me like this layer [*dimus*] of a building, the court appraises the monetary value of his

action. If the action he performs for her is worth the value of one peruta, she is betrothed, but if not, she is not betrothed. And if you would say that here too, it is referring to a case where he gave her an item worth one peruta, and the betrothal is with that; but the baraita says: The court appraises it. If this were merely a condition, there would be no need for an appraisal. Isn't this a conclusive refutation of the opinion of Reish Lakish?

<sup>140</sup> The Gemara answers that Reish Lakish could have said to you: This tanna of the baraita maintains that the obligation to pay a person's wage is incurred only at the end of the period for which he was hired. Consequently, she is betrothed via money rather than by a loan. And the tanna of our mishna maintains that the obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end. Since the debt accumulates throughout the duration that the service is performed, by the time he has finished the work she owes him the entire sum, and a debt cannot be used for a betrothal.

<sup>141</sup> The Gemara asks: And what forces Reish Lakish to establish the mishna in accordance with the opinion that the obligation to pay a wage is incurred continuously from the beginning of the period he was hired to its end, and that it is referring to a case where he gave her the value of one peruta? Why does he reject the possibility that the mishna is referring to one who did not give an extra peruta, and instead he betrothed her with the value of the service he performed, in accordance with the opinion that the obligation to pay a person's wage is incurred only at the end of the period for which he was hired?

<sup>142</sup> The Gemara replies: Rava said that the mishna was difficult for Reish Lakish: Why does the tanna specifically teach: On the condition? Let him teach: By the monetary value, as stated in the baraita. Rather, conclude from it that any statement of: On the condition, is referring to a stipulation, and therefore the mishna must be dealing with a case where he has already given her the value of one peruta. Consequently, the value of his service cannot be the money for the betrothal itself, and instead serves as a later condition.

<sup>143</sup> MISHNA: With regard to one who betroths a woman and says to her that the betrothal is: On the condition that my father will want this betrothal, if his father wants it, she is betrothed; but if not, she is not betrothed. If the father dies, she is betrothed, despite the fact that he did not reveal his wishes. If the son dies, one instructs the father to say that he does not want the betrothal, so that the betrothal will never have taken effect, thereby enabling her to avoid the requirement of levirate marriage.

<sup>144</sup> GEMARA: What is the meaning of: On the condition that my father will want this betrothal? If we say it means they are not married until his father says yes, indicating his agreement, then say the middle clause of the mishna: If the father dies, she is betrothed. But how can she be betrothed? After all, he did not say yes, and the condition was not fulfilled. Rather,

<sup>145</sup> the phrase: On the condition that my father wants this betrothal, means: On the condition that my father will remain silent and will not object when he hears of the betrothal. But if this is the case, say the last clause of the mishna: If the son died, one instructs the father to say that he does not want the betrothal. Why should this matter? After all, he remained silent when he first heard about it. Clearly his mere silence does not constitute agreement. Rather, one must say that the phrase: On the condition that my father wants this betrothal, means that he said to her: On the condition that my father will not object to this betrothal at any point in time.



<sup>146</sup> The Gemara asks: Wouldn't this mean that the first clause of the mishna describes one reason, i.e., one set of circumstances, and the middle clause and last clause describe one other reason? Rabbi Yannai said: Yes, this is so. Reish Lakish said: Conclude from his statement that according to the opinion of Rabbi Yannai one forces a mishna to be explained as following two reasons, and in accordance with the opinion of one tanna, rather than establishing a mishna as following the opinions of two tanna'im and one reason. In other words, an interpretation that maintains the unified attribution of one mishna is preferable, even if one is thereby forced to say that it addresses different situations.

<sup>147</sup> Rav Yosef bar Ami said: Actually, the entire mishna is addressing one reason, i.e., one case, and what is the meaning of: On the condition that my father wants the betrothal? It means: On the condition that my father will not object from now and until thirty days have elapsed. His silence for thirty days indicates his acceptance of the betrothal.

<sup>148</sup> MISHNA: With regard to a man who said: I betrothed my minor daughter to someone but I do not know to whom I betrothed her, and one man came forward and said: I betrothed her, his claim is deemed credible. If two men stepped forward and this one said: I betrothed her, and that one said: I betrothed her, they must both give her a bill of divorce to render it permitted for her to marry anyone else. And if they so desire, one of them gives her a bill of divorce and the other one may marry her.

<sup>149</sup> GEMARA: Rav says: When the mishna states that the claim of one who says that he betrothed this girl is deemed credible, it means that he is deemed credible to the extent that he may give her a bill of divorce, but he is not deemed credible to marry her. He is deemed credible to give her a bill of divorce, as there is a presumption that a person sins only for his own benefit. No one is suspected of sinning when he does not stand to gain from it. Since he is not allowed to marry her himself, we do not say that he lied without purpose. But he is not deemed credible to marry her, as we say that his inclination might have overcome him, leading him to falsely claim that he is the one who betrothed her.

<sup>150</sup> Rav Asi disagrees with Rav's interpretation of the mishna and says: He is deemed credible even to marry her, as he would not dare to lie directly to the father of the girl he claims to have betrothed. And Rav Asi concedes in the case of a woman who says: I became betrothed but I do not know to whom I became betrothed, and one man came and said: I betrothed her, that he is not deemed credible to marry her. In this situation she might have agreed to collude with him, as the Gemara will explain.

<sup>151</sup> The Gemara raises a difficulty: We learned in the mishna that if they so desire, one of them gives her a bill of divorce and the other one may marry her. This is apparently a conclusive refutation of the opinion of Rav, who says that he may not marry her. The Gemara answers: Rav could have said to you: There, in our mishna, it is different, as, since there is another person with him also claiming to have betrothed her, he is afraid to lie.

<sup>152</sup> The Gemara comments: It is taught in a baraita in accordance with the opinion of Rav Asi: If a man said: I have betrothed my daughter to someone but I do not know to whom I betrothed her, and one person came forward and said: I betrothed her, he is deemed credible even to marry her. If that person married her, and another man came forward and said: It was I who betrothed her, it is not within the second man's power to prohibit her to her husband.

<sup>153</sup> The baraita cites another case: With regard to a woman who said: I became betrothed but I do not know to whom I became betrothed, and one man came and said: I betrothed her, he is not deemed credible to marry her. Why not? Because she is protecting him. Perhaps she decided only now that she wants to marry him and is therefore identifying him as the man who betrothed her, although she knows it was someone else. The same suspicions do not arise in the case of a father, who has no inclinations in this regard.

<sup>154</sup> § A dilemma was raised before the Sages: In the case of the mishna, where the father claims to have betrothed his daughter to someone, what is the halakha with regard to stoning based on the father's account? Is a father who says: I betrothed my daughter, deemed credible to the extent that she is stoned as an adulteress if she engages in sexual intercourse with someone? Rav says the court does not stone her, and Rav Asi says the court stones her.

<sup>155</sup> The Gemara elaborates: Rav said that the court does not stone her, because when the Merciful One deems the father credible when he says he betrothed his daughter, this is referring only to the prohibition against her marrying anyone else. By contrast, with regard to killing her, the Torah did not deem him credible. Rav Asi said: The court stones her, as the Merciful One deems the father credible with regard to all matters, including the death penalty. Rav Asi says: And I concede in the case of a woman who says: I became betrothed, that the court does not stone her on the basis of her own admission.

<sup>156</sup> And Rav Asi says: These halakhot of mine are roof breakers, i.e., they are difficult and incomprehensible. Rav Asi explains: Now, in a case where a father said: I have betrothed my daughter to someone but I do not know to whom, where if someone came to marry her he is deemed credible and may marry her, which means you say that the court then stones her on the basis of the father's testimony if she later commits adultery, is it not logical that the court should stone her in a case where a woman said: I became betrothed but I do not know to whom, thereby prohibiting herself to everyone to the extent that if someone came to marry her he may not marry her?

<sup>157</sup> But that is not so, i.e., Rav Asi's rulings are in fact reasonable: The Merciful One deems credible a father who says that his daughter is betrothed, and therefore she can even be stoned, but the Torah did not deem her, i.e., the woman herself, credible in this regard. She does not receive a special degree of credibility, and although she can declare herself a forbidden item, i.e., she can render herself forbidden to all men, as far as punishment is concerned her claim is treated by a court in accordance with the regular rules of evidence.

<sup>158</sup> And Rav Ḥisda said: Both in this case, when the father says: I betrothed my daughter, and in that case, when she herself says: I became betrothed, the court does not stone her. The Gemara comments: And Rav Ḥisda follows his standard line of reasoning, as Rav Ḥisda says that if a father declared: This son of mine is nine years and one day old, or: This daughter of mine is three years and one day old, and the son engaged in intercourse with a woman forbidden to him, or the daughter engaged in intercourse with a man forbidden to her, he is deemed credible concerning his children's ages with regard to the requirement for the adult to bring an offering if they performed the act unwittingly, but not with regard to their receiving the punishment of lashes and not with regard to other punishments.

<sup>159</sup> The Gemara comments: It is taught in a baraita in accordance with the opinion of Rav Ḥisda that if one said: This son of mine is thirteen years and one day old, or: This daughter of mine is twelve years and one day old,

<sup>160</sup> the father is deemed credible concerning the ages of his children with regard to vows, i.e., any vow they make is valid; and with regard to dedications, i.e., if they consecrate an item by saying it should be dedicated to God; and with regard to consecrations and with regard to valuations, i.e., vows to donate to the Temple treasury the fixed valuation of oneself or others. In all these cases their vows are valid. But the father is not deemed credible with regard to lashes of the court, or with regard to other corporal punishments for transgressions they have committed, as the testimony of one witness, especially that of a family member, is insufficient for this purpose.

<sup>161</sup> MISHNA: If a father says: I betrothed my minor daughter to someone, or: I betrothed her to someone and accepted her divorce when she was a minor girl, and she is still a minor girl at the time of this statement, he is deemed credible to render her forbidden to all other men as a married woman, or to a priest as a divorced woman. But if he says: I betrothed her to someone and accepted her divorce when she was a minor, and she is an adult woman at the time of his declaration, his statement is not deemed credible. Likewise, if he says: She was taken captive and I redeemed her, he is not deemed credible to disqualify her from marrying a priest whether she was a minor girl or an adult woman.

<sup>162</sup> GEMARA: The Gemara asks: What is different in the first clause of the mishna and what is different in the latter clause? Why is the father deemed credible when she is a minor but not when she is an adult or to testify that she was taken captive? The Gemara answers: In the first clause it is still in his power to betroth her, and therefore he is deemed credible when he says that he did so earlier. By contrast, in the latter clause it is not in his power to betroth her, as one cannot betroth his adult daughter. Likewise, as it is not permitted for him to disqualify her by handing her over to a gentile, either when she is a minor or when she is an adult, he is not deemed credible when he says that she was taken captive.

<sup>163</sup> The Gemara asks: But does a father not have the power to disqualify his daughter? But it is in his power to marry off his minor daughter to a ḥalal, i.e., the son of a priest who married a woman prohibited to him, which thereby disqualifies her from marrying into the priesthood. The father should therefore be deemed credible when he claims that she was taken captive.

<sup>164</sup> The Gemara responds: This is not difficult, as one can say that the mishna is in accordance with the opinion of Rabbi Dostai ben Yehuda, who says: The daughters of Israelites are a ritual bath of purity for individuals of ḥalal status. In other words, an Israelite woman who marries a ḥalal purifies their children, i.e., renders their children fit, in that any daughter born to them is qualified to marry a priest. Similarly, the woman herself does not become disqualified by her intercourse with the ḥalal, and she may marry a priest if her husband dies. If so, a father does not have the power to disqualify his daughter from marrying into the priesthood.

<sup>165</sup> The Gemara challenges: But it is in the father's power to marry her off to a mamzer, thereby disqualifying her from the priesthood. The Gemara answers: This tanna holds in accordance with the opinion of Rabbi Akiva, who says: Betrothal does not take effect even with those women with whom one is only liable for violating a prohibition of engaging in intercourse and not a more severe

prohibition that would render one liable for karet or capital punishment, so betrothal does not take effect with a mamzer.

<sup>166</sup> The Gemara further challenges: But it is in the father's power to marry her off as a widow to a High Priest, and this is in accordance with the opinion of Rabbi Simai, as it is taught in a baraita that Rabbi Simai says: In all cases Rabbi Akiva deems the child a mamzer, i.e., he considers the offspring of all forbidden acts of intercourse to be mamzerim, apart from a widow to a High Priest, as the Torah stated with regard to a High Priest: "A widow...shall he not take...and he shall not profane [yehallel] his seed" (Leviticus 21:14–15). From this verse it is derived: He renders his children ḥalalim by means of this relationship, but he does not render them mamzerim. Since this act of intercourse does not produce mamzerim, Rabbi Akiva agrees that betrothal is effective in this case.

<sup>167</sup> The Gemara answers: The tanna of the mishna holds in accordance with the opinion of Rabbi Yeshevav, who says: Come, let us shout at Akiva ben Yosef, who would say: In every case where a Jew may not engage in intercourse with a particular woman, and he does so, the offspring that results from this union is a mamzer. This indicates that according to Rabbi Akiva all acts of forbidden intercourse produce mamzerim. Consequently, betrothal is of no effect in the case of any prohibition, including a widow to a High Priest, which means that a father cannot disqualify his daughter from the priesthood.

<sup>168</sup> The Gemara asks: This mishna can work out well even according to the opinion of Rabbi Yeshevav if he states a reasoning of his own, i.e., he states an independent statement critical of Rabbi Akiva's ruling that the child of any illicit union is a mamzer. Then, the ruling of the mishna is well, as it is a categorical statement that applies to all illicit unions. But if he comes to exclude the reason of Rabbi Simai, i.e., he means to take issue with the ruling of Rabbi Akiva in the specific case mentioned by Rabbi Simai, that of a widow to a High Priest, then Rabbi Yeshevav too concedes that according to the opinion of Rabbi Akiva, betrothal does take effect in a case where a positive mitzva is violated by the betrothal. Accordingly, it is in the father's power to marry her to those with whom intercourse renders them liable for the violation of positive mitzvot, as Rabbi Akiva's principle does not include cases of this kind.

<sup>169</sup> Rav Ashi says: And how can you understand it that way? Can it be that the reason for the halakha in the first clause of the mishna is because it is in his power? Although it is in his power to betroth her, is it in his power to divorce her? And furthermore, if this one, the prospective husband, says that it is not satisfactory for him to betroth her, can her father betroth her to him against his will? A father cannot betroth his daughter to whomever he chooses without taking the man's wishes into account.

<sup>170</sup> Rather, Rav Ashi says: In the first clause of the mishna, the reason is that the Merciful One believes him, in accordance with the opinion of Rav Huna, as Rav Huna says that Rav says: From where is it derived that a father is deemed credible to render his daughter forbidden as a betrothed woman by Torah law? As it is stated: "I gave my daughter to this man [la'ish hazzeh]" (Deuteronomy 22:16). When the father said that he married her to "the man [la'ish]," he rendered her forbidden to all men. When he then said "this [hazzeh]," he rendered her permitted to this specific man, her husband.

<sup>171</sup> Rav Ashi explains the ruling of the mishna: The Merciful One deems the father credible with regard to marriage, whereas He does not deem him credible with regard to a captive. The Torah did not grant a father any special credibility with regard to the claim that his daughter was taken captive.

<sup>172</sup> MISHNA: With regard to one who said at the time of his death: I have children, in which case his wife does not require levirate marriage after his death, he is deemed credible. But if he said on his deathbed: I have brothers, indicating that it is prohibited for her to marry anyone else until one of his brothers performs ḥalitza with her after his death, he is not deemed credible.

<sup>173</sup> GEMARA: Apparently, one can infer from the mishna that a husband is deemed credible to render his wife permitted but he is not deemed credible to render her forbidden. The Gemara suggests: Shall we say that the mishna is not in accordance with the opinion of Rabbi Natan?

<sup>174</sup> As it is taught in a baraita: If someone said at the time of his betrothal that he has children, but at the time of his death he said that he does not have children; or if he said at the time of betrothal that he does not have brothers, and at the time of death he said he has brothers, in both cases he is deemed credible to render her permitted, i.e., to release her from the obligation of levirate marriage on the basis of his first statement, but he is not deemed credible to render her forbidden based on his last claim. This is the statement of Rabbi Yehuda HaNasi. Rabbi Natan says: He is deemed credible even to render her forbidden.

<sup>175</sup> Rava says: There, in the baraita, it is different, since at the time of his death he retracted his initial statement. Therefore, one can say that it is likely that he spoke the truth. In general, however, he is not deemed credible to render her forbidden. Abaye said to him: And isn't it all the more so that he should be deemed credible in this case? Abaye elaborates: Now consider, if there, where he weakens his previous statement, as he now says the opposite of his earlier claim, nevertheless you say that he spoke the truth, in the case of the mishna, where he does not weaken his earlier statement, as he had issued no prior claim about having or lacking children or brothers, is it not all the more so that he should be deemed credible?

<sup>176</sup> Rather, Abaye said: The mishna is referring to a case where we do not have a presumptive status with regard to possible brothers of his, and likewise we do not have a presumptive status with regard to his children. The court has no prior knowledge as to whether the dying man has brothers or children. As we say: Since we do not have presumptive status with regard to either children or brothers, if he said: I have children, he is deemed credible, whereas if he said: I have brothers, he is not deemed credible. Why? It is not in his power to render her forbidden to everyone, counter to the presumption that he has no brothers. By contrast, the baraita is referring to

<sup>177</sup> a case where we have a presumptive status that he has brothers, but we do not have a presumptive status that he has children, although no full-fledged testimony has been submitted for either claim. As in that case we say and apply the logic of: Why would I lie? In other words, if he were lying he would have stated a more credible claim or performed an action achieving the desired result. The Gemara explains: For what reason is he saying that he has children or that he has no brothers, if not to exempt her from a yavam? But if so, he can say to her instead: I exempt you by means of a bill of divorce. Consequently, it can be assumed that he is telling the truth when he says that he has children.

<sup>178</sup> In light of the above explanation, the Gemara clarifies the dispute in the baraita. Rabbi Yehuda HaNasi maintains that the claim of: Why would I lie, is considered like the testimony of witnesses, and witnesses can come and uproot a presumption. Therefore, he does not have the power to contradict his previous claim and say that he has no children and render her forbidden at the time of his death. And Rabbi Natan maintains that: Why would I lie, is considered like a presumption, and a

presumption cannot come and uproot another presumption entirely. As a result, he is deemed credible even for the purpose of rendering her forbidden, i.e., if he says at the time of his death that he has no children, the earlier presumption that he had brothers, but no children, is reinstated.

<sup>179</sup> MISHNA: In the case of one who betroths his daughter to a man without specification, i.e., without specifying which daughter he meant, the grown women are not included among those who might be betrothed, since he does not have the right to betroth them. With regard to one who has two groups of daughters from two women, i.e., one group of daughters from each wife, and he said: I betrothed my elder daughter to someone but I do not know if I meant the eldest of the older group of daughters, or the eldest of the younger group of daughters, or the youngest of the older group, who is nevertheless older than the eldest of the younger group, all the daughters are forbidden, except for the youngest of the younger group. This is the statement of Rabbi Meir. Rabbi Yosei says: Despite the uncertainty, they are all permitted except for the eldest of the older group, as one who says elder without further specification means the oldest of them all.

<sup>180</sup> Similarly, if one said: I betrothed my younger daughter, but I do not know if I meant the youngest of the younger group, or the youngest of the older group, or the eldest of the younger group who is younger than the youngest of the older group, they are all forbidden, except for the eldest of the older group. This is the statement of Rabbi Meir. Rabbi Yosei says: They are all permitted except for the youngest of the younger group.

<sup>181</sup> GEMARA: The Gemara asks: From the ruling of the mishna, that one who betroths his daughter without further specification certainly did not betroth an adult daughter, it may be inferred that all minor girls are included in the uncertainty if he had more than one.

<sup>182</sup> One can learn from the mishna that betrothal that is not given to consummation, i.e., where the husband may not consummate the marriage, in this case because each of the women might not be his wife but his wife's sister, is nevertheless considered betrothal to the extent that each of the women requires a bill of divorce to render her permitted to marry someone else. This contradicts the opinion of Rava that betrothal that is not given to consummation does not take effect at all. The Gemara rejects this: Here we are dealing with a case in which there are only two daughters, an adult woman and a minor girl.

<sup>183</sup> The Gemara questions this explanation: But the mishna teaches: Grown women, in the plural. The Gemara explains: What is the meaning of grown women? The mishna is not referring to a father who has more than one adult daughter. Rather, it means grown women in general. In other words, whenever men betroth one of their daughters, their daughters who are grown women are not under consideration.

<sup>184</sup> The Gemara asks a different question: This halakha is obvious, as what are grown women doing in this context, i.e., how could it be suggested that a father could betroth to a man his daughter who is a grown woman? His authority extends only to his minor daughters. The Gemara answers: Here we are dealing with a case where the adult daughter appointed her father as her agent to accept her betrothal, and he proceeds to betroth one of his daughters without specifying which one. Lest you say with regard to this situation that when he accepts the betrothal he accepts it with his adult daughter in mind, as he is her agent, the mishna teaches us that a person does not put aside a matter from which he derives benefit, i.e., the betrothal of his minor daughter, where he keeps the money, and perform a

matter from which he does not derive benefit, i.e., the betrothal of his adult daughter, where she keeps the money.

<sup>185</sup> The Gemara rejects this suggestion: Are we not dealing even with a case where the daughter says to him: As reward for fulfilling your agency, my betrothal money shall belong to you? This would mean that the father derives benefit from the betrothal of his adult daughter as well. The Gemara counters: Even so, a person does not put aside a mitzva that is imposed upon him, i.e., the betrothal of his minor daughter, to perform a mitzva that is not directly imposed upon him, the betrothal of his adult daughter. Since she is of age, her betrothal is her own responsibility.

<sup>186</sup> § The mishna taught: With regard to one who has two groups of daughters and betrothed the elder of them, but was unsure which one he meant, Rabbi Meir and Rabbi Yosei dispute which of them is betrothed. The mishna adds that the same dispute applies if he betrothed his younger daughter. The Gemara comments: And it is necessary to state this halakha in both cases, as had the mishna taught us only that the tanna'im disagree with regard to the first case, one might have claimed that in this case Rabbi Meir says that they are all prohibited except for the youngest daughter of the younger group. The reason is that since there is one younger than her, he calls any daughter who is not the youngest: Elder.

<sup>187</sup> But in this case of one who betroths his younger daughter, say that he concedes to Rabbi Yosei that a father calls only that one who is the youngest of all: Younger, as a father prefers to call his daughters: Elder, whenever possible. And conversely, if the halakha was stated only with regard to this case, that of a younger daughter, one might have said that Rabbi Yosei says his opinion only in this case, for the above reason. But in that case of an elder daughter, you might say that he concedes to Rabbi Meir. Consequently, it is necessary for the mishna to specify both cases.

<sup>188</sup> The Gemara asks a question with regard to these opinions: Is this to say that Rabbi Meir maintains: A person places himself in a situation of uncertainty, i.e., people issue statements and accept upon themselves obligations that are not clearly defined, and Rabbi Yosei maintains that a person does not place himself in a situation of uncertainty, as one has only well-defined situations in mind? But haven't we learned that these two tanna'im state the opposite opinions, as we learned in a mishna (Nedarim 60a): If one takes a vow that wine is forbidden to him until Passover, it is forbidden to him until Passover arrives. If he said: Until it will be Passover, it is forbidden to him until Passover ends.

<sup>189</sup> The mishna continues: If he said: Until before Passover, Rabbi Meir says: It is forbidden to him until Passover arrives. Rabbi Yosei says: It is forbidden to him until it ends. This indicates that Rabbi Meir holds that one does not put himself into a situation of uncertainty, as despite his mention of the presence of Passover, which might be referring to any of the days of the Festival, he does not mean one of the days of Passover itself but until the arrival of the Festival, whereas Rabbi Yosei claims that his words apply to each of the days of Passover, due to uncertainty. This is the opposite of the above interpretation of the mishna concerning a man who betroths his daughter.

<sup>190</sup> Rabbi Ḥanina bar Avdimi says that Rav says: The attribution of the opinions is reversed, i.e., the rulings of the respective tanna'im in that mishna in Nedarim must be switched so that they accord with the mishna here. And it is taught likewise in a baraita that this is the principle: With regard to any vow that has a fixed time, i.e., it applies until a set date, and one said: Until before that date,

Rabbi Meir says that the vow lasts until that date ends; Rabbi Yosei says: Until it arrives. The opinions in this baraita are in accordance with the suggested emendation.

<sup>191</sup> Abaye said: This dispute between Rabbi Meir and Rabbi Yosei applies to two groups of girls, as Rabbi Meir maintains that all of them can be called: Elder, except for the youngest of the younger group. But with regard to one group, i.e., if all the daughters share the same mother, everyone agrees that when the father says: Elder, he means the actual eldest one, and when he says: Younger, he means the actual youngest daughter. As for the middle daughter, she is called neither elder nor younger; rather, he calls her by her name.

<sup>192</sup> Rav Adda bar Mattana said to Abaye: If that is so,

<sup>193</sup> with regard to one who said: I betrothed my elder daughter, the middle daughter of the younger second group should be permitted, as he would have called her by name rather than referring to her as: The elder one. The Gemara answers: Here we are dealing with a case where there are only two daughters, an adult woman and a minor girl, but no middle daughter.

<sup>194</sup> The Gemara adds: And so too, it is reasonable that this is the case, as, if it is so, that there is a middle daughter, let the mishna teach its halakha with a direct reference to her as well, as the uncertainty also applies to this daughter. In other words, the mishna should have stated: And I do not know if it was the middle of the younger group of daughters. The fact that the mishna does not refer to this daughter indicates that there are only two women in each group. The Gemara rejects this suggestion: But according to your reasoning, the middle one of the first group is definitely included in the uncertainty and is forbidden to the prospective husband, and yet does the mishna teach its halakha with a direct reference to her?

<sup>195</sup> The Gemara questions this argument: How can these cases be compared? There it taught its halakha with a direct reference to a daughter who is younger than the middle daughter of the older group, and that daughter is mentioned for a prohibition, as the mishna states that the uncertainty applies even to the youngest of the older group; and if so, the same is true of this middle daughter, who is older than the youngest of the older group, i.e., it is evident that the same uncertainty applies to her, and therefore there is no reason to mention the middle daughter of the older group.

<sup>196</sup> Conversely, here, with regard to the younger group, if it is so that there is uncertainty with regard to the middle daughter and she is forbidden, the mishna should teach its halakha with a direct reference to her, as one might think she is excluded from the uncertainty because she is not the eldest. Consequently, the fact that the mishna omits all reference to the middle daughter from the second group proves that the second wife has only two daughters.

<sup>197</sup> Rav Huna, son of Rav Yehoshua, said to Rava: But there is the case of Passover, which is comparable to one group of daughters, as all the days of the Festival are part of a single group, and yet Rabbi Meir and Rabbi Yosei disagree with regard to it. This apparently contradicts Abaye's opinion that everyone agrees in the case of a single group.

<sup>198</sup> Rava said to him: There they disagree with regard to the general usage of language. In other words, their dispute in that case does not concern the basic issue of whether or not one places himself in a position of uncertainty. Rather, they disagree over the way people speak. One Sage, Rabbi Yosei, holds that the phrase: Until before Passover, means: Until just before Passover, and one Sage, Rabbi Meir, holds that it means until Passover passes and ends.



<sup>199</sup> MISHNA: With regard to one who says to a woman: I betrothed you, and she says: You did not betroth me, he is forbidden to her relatives, as his claim that he has betrothed her renders himself forbidden to her relatives. And she is permitted to his relatives, in accordance with her stance that she is not betrothed to him. If she says: You betrothed me, and he says: I did not betroth you, he is permitted to her relatives and she is forbidden to his relatives by the same reasoning.

<sup>200</sup> If a man says to a woman: I betrothed you, and she says: You betrothed only my daughter, he is forbidden to the relatives of the older woman, the mother, whom he claims to have betrothed, and the older woman is permitted to his relatives. He is permitted to the relatives of the younger woman, the daughter, as he maintains that he did not betroth her, and the younger woman is permitted to his relatives, since her mother's statement is insufficient to render her forbidden.

<sup>201</sup> Similarly, if he says: I betrothed your daughter, and she, the mother, says: You betrothed only me, he is forbidden to the relatives of the younger woman, and the younger woman is permitted to his relatives; he is permitted to the relatives of the older woman, and the older woman is forbidden to his relatives.

<sup>202</sup> GEMARA: The mishna taught that with regard to one who says to a woman: I betrothed you, and she denies his claim, he is forbidden to her relatives while she remains permitted to his. The mishna then provides several examples illustrating the same principle. The Gemara comments: And it is necessary for the mishna to specify all these cases. The Gemara elaborates: As, had the mishna taught us the halakha only with regard to himself, i.e., the case where he claims to have betrothed the woman, one might have said that he is not deemed credible at all, because a man does not care if he happens to say that he betrothed a woman even if he did not do so, as he can betroth another woman.

<sup>203</sup> But in a case where she claims to have been betrothed by him, one might say that if her statement was not certain to her she would not have said it. Since her claim that he betrothed her renders her forbidden to everyone else, it is likely that it is true, and therefore one might think that he should also be forbidden to her relatives on the basis of this assumption. The mishna therefore teaches us that this is not the case.

<sup>204</sup> Likewise, with regard to one who says: I betrothed you, and she says: You betrothed only my daughter, in which case he is forbidden to her relatives but she is permitted to his, the Gemara asks: Why do I need this as well? The principle has already been established. The Gemara answers: It was necessary to state this case too, as it might enter your mind to say: Since by Torah law, the Merciful One deems credible a father who claims to have betrothed his daughter to a particular person, perhaps the Sages deem a mother credible by rabbinic law, and therefore her daughter should be forbidden based on her statement. The mishna therefore teaches us that a mother is not believed with regard to her daughter.

<sup>205</sup> The Gemara continues this line of questioning. With regard to the case where a man says: I betrothed your daughter, and she replies: You betrothed only me, why do I need this as well? What novelty is taught in this case? The Gemara answers: Since the mishna taught this other case, of a man claiming he betrothed a woman and the woman replying that it was her daughter, it also taught this last case, so that it mentions all the permutations, despite the fact that this particular case provides no novelty.

<sup>206</sup> § It was stated that amora'im disagreed over how the court should proceed in practice with regard to the cases described in the mishna. Rav says: The court forces the man to give her a bill of divorce,

and Shmuel says: The court requests that he give a bill of divorce. The Gemara asks: With regard to which case of the mishna is this referring? If we say it is referring to the first clause, where he says: I betrothed you, and she replies: You did not betroth me, no ruling of: The court forces, is relevant here, nor is the ruling: The court requests, relevant. Since she is permitted to marry even his relatives, she is certainly permitted to marry anyone else. Why, then, would it be necessary for him to give her a bill of divorce? Rather, the dispute applies to the latter clause of the mishna, where he denies her claim that he betrothed her. To allow her to marry somebody else, the court either forces or requests of him to give her a bill of divorce.

<sup>207</sup> The Gemara asks: Granted, according to the opinion that the court requests that he give a bill of divorce, it is well. Since she has rendered herself forbidden to everyone, one can ask him to release her. But why should the court force him to issue a bill of divorce? Can't he say: It is not satisfactory for me to be forbidden to her relatives? His giving her a bill of divorce is an admission that he betrothed her, which means that he may not marry her relatives.

<sup>208</sup> Rather, the Gemara offers a different explanation: These halakhot were stated together, as follows: Shmuel says that the court requests of him to give a bill of divorce. Rav says: If he gave a bill of divorce of his own accord, without being asked to do so but merely in response to her claim, the court forces him to give her payment for her marriage contract as well. By giving her a bill of divorce of his own volition, he has effectively admitted that he betrothed her, despite the fact that he has not said so explicitly. Consequently, he must also provide her with payment for her marriage contract.

<sup>209</sup> It was also stated: Rav Aḥa bar Adda says that Rav says, and some say Rav Aḥa bar Adda says that Rav Hamnuna says that Rav says: The court forces him and requests of him. The Gemara expresses puzzlement at this statement: How can these two statements be reconciled? Rather, it must be that this is what Rav Aḥa bar Adda is saying: The court requests of him to give a bill of divorce, and if he gave a bill of divorce of his own accord the court forces him to give her payment for her marriage contract.

<sup>210</sup> § Rav Yehuda says: With regard to one who betroths another with, i.e., in the presence of, one witness, one need not be concerned that his betrothal has taken effect. The students raised a dilemma before Rav Yehuda: If both the man and the woman concede that it was a betrothal, what is the halakha? Is the betrothal valid? Rav Yehuda did not provide a clear answer. He said: Yes and no, and the matter was uncertain to him. It was stated that amora'im discussed this point. Rav Naḥman says that Shmuel says: With regard to one who betroths a woman with one witness, one need not be concerned that his betrothal has taken effect, and this is the halakha even if both parties concede that there was a betrothal.

<sup>211</sup> Rava raised an objection to the opinion of Rav Naḥman from the mishna: With regard to one who says to a woman: I betrothed you, and she says: You did not betroth me, he is forbidden to her relatives and she is permitted to his relatives. Rava proceeds to analyze the exact circumstances of this case. If the case is one where there are witnesses, why is she permitted to his relatives? It is a full-fledged betrothal performed in the presence of witnesses. And if there are no witnesses at all, why is he forbidden to her relatives without any testimony to that effect? Rather, is it not referring to a case where there was one witness?

<sup>212</sup> The Gemara answers: Here we are dealing with a case where he said to her: I betrothed you in the presence of so-and-so and so-and-so, i.e., there were two witnesses, but they went overseas and there is no way of clarifying what really occurred. Consequently, there are only the conflicting accounts of the man and woman, and therefore he is prohibited from marrying her relatives while she is permitted to marry his.

<sup>213</sup> Rava raised an objection to the opinion of Rav Naḥman from a mishna (Eduyyot 4:7): If one divorces his wife, and she subsequently lodged with him in an inn, Beit Shammai say: She does not require a second bill of divorce from him, and Beit Hillel say: She requires a second bill of divorce from him. The Gemara clarifies: What are the circumstances of this case? If there are witnesses who saw them engage in sexual intercourse for the purpose of betrothal, what is the reason that Beit Shammai do not require a second bill of divorce? If there are no witnesses, what is the reason that Beit Hillel require a second bill of divorce? Rather, is it not referring to a case where there was one witness who saw them engage in intercourse for the purpose of betrothal?

<sup>214</sup> Rav Naḥman responds: And according to your reasoning, that there was one witness, say the latter clause of that mishna: And Beit Hillel concede with regard to a woman who was divorced after betrothal that she does not require a second bill of divorce from him, due to the fact that he is not accustomed to her. Since he had not previously been intimate with her, there is no concern that they engaged in intercourse, even though they lodged together at the inn. And if it enters your mind that one witness is deemed credible in this case, what difference is it to me whether it was after her betrothal, and what difference is it to me if it occurred after her marriage?

<sup>215</sup> Rather, it is clear that the mishna is not referring to when there is one witness, and here we are dealing with a case where there are witnesses to their seclusion, but there are no witnesses to their engaging in intercourse. The dispute is based on the implications of this seclusion. Beit Shammai hold: One does not

<sup>216</sup> say: These are the witnesses of seclusion, these are the witnesses of intercourse. According to Beit Shammai, although there are witnesses that they were secluded, this is not considered to be tantamount to testimony that they engaged in intercourse. And Beit Hillel hold: We do say that these are the witnesses of seclusion, these are the witnesses of intercourse. Since it is assumed that they engaged in intercourse, she is required to obtain a second bill of divorce from him. And Beit Hillel concede to Beit Shammai that certainly in the case of a woman divorced from betrothal, that we do not say that these are the witnesses of seclusion, these are the witnesses of intercourse, because he is not accustomed to her.

<sup>217</sup> Rav Yitzḥak bar Shmuel bar Marta says in the name of Rav: With regard to one who betroths a woman with one witness, one need not be concerned that his betrothal has taken effect, and this is the halakha even if the man and woman both concede that there was a betrothal. Rabba bar Rav Huna says: With regard to one who betroths a woman with one witness, the Great Court says that one need not be concerned that his betrothal has taken effect. The Gemara asks: Who is the Great Court? Rav. And there are those who say a different version of this discussion. Rabba bar Rav Huna said that Rav said: With regard to one who betroths a woman with one witness, the Great Court says that one need not be concerned that his betrothal has taken effect. Who is the Great Court? Rabbi Yehuda HaNasi.

<sup>218</sup> Rav Aḥadvoi bar Ami raises an objection from the following baraita: There were two men who came from overseas and a woman was with them, and they had a bundle with them. This man says:

This is my wife, and this other man is my slave, and this is my bundle. And this second man says: This is my wife, and this other man is my slave, and this is my bundle. And the woman says: These are my two slaves and this is my bundle. In this case she requires two bills of divorce, as with each of them there is uncertainty concerning whether she is married to him, and she collects payment of her marriage contract from the bundle. Even according to their claims that she is married to one of them, now that they have each divorced her she is at least entitled to payment of her marriage contract from the bundle.

<sup>219</sup> Rav Aḥadvoi's objection is as follows: What are the circumstances of this case? If the baraita is referring to a case where this man has two witnesses supporting his claim and that man has two witnesses supporting his claim, can the woman say: These are my two slaves, and this is my bundle? After all, there are two witnesses that one of the men is her husband. Rather, is it not referring to a case where each of the men has only one witness? This proves that a betrothal performed in the presence of a single witness is effective, as she requires a bill of divorce from each of them.

<sup>220</sup> The Gemara rejects this opinion: And how can you understand it that way? In a situation involving one witness in the face of contradicting testimony, as in the case here, where another witness claims she is betrothed to the second man, is a single witness deemed credible at all? Rather, one must understand this case as follows: Everyone agrees that with regard to permitting her to marry all other people, she is permitted even without a bill of divorce.

<sup>221</sup> And here, this is what the baraita is saying: She requires two bills of divorce in order to collect payment of her marriage contract from the bundle. And this ruling is in accordance with the opinion of Rabbi Meir, who says: Even movable property, not only land, is subject to a lien for payment of a marriage contract. Consequently, to collect from this bundle, which has three claimants, the woman must receive a bill of divorce from both men, thereby obligating them to give her payment of a marriage contract.

<sup>222</sup> The Gemara asks: What conclusion was reached about the case of one who betroths another in the presence of one witness? Rav Kahana said: One need not be concerned that his betrothal has taken effect. Rav Pappa said: One need be concerned that his betrothal has taken effect. Rav Ashi said to Rav Kahana: What is your opinion that leads you to claim that there is no concern that his betrothal has taken effect? It must be that you derive it by means of a verbal analogy from the word "matter" written with regard to forbidden sexual intercourse and the word matter written with regard to monetary matters. The Torah states concerning one who desires to divorce his wife: "Because he has found some unseemly matter in her" (Deuteronomy 24:1), a reference to adulterous intercourse, and with regard to monetary matters it states: "At the mouths of two witnesses, or at the mouths of three witnesses, shall a matter be established" (Deuteronomy 19:15).

<sup>223</sup> Rav Ashi asks: But if so, just as there, with regard to monetary matters, the legal status of the admission of a litigant is similar to that of one hundred witnesses and it renders him liable, so too here, the admission of a litigant should be similar to that of one hundred witnesses. This would mean that if the man and woman both admit to the betrothal, they should be liable to bear the consequences of this claim. Rav Kahana said to him: There is a difference between the two cases. There, with regard to one who admits that he owes money, he does not act to the detriment of another, whereas here, he acts to the detriment of another, as their confessions render them forbidden to each other's relatives, which means that their claims affect others as well.

<sup>224</sup> The Gemara relates: Mar Zutra and Rav Adda the Elder, the sons of Rav Mari bar Issur, divided their shared property between them. They came before Rav Ashi and said to him that they had the following dilemma. The Merciful One states: “At the mouths of two witnesses, or at the mouths of three witnesses, shall a matter be established” (Deuteronomy 19:15). Why do we say that two witnesses are required? So that if the parties involved wish to retract from their agreement and say that it never happened, they cannot retract from their agreement. And as we will not retract from our agreement, we do not require witnesses to establish our division of the property.

<sup>225</sup> Or perhaps the matter is established only through witnesses. In other words, perhaps the witnesses do not merely provide proof that the division occurred, but they are a constitutive factor in its establishment from a legal perspective. Rav Ashi said to them: Witnesses were created only for liars, and they are not needed to establish the matter. If no one denies the transaction, it remains in effect.

<sup>226</sup> § With regard to a related issue, Abaye says: If one witness says to someone: You ate forbidden fat, and that one, the subject of the testimony, remains silent and does not deny it, the witness is deemed credible and the person in question must bring a sin-offering for his sin. And the tanna of the mishna also taught (Karetot 11b): If one witness said to someone: You ate forbidden fat, and that person says: I did not eat it, he is exempt from bringing an offering. One can infer from this that the reason he is exempt is only because he said definitively: I did not eat, which indicates that if he was silent, the witness is deemed credible.

<sup>227</sup> And Abaye says that if one witness says to someone: Your ritually pure food was rendered impure, and that person remained silent, the witness is deemed credible. And the tanna of the mishna also taught (Karetot 12a): If one witness said to someone: Your ritually pure food was rendered impure, and that person says: It was not rendered impure, he is exempt. The reason he is exempt is only because he said definitively that his food was not rendered ritually impure, which indicates that if he was silent, the witness is deemed credible.

<sup>228</sup> And Abaye further says that if one witness says to someone:

<sup>229</sup> Your ox was used by a man for an act of bestiality and is therefore unfit for an offering, and the other, the owner of the ox, is silent, the witness is deemed credible. And the tanna of the mishna also taught (Bekhorot 41a): And with regard to an animal that was used for a transgression or that killed, if this is attested to by one witness or by the owner, he is deemed credible. The Gemara clarifies this case: What are the circumstances of this case of the mishna, where the knowledge is established by one witness? If the owner admits to the claim, this is the same as: By the owner. Rather, is it not referring to a case where the owner remains silent?

<sup>230</sup> The Gemara comments: And each of these statements of Abaye is necessary. As, had he taught us only that first case, where the witness said someone ate forbidden fat, one might have said that he is deemed credible for the following reason: Were it not for the fact that he himself was convinced that he had committed a transgression, he would not commit the transgression of bringing a non-sacred animal to the Temple courtyard on the basis of the testimony of one witness. Consequently, his silence is evidently an admission.

<sup>231</sup> But if the witness said: Your ritually pure foods were rendered ritually impure, and the accused was silent, we would say: The reason that he is silent and refrains from denying the claim is that he

thinks he is not suffering any significant loss, as the food is fit for him to eat on his days of ritual impurity, because he is not required to destroy ritually impure foods.

<sup>232</sup> And had Abaye taught us only the case of: Your ritually pure food was rendered ritually impure, one might have said that the reason this witness is deemed credible is that he causes him a loss on his days of ritual purity, and therefore his silence is tantamount to a confession. But in the case of: His ox was used by a man for an act of bestiality, the owner of the ox can say with regard to his animal: Not all the oxen stand ready to be sacrificed as an offering on the altar. Perhaps one would think that the owner does not bother denying the claim because he merely forfeits the possibility of sacrificing his ox as an offering, which he considers an inconsequential matter. It is only if there were two witnesses to the act that the animal is put to death, whereas here there was only one witness. It is therefore necessary for Abaye to specify all these cases.

<sup>233</sup> § A dilemma was raised before the Sages: If a husband is told by one witness that his wife committed adultery, and the husband remains silent, what is the halakha? Abaye said: The witness is deemed credible. Rava said: He is not deemed credible. Why not? Because it is a matter involving forbidden relations, and there is no matter of testimony for forbidden sexual relations that can be attested to by fewer than two witnesses.

<sup>234</sup> Abaye said: From where do I say this claim of mine? It happened that there was a certain blind man who would review mishnayot before Mar Shmuel. One day the blind man was late for him and was not arriving. Mar Shmuel sent a messenger after him to assist him. While the messenger was going to the blind man's house by one way, the blind man arrived at the house of study by a different route, and therefore the messenger missed him and reached his house. When the messenger came back, he said that he had been to the blind man's house and saw that his wife committed adultery. The blind man came before Mar Shmuel to inquire whether he must pay heed to this testimony. Mar Shmuel said to him: If this messenger is trusted by you, go and divorce her, but if not, do not divorce her.

<sup>235</sup> Abaye comments: What, is it not correct to say that this means that if he is trusted by you that he is not a thief but is a valid witness, you must rely on him? This would prove that a single witness can testify in a case of this kind. And Rava explains that Mar Shmuel meant: If he is trusted by you like two witnesses, go and divorce her, but if not, do not divorce her. Consequently, Rava maintains that this episode affords no proof.

<sup>236</sup> And Abaye said: From where do I say this claim of mine? As it is taught in a baraita: An incident occurred with King Yannai, who went to the region of Koḥalit in the desert and conquered sixty cities there. And upon his return he rejoiced with a great happiness over his victory. And he subsequently summoned all the Sages of the Jewish people and said to them: Our ancestors in their poverty would eat salty foods when they were busy with the building of the Temple; we too shall eat salty foods in memory of our ancestors. And they brought salty food on tables of gold, and ate.

<sup>237</sup> And there was one person present, a scoffer, a man of an evil heart and a scoundrel called Elazar ben Po'ira. And Elazar ben Po'ira said to King Yannai: King Yannai, the hearts of the Pharisees, the Sages, are against you. In other words, they harbor secret resentment against you and do not like you. The king replied: And what shall I do to clarify this matter? Elazar responded: Have them stand by wearing the frontplate between your eyes. Since the frontplate bears the Divine Name, they should stand in its honor. Yannai, who was a member of the priestly Hasmonean family, also served as High

Priest, who wears the frontplate. He had the Pharisees stand by wearing the frontplate between his eyes.

<sup>238</sup> Now there was a certain elder present called Yehuda ben Gedidya, and Yehuda ben Gedidya said to King Yannai: King Yannai, the crown of the monarchy suffices for you, i.e., you should be satisfied that you are king. Leave the crown of the priesthood for the descendants of Aaron. The Gemara explains this last comment: As they would say that Yannai's mother was taken captive in Modi'in, and she was therefore disqualified from marrying into the priesthood, which meant that Yannai was a ḥalal. And the matter was investigated and was not discovered, i.e., they sought witnesses for that event but none were found. And the Sages of Israel were expelled in the king's rage, due to this rumor.

<sup>239</sup> And Elazar ben Po'ira said to King Yannai: King Yannai, such is the judgment of a common person in Israel. In other words, merely expelling a slanderer is appropriate if the subject of the slander is a commoner. But you are a king and a High Priest. Is this your judgment as well? Yannai replied: And what should I do? Elazar responded: If you listen to my advice, crush them. Yannai countered: But what will become of the Torah? He retorted: Behold, it is wrapped and placed in the corner. Anyone who wishes to study can come and study. We have no need for the Sages.

<sup>240</sup> The Gemara interjects: Rav Naḥman bar Yitzḥak says: Immediately, heresy was injected into Yannai, as he should have said to Elazar ben Po'ira: This works out well with regard to the Written Torah, as it can be studied by all on their own, but what will become of the Oral Torah? The Oral Torah is transmitted only by the Sages. The baraita continues: Immediately, the evil arose and caught fire through Elazar ben Po'ira, and all the Sages of the Jewish people were killed. And the world was desolate of Torah until Shimon ben Shataḥ came and restored the Torah to its former glory. This completes the baraita.

<sup>241</sup> Abaye asks: What are the circumstances of this case? How did those who conducted the investigation refute the rumor that Yannai's mother had been taken captive? If we say that two witnesses said that she was taken captive, and two others said that she was not taken captive, what did you see that you rely on these who said that she was not taken captive? Instead, rely on these who said that she was taken captive. In such a scenario, one cannot say definitively that the matter was investigated and found to be false.

<sup>242</sup> Rather, it must be referring to one witness who testified she was taken captive, and two testified that she was not taken captive. And the reason that the lone witness is not deemed credible is only that he is contradicted by the other two, from which it may be inferred that if not for that fact, he would be deemed credible. This supports Abaye's claim that an uncontested lone witness is deemed credible in a case of this kind.

<sup>243</sup> And Rava could reply that this incident affords no proof, for the following reason: Actually, one can say that there were two witnesses who testified that she was captured and two who testified that she was not, and the case was decided in accordance with that which Rav Aḥa bar Rav Minyumi says in a different context, that it is referring to conspiring witnesses. The second pair of witnesses did not contradict the testimony of the first pair but established them as liars by stating that the first pair were not there to witness the event. This serves to disqualify the testimony of the first pair altogether. Here too, it is referring to witnesses who rendered the first set conspiring witnesses.

<sup>244</sup> And if you wish, say that this is in accordance with the version of the story stated by Rabbi Yitzḥak, as Rabbi Yitzḥak says: They replaced Yannai's mother with a maidservant. The first witnesses saw that Yannai's mother was about to be taken captive, but the second pair revealed that she had actually been replaced with a maidservant, thereby negating the testimony of the first set.

<sup>245</sup> Rava says:

<sup>246</sup> From where do I say my claim that one does not rely on a lone witness in matters of forbidden relations? As we learned in a baraita: Rabbi Shimon said: An incident occurred with regard to a water reservoir of Diskim in Yavne, which had the presumptive status of being complete, i.e., they thought it contained forty se'a, the requisite amount for a ritual bath, and they measured it after a time and it was found to be deficient, as it contained less than that amount.

<sup>247</sup> With regard to all immersions of ritual purification performed in the reservoir before it was measured, Rabbi Tarfon would render them ritually pure, and Rabbi Akiva would render them ritually impure. The two Sages discussed the matter. Rabbi Tarfon said: This ritual bath retained the presumptive status of being whole throughout this period, and you are coming to declare it deficient in the past out of uncertainty. Do not deem it deficient out of uncertainty. Rabbi Akiva said in response: This person who immersed himself in that ritual bath retained the presumptive status of being ritually impure before he immersed. You are coming to purify him out of uncertainty. Do not deem him ritually pure out of uncertainty.

<sup>248</sup> Rabbi Tarfon said in response: There is a parable that illustrates this. A priest was standing and sacrificing offerings on the altar, and it became known that he is the son of a divorced woman or the son of a ḥalutza. The halakha is that his earlier service before this discovery remains valid. Rabbi Akiva said: A more accurate parable is that of a priest who was standing and sacrificing on the altar, and it became known that he is blemished. In this case, the halakha is that his earlier service is disqualified.

<sup>249</sup> Rabbi Tarfon said: You compared the case of a ritual bath found to be deficient to that of a blemished priest, whereas I compared it to the case of the son of a divorced woman or the son of a ḥalutza. Let us see to which case it is similar. If this case is similar to that of the son of a divorced woman or the son of a ḥalutza, let us treat it like the case of the son of a divorced woman or the son of a ḥalutza; if it is similar to the case of a blemished priest, let us treat it like that of a blemished priest.

<sup>250</sup> Rabbi Akiva began to analyze the matter: The disqualification of a ritual bath is by the testimony of an individual, as witnesses are not required to establish that a ritual bath is deficient, and likewise the disqualification of a blemished priest with regard to performing the Temple service is by the testimony of an individual. And do not let the halakha of the son of a divorced woman or the son of a ḥalutza prove otherwise, as his disqualification is by the testimony of two witnesses. Two witnesses are required to testify about one's mother to disqualify him from performing the Temple service; one is insufficient.

<sup>251</sup> Alternatively, one can say: The disqualification of a ritual bath is due to the bath itself, and similarly, the disqualification of a blemished priest is due to the priest himself. And do not let the halakha of the son of a divorced woman or the son of a ḥalutza prove otherwise, as his disqualification is due to others, i.e., through his mother. Rabbi Tarfon said to him: Akiva, anyone



who separates from you, it is as though he has separated from life itself. Rabbi Tarfon was impressed by Rabbi Akiva's explanation and accepted it. This concludes the baraita.

<sup>252</sup> The Gemara returns to the topic at hand: What are the circumstances with regard to this blemished priest whose disqualification is by means of an individual witness? If the priest denies his claim, maintaining that he is not blemished, is a lone witness deemed credible? Rather, it must be that the priest remains silent and therefore is considered to have admitted to the accusation.

<sup>253</sup> And similarly with regard to the son of a divorced woman or the son of a ḥalutza, it must also be referring to one who is silent, and yet the baraita teaches: The disqualification of a ritual bath is by the testimony of an individual, and likewise the disqualification of a blemished priest with regard to performing the Temple service is by the testimony of an individual. And do not let the halakha of the son of a divorced woman or the son of a ḥalutza prove otherwise, as his disqualification is by the testimony of two witnesses. This indicates that if the person under scrutiny himself remains silent, one witness is insufficient to disqualify him.

<sup>254</sup> And Abaye could have said in response to this proof: Actually, both cases deal with an individual who denies the witness's testimony, and that which you said: Why is the witness deemed credible when he says that this priest is blemished, it is referring to a case where the witness said to him: Remove your clothes and show us that you are not blemished. Since this is a matter that can be investigated, the witness is deemed credible, because if he were lying the priest could prove it. And this explanation is consistent with that which the baraita teaches: The disqualification of a ritual bath is due to the bath itself, and similarly, the disqualification of a blemished priest is due to the priest himself, as he himself can be examined. And do not let the halakha of the son of a divorced woman or the son of a ḥalutza prove otherwise, as his disqualification is due to others.

<sup>255</sup> The Gemara asks a question with regard to the halakha of the baraita: And from where do we derive that the service of the son of a divorced woman or the son of a ḥalutza is valid after the fact? Rav Yehuda says that Shmuel says: As the verse states with regard to Pinehas the priest: "And it shall be for him and his seed after him the covenant of an everlasting priesthood" (Numbers 25:13), which includes both fit seed and unfit seed. This teaches that the service of a priest is valid after the fact even if he was disqualified.

<sup>256</sup> Shmuel's father said that the proof text is from here: It states in the blessing of the tribe of Levi: "Bless, Lord, his substance [ḥeilo], and accept the work of his hands" (Deuteronomy 33:11). The word ḥeilo is expounded as including even the service of his profane ones [ḥullin], which God will accept after the fact.

<sup>257</sup> Rabbi Yannai said: The source is from here, a verse stated with regard to first fruits: "And you shall come to the priest who shall be in those days" (Deuteronomy 26:3). But can it enter your mind that a person can come to a priest who is not alive in his days? What then is the meaning of the phrase "in those days"? Rather, this is referring to a fit priest who later became established as a ḥalal. All his previous days of service are considered those of a fit priest.

<sup>258</sup> The Gemara continues its analysis of the baraita. From where do we derive that the service of a blemished priest is retroactively invalid? Rav Yehuda says that Shmuel says: As the verse states with regard to Pinehas: "Wherefore say: Behold, I give to him My covenant of peace [shalom]" (Numbers 25:12), which means that he receives the covenant when he is whole [shalem], but not when he is blemished and lacking a limb. The Gemara comments: But shalom is written, rather than shalem.

Rav Naḥman says: The letter vav in the word shalom is severed. According to tradition, this letter is written with a break in it, and therefore the word can be read as though the vav were missing.

<sup>259</sup> MISHNA: There is a principle with regard to the halakhot of lineage: Any case where there is betrothal, i.e., where the betrothal takes effect, and the marriage involves no transgression by Torah law, the lineage of the offspring follows the male, his father. And in which case is this applicable? For example, this is the case with regard to the daughter of a priest; or the daughter of a Levite; or the daughter of an Israelite, who married a priest, a Levite, or an Israelite. In all these cases the child's lineage is established by his father's family.

<sup>260</sup> And any case where there is a valid betrothal and yet there is a transgression, the offspring follows the flawed parent. And in which case is this applicable? For example, this is the case of a widow who is married to a High Priest, or a divorced woman or a ḥalutza who is married to a common priest, or a mamzeret or a Gibeonite woman who is married to an Israelite, or an Israelite woman who is married to a mamzer or to a Gibeonite. In these situations the child inherits the status of the blemished parent.

<sup>261</sup> And in any case where a woman cannot join in betrothal with a particular man, as the betrothal does not take effect, but she can join in betrothal with others, i.e., the woman is considered a member of the Jewish people and can marry other Jews, in these cases the offspring is a mamzer. And in which case is this applicable? This is one who engages in intercourse with any one of those with whom relations are forbidden that are written in the Torah. And in any case where a woman cannot join in betrothal with him or with others, the offspring is like her. He is not considered his father's son at all, but has the same status as his mother. And in which case is this applicable? This is the offspring of a Canaanite maidservant or a gentile woman, as her child is a slave or a gentile like her. If he converts, he is not a mamzer.

<sup>262</sup> GEMARA: The mishna teaches that any case where there is betrothal and the marriage involves no transgression, the lineage of the offspring follows the male. Rabbi Shimon said to Rabbi Yoḥanan: Is it an established principle that any case where there is betrothal and there is no transgression the offspring invariably follows the male? But

<sup>263</sup> there is the case of a convert who married a mamzeret, where there is a valid betrothal and there is no transgression, as they are permitted to marry each other, and yet the offspring follows the flawed lineage and is a mamzer. As it is taught in a baraita: With regard to a convert who married a mamzeret, the offspring is a mamzer. This is the statement of Rabbi Yosei. Rabbi Yoḥanan said to Rabbi Shimon: Do you maintain that the mishna is in accordance with the opinion of Rabbi Yosei? Not so; the mishna is in accordance with the opinion of Rabbi Yehuda, who says: A convert may not marry a mamzeret, and therefore in this case there is betrothal and there is a transgression, which is why the offspring follows the flawed lineage.

<sup>264</sup> The Gemara asks: But if so, let the mishna teach this case as one of its examples. The Gemara answers: The mishna taught the principle: Any case where there is betrothal and a transgression, in the latter clause, precisely to include this kind of case. There is a guiding principle of the Gemara's interpretation of the Mishna that a mishna does not include extraneous phrases. Every apparently superfluous phrase in the context of a principle serves to include or exclude a certain case from that principle. This is the basis of the discussion of the Gemara here and below.

<sup>265</sup> And if you wish, say a different answer: Actually, the mishna is in accordance with the opinion of Rabbi Yosei, and it taught the phrase: In which case is this applicable, to exclude cases of betrothal without a transgression other than those listed in the mishna. The offspring follows the lineage of the father only in those cases specified by the mishna.

<sup>266</sup> The Gemara asks: But does the list that follows the phrase: In which case is this applicable, include all applicable cases? And are there no more? But there is the example of a ḥalal who married an Israelite woman, where there is betrothal and there is no transgression, and yet the offspring follows the male, as he too is a ḥalal. The Gemara rejects this claim: This is not difficult, as one can say that the tanna of the mishna holds in accordance with the opinion of Rabbi Dostai ben Rabbi Yehuda, who maintains that the offspring of this union is entirely fit.

<sup>267</sup> The Gemara asks: But there is the case of an Israelite who married a ḥalala, where there is betrothal and there is no transgression, and the offspring follows the male, and yet this case is not mentioned in the mishna. The Gemara responds: The mishna taught the principle: Any case where there is betrothal and no transgression, in the first clause, to include this situation.

<sup>268</sup> The Gemara asks: But let the tanna of the mishna teach explicitly this example of an Israelite who married a ḥalala. The Gemara answers: He did not do so because he cannot teach it, i.e., the tanna cannot mention this halakha in brief as part of the list. The Gemara clarifies its answer: How can the tanna teach it? He cannot state: A daughter of a priest; and a daughter of a Levite; and a daughter of an Israelite; and a ḥalala, who married a priest, a Levite, or an Israelite, as, is a ḥalala fit for a priest? This marriage involves a transgression. Consequently, the sentence of the mishna cannot be constructed so as to include a ḥalala.

<sup>269</sup> The Gemara asks: But there is also the halakha of Rabba bar bar Ḥana, as Rabba bar bar Ḥana says that Rabbi Yoḥanan says: With regard to a second-generation Egyptian man, i.e., the son of an Egyptian convert, who married a first-generation Egyptian woman, a woman who herself converted, her son is considered a third-generation Egyptian who may marry a Jew of unflawed lineage. This is an example of a betrothal without a transgression where the offspring follows the father.

<sup>270</sup> The Gemara answers: The mishna taught the principle: Any case where there is betrothal and no transgression, in the first clause, to include this example. The Gemara adds: And according to the opinion of Rav Dimi, who said that this son is a second-generation Egyptian, the mishna taught: In which case is this applicable, at its beginning, with regard to betrothal that does not involve a transgression, to exclude this case. Rav Dimi maintains that this son may not marry a Jew of unflawed lineage.

<sup>271</sup> The Gemara asks: But there is the following case, which apparently contradicts the principle of the mishna: As when Ravin came from Eretz Yisrael he said that Rabbi Yoḥanan says: With regard to the nations, i.e., if members of two different nations married when they were gentiles, follow the male to determine the status of their child. This is the case whether he is a regular gentile, who may marry a Jew of unflawed lineage as soon as he converts, or whether he is an Ammonite or an Egyptian, who may not marry a Jewish woman of unflawed lineage. In either case the child's status follows that of the father.

<sup>272</sup> If these members of two different nations converted, follow the flawed lineage of the two. These converts are permitted to marry one another and their betrothal is effective. If either the father or mother is Egyptian, the child follows the parent with the flawed lineage and would be Egyptian,

whereas according to the principle stated in the mishna, one should follow the male. The Gemara answers: The mishna taught: In which case is this applicable, in the first clause, to exclude this case.

<sup>273</sup> The Gemara returns to an earlier point: What is this claim, that the mishna is in accordance with the opinion of Rabbi Yosei? Granted, if you say that the mishna is in accordance with the opinion of Rabbi Yehuda, one can explain that the phrase: Any case, of the first clause, serves to include an Israelite who married a ḥalala, as the child follows the father in that case too, and also to include the ruling of Rabba bar bar Ḥana that the son of a second-generation Egyptian who married a first-generation Egyptian woman is a third-generation Egyptian. Furthermore, the expression: In which case is this applicable, serves to exclude the ruling of Rav Dimi that her son is a second-generation Egyptian, and the statement of Ravin citing Rabbi Yoḥanan.

<sup>274</sup> And the phrase: Any case, of the latter clause, which is referring to betrothal with a transgression, serves to include a convert who married a mamzeret. But if you say that the mishna is in accordance with the opinion of Rabbi Yosei, then granted the phrase: Any case where there is betrothal and no transgression, of the first clause, is as we said, i.e., it includes an Israelite who married a ḥalala; and the phrase: In which case is this applicable, is as we said, i.e., to the exclusion of Ravin or Rav Dimi, and the case of a convert who married a mamzeret. But what does the phrase: Any case, of the latter clause, serve to add?

<sup>275</sup> The Gemara responds: And according to your reasoning, the same question applies to Rabbi Yehuda as well: Why do I need the phrase: In which case is this applicable, of the latter clause? Rather, you must say: Since the mishna taught its first clause using the phrase: In which case is this applicable, it also taught its latter clause using the phrase: In which case is this applicable, merely for the sake of stylistic consistency. So too here, with regard to Rabbi Yosei's opinion, one can say: Since the mishna taught the first clause with the expression: Any case, it also taught its latter clause with: Any case.

<sup>276</sup> § The Gemara discusses the aforementioned matter itself: When Ravin came from Eretz Yisrael, he said that Rabbi Yoḥanan says: With regard to the nations, if members of two different nations married when they were gentiles, follow the male to determine the status of their child. If they converted before marriage, follow the flawed lineage of the two.

<sup>277</sup> The Gemara analyzes this statement: What is the meaning of: With regard to the nations, follow the male? As it is taught in a baraita: From where is it derived with regard to one member of the nations outside Eretz Yisrael who engaged in intercourse with a Canaanite woman and fathered a son from her, that you are permitted to purchase the son as a slave, and he is not considered a member of the Canaanite nations, who are not allowed to live in Eretz Yisrael?

<sup>278</sup> The verse states: “And also of the children of the residents who sojourn with you, of them you may buy” (Leviticus 25:45), which indicates that there is a way in which one may purchase slaves from the inhabitants of Canaan. One might have thought that even with regard to a Canaanite slave who engaged in intercourse with a maidservant from the other nations and fathered a son, that you are permitted to buy the son as a slave. Therefore, the verse states: “Which they have begotten in your land” (Leviticus 25:45). This means that one may purchase from those who are merely begotten in your land, whose fathers are not from the Canaanite nations, but not from those who reside in your land, i.e., whose fathers are from the seven Canaanite nations.

<sup>279</sup> The Gemara discusses the second clause of Rabbi Yoḥanan's statement: If they converted, follow the flawed lineage of the two. To which case does this refer? If we say that it is referring to an Egyptian man who married an Ammonite woman, what flawed lineage is there here? The lineage of an Ammonite woman who converts is not flawed at all, as the Sages expounded that the verse: "An Ammonite...shall not enter into the assembly of the Lord" (Deuteronomy 23:4) is referring to an Ammonite man but not an Ammonite woman, which means that she can marry a Jew of unflawed lineage.

<sup>280</sup> Rather, it must be referring to an Ammonite man who married an Egyptian woman, and in that case if the child is a male, cast him after his father, and render him permanently prohibited from entering the congregation as an Ammonite male. And if the child born to them is a female, cast her after the mother, so that she is considered a second-generation Egyptian, who may not marry a Jew of unflawed lineage.

<sup>281</sup> § The mishna teaches that in any case where a woman cannot join in betrothal with him, but she can join in betrothal with others, the offspring is a mamzer. The Gemara explains: From where are these matters derived? As Rabbi Ḥiyya bar Abba says that Rabbi Yoḥanan says, and some determined that it was said in the name of Rabbi Yannai; and Rav Aḥa, son of Rava, determined that it was said in the name of Rabbi Yosei HaGelili: The verse states with regard to a divorced woman: "And she departs out of his house, and goes and becomes another man's wife" (Deuteronomy 24:2). This teaches that she can become the wife of others, but not of relatives, i.e., betrothal to forbidden relatives does not take effect.

<sup>282</sup> Rabbi Abba objects to this: But one can say and explain that the term "another" in the verse indicates: But not to her husband's son, i.e., betrothal is ineffective only in the case of a prohibition that warrants court-imposed capital punishment, not one that warrants karet. The Gemara rejects this suggestion: With regard to a son it is explicitly written: "A man shall not take his father's wife" (Deuteronomy 23:1), which means that betrothal is ineffective in this situation. If so, why do I need the emphasis of the term "another"? Learn from this term that she may marry others but not relatives.

<sup>283</sup> The Gemara challenges this explanation: But one can say that both this verse and that verse are referring to a son and yet both are necessary, as this verse: "Shall not take," is referring to the halakha ab initio. It does not mean that betrothal is ineffective, but merely that one may not marry his father's wife. And that verse: "And becomes another man's wife," teaches that even after the fact, if the son attempted to betroth his father's wife, his act is of no consequence.

<sup>284</sup> The Gemara responds: One learns that betrothal is ineffective in this case ab initio from a different source, as it is derived from the prohibition proscribing a wife's sister by the following a fortiori inference: If, with regard to the prohibition proscribing a wife's sister, whose transgression is punished with karet, she cannot be betrothed by her sister's husband, in accordance with the verse: "And you shall not take a woman with her sister" (Leviticus 18:18), then with regard to cases that entail liability to receive court-imposed capital punishment, e.g., intercourse with one's father's wife, is it not all the more so the case that betrothal does not take effect?

<sup>285</sup> The Gemara suggests another interpretation of the verses. But as the verse has already prohibited betrothal to a wife's sister, one can say as follows: Both this verse: "You shall not take" (Leviticus 18:18), and that one: "Becomes another man's wife" (Deuteronomy 24:2), are referring to a wife's sister, as this one: "You shall not take," prohibits this relationship ab initio, whereas that verse:

“Another man’s wife,” teaches that this betrothal is of no effect even after the fact. The Gemara responds: Yes, it is indeed so. The verse should be interpreted in this manner.

<sup>286</sup> The Gemara asks: We found a source for the prohibition proscribing a wife’s sister; from where do we derive that betrothal is also ineffective for the other forbidden relations? The Gemara answers: We derive it from the case of a wife’s sister, by means of the following analogy: Just as the prohibition with regard to a wife’s sister, which is specified by the Torah, is a prohibition of a forbidden relative that is punished with karet for its intentional transgression and requires a sin-offering for its unwitting transgression, and betrothal is ineffective in this case, so too, with regard to any prohibition that involves a forbidden relative whose intentional transgression is punished with karet and whose unwitting transgression renders one liable to bring a sin-offering, betrothal is likewise ineffective in those cases.

<sup>287</sup> The Gemara asks: Granted, virtually all other forbidden relatives can be derived in this manner. But the cases of a married woman and a brother’s wife are exceptions, and the analogy in these cases can be refuted as follows. What is unique about a wife’s sister is that she is not permitted in the case of a mitzva, as even where the mitzva of levirate marriage would apply, one still may not marry one’s wife’s sister. Will you say the same with regard to a brother’s wife, who is permitted in the case of the mitzva of levirate marriage?

<sup>288</sup> With regard to a married woman the interpretation can likewise be refuted: What is unique about these cases of a wife’s sister and a brother’s wife is that they cannot be permitted during the lives of those whose existence renders them prohibited, as neither a wife’s sister nor a brother’s wife can be permitted while the person who causes the prohibition is alive. This caveat is added because one’s wife’s sister does become permitted once his wife has died. Will you say the same with regard to a married woman, who can become permitted during the life of the one who renders her forbidden, by means of a divorce?

<sup>289</sup> Rather, this halakha, that betrothal is ineffective for other forbidden relatives, is derived from a different source, as Rabbi Yona says, and some say this was taught by Rav Huna, son of Rav Yehoshua: The verse states explicitly in the chapter dealing with forbidden relatives: “Whoever shall do any of these abominations shall be cut off” (Leviticus 18:29). In this verse all those with whom relations are forbidden are juxtaposed to one another, and therefore also to a wife’s sister: Just as betrothal is not effective in the case of a wife’s sister, so too, betrothal is not effective with regard to all those with whom relations are forbidden.

<sup>290</sup> The Gemara asks: If so, that this halakha is derived from here,

<sup>291</sup> then even if he betrothed a menstruating woman as well, his betrothal should not be effective and the offspring should be a mamzer, as a menstruating woman is included in the list in that chapter of those with whom sexual intercourse is forbidden. If so, why did Abaye say: All concede with regard to one who engages in intercourse with a menstruating woman or with a sota, a woman forbidden to her husband on suspicion of being unfaithful to him, that the offspring is not a mamzer? Hizkiyya said: In the case of a menstruating woman, the verse states: “And her impurity be [ut’hi] upon him” (Leviticus 15:24), from which it is derived that even at the time of her impurity, the type of becoming [havaya] stated with regard to betrothal (see Deuteronomy 24:2) should apply to her. The Gemara is interpreting the connection between the words ut’hi and havaya, as both share the same Hebrew root.

<sup>292</sup> The Gemara asks: After all, there is the possibility of juxtaposing all other forbidden relatives to a menstruating woman, and there is also the possibility of juxtaposing them to a wife's sister. What did you see that you juxtaposed them to a wife's sister? Why not juxtapose them instead to a menstruating woman? The Gemara answers: When there is an option of juxtaposing a case in a manner that leads to a leniency, or juxtaposing it to a halakha that entails a stringency, we juxtapose it in a fashion that leads to a stringency.

<sup>293</sup> Rav Aḥa bar Ya'akov said that there is a different source for the halakha that betrothal is ineffective with forbidden relatives: This principle is derived by means of an a fortiori inference from the case of a yevama: Just as a yevama, before she is released from the yavam through ḥalitza, is forbidden by a mere prohibition, which entails lashes, and yet betrothal is not effective with her, with regard to those people with whom sexual intercourse renders one liable to receive the death penalty or liable to be punished with karet, is it not all the more so the case that betrothal should not be effective in these cases? The Gemara asks: If so, meaning that this is the source, one should also derive that betrothal is ineffective with any other people with whom one is only liable for violating a prohibition of engaging in intercourse, by means of the same analogy.

<sup>294</sup> Rav Pappa says: It is written explicitly in the Torah that a man can betroth women with whom he is liable for violating ordinary prohibitions of intercourse. The Torah states in a different context: "If a man has two wives, the one beloved and the one hated" (Deuteronomy 21:15). Rav Pappa asks rhetorically: But is there one who is hated before the Omnipresent and one who is beloved before the Omnipresent? Rather, "beloved" means beloved in her marriage, i.e., her marriage is permitted; "hated" means hated in her marriage, i.e., her marriage involves the violation of a prohibition. And despite the fact that the latter marriage is between a man and a woman who are forbidden to one another, their union still has the status of a marriage, as the Merciful One states: "If a man has two wives," i.e., he is married to both of them.

<sup>295</sup> The Gemara asks: And according to the opinion of Rabbi Akiva, who says: Betrothal does not take effect even with those women with whom one is only liable for violating a prohibition of engaging in intercourse, with regard to what case does he establish the verse: "If a man has two wives"? The Gemara answers: He explains that this verse is referring to a widow married to a High Priest, and this is in accordance with the opinion of Rabbi Simai.

<sup>296</sup> As it is taught in a baraita that Rabbi Simai says: From all relationships that involve prohibitions, Rabbi Akiva would render the offspring a mamzer, except for the marriage of a widow to a High Priest, as the Torah said: "And he shall not profane [yeḥallel]" (Leviticus 21:15), which teaches that he renders them profane [ḥillulim], i.e., his children from this marriage are ḥalalim, but he does not render them labeled with mamzer status.

<sup>297</sup> The Gemara asks: And what can be said according to the opinion of Rabbi Yeshevav, who says: Come, let us shout at Akiva ben Yosef, who would say: In every case where a Jew may not engage in intercourse with a particular woman, and he does so, the offspring that results from this union is a mamzer, even the child of a widow and a High Priest? This works out well even according to the opinion of Rabbi Yeshevav if he comes to exclude the reason of Rabbi Simai, i.e., if he means to take issue with the ruling of Rabbi Akiva in the specific case mentioned by Rabbi Simai, that of a widow married to a High Priest, then Rabbi Yeshevav too concedes that according to the opinion of Rabbi Akiva, betrothal does take effect in a case where a positive mitzva is violated by the betrothal.

Accordingly, one can establish the phrase “and the one hated” (Deuteronomy 21:15) as referring to those whose marriage entailed the violation of a positive mitzva.

<sup>298</sup> But if he states a reasoning of his own, i.e., he states an independent statement critical of Rabbi Akiva’s ruling that the child of any illicit union is a mamzer, and it is a categorical statement that applies to all illicit unions, even those liable for violating a positive mitzva, i.e., Rabbi Akiva holds that even the offspring of this relationship is a mamzer, with regard to what case does he interpret the “hated” woman of the above verse?

<sup>299</sup> The Gemara answers: Rabbi Yeshevav would say that the verse is referring to a non-virgin married to a High Priest, as there is a positive mitzva that a High Priest should marry a virgin. The Gemara asks: And in what way is this case different from the previous ones? If Rabbi Yeshevav holds that a child born of any act of intercourse prohibited by a positive mitzva is a mamzer, the marriage of a non-virgin to a High Priest likewise involves the violation of a positive mitzva. The Gemara answers: Because it is a positive mitzva that is not equally applicable to all, and since this command applies only to a High Priest and not to other Jews, its violation is considered less severe than that of other positive mitzvot.

<sup>300</sup> The Gemara asks: And with regard to the Rabbis, who disagree with Rabbi Akiva’s opinion, rather than establishing the verse: “If a man has two wives, the one beloved and the one hated” (Deuteronomy 21:15), as referring to those who are liable for violating prohibitions, let them establish it as referring to those liable for violating a positive mitzva. In other words, betrothal should not be effective if it involves the violation of a prohibition. And as for the “hated” woman whose marriage is nevertheless valid, mentioned in that verse, this is referring to one whose engaging in sexual intercourse violates a positive mitzva.

<sup>301</sup> The Gemara responds: These cases where they are liable for violating a positive mitzva, what are they? If you say that both wives are Egyptian converts, they are both hated, as both marriages are prohibited. If you claim that one is an Egyptian woman and the other a Jewish woman of unflawed lineage, this cannot be the case, as we require “two wives” from the same nation, since the Torah equates the two women. If the hated one is a non-virgin married to a High Priest, this too is problematic, as, is it written: If a priest has two wives? The verse merely says: “If a man has two wives.” Consequently, the verse cannot be interpreted as referring to those who are liable for violating a positive mitzva.

<sup>302</sup> The Gemara asks: But according to the opinion of Rabbi Akiva, that betrothal that involves a prohibition does not take effect, this verse can be referring only to a non-virgin who marries a High Priest, or marriage to a female Egyptian convert, which involve the violation of positive mitzvot. Can the verse really be interpreted as concerning such unlikely cases? The Gemara answers: You are forced to leave this verse aside, as it establishes itself as dealing with a difficult case. In other words, as Rabbi Akiva claims that betrothal is ineffective if any prohibition is involved, he has no choice but to explain the verse that says: “If a man has two wives,” in this forced manner.

<sup>303</sup> § The mishna teaches: And in any case where a woman cannot join in betrothal with him or with others, the offspring is like her. This ruling refers specifically to a Canaanite maidservant or a gentile woman. The Gemara asks: From where do we derive that betrothal with a Canaanite maidservant is ineffective? Rav Huna says: The verse states that Abraham commanded his slaves: “You abide here with [im] the donkey” (Genesis 22:5), which alludes to the fact that his slaves belong to a nation



[am] similar to a donkey; just as betrothal is ineffective with animals, it is likewise ineffective with Canaanite maidservants. The Gemara comments: We have found that betrothal is ineffective with a Canaanite maidservant;

<sup>304</sup> from where do we derive that her offspring is like her? The Gemara answers: As the verse states with regard to a Hebrew slave who marries a Canaanite maidservant: “The wife and her children shall be her master’s” (Exodus 21:4). This indicates that the offspring of a Canaanite maidservant and a Hebrew slave are slaves, as she is.

<sup>305</sup> § The Gemara asks: From where do we derive that betrothal with a gentile woman is ineffective? The verse states: “Neither shall you make marriages with them” (Deuteronomy 7:3), which teaches that marrying gentile women is halakhically meaningless. The Gemara asks: We have found that betrothal is ineffective with her; from where do we derive that her offspring is like her?

<sup>306</sup> Rabbi Yoḥanan says in the name of Rabbi Shimon ben Yoḥai: As the verse states with regard to the same issue: “Your daughter you shall not give to his son...for he will turn away your son from following Me” (Deuteronomy 7:3–4). Since the verse is concerned that after one’s daughter marries a gentile, the father will lead his children away from the service of God, this indicates that your son, i.e., your grandson, from a Jewish woman is called “your son” by the Torah, but your son from a gentile woman is not called your son, but her son.

<sup>307</sup> Ravina said: Learn from it that the son of your daughter, born to a gentile, is called your son in all regards. The Gemara asks: Shall we say that Ravina holds that with regard to a gentile or a Canaanite slave who engaged in sexual intercourse with a Jewish woman, the offspring is a mamzer? One can infer from the fact that the offspring of this union is called “your son” that he is a Jew, and therefore the principle stated in the mishna should apply: If a woman cannot join in betrothal with someone, their child is a mamzer.

<sup>308</sup> The Gemara rejects this suggestion: Although he is not a fit offspring, he is also not a mamzer. Rather, he is merely called disqualified. Since betrothal is inapplicable to a gentile, a gentile is not included in the category of someone with whom a Jewish woman cannot personally join in betrothal, as no Jewish women can be betrothed to him. Nevertheless, as their child’s birth is the result of a transgression, he is considered disqualified.

<sup>309</sup> The Gemara asks a question with regard to Rabbi Yoḥanan’s statement. That verse: “Neither shall you make marriages with them” (Deuteronomy 7:3), is written with regard to the seven nations of Canaan. From where do we derive that betrothal does not take effect with the other nations? The Gemara answers: The verse states as a reason for prohibiting intermarriages: “For he will turn away your son from following Me,” which serves to include all those who might turn a child away, no matter from which nation.

<sup>310</sup> The Gemara asks: This works out well according to the opinion of Rabbi Shimon, who expounds the reason for the mitzvot of the verse and rules accordingly. Since the reason is that the gentile might turn away the son’s heart, there should be no distinction between the Canaanite nations and other gentiles. But according to the opinion of the Rabbis, who do not expound the reason for the mitzvot of the verse and rule accordingly, since the verse mentions only the Canaanite nations, what is the reason, the source for the prohibition, with regard to the other nations?

<sup>311</sup> The Gemara answers: The verse states with regard to a beautiful captive woman: “And after that you may go in to her and be her husband, and she shall be your wife” (Deuteronomy 21:13). One can derive from here by inference that at the outset, before she became a Jew, betrothal would not take effect with her, despite the fact that he had already brought her into his house, and according to some opinions, had even engaged in sexual intercourse with her.

<sup>312</sup> The Gemara asks another question: We found a source for the halakha that betrothal is ineffective with her; from where do we derive that her child is like her? The Gemara answers that the verse states: “If a man has two wives, the one beloved and the one hated, and they have borne him children” (Deuteronomy 21:15), from which it is derived: Anywhere that we read: “If he has,” i.e., that a woman can be betrothed, we also read: “And they have borne him,” meaning that their children follow his lineage. And anywhere that we do not read: “If he has,” we likewise do not read: “And they have borne him,” as the offspring inherit their mother’s status.

<sup>313</sup> The Gemara asks: If so, one should learn from here with regard to a Canaanite maidservant too, that her child is like her, which means that the earlier proof from the verse: “The wife and her children” (Exodus 21:4), is not necessary. The Gemara answers: Yes, it is indeed so; this source also teaches the halakha that the offspring of a maidservant is like her. The Gemara asks: But if so, why do I need the verse “The wife and her children shall be her master’s”? This verse apparently teaches nothing new with regard to the halakhot of lineage. The Gemara answers: It is required for that which is taught in a baraita:

<sup>314</sup> With regard to one who says to his pregnant Canaanite maidservant: You are hereby a free woman but your offspring shall remain a slave, the offspring is emancipated like her. This is the statement of Rabbi Yosei HaGelili. And the Rabbis say: The master’s statement is upheld, because it is stated: “The wife and her children shall be her master’s” (Exodus 21:4).

<sup>315</sup> The Gemara expresses surprise at this ruling: What is the biblical derivation here? How do the Rabbis learn from here that the child of an emancipated maidservant remains a slave in this case? Rava said: The proof from the verse beginning with: “The wife and her children,” is not the source of the opinion of the Rabbis. Rather, this is referring to the statement of Rabbi Yosei HaGelili, who claims that the children follow their mother, as indicated by this verse. Consequently, if she is emancipated, her offspring do not retain the status of slaves.

<sup>316</sup> MISHNA: Rabbi Tarfon says: Mamzerim can be purified, so that their offspring will not be mamzerim. How so? With regard to a mamzer who married a Canaanite maidservant, their offspring is a slave. If his master subsequently emancipates him, that son is found to be a freeman, rather than a mamzer. Rabbi Eliezer says: This method is not effective, as this son is a mamzer slave.

<sup>317</sup> GEMARA: A dilemma was raised before the Sages: Did Rabbi Tarfon state his halakha ab initio, i.e., a mamzer is permitted to marry a maidservant, or did he state it only after the fact, but he does not permit a mamzer to marry a maidservant ab initio? The Gemara answers: Come and hear proof from a baraita: The other Sages said to Rabbi Tarfon: You have thereby purified the male offspring of a mamzer, but you have not purified the female children of mamzerim, as your solution does not apply to them.

<sup>318</sup> The Gemara explains the apparent proof from this baraita. And if you say that Rabbi Tarfon stated his halakha ab initio and permitted a mamzer to marry a Canaanite maidservant, a mamzeret should also be allowed to marry a Canaanite slave and her child can then be emancipated as well.

The Gemara answers: A slave has no lineage. Even if she were to marry a slave, their child would not be considered his, but would be a Jewish mamzer like her. Consequently, this source provides no proof with regard to the Gemara's question.

<sup>319</sup> The Gemara further suggests: Come and hear, as Rabbi Simlai's host was a mamzer, and Rabbi Simlai said to him: Had I found out about your status earlier, before you married and had children, I would have purified your sons by advising you to marry a Canaanite maidservant, as suggested by Rabbi Tarfon. The Gemara explains the proof: Granted, if you say that Rabbi Tarfon spoke *ab initio*, it is well that Rabbi Simlai would suggest this. But if you say that he meant only that this method is effective after the fact, what was the advice that Rabbi Simlai would have given his host?

<sup>320</sup> The Gemara answers that Rabbi Simlai would have advised him by saying: Go steal, and be sold as a Hebrew slave, which would mean you could marry a Canaanite maidservant and your offspring would be slaves. The Gemara asks: But in the days of Rabbi Simlai, was the halakha of a Hebrew slave observed in practice? But didn't the Master say: The halakha of a Hebrew slave is practiced only when the Jubilee Year is practiced, and Rabbi Simlai lived many years after the observance of the Jubilee Year ceased. Rather, isn't it correct to conclude from it that Rabbi Tarfon spoke *ab initio*, i.e., it is permitted for a mamzer to marry a Canaanite maidservant? The Gemara affirms: Indeed, conclude from the baraita that this is the case. Rav Yehuda says that Shmuel says: The halakha is in accordance with the opinion of Rabbi Tarfon.

<sup>321</sup> § The mishna teaches that Rabbi Eliezer says: This son is a mamzer slave. Rabbi Elazar said: What is the reason of Rabbi Eliezer? As the verse states with regard to a mamzer: "Even to the tenth generation none of his shall enter the assembly of the Lord" (Deuteronomy 23:3), which indicates that in the case of the child of a mamzer and a Canaanite maidservant, one follows his parent with the flawed lineage, and the child is a mamzer.

<sup>322</sup> The Gemara asks: And how do the Rabbis, i.e., Rabbi Tarfon, respond to this claim? Rabbi Tarfon maintains that this verse is referring to a Jew of unflawed lineage who married a mamzeret. It might enter your mind to say that as it is written: "By their families, by their fathers' houses" (Numbers 4:2), the child should follow his father's lineage rather than that of his mother. Therefore, the term "of his" in the previously cited verse comes to exclude him from his father's lineage, as it indicates that his lineage follows his mother when she is a mamzeret.

<sup>323</sup> And how does Rabbi Eliezer respond to this claim? Is it not the case that even though the Torah wrote: "By their families, by their fathers' houses," nevertheless, the term "of his" comes and excludes him? Here too, although it is written: "The wife and her children shall be her master's" (Exodus 21:4), from which it is derived that the child of a Canaanite maidservant is like her, nevertheless the term "of his" comes and excludes him. And how do the Rabbis, Rabbi Tarfon, respond to this claim? They say: Any offspring in the womb of a Canaanite maidservant is considered like the offspring in an animal's womb. Consequently, her children do not inherit the father's status, even if his is the flawed lineage.

## Chapter 4

<sup>1</sup> MISHNA: There were ten categories of lineage, with varying restrictions on marriage, among the Jews who ascended from Babylonia to Eretz Yisrael with Ezra before the building of the Second Temple. They are as follows: Priests; Levites; Israelites; priests disqualified due to flawed lineage [ḥalalim]; converts, and emancipated slaves; mamzerim; Gibeonites, i.e., the descendants of the Gibeonites who converted in the time of Joshua; children of unknown paternity [shetuki]; and foundlings.

<sup>2</sup> The mishna proceeds to detail their halakhot: With regard to priests, Levites, and Israelites, it is permitted for men and women in these categories to marry one another. With regard to Levites who are not priests, Israelites, ḥalalim, converts, and emancipated slaves, it is permitted for men and women in these categories to marry one another.

<sup>3</sup> With regard to converts, and emancipated slaves, mamzerim, and Gibeonites, children of unknown paternity [shetuki], and foundlings, it is permitted for all of the men and women in these categories to marry one another. And these are the last two categories: A shetuki is any person who knows the identity of his mother but does not know the identity of his father. A foundling is anyone who was collected from the marketplace and doesn't know the identity of his parents, neither that of his father nor that of his mother. These two categories are people whose status is uncertain; they may be mamzerim. Abba Shaul would call a shetuki by the label of beduki.

<sup>4</sup> GEMARA: The mishna teaches: There were ten categories of lineage among the Jews who ascended from Babylonia. The Gemara asks: Why does the tanna specifically teach the phrase: Ascended from Babylonia? Why was it important for the tanna to specify their place of origin? Let him teach that they went to Eretz Yisrael. The Gemara answers: He teaches us a matter in passing, as it is taught in a baraita: The verse states: "And you shall arise and go up to the place that the Lord, your God, shall choose" (Deuteronomy 17:8). This teaches that the Temple is higher than all of Eretz Yisrael, which is why the verse speaks of ascending from the cities of Eretz Yisrael to the Temple. And it teaches that Eretz Yisrael is higher than all of the lands.

<sup>5</sup> The Gemara asks: Granted, the Temple is higher than all of Eretz Yisrael. This is derived from that which is written:

<sup>6</sup> "Matters of controversy within your gates, and you shall arise and go up to the place that the Lord, your God, shall choose" (Deuteronomy 17:8), indicating that the Temple, the place that God chose, is higher than all other cities in Eretz Yisrael. But from where do we derive the claim that Eretz Yisrael is higher than all other lands? The Gemara answers: As it is written: "Therefore behold, the days are coming, says the Lord, when they shall no more say: As the Lord lives, Who brought up the children of Israel out of the land of Egypt, but: As the Lord lives, Who brought up and Who led the seed of the house of Israel out of the north country, and from all the countries where I had driven them" (Jeremiah 23:7–8). The phrase "Who brought up" indicates that Eretz Yisrael is higher than all the other lands from where God will bring the Jewish people.

<sup>7</sup> The Gemara asks: If that is what the mishna wants to teach, why does the tanna specifically teach: Ascended from Babylonia? Let him teach: Ascended to Eretz Yisrael. The Gemara answers that the wording of the mishna supports the opinion of Rabbi Elazar, as Rabbi Elazar says: Ezra did not ascend from Babylonia until he made it like fine flour, free of bran, i.e., he ensured that the lineage of

those remaining was unsullied, and selected all of those in Babylonia who were of questionable lineage, and then he ascended with them to Eretz Yisrael.

<sup>8</sup> § It was stated that amora'im had a dispute with regard to this matter. Abaye said: We learned in the mishna that there were ten categories of lineage among the Jews who ascended, meaning that they ascended of their own accord. And Rava said: We learned: Ezra brought them up, against their will. The Gemara explains: And they disagree about the statement of Rabbi Elazar, as Rabbi Elazar says: Ezra did not ascend from Babylonia until he made it like fine flour, and only then he ascended.

<sup>9</sup> Abaye does not accept the statement of Rabbi Elazar, since he maintains that they ascended of their own free will, whereas Rava does accept the statement of Rabbi Elazar. Or, if you wish, say that everyone accepts the statement of Rabbi Elazar, and here they disagree with regard to this: One Sage, Abaye, holds that Ezra first separated the members of the community with flawed lineage, and they subsequently ascended to Eretz Yisrael out of their own desire. And one Sage, Rava, holds that he brought them up against their will.

<sup>10</sup> The Gemara asks: Granted, according to the one who says that the mishna means that they ascended of their own accord, without any distinction between the types of people who came, this is the reason that Rav Yehuda says that Shmuel says: The lineage of residents of all lands is muddled compared to that of Eretz Yisrael, and the lineage of residents of Eretz Yisrael is muddled compared to that of Babylonia. As the people came of their own accord, there was a lack of oversight concerning who married whom. But according to the one who says that he brought them up, and Ezra identified and selected all those who came with him, the Sages of the time knew the lineage of all who came and would have been careful not to allow any forbidden marriages, so why is the lineage of residents of Eretz Yisrael considered to be muddled compared to that of Babylonia? The Gemara answers: Though the status of those who came was known to that generation, it was not known to other later generations.

<sup>11</sup> The Gemara asks another question: Granted, according to the one who says that they ascended of their own accord, this is the meaning of the verse that is written in the book of Ezra: "And I gathered them together to the river that runs to Ahava, and we camped there for three days; and I viewed the people and the priests, and found there none of the sons of Levi" (Ezra 8:15), as it was necessary for Ezra to clarify the identity of the people traveling to Eretz Yisrael.

<sup>12</sup> But according to the one who says that he brought them up, they were careful to classify the lineage of the people before they left for Eretz Yisrael, so why was it necessary for him to clarify the matter by the riverside? The Gemara answers: Though they were careful with regard to people of flawed lineage before they left for Eretz Yisrael, with regard to people of unflawed lineage they were not careful to clarify the precise lineage of each of them earlier, and they did this by the riverside.

<sup>13</sup> § The mishna included in its list of types of lineage priests, Levites, and Israelites. The Gemara asks: From where do we derive that they ascended? The Gemara answers: As it is written: "So the priests, and the Levites, and some of the people, and the singers, and the gatekeepers, and the Gibeonites dwelt in their cities, and all of Israel in their cities" (Ezra 2:70). The verse specifies priests, Levites, and all of Israel.

<sup>14</sup> The mishna further states that ḥalalim, converts, and emancipated slaves ascended from Babylonia. The Gemara clarifies: From where do we derive that ḥalalim ascended? The Gemara answers: As it is taught in a baraita that Rabbi Yosei says: Great is the importance of a presumptive

status, as it is stated: “And of the children of the priests: The children of Habaiah, the children of Hakkoz, the children of Barzillai, who took a wife of the daughters of Barzillai the Gileadite, and was called after their name. These sought the registry of their genealogy, but it was not found. Therefore, they were deemed polluted and put out from the priesthood. And the Tirshatha said to them that they should not eat of the offerings of the most sacred order until there arose a priest with the Urim VeTummim” (Ezra 2:61–63).

<sup>15</sup> The baraita continues: This shows that there was uncertainty whether specific descendants of priests were fit for the priesthood or were ḥalalim, and Ezra said to them: You have retained your presumptive status. In other words, despite their failure to provide proof that they were fit priests, they maintained their prior status. Ezra said: Of what priestly gifts did you partake when you were in exile? You partook only of the consecrated gifts of the boundaries, i.e., from teruma, which may be eaten anywhere. Here too, in Eretz Yisrael, you may partake only of the consecrated gifts of the boundaries. You may not, however, partake of anything that must be eaten inside Jerusalem, as indicated by the verse “They should not eat of the offerings of the most sacred order.” In any event, since the verse writes that they were “put out from the priesthood,” it can be seen that there were ḥalalim who came with Ezra to Eretz Yisrael.

<sup>16</sup> The Gemara asks: And according to the one who says that one elevates a priest to lineage, i.e., one attributes the lineage of a priest to an individual on the basis of observing him partaking of teruma, how could they be allowed to partake of teruma? Those who partake of teruma will subsequently be elevated to the full status of priests. The Gemara answers: There it is different, as their presumptive status had been weakened. Since they did not partake of offerings, as did all other priests, all knew that they were not regular priests.

<sup>17</sup> The Gemara asks: But if so, what is the meaning of Rabbi Yosei’s claim that great is a presumptive status? They received nothing extra by virtue of this presumption. The Gemara responds: They have gained in that initially they would partake of teruma only of Babylonian produce, which is teruma by rabbinic law, and afterward they would partake of produce that is teruma by Torah law. The separation of teruma in Eretz Yisrael is a Torah obligation, and the produce is fully consecrated.

<sup>18</sup> The Gemara offers an additional defense of the opinion that one elevates a priest to lineage based on observing him partake of teruma: And if you wish, say: Actually, now also, in Eretz Yisrael, they would partake only of produce that is teruma by rabbinic law, such as vegetables, while they would not partake of produce that is teruma by Torah law, such as grains. And when we elevate a priest to lineage on the basis of observing him partake of teruma, that is only when he was observed partaking of produce that is teruma by Torah law, but if someone partakes of produce that is teruma by rabbinic law, we do not elevate him. Therefore, they could continue partaking of teruma based on their presumptive status, and there is no concern that they might be elevated to the status of full-fledged priests.

<sup>19</sup> The Gemara asks: If so, the question remains: What is meant by the phrase: Great is a presumptive status? The Gemara answers: It means that initially, there was no reason to decree and prohibit them from partaking of produce that was teruma by rabbinic law due to the possibility that they may partake of produce that is teruma by Torah law, as there was no produce that was teruma by Torah law in Babylonia. Afterward, when they came to Eretz Yisrael, although there was reason to decree

and prohibit them from partaking of produce that was teruma by rabbinic law due to the possibility that they may partake of produce that was teruma by Torah law, as that kind of teruma was also present, their presumptive status was nevertheless strong enough to allow them to continue to partake of produce that was teruma by rabbinic law, although they could not eat produce that is teruma by Torah law.

<sup>20</sup> The Gemara asks: But isn't it written: "And the Tirshatha said to them that they should not eat of the offerings of the most sacred order [kodesh hakodashim]" (Ezra 2:63)? This indicates that it is from the offerings of the most sacred order that they may not eat, but anything else, i.e., offerings not of the most sacred order, they may eat, including produce that is teruma by Torah law.

<sup>21</sup> The Gemara answers: This is what the Tirshatha is saying: They may not partake of anything that is called sacred [kodesh], nor anything that is called most sacred [kodashim]. The Gemara clarifies. The words not anything that is called sacred are referring to teruma, as it is written with regard to teruma: "No non-priest may eat of the sacred" (Leviticus 22:10). And the words nor anything that is called most sacred are referring to offerings, as the verse states: "And a daughter of a priest, if she is married to a non-priest, she may not eat of that which is set apart from the sacred things" (Leviticus 22:12). And the Master says: What is the meaning of "that which is set apart from the sacred things"? It means from the portions separated from the offerings, i.e., the breast and thigh of a peace-offering,

<sup>22</sup> she may not eat.

<sup>23</sup> § The mishna teaches that converts and emancipated slaves ascended from Babylonia. The Gemara asks: From where do we derive this? Rav H̥isda says: As the verse states with regard to the eating of the Paschal offering upon the return to Eretz Yisrael: "And the children of Israel who had come back from the exile ate, and all such as had separated themselves to them from the impurity of the nations of the land to seek the Lord, the God of Israel, did eat" (Ezra 6:21), indicating that converts and emancipated slaves who had abandoned "the impurity of the nations of the land," i.e., idolatry, joined Ezra.

<sup>24</sup> The mishna taught that mamzerim were among those who ascended from Babylonia. The Gemara asks: From where do we derive this? The Gemara answers: As it is written: "And Sanballat the Horonite and Tobiah the servant, the Ammonite, heard" (Nehemiah 2:19), and elsewhere it is written with regard to Tobiah the Ammonite: "For there were many in Judah sworn to him because he was the son-in-law of Shecaniah the son of Arah; and his son Jehohanan had taken the daughter of Meshullam the son of Berechiah" (Nehemiah 6:18). The Gemara proceeds to explain: This tanna holds that in the case of a gentile or a slave who engaged in sexual intercourse with a Jewish woman, the offspring is a mamzer. Since Tobiah the Ammonite, a gentile, married a Jewish woman, as did his son, there were clearly mamzerim among those who ascended.

<sup>25</sup> The Gemara asks: This works out well according to the one who says that in that case the offspring is a mamzer. But according to the one who says that the lineage of the offspring is unflawed and has the status of the mother, what can be said? And furthermore, from where is it clear that Jehohanan had offspring from this wife? Perhaps he did not have offspring, and it is possible that there were no mamzerim. And furthermore, even if they did have offspring, from where is it clear that they had offspring here, in Babylonia, who then ascended to Eretz Yisrael? Perhaps they were there, in Eretz Yisrael, all the time, as they may have been one of the families that was not exiled to Babylonia, and therefore they cannot be used as the proof that mamzerim ascended from Babylonia.

<sup>26</sup> Rather, the proof that mamzerim were among those who ascended from Babylonia is from here: “And these were they that ascended from Tel Melah, Tel Harsha, Cherub, Addon, and Immer; but they could not tell their fathers’ houses, nor their offspring, whether they were of Israel” (Nehemiah 7:61). The Gemara explains that these names are to be interpreted as follows: “Tel Melah”; these are people whose licentious actions were similar to the act of Sodom, which was turned into a mound of salt [tel melah]. “Tel Harsha”; this is referring to one who calls a man father, and his mother silences him, as the word ḥarsha is similar to maḥarishto, meaning: Silences him. In any event, the statement that there were those who acted licentiously, as did the people of Sodom, means that there were mamzerim among them.

<sup>27</sup> The Gemara continues with its explication of the verse: “But they could not tell their fathers’ houses, nor their offspring, whether they were of Israel”; this is referring to a foundling who is gathered from the marketplace. Such a person does not even know if he is Jewish, as he has no knowledge of his parents. With regard to the names “Cherub, Addon, and Immer,” Rabbi Abbahu says that these terms should be expounded as follows: The Master [Adon], God, said: I said that the Jewish people shall be as important before Me as a cherub, but they made themselves impudent as a leopard [namer]. There are those who say a different version: Rabbi Abbahu said: The Master [Adon] said that although they made themselves as a leopard [namer], they are as important before Me as a cherub.

<sup>28</sup> § Explicating the same verse, Rabba bar bar Ḥana says: In the case of anyone who marries a woman who is not suited for him to marry due to her lineage, the verse ascribes him blame as though he plowed [ḥarash] all of the entire world and sowed it with salt [melah], as it is stated with regard to those of flawed lineage who ascended from Babylonia: “And these were they that ascended from Tel Melah, Tel Harsha.”

<sup>29</sup> Rabba bar Rav Adda says that Rav says: In the case of anyone who marries a woman of flawed lineage only for the sake of money, he will have offspring who will act inappropriately, as it is stated: “They have dealt treacherously against the Lord, for they have begotten strange children; now shall the new moon devour them with their portions” (Hosea 5:7).

<sup>30</sup> Rabba bar Rav Adda explains the verse: And lest you say that at least the money that they received as dowry was spared, although they suffer from the acts of their offspring, the verse states: “Now shall the new moon devour them with their portions,” meaning their property shall be consumed in a single month. And lest you say his portion will be lost but not the portion of his wife, the verse states “their portions” in the plural. And lest you say this will occur after a long time, but in the interim he will benefit from the money, the verse states: “The new moon.” The Gemara asks: From where may it be inferred that their money will be lost immediately? Rav Naḥman bar Yitzḥak said: A month comes and a month goes, and their money is already lost. In any event, the fact that the punishment they receive is the loss of their portions indicates that the sin in this case was marrying for the sake of money.

<sup>31</sup> And Rabba bar Rav Adda says, and some say Rabbi Salla says that Rav Hamnuna says: In the case of anyone who marries a woman who is not suited for him to marry due to her lineage, Elijah binds him in the manner that those liable to receive lashes are bound, and the Holy One, Blessed be He, straps him. And a Sage taught: Concerning all of them, Elijah writes and the Holy One, Blessed be He, signs the following: Woe to he who disqualifies his offspring, and who brings a flaw to his



family lineage, and who marries a woman who is not halakhically suited for him to marry. Elijah binds him and the Holy One, Blessed be He, straps him.

<sup>32</sup> He further said: And anyone who disqualifies others by stating that their lineage is flawed, that is a sign that he himself is of flawed lineage. Another indication that one's lineage is flawed is that he never speaks in praise of others. And Shmuel says: If one habitually claims that others are flawed, he disqualifies himself with his own flaw. The flaw he accuses them of having is in fact the one that he has.

<sup>33</sup> § The Gemara recounts a related incident: There was a certain man from Neharde'a who entered a butcher shop in Pumbedita. He said to them: Give me meat. They said to him: Wait until the servant of Rav Yehuda bar Yehezkel has taken his meat, and then we will give it to you. The man said to them in anger: Who is this Yehuda bar Sheviske'el, a derogatory name for a glutton for meat, that he should precede me, that he should take before me? They went and told Rav Yehuda what the man had said. Rav Yehuda excommunicated him, in accordance with the halakha of one who disparages a Torah scholar. They also said to him that the same man was in the habit of calling people slaves. Rav Yehuda proclaimed about him that he is a slave and may not marry a Jew.

<sup>34</sup> The Gemara continues the story: That man went and summoned Rav Yehuda to judgment before Rav Naḥman, who was a judge in Neharde'a. When the summons arrived in Pumbedita, Rav Yehuda went before Rav Huna to seek his council. Rav Yehuda said to him: Should I go or should I not go? Rav Huna said to him: As for the obligation to go, you are not required to go, since you are a great man and therefore are not under the jurisdiction of Rav Naḥman's court. But due to the honor of the Exilarch's house, as Rav Naḥman was the son-in-law of the Exilarch, get up and go.

<sup>35</sup> Rav Yehuda arrived in Neharde'a and found Rav Naḥman constructing a parapet. Rav Yehuda said to Rav Naḥman: Does the Master not hold in accordance with that halakha that Rav Huna bar Idi says that Shmuel says: Once a person has been appointed a leader of the community, he is prohibited from performing labor before three people, so that he not belittle the honor of his position? Rav Naḥman said to him: It is merely a little fence [gundarita] that I am constructing. Rav Yehuda said to him: Is the term ma'akeh, which is written in the Torah, or the corresponding term meḥitza, which the Sages said, distasteful to you? Why do you use a term that is used by neither the Torah nor the Sages?

<sup>36</sup> During their meeting, Rav Naḥman said to him: Let the Master sit on the bench [karfita]. Rav Yehuda said to him: Is the term safsal, which the Sages said, or the word itzteva, which common people say, distasteful to you? Why are you using uncommon terms? Rav Naḥman then said to him: Let the Master eat a citron [etronga]. Rav Yehuda said to him: This is what Shmuel said: Anyone who says etronga demonstrates one-third of a haughtiness of spirit. Why? He should either say etrog, as the Sages called it, or etroga, as common people say in Aramaic. Saying etronga is a sign of snobbery, as it was employed by the aristocratic class. He subsequently said to him: Let the Master drink a cup [anbaga] of wine. Rav Yehuda said to him: Is the term ispargus, as the Sages called it, or anpak, as common people say, distasteful to you?

<sup>37</sup> Later on, Rav Naḥman said to him: Let my daughter Donag come and pour us drinks. Rav Yehuda said to him: This is what Shmuel says: One may not make use of a woman for a service such as this. Rav Naḥman replied: She is a minor. Rav Yehuda retorted: Shmuel explicitly says: One may not make use of a woman at all, whether she is an adult or a minor.

<sup>38</sup> Later on, Rav Naḥman suggested: Let the Master send greetings of peace to my wife Yalta. Rav Yehuda said to him: This is what Shmuel says: A woman's voice is considered nakedness, and one may not speak with her. Rav Naḥman responded: It is possible to send your regards with a messenger. Rav Yehuda said to him: This is what Shmuel says:

<sup>39</sup> One may not send greetings to a woman even with a messenger, as this may cause the messenger and the woman to relate to each other inappropriately. Rav Naḥman countered by suggesting that he send his greetings with her husband, which would remove all concerns. Rav Yehuda said to him: This is what Shmuel says: One may not send greetings to a woman at all. Yalta, his wife, who overheard that Rav Yehuda was getting the better of the exchange, sent a message to him: Release him and conclude your business with him, so that he not equate you with another ignoramus.

<sup>40</sup> Desiring to release Rav Yehuda, Rav Naḥman said to him: What is the reason that the Master is here? Rav Yehuda said to him: The Master sent me a summons. Rav Naḥman said to him: Now that I have not even learned the Master's form of speech, as you have demonstrated your superiority to me by reproving me even over such matters, could I have sent a summons to the Master? Rav Yehuda removed the summons from his bosom and showed it to him. While doing so, Rav Yehuda said to him: Here is the man and here is the document. Rav Naḥman said to him: Since the Master has come here, let him present his statement, in order that people should not say: The Sages flatter one another and do not judge each other according to the letter of the law.

<sup>41</sup> Rav Naḥman commenced the deliberation, and said to him: What is the reason that the Master excommunicated that man? Rav Yehuda replied: He caused discomfort to an agent of one of the Sages, and therefore he deserved the punishment of one who causes discomfort to a Torah scholar. Rav Naḥman challenged this answer: If so, let the Master flog him, as Rav would flog one who causes discomfort to an agent of the Sages. Rav Yehuda responded: I punished him more severely than that. Rabbi Yehuda held that excommunication is a more severe punishment than flogging.

<sup>42</sup> Rav Naḥman further inquired: What is the reason that the Master proclaimed about him that he is a slave? Rav Yehuda said to him: Because he is in the habit of calling people slaves, and it is taught: Anyone who disqualifies others by stating that their lineage is flawed, that is a sign that he himself is of flawed lineage. Another indication of his lineage being flawed is that he never speaks in praise of others. And Shmuel said: He disqualifies with his own flaw. Rav Naḥman retorted: You can say that Shmuel said this halakha only to the degree that one should suspect him of being of flawed lineage. But did he actually say this to the extent that one could proclaim about him that he is of flawed lineage?

<sup>43</sup> The Gemara continues the story: Meanwhile, that litigant arrived from Neharde'a. That litigant said to Rav Yehuda: You call me a slave? I, who come from the house of the Hasmonean kings? Rav Yehuda said to him: This is what Shmuel says: Anyone who says: I come from the house of the Hasmonean kings, is a slave. As will be explained, only slaves remained of their descendants.

<sup>44</sup> Rav Naḥman, who heard this exchange, said to Rav Yehuda: Does the Master not hold in accordance with this halakha that Rabbi Abba says that Rav Huna says that Rav says: With regard to any Torah scholar who proceeds to teach a ruling of halakha with regard to a particular issue, if he said it before an action that concerns himself occurred, they should listen to him, and his ruling is accepted. But if not, if he quoted the halakha only after he was involved in an incident related to the halakha he is quoting, they do not listen to him, due to his personal involvement? Your testimony

with regard to what Shmuel ruled should be ignored, as you stated it only after the incident. Rav Yehuda said to Rav Nahman: There is Rav Mattana, who stands by my report, since he has also heard this ruling of Shmuel.

<sup>45</sup> The Gemara continues: Rav Mattana had not seen the city of Neharde'a for thirteen years. That very day he arrived. Rav Yehuda said to him: Does the Master remember what Shmuel said when he was standing with one foot on the bank and one foot on the ferry? Rav Mattana said to him: This is what Shmuel said at that time: Anyone who says: I come from the house of the Hasmonean kings, is a slave, as none remained of them except for that young girl who ascended to the roof and raised her voice and said: From now on, anyone who says: I come from the house of the Hasmonean kings, is a slave. Other than this girl, the only members of the family who remained were descendants of Herod, and he was an Edomite slave.

<sup>46</sup> The girl then fell from the roof and died, leaving only slaves from the Hasmoneans. With the confirmation of the report of the statement of Shmuel, they also publicized in Neharde'a about him, i.e., that man who claimed to come from the Hasmonean kings, that he was a slave.

<sup>47</sup> The Gemara relates: On that day, several marriage contracts were torn up in Neharde'a, as many had their marriages annulled after having discovered that they had married slaves. When Rav Yehuda was leaving Neharde'a, they pursued him, seeking to stone him, as because of him it was publicized that their lineage was flawed. Rav Yehuda said to them: If you are silent, remain silent. And if you will not remain silent, I will reveal about you this statement that Shmuel said: There are two lines of offspring in Neharde'a. One is called the dove's house, and one is called the raven's house. And your mnemonic with regard to lineage is: The impure bird, the raven, is impure, meaning flawed, and the pure one, the dove, is pure, meaning unflawed. Upon hearing this, they threw all those stones that they were intending to stone him with from their hands, as they did not want him to reveal who had a flawed lineage. And as a result of all of the stones thrown into the river, a dam arose in the Malka River.

<sup>48</sup> § The Gemara continues the discussion of those with a flawed lineage: Rav Yehuda proclaimed in Pumbedita: Adda and Yonatan, known residents of that town, are slaves; Yehuda bar Pappa is a mamzer; Bati bar Tuvyya, in his arrogance, did not accept a bill of manumission and is still a slave. Rava proclaimed in his city of Mehoza: Balla'ai, Danna'ai, Talla'ai, Malla'ai, Zagga'ai: All these families are of flawed lineage. Rav Yehuda likewise says: Gova'ai, the inhabitants of a place called Gova, are in fact Gibeonites, and their name has been corrupted. Similarly, those people known as Dorenunita are from the village of Gibeonites, and they may not marry Jews with unflawed lineage. Rav Yosef says: With regard to this place called Bei Kuvei of Pumbedita, its residents are all descendants of slaves.

<sup>49</sup> Rav Yehuda says that Shmuel says: Four hundred slaves, and some say four thousand slaves, were owned by Pashhur ben Immer, a priest in the time of Jeremiah, and due to their greatness they were assimilated into the priesthood and became known as priests. And any priest who has the trait of insolence is only from them. Abaye said: They all sit in the rows of honor that are in the city of Neharde'a. The Gemara comments: And this statement disagrees with the statement of Rabbi Elazar, as Rabbi Elazar says: If you see an insolent priest, do not speculate about him that he may be of flawed lineage, since it is stated: "For your people are as those who strive with a priest" (Hosea 4:4), which indicates that priests had a reputation for being cantankerous.

<sup>50</sup> § The Gemara discusses an idea raised earlier. Rabbi Avin bar Rav Adda says that Rav says: Concerning anyone who marries a woman who is not suited for him to marry, when the Holy One, Blessed be He, rests His Divine Presence upon the Jewish people, He testifies with regard to all the tribes that they are His people, but He does not testify with regard to he who married improperly, as it is stated: “The tribes of the Lord, as a testimony to Israel” (Psalms 122:4). When is it a testimony to Israel? When the tribes are the tribes of the Lord, but not when their lineage is flawed.

<sup>51</sup> Rabbi Ḥama, son of Rabbi Ḥanina, says: When the Holy One, Blessed be He, rests His Divine Presence, He rests it only upon families of unflawed lineage among Israel, as it is stated: “At that time, says the Lord, will I be the God of all the families of Israel” (Jeremiah 30:25). Of all Israel, is not stated, but “of all the families,” which includes only those of unflawed lineage, the renowned families of Israel.

<sup>52</sup> The verse from Jeremiah ends with the words “And they shall be my people.” Rabba bar Rav Huna says: This is a higher standard that differentiates between those born as Jews and converts, as with regard to those born as Jews it is written about them: “And I will be their God, and they shall be My people” (Ezekiel 37:27), whereas with regard to converts it is written: “For who is he that has pledged his heart to approach unto Me? says the Lord. And you shall be My people, and I will be your God” (Jeremiah 30:21–22). This teaches that converts are not drawn close to God, as indicated by the words “And I will be your God,” until they first draw themselves near to God, as indicated by the subsequent phrase “And you shall be my people.”

<sup>53</sup> Rabbi Ḥelbo says: Converts are as difficult for the Jewish people as a scab. The proof is that it is stated: “And the convert shall join himself with them, and they shall cleave [venispeḥu] to the house of Jacob” (Isaiah 14:1). It is written here “venispeḥu,” and it is written there, among the types of leprosy: “And for a sore and for a scab [sappaḥat]” (Leviticus 14:56). The use of a term with a similar root indicates that converts are like a scab for the Jewish people.

<sup>54</sup> Rabbi Ḥama bar Ḥanina says: When the Holy One, Blessed be He,

<sup>55</sup> purifies the tribes, i.e., clarifies their lineage, He will purify that of the tribe of Levi first, as it is stated with regard to the angel sent forth by God: “And he shall sit as a refiner and purifier of silver; and he shall purify the sons of Levi, and purge them as gold and silver; and there shall be they that shall offer to the Lord offerings in righteousness” (Malachi 3:3).

<sup>56</sup> Rabbi Yehoshua ben Levi says: Money purifies mamzerim. Money causes rich mamzerim to become assimilated with Jews of unflawed lineage, since other families marry them despite their flawed lineage. In the future, God will not single them out as mamzerim, as it is stated: “And he shall sit as a refiner and purifier of silver,” which teaches that money, i.e., silver, purifies them. What, then, is the connection to the next part of the verse: “They that shall offer to the Lord offerings in righteousness”? Rabbi Yitzḥak says: The Holy One, Blessed be He, performed an act of righteousness with the Jewish people by establishing that a family that has become assimilated with Jews of unflawed lineage remains assimilated. They are not removed from their tribe despite their flawed lineage.

<sup>57</sup> § With regard to the matter itself that was discussed earlier, the lineage of the Jews in various lands, Rav Yehuda says that Shmuel says: The lineage of residents of all lands is muddled compared to that of the residents of Eretz Yisrael, and the lineage of residents of Eretz Yisrael is muddled compared to that of Babylonia. The Gemara relates: In the days of Rabbi Yehuda HaNasi, they

sought to establish the lineage of the Jews in Babylonia as muddled relative to that of Eretz Yisrael. In other words, the people of Eretz Yisrael wanted their lineage to be considered superior to that of the residents of Babylonia, so that if people from Eretz Yisrael would wish to marry Babylonians, they would have to investigate the lineage of the Babylonians. Rabbi Yehuda HaNasi was descended from Hillel, a Babylonian, so he said to those who put forth this suggestion: Are you placing thorns between my eyes? Do you wish to insult me? If you wish, Rabbi Ḥanina bar Ḥama will join you and explain it to you.

<sup>58</sup> Rabbi Ḥanina bar Ḥama joined them and said to them: This is the tradition that I received from Rabbi Yishmael, son of Rabbi Yosei, who says in the name of his father, who was from Eretz Yisrael: The lineage of residents of all lands is muddled compared to that of Eretz Yisrael, and the lineage of residents of Eretz Yisrael is muddled compared to that of Babylonia.

<sup>59</sup> The Gemara further relates with regard to the same issue: In the days of Rabbi Pineḥas, they sought to establish the lineage of Babylonia as muddled relative to that of Eretz Yisrael. He said to his servants: When I have said two statements in the house of study, pick me up on a stretcher and run, so that I will not be attacked for my statements. When he entered the house of study he said to those studying there: Slaughter of a bird is not obligatory by Torah law.

<sup>60</sup> While they were sitting and scrutinizing this novel halakha, he said to them: The lineage of residents of all lands is muddled compared to that of Eretz Yisrael, and the lineage of residents of Eretz Yisrael is muddled compared to that of Babylonia. His servants picked him up on a stretcher and ran. Those that were in the house of study pursued him but could not catch him. Nevertheless, they sat and examined the lineage of various families in order to determine whether in fact the lineage of the residents of Eretz Yisrael was problematic, until they reached powerful families. It was dangerous to accuse them of flaws due to their power, and they withdrew from their inspections.

<sup>61</sup> Rabbi Yoḥanan says as an oath: By the Sanctuary! It is in our power to reveal the identity of a family that has a flawed lineage, but what can I do, as the greatest of the generation are assimilated into it? Consequently, I will not reveal its name. The Gemara comments: Rabbi Yoḥanan holds in accordance with the opinion of Rabbi Yitzḥak, as Rabbi Yitzḥak says: A family that has become assimilated remains assimilated, and one should not reveal their flawed status.

<sup>62</sup> Abaye said: We too learn in the mishna (Eduyyot 8:7): There was a family known as Beit HaTzerifa in Transjordan, and a person called ben Tziyyon forcefully distanced it and proclaimed that its lineage was flawed, although its lineage was unflawed. There was another one that ben Tziyyon forcefully drew near, although its lineage was flawed. The mishna adds: Known families such as these, Elijah comes to declare impure and to declare pure, to distance and to draw near. Abaye continues: When the mishna states: Such as these, it means those whose status we know. But a family that has become assimilated, whose flawed lineage is unknown to the public, has already become assimilated, and not even Elijah will publicize its flaw.

<sup>63</sup> The Sage taught (Tosefta, Eduyyot 3:4): There was another family with flawed lineage, but the Sages did not want to reveal its identity to all. But the Sages transmit its name to their children and to their students once every seven years, and some say twice every seven years, to prevent them from marrying into their family. Rav Naḥman bar Yitzḥak says: It stands to reason in accordance with the one who says that they transmit it once every seven years, as it is taught in a baraita (Tosefta, Nazir 1:2): One who says: I am hereby a nazirite if I do not reveal the names of families of flawed lineage

among the Jewish people, he should be a nazirite and not reveal the identity of such families. This shows that such information should be kept secret as much as possible.

<sup>64</sup> § The above statement, concerning a matter that the Sages transmitted privately and infrequently, leads the Gemara to teach a similar halakha: Rabba bar bar Ḥana says that Rabbi Yoḥanan says: The Sages transmit the correct pronunciation of the four-letter name of God to their students once every seven years, and some say twice every seven years. Rav Naḥman bar Yitzḥak says: It stands to reason in accordance with the one who says that they transmit it once every seven years, as it is written: “This is My name forever [le’olam]” (Exodus 3:15), which is written so that it can be read le’alem, to hide. This indicates that the Divine Name must remain hidden. The Gemara relates: Rava planned to expound and explain the proper way to say the name in a public discourse. A certain elder said to him: It is written so that it can be read le’alem, indicating that it must stay hidden.

<sup>65</sup> Rabbi Avina raised a contradiction: It is written: “This is My name,” indicating that the name as written is that of God; and it is written: “This is My remembrance” (Exodus 3:15), which indicates that it is not God’s actual name but merely a way of remembering His name. The explanation is as follows: The Holy One, Blessed be He, said: Not as I am written am I pronounced. I am written with the letters yod, heh, vav, heh, while My name is pronounced with the letters ales, dalet, nun, yod.

<sup>66</sup> The Sages taught: Initially, the Sages would transmit the twelve-letter name of God to any person. When the uninhibited ones who used the name disrespectfully increased, they would transmit it only to discreet members of the priesthood, and the discreet members of the priesthood would pronounce the name during the Priestly Benediction. They would conceal it by saying it during the sweet melody of their priestly brothers, so that it would not become publicly known. It is taught in a baraita: Rabbi Tarfon, who was himself a priest, said: On one occasion I ascended after my mother’s brother to the platform to give the Priestly Benediction, and I inclined my ear near the High Priest, and I heard him conceal the name during the sweet melody of his priestly brothers.

<sup>67</sup> Rav Yehuda says that Rav says: The forty-two-letter name of God may be transmitted only to one who is discreet, and humble, and stands at at least half his life, and does not get angry, and does not get drunk, and does not insist upon his rights but is willing to yield. There is no concern that such a person might reveal the name in a fit of anger or drunkenness. And anyone who knows this name and is careful with it and guards it in purity is beloved above and treasured below; and fear of him is cast upon the creatures; and he inherits two worlds, this world and the World-to-Come.

<sup>68</sup> § The Gemara returns to the issue of lineage: Shmuel says in the name of a certain elder: A family in Babylonia has a presumptive status of unflawed lineage until it becomes known to you in what way it was rendered of flawed lineage. Conversely, a family from other lands has a presumptive status of flawed lineage until it becomes known to you in what way it was rendered unflawed. As for families in Eretz Yisrael, one who has a presumptive status of flawed lineage is of flawed lineage, whereas one who has presumptive status of unflawed lineage is of unflawed lineage.

<sup>69</sup> The Gemara is puzzled by this last statement: This matter itself is difficult: First, you said that a family that has a presumptive status of flawed lineage is of flawed lineage, indicating that a family with unspecified status is of unflawed lineage. And then you teach: A family that has a presumptive status of unflawed lineage is of unflawed lineage, indicating that a family with unspecified status is of flawed lineage. Rav Huna bar Taḥalisa said in the name of Rav: This is not difficult.

<sup>70</sup> Here, in the final clause, it is referring to marrying a woman to him, and the halakha is that a family with no presumptive status requires investigation before one of them marries. There, in the penultimate clause, it is referring to the court removing a woman from him. The husband is not forced to divorce her unless it has been proven that they may not remain married.

<sup>71</sup> Rav Yosef says: Anyone whose speech is Babylonian, i.e., anyone who speaks the Babylonian language with a Babylonian accent, is allowed to marry a woman without having his lineage examined. The presumption is that he is Babylonian, and the lineage of Babylonian families is unflawed. The Gemara comments: But nowadays, when there are swindlers who may speak with Babylonian accents in order to avoid scrutiny, we are concerned even about those who speak like Babylonians.

<sup>72</sup> The Gemara relates: The Sage Ze'eiri, a Babylonian, was avoiding Rabbi Yoḥanan, who was from Eretz Yisrael, since the latter kept saying to him: Marry my daughter. One day, when they were walking along the way, they arrived at a large puddle of water. Ze'eiri lifted Rabbi Yoḥanan upon his shoulders and carried him over the puddle out of respect. Rabbi Yoḥanan said to him: Our Torah is fit and worthy of honor in your eyes, and yet our daughters are not fit? What is your reason for not wanting to marry my daughter?

<sup>73</sup> Rabbi Yoḥanan continued: If we say a reason not to marry my daughter is from that which we learned in a mishna (69a): There were ten categories of lineage among the Jews who ascended from Babylonia: Priests, Levites, Israelites, as well as many of flawed lineage, and you are concerned about the mamzerim among those who live in Eretz Yisrael, is that to say that all of the priests, Levites, and Israelites ascended to Eretz Yisrael? Certainly, Jews of unflawed lineage remained in Babylonia. Just as there remained from these unflawed categories in Babylonia, there also remained individuals from these, the flawed categories. Therefore, marrying only Babylonians will not alleviate your concern. The Gemara comments: In fact, this statement of Rabbi Elazar escaped Rabbi Yoḥanan: Ezra did not ascend from Babylonia until he made it like fine flour, and then he ascended. Accordingly, the people who remained in Babylonia were all of unflawed lineage.

<sup>74</sup> The Gemara relates another incident: Ulla arrived in Pumbedita to the house of Rav Yehuda. He observed that Rav Yitzḥak, son of Rav Yehuda, was grown up and was unmarried. Ulla said to Rav Yehuda: What is the reason that the Master does not marry a woman to his son? Rav Yehuda said to him: Do I know from where I can find a woman to marry him? I am concerned about flawed lineage. Ulla said to him: Is that to say that we know where we come from? Can we be sure that our lineage is unflawed? Perhaps we are from those about whom it is written: "They have ravished the women in Zion, the maidens in the cities of Judah" (Lamentations 5:11). Perhaps we are descended from women ravished by gentiles.

<sup>75</sup> And if you would say that you are not concerned about that possibility, since you maintain that in the case of a gentile or a slave who engaged in sexual intercourse with a Jewish woman, the lineage of the offspring is unflawed, perhaps we come from those about whom it is written: "That lie upon beds of ivory, and stretch themselves upon their couches" (Amos 6:4), and Rabbi Yosei, son of Rabbi Ḥanina, says in explanation of this verse: These are people who urinate naked before their couches.

<sup>76</sup> And Rabbi Abbahu ridiculed this interpretation and said: If so, if this was their sin, is this what is written: "Therefore now shall they go captive at the head of them that go captive" (Amos 6:7)? Could it be that because they urinated naked before their couches that they go captive at the head of

them that go captive? That act is admittedly distasteful, but it is not so severe a transgression to warrant such a punishment.

<sup>77</sup> Rather, Rabbi Abbahu says: These are people who eat and drink together, and attach their beds together, and exchange their wives with each other, and befoul their couches with semen that is not theirs. The Jewish people include the descendants of such people, who are full-fledged mamzerim.

<sup>78</sup> Rav Yehuda said to Ulla: If so, what shall we do? How can we clarify which families are of unflawed lineage? Ulla said to him: Go after the silence, like the way the people of the West, Eretz Yisrael, examine: When two people quarrel with each other, they observe which of them becomes silent first. Then they say: This silent party is of finer lineage.

<sup>79</sup> Rav says: The silence of Babylonia is its lineage. In other words, this is an effective method of examining a person's lineage in Babylonia as well. The Gemara asks: Is that so? But Rav arrived at the house of the son of a vinegar strainer and examined them. What, is it not that he conducted an examination into their lineage? The Gemara answers: No, he conducted an examination into their silence. This is what Rav said to those conducting the examination: Examine whether they become silent when they quarrel or whether they do not become silent.

<sup>80</sup> Rav Yehuda says that Rav says: If you see two people feuding with each other, there is a trace of unfitness in one of them. In other words, there are grounds to suspect that the lineage of one of them is flawed. Consequently, that one is prevented by Heaven from joining the other through marriage, and that leads them to feud with each other. Rabbi Yehoshua ben Levi says: If you see two families feuding with each other, there is a trace of unfitness in one of them, and that family is prevented by Heaven from joining the other.

<sup>81</sup> Rav Pappa the Elder says in the name of Rav: Babylonia is healthy with regard to lineage and clear of suspicion. Mishon is dead, meaning that all its inhabitants have flawed lineage. Media is sick, and Eilam is moribund. The Gemara clarifies: And what is the difference between sick and moribund? Most sick people recover to a healthy life, whereas most of those who are moribund are destined for death. Likewise, the majority of the residents of Media had unflawed lineage, while the majority of those living in Eilam had flawed lineage.

<sup>82</sup> After having determined that those from Babylonia are presumed to have unflawed lineage, the Gemara clarifies what the borders of Babylonia are with regard to this issue. Until where does the width of Babylonia extend? Rav said: Until the River Azak, which empties into the Euphrates. And Shmuel said: Until the River Yo'ani, which also empties into the Euphrates. The Gemara asks: Until where does the border extend upward, meaning northward, on the Tigris? Rav said: Until the places called Bagda and Avna. And Shmuel said: Until Mushekanei. The Gemara asks: But according to Shmuel, isn't Mushekanei included in Babylonia? But didn't Rabbi Hiyya bar Abba say that Shmuel says: Mushekanei is like the exile, meaning it is like Pumbedita in central Babylonia, with regard to lineage? Rather, Shmuel meant: Until and including Mushekanei.

<sup>83</sup> The Gemara asks: How far does the border extend downward, meaning southward, on the Tigris? Rav Shmuel said: Until the city of Lower Appamya. The Gemara comments: There are two cities called Appamya, the upper one and the lower one. In terms of the lineage of their residents, one is unflawed and the other is flawed, and they are separated by a distance of a parasang [parsa]. And they are particular with regard to one another. The residents of the two cities avoid each other to the extent that they do not even loan each other fire, to prevent them from developing a closeness with



each other. And your mnemonic to remember which is which is that the unfit one is that one that speaks the Mishon dialect. As stated above, Mishon is considered dead with regard to lineage.

<sup>84</sup> The Gemara further clarifies: How far does the border extend upward, meaning northward, on the Euphrates? Rav said: Until the fortress of Tulbaknei. And Shmuel said: Until the bridge over the Euphrates. And Rabbi Yoḥanan said: Until the crossing at Gizma. The Gemara relates: Abaye would curse, and some say it was Rav Yosef that would curse, one who ruled in accordance with the opinion of Rav, as he held that Rav extended the border too far north.

<sup>85</sup> The Gemara is puzzled by this statement: Why did he curse one who ruled in accordance with the opinion of Rav, but he did not curse one who ruled in accordance with the opinion of Shmuel? But the bridge over the Euphrates is further north than the fortress of Tulbaknei. Rather, he would curse one who ruled in accordance with the opinion of Rav, and all the more so one who ruled in accordance with the opinion of Shmuel. And if you wish, say: In fact, he cursed one who ruled in accordance with the opinion of Rav, but he did not curse one who ruled in accordance with the opinion of Shmuel, and the bridge over the Euphrates actually stood lower down, i.e., farther south. In their times the bridge was to the south of Tulbaknei, and Abaye agreed that it was in Babylonia.

<sup>86</sup> And it is only now that the Persians moved the bridge further up northward. Abaye said to Rav Yosef: Until where does the border extend on this western side of the Euphrates? Rav Yosef said to him: What are you thinking? Why do you ask? Is it due to the town of Biram? Even those of pure lineage who live in Pumbedita marry women from Biram, which demonstrates that the residents of Biram are presumed to have unflawed lineage.

<sup>87</sup> Rav Pappa says: Just as there is a dispute between Rav and Shmuel as to the northern border of Babylonia with regard to lineage, so is there a dispute with regard to bills of divorce. An agent bringing a bill of divorce from a country overseas to Eretz Yisrael must state that it was written and signed in his presence. If he brought it from Babylonia, there is no requirement for him to state this. Rav Pappa is teaching that the borders that define Babylonia with regard to this issue are the same as the borders with regard to lineage. And Rav Yosef says: This dispute is with regard to lineage, but with regard to bills of divorce, everyone agrees that it is considered Babylonia up to the second lake of the bridge that Shmuel mentioned.

<sup>88</sup> Rami bar Abba said: The province of Ḥaveil Yamma is the glory of Babylonia with regard to lineage; Shunya and Guvya are the glory of Ḥaveil Yamma. Ravina said: The town of Tzitzora is also like Shunya and Guvya. This is also taught in a baraita: Ḥanan ben Pineḥas says: Ḥaveil Yamma is the glory of Babylonia; Shunya and Guvya and Tzitzora are the glory of Ḥaveil Yamma. Rav Pappa says: And nowadays, Samaritans have assimilated with them, and their lineage is problematic. The Gemara comments: And that is not so. Rather, one Samaritan requested to marry a woman from them and they would not give her to him, which led to the rumor that Samaritans had assimilated with them. The Gemara asks: What is this region called Ḥaveil Yamma? Rav Pappa said: This is the area near the Euphrates adjacent to Bursi.

<sup>89</sup> The Gemara relates: There was a certain man who said to the Sages: I am from a place called Shot Mishot. Rabbi Yitzḥak Nappaḥa stood on his feet and said: Shot Mishot is located between the Tigris and Euphrates Rivers. The Gemara asks: And if it is located between the rivers, what of it? What halakha is this relevant for? Abaye said that Rabbi Ḥama bar Ukva says that Rabbi Yosei, son of Rabbi Ḥanina, says: The area between the rivers is like the exile, meaning Pumbedita, with regard to

lineage. The Gemara inquires: And where is the area between the rivers located for the purpose of this halakha? Rabbi Yoḥanan said: From Ihi Dekira and upward, i.e., northward. The Gemara asks: But doesn't Rabbi Yoḥanan say: Until the crossing at Gizma but no further? Abaye said: A strip extends from that region past Ihi Dekira.

<sup>90</sup> Rav Ika bar Avin says that Rav Ḥananel says that Rav says: Ḥillazon Nihavnad is like the exile with regard to lineage. Abaye said to them: Do not listen to Rav Ika bar Avin about this, as it was a yevama who fell before him from there to perform levirate marriage, and he said that its lineage was unflawed because he wished to marry her. Rav Ika bar Avin said to him: Is that to say that this halakha is mine? It is Rav Ḥananel's, and it is not reasonable to say that I was influenced by my own interests in stating it. They went and asked Rav Ḥananel. He said to them: Rav said as follows: Ḥillazon Nihavnad is like the exile with regard to lineage.

<sup>91</sup> The Gemara comments: And this disagrees with the statement of Rabbi Abba bar Kahana, as Rabbi Abba bar Kahana says: What is the meaning of that which is written with regard to the exile of the ten tribes of the kingdom of Israel: "And he put them in Halah, and in Habor, on the river of Gozan, and in the cities of the Medes" (II Kings 18:11)? Halah is Ḥillazon; Habor is Hadyav; the river of Gozan is Ginzak; the cities of the Medes are Ḥamadan and its neighboring towns, and some say: This is Nihavnad and its neighboring towns. Since the ten tribes assimilated with the gentiles, the lineage of Jews from those places is flawed, unlike that which was taught before.

<sup>92</sup> The Gemara asks: What are the neighboring towns of Nihavnad? Shmuel said: The city of Mushekhei, Ḥosekei, and Rumekei. Rabbi Yoḥanan says: And all of these are the same with regard to flawed lineage. It was assumed that Mushekhei is the same as Mushekanei. The Gemara therefore asks: But doesn't Rabbi Ḥiyya bar Avin say that Shmuel says: Mushekanei is like the exile with regard to lineage? Rather, it must be that Mushekhei is discrete, and Mushekanei is discrete.

<sup>93</sup> In connection to the aforementioned places, the Gemara analyzes the following verse, describing a vision of a bear-like animal: "And it had three ribs in its mouth between its teeth" (Daniel 7:5). Rabbi Yoḥanan says: This is Ḥillazon, Hadyav, and Netzivin, which the Persian government sometimes swallows and sometimes discharges. In other words, control over these places passed from the Persians to the Romans and back again several times.

<sup>94</sup> The first part of that verse stated: "And behold a second beast, similar to a bear" (Daniel 7:5). Rav Yosef taught: These are Persians, who eat and drink copious amounts like a bear, and are corpulent like a bear, and grow hair like a bear, and have no rest like a bear, which is constantly on the move from one place to another. When Rabbi Ami saw a Persian riding, he would say: This is a bear on the move.

<sup>95</sup> Rabbi Yehuda HaNasi said to Levi: Show me Persians, i.e., describe a typical Persian to me. Levi said to him: They are similar to the legions of the house of David. Rabbi Yehuda HaNasi said: Show me Ḥabbarin, Persian priests. Levi said to him: They are similar to angels of destruction. Rabbi Yehuda HaNasi said: Show me Ishmaelites. Levi said to him: They are similar to demons of an outhouse. Rabbi Yehuda HaNasi said: Show me Torah scholars of Babylonia. Levi said to him: They are similar to ministering angels.

<sup>96</sup> When Rabbi Yehuda HaNasi was dying, he said prophetically: There is a place called Homanya in Babylonia, and all its people are the sons of Ammon. There is a place called Masgariya in Babylonia, and all its people are mamzerim. There is a place called Bireka in Babylonia, and there are two

brothers there who exchange wives with each other, and their children are therefore mamzerim. There is a place called Bireta DeSatya in Babylonia. Today they turned away from the Omnipresent. What did they do? A ditch with fish overflowed, and they went and trapped the fish on Shabbat. Rabbi Aḥai, son of Rabbi Yoshiya, excommunicated them, and they all became apostates. There is a place called Akra DeAgma in Babylonia. There is a man named Adda bar Ahava there.

<sup>97</sup> Today he is sitting in the lap of Abraham our forefather, since he has just been circumcised. He added: Today Rav Yehuda was born in Babylonia.

<sup>98</sup> The Gemara comments: As the Master said: While Rabbi Akiva was dying, Rabbi Yehuda HaNasi was born; while Rabbi Yehuda HaNasi was dying, Rav Yehuda was born; while Rav Yehuda was dying, Rava was born; while Rava was dying, Rav Ashi was born. This teaches you that a righteous person does not leave the world before an equally righteous person is created, as it is stated: “The sun also rises and the sun also sets” (Ecclesiastes 1:5). The same applies to earlier generations: Before Eli’s sun had gone out, Samuel the Ramathite’s sun was already rising, as it is stated: “And the lamp of God was not yet gone out, and Samuel was lying in the Temple of the Lord” (I Samuel 3:3), which teaches that Samuel was already prophesying in the days of Eli.

<sup>99</sup> The Gemara stated above that Homanya is an Ammonite city. The verse states: “The Lord has commanded concerning Jacob, that they that are round about him should be his adversaries” (Lamentations 1:17), indicating that the Jewish people are surrounded by enemies even in its exile. Rav Yehuda says: Homanya is close to Pum Nahara, which had Jewish residents.

<sup>100</sup> The verse states: “And it came to pass, when I prophesied, that Pelatiah the son of Benaiah died. Then fell I down upon my face, and cried with a loud voice, and said: Ah Lord God!” (Ezekiel 11:13). Rav and Shmuel disagreed with regard to the meaning of this verse. One said it should be interpreted for good, and one said it should be interpreted for evil. How so? The one who says that it should be interpreted for good claims it is like that story involving the governor [de’istandera] of the province of Meishan, who was the son-in-law of Nebuchadnezzar. He sent a message to his father-in-law: From all those captives you have brought for yourself from your wars you have not sent us anyone to stand before us.

<sup>101</sup> Nebuchadnezzar wanted to send him captives from the Jews to serve his son-in-law. Pelatiah, son of Benaiah, said to Nebuchadnezzar: We, who are important, shall stand and serve before you here, and our slaves will go there, to your son-in-law. Nebuchadnezzar took his advice. And about him the prophet Ezekiel said: One who did this good for the Jewish people, i.e., Pelatiah ben Benaiah, who spared them this exile, should he die at half of his days?

<sup>102</sup> The one who says that the verse should be interpreted for evil cites the following verse, as it is written: “Then a spirit lifted me up, and brought me unto the east gate of the Lord’s House, which looked eastward; and behold, at the door of the gate five and twenty men; and I saw in the midst of them Jaazaniah the son of Azzur, and Pelatiah the son of Benaiah, princes of the people” (Ezekiel 11:1), and it is written: “And He brought me into the inner court of the Lord’s House, and, behold, at the door of the Temple of the Lord, between the porch and the altar, were about five and twenty men, with their backs toward the Temple of the Lord, and their faces toward the east” (Ezekiel 8:16).

<sup>103</sup> The second verse is analyzed in light of the first verse, which states that Pelatiah ben Benaiah was among the twenty-five people: From the fact that it is stated: “And their faces toward the east,” don’t I know that their backs were toward the west, where the Temple was? What is the meaning

when the verse states: “Their backs toward the Temple of the Lord”? These words hint at another matter, as the verse teaches that they exposed themselves from behind and discharged excrement toward the One above, in the direction of the Temple. And the prophet is saying: Shall he who did this evil in Israel die peacefully on his bed?

<sup>104</sup> The Gemara comments: It may be concluded that it was Shmuel who said this was for evil, as Rabbi Ḥiyya bar Avin says that Shmuel says: Mushekanei is like the exile with regard to lineage. And even with regard to Mishon, they were not concerned due to slavery nor due to mamzer status. Rather, the priests who were there were not particular with regard to the prohibition against priests marrying divorced women. Consequently, Shmuel maintains that the only flaw of lineage in Mishon was that of ḥalalim, whereas the opinion that the verse was stated for good maintains that the some of the residents of Mishon were slaves.

<sup>105</sup> The Gemara rejects this: Actually, I could say to you that Shmuel said it was for good, and there is no contradiction, since Shmuel conforms to his standard line of reasoning, as he says: With regard to one who renounces ownership of his slave, the slave is emancipated and he does not even require a bill of manumission. Shmuel cited a proof from that which is stated: “But every slave man that is bought for money” (Exodus 12:44). Does this apply only to a slave who is a man, and not to a woman slave? Rather, it means: The slave of a man, i.e., a slave whose master has authority and control over him, is called a slave, since he is the slave of a particular man. A slave whose master does not have authority over him, such as one who has been declared ownerless, is not called a slave but a freeman. The slaves who went to Mishon no longer had the status of slaves because their masters remained behind.

<sup>106</sup> Rav Yehuda says that Shmuel says: This mishna, which indicates that only the inhabitants of Babylonia have unflawed lineage, is the statement of Rabbi Meir. But the Rabbis say: All lands retain a presumptive status of unflawed lineage.

<sup>107</sup> The Gemara comments: Ameimar permitted Rav Huna bar Natan to marry a woman from Meḥoza, which is outside the borders of Babylonia as pertains to lineage. Rav Ashi said to Ameimar: What is your reasoning in allowing him to do so? Is it because Rav Yehuda says that Shmuel says: This is the statement of Rabbi Meir, but the Rabbis say all lands retain a presumptive status of unflawed lineage. The halakha follows the opinion of the Rabbis, but the school of Rav Kahana did not teach like this, and the school of Rav Pappa did not teach like this, and the school of Rav Zevid did not teach like this. The Gemara comments: Nevertheless, despite hearing of all these reports, Ameimar did not accept this halakha from him, because he had heard this halakha directly from Rav Zevid of Neharde’a, upon whom he relied.

<sup>108</sup> The Sages taught (Tosefta 5:5): Mamzerim and Gibeonites will be pure in the future; this is the statement of Rabbi Yosei. Rabbi Meir says: They will not be pure. Rabbi Yosei said to him: But hasn’t it already been stated: “And I will sprinkle clean water upon you, and you shall be clean from all your uncleanness, and from all your idols, will I cleanse you” (Ezekiel 36:25)? Rabbi Meir said to him: When it says: “From all your uncleanness, and from all your idols,” this emphasizes that God will purify people from these types of impurity, but not from mamzer status. Rabbi Yosei said to him: When it says: “Will I cleanse you,” at the end of the verse, you must say this means even from mamzer status.

<sup>109</sup> The Gemara comments: Granted, according to Rabbi Meir, who maintains that mamzerim will not be purified, this is as it is written: “And a mamzer shall dwell in Ashdod” (Zechariah 9:6), indicating that they will have their own isolated living area. But according to Rabbi Yosei, what is the meaning of the phrase “And a mamzer shall dwell in Ashdod”? The Gemara answers: He understands that verse as Rav Yosef would translate it: The Jewish people shall dwell in tranquility in their land, where they were formerly like strangers, reading mamzer as me’am zar, from a strange people.

<sup>110</sup> Rav Yehuda says that Shmuel says: The halakha is in accordance with the opinion of Rabbi Yosei, that mamzerim and Gibeonites will be pure in the future. Rav Yosef says: If it were not for the fact that Rav Yehuda said that Shmuel said that the halakha is in accordance with the opinion of Rabbi Yosei, Elijah would come and remove from us group after group of forbidden people [kolarin], since he would reveal how many mamzerim there are among the Jewish people.

<sup>111</sup> The Sages taught (Tosefta 5:3): A convert may marry a mamzeret ab initio; this is the statement of Rabbi Yosei. Rabbi Yehuda says: A convert may not marry a mamzeret. A convert, an emancipated slave, and a ḥalal are all permitted to marry the daughter of a priest. The Gemara asks: What is the reason of Rabbi Yosei, who deems it permitted for a convert to marry a mamzeret? The Gemara answers: Five congregations are written, meaning, the word congregation appears five times in the Torah with regard to various people of flawed lineage who are prohibited from entering the congregation of God.

<sup>112</sup> One is referring to priests, to teach that people with flawed lineage may not enter their congregation; and one is referring to Levites; and one to Israelites; and one serves to permit a mamzer to marry a shetuki, since a mamzer is prohibited from entering only the congregation of God, but he may marry someone who is not definitely a member of the congregation, e.g., a shetuki; and one serves to permit a shetuki to marry an Israelite, as only one who is a definite mamzer may not marry an Israelite. As for the congregation of converts, it is not called a congregation at all, and they may marry those prohibited from entering the congregation of Israel. And Rabbi Yehuda holds that priests and Levites are derived from one instance of the word “congregation,” since they are from the same tribe, that of Levi. Consequently, one instance of the word “congregation” remains for him to interpret. He interprets it as referring to the congregation of converts, and deems it prohibited for a mamzer to enter that congregation as well.

<sup>113</sup> And if you wish, say: So too, Rabbi Yehuda agrees with Rabbi Yosei that Levites and priests are two congregations, since there are special halakhot of marriage that apply only to priests. Rather, Rabbi Yehuda holds that the permissibility of the marriage of a mamzer with a shetuki and a shetuki with an Israelite is derived from one instance of the word “congregation,” from the verse: “A mamzer shall not enter into the congregation of the Lord” (Deuteronomy 23:3).

<sup>114</sup> This is accomplished by inferring the following: It is one who is a definite mamzer who may not enter, but one who is a mamzer as a result of an uncertainty, e.g., a shetuki, may enter. And similarly, it is into the congregation of those with definite unflawed lineage that a mamzer may not enter, but into a congregation of those with uncertain lineage, e.g., a shetuki, he may enter. This verse therefore teaches that both types of marriage are permitted. In any event, Rabbi Yehuda remains with one instance of the word “congregation” to interpret, from which he derives that it is also prohibited for a convert to marry a mamzeret.

<sup>115</sup> And if you wish, say: These too, one who is a definite mamzer and one who is a mamzer as the result of an uncertainty, are two congregations, each requiring its own verse, and the reason of Rabbi Yehuda is from here: “As for the congregation, there shall be one statute both for you, and for the stranger that sojourns with you” (Numbers 15:15), which indicates that converts are considered like Israelites with regard to their being included in the category of “congregation.” And according to Rabbi Yosei, who holds that a convert may marry a mamzeret, the phrase “one statute” interrupts the matter, and converts are not considered part of the congregation of God.

<sup>116</sup> § The Gemara comments: The statement of the Tosefta that a convert, and an emancipated slave, and a ḥalal are all permitted to marry the daughter of a priest supports the opinion of Rav, as Rav Yehuda says that Rav says: Women of unflawed lineage who are daughters of priests were not prohibited from marrying those disqualified from the priesthood due to flawed lineage [ḥalalim], since that prohibition applies only to male priests.

<sup>117</sup> Rabbi Zeira taught in Meḥoza: It is permitted for a convert to marry a mamzeret. Everyone stoned him with their etrogim, since the many converts present were insulted by his statement, which they understood to mean that converts are not members of God’s congregation. Rava said: Is there a person who teaches such a matter in a place where there are commonly converts? He should have been more circumspect. Rava himself taught this in Meḥoza to ameliorate the situation: It is permitted for a convert to marry the daughter of a priest. They carried him on silk [beshira’ei] for elevating the honor of converts. He later taught them: It is permitted for a convert to marry a mamzeret. They said to him: You have forfeited the honor of your first sermon. Rava said to them: I have done for you what is good for you. If a convert wishes, he may marry from here, i.e., from those of pure lineage, and if he wishes, he may marry from here, i.e., a mamzeret.

<sup>118</sup> The Gemara concludes: And the halakha is: It is permitted for a convert to marry the daughter of a priest, and it is permitted for him to marry a mamzeret. It is permitted for a convert to marry the daughter of a priest, since women of unflawed lineage were not prohibited from marrying those disqualified for the priesthood. And it is permitted for him to marry a mamzeret, in accordance with the opinion of Rabbi Yosei, who holds that the congregation of converts is not called a congregation.

<sup>119</sup> § The mishna teaches: And these are the last two categories: A shetuki is any person who knows the identity of his mother but does not know the identity of his father. Rava says: By Torah law, a shetuki is fit to enter the congregation. What is the reason for this? Most are fit with regard to her, i.e., most men are fit to engage in intercourse with an unmarried woman, and only a minority are unfit with regard to engaging in intercourse with her. There are few men who are related to a woman in a way that would render the offspring mamzerim.

<sup>120</sup> Rava analyzes two possibilities: And if they came to her, i.e., if the father came to the mother’s location when the child was conceived, the following principle with regard to an uncertain prohibition takes effect: Anything that separates from its fixed location is presumed to have separated from the majority of items like it in that location. If the father separated from the population at large and came to the mother, one can assume that he was from the majority, who are of unflawed lineage. What might you say, that perhaps she went to them, and the child was conceived in the place where the father was? In such a case, it is an uncertain prohibition located in its fixed place, and the halakhic principle is: Anything fixed is considered as though it were half and half, i.e., fifty percent,

and it remains a case of uncertainty, and it should be prohibited for the shetuki to marry a Jew with unflawed lineage.

<sup>121</sup> And in any case, this does not suffice to prevent her shetuki child from marrying a Jew with unflawed lineage, since the Torah states: “A mamzer shall not enter into the congregation of the Lord” (Deuteronomy 23:3), which indicates: It is a definite mamzer who may not enter, but one who is a mamzer as a result of an uncertainty may enter. Similarly, it is into a congregation of those with definite unflawed lineage that he may not enter, but into a congregation of those with uncertain lineage he may enter. Therefore, even if it is uncertain if one is a mamzer, by Torah law he may marry a Jew with unflawed lineage.

<sup>122</sup> And for what reason did the Sages nevertheless say that a shetuki is of flawed lineage? Due to a rabbinic decree, lest he marry his sister from his father, since the identity of his father is unknown. The Gemara asks: If that is so, it should not be permitted for a shetuki to marry even a female shetuki, lest he marry his sister from his father.

<sup>123</sup> The Gemara responds: And do people engage in licentiousness to such an extent that one should be concerned that all the children of unknown paternity in one city were fathered by the same man? By the same reasoning, there should also be a decree that a shetuki may not marry the daughter of a female shetuki from a proper marriage, lest he marry his sister from his father, since the man who married the female shetuki might have been his father. Rather, it must be that it is not common for a shetuki to happen to marry his sister, and therefore he may marry the daughter of a female shetuki. So too, it is not common for him to happen to marry his sister, and the Sages would not issue a decree to prevent this from occurring.

<sup>124</sup> The question therefore remains, why did they render it prohibited for a shetuki to marry a Jew with unflawed lineage? The Gemara answers that it is not prohibited for a shetuki to marry a Jew with unflawed lineage due to any halakhic concern. Rather, the Sages established a higher standard with regard to lineage, in that they rendered it prohibited for people from unknown backgrounds to marry those with unflawed lineage.

<sup>125</sup> And Rava says a similar statement: By Torah law, a foundling, a child found in the marketplace whose parents are unknown, is fit, and there is no concern that the child is a mamzer. What is the reason for this? A married woman who becomes pregnant through extramarital intercourse, which results in the child being a mamzer, ascribes the child to her husband. Since everyone assumes that her husband is the father, she has no reason to abandon the child in the marketplace. What case is there where a mother would want to abandon her mamzer child? There is the minority of situations involving betrothed women who committed adultery but cannot claim that her betrothed is the father, as they had not been living together. And there is the minority of women whose husbands have gone overseas and could not have fathered the children.

<sup>126</sup> Since there are many other cases of unmarried women who do abandon their children although those children have unflawed lineage, and there are also children with unflawed lineage who are abandoned by their parents due to hunger, the concern that the child is a mamzer is no more than half and half, i.e., fifty percent. And the Torah states: “A mamzer shall not enter into the congregation of the Lord” (Deuteronomy 23:3), which indicates: It is one who is a definite mamzer who may not enter, but one who is a mamzer as a result of an uncertainty may enter. Similarly, it is into a congregation of those with definite unflawed lineage that he may not enter, but into a congregation of

those with uncertain lineage he may enter. This child is a mamzer as the result of an uncertainty, and by Torah law may marry a Jew with unflawed lineage.

<sup>127</sup> And for what reason did the Sages say that a foundling is unfit? Lest he marry his sister from his father. The Gemara asks: If that is so, it should not be permitted for a foundling to marry even a female foundling, lest he marry his sister from either his father or his mother. The Gemara rejects this: Are they continually throwing away all these children? Is it likely that the same parents abandoned both a son and a daughter? If you accept that suggestion, it should not be permitted for him to marry the daughter of a foundling, lest he marry his sister, as perhaps the father of the one he wishes to marry is his father as well. Rather, it must be that it is not common for a foundling to happen to marry his sister, and therefore he may marry the daughter of a foundling. So too, it is not common for him to happen to marry his sister, and the Sages would not make a decree to prevent this from occurring.

<sup>128</sup> The question therefore remains: Why did they prohibit a foundling from marrying a Jew with unflawed lineage? The Gemara answers that it is prohibited for a foundling to marry a Jew with unflawed lineage not due to any halakhic concern. Rather, the Sages established a higher standard with regard to lineage, in that they rendered it prohibited for people from unknown backgrounds to marry those with unflawed lineage.

<sup>129</sup> § Rava bar Rav Huna says: If an abandoned boy was found circumcised,

<sup>130</sup> he is not subject to the halakhot of a foundling. If the baby's lineage were unfit, his parents would not have gone to the trouble of circumcising him. Likewise, if his limbs are adjusted, indicating that he was cared for after birth, he is not subject to the halakhot of a foundling. Similarly, if he was anointed with oil, or if his eyes were smeared with eye salve, or if he was adorned with rings, or if a note [pitka] was hanging on him, or if an amulet was hanging on him, he is not subject to the halakhot of a foundling.

<sup>131</sup> Concerning a child found hanging from a palm tree, if he was in such a place that an animal could reach him, he is subject to the halakhot of a foundling. If not, if he was placed on a palm tree in a way that he could not be reached by an animal, he is not subject to the halakhot of a foundling, since he was cared for enough to be placed in a safe location.

<sup>132</sup> Similarly, if the child was placed in a thicket near a town, where people are not commonly found, he is subject to the halakhot of a foundling. But if not, he is not subject to the halakhot of a foundling. If the child was discovered in a synagogue near a town, and people are commonly found there, he is not subject to the halakhot of a foundling, since the parents wanted to give him to others. But if not, if the synagogue was not near a town or if it was not frequented by people, he is subject to the halakhot of a foundling.

<sup>133</sup> Ameimar said: With regard to this cistern into which date pits are placed [peira desuflei] as animal fodder, if a child is found there, he is subject to the halakhot of a foundling. If he was found in the middle of a fast-flowing river with boats passing by, he is not subject to the halakhot of a foundling. If he was placed at the side of the river, he is subject to the halakhot of a foundling. If he was found at the sides of a public domain, which is not frequented by many people, he is not subject to the halakhot of a foundling. But if the child was discovered in the public domain itself, where he might easily be trampled, he is subject to the halakhot of a foundling.



<sup>134</sup> Rava said: And in famine years, he is not subject to the halakhot of a foundling. The Gemara asks: With regard to this statement of Rava, to which specific case is it referring? If we say it is referring to the case where the child was left in the public domain because it is a famine year, would a mother kill him by placing him in a place where he is likely to be trampled? Rather, if Rava's statement is referring to the case where the child was found at the sides of a public domain, why specifically mention famine years? Even when it is not famine years, the child was placed in a safe location where he was likely to be found.

<sup>135</sup> Rather, it must be that when Rava's halakha was stated, it was stated with regard to that which Rav Yehuda says that Rabbi Abba says that Rabbi Yehuda bar Zavdi says that Rav says: As long as the abandoned child is still in the marketplace, his father and mother are deemed credible with regard to him when they later claim the child as theirs. But once the child has been collected from the marketplace, they are no longer deemed credible with regard to him.

<sup>136</sup> The Gemara asks: What is the reason for this? Rava said: Since the child has already been publicized with the name of being of flawed lineage as a foundling, they cannot change the status of the child. And it is with regard to this halakha that Rava says: And in famine years, although the child has been collected from the marketplace, his father and mother are deemed credible with regard to him, as it is common even for parents of unflawed lineage to abandon their children in famine years, and it is likely that they are speaking the truth.

<sup>137</sup> § Rav Ḥisda says: There are three cases where people are deemed credible if they immediately offer testimony with regard to a matter about which they are not ordinarily deemed credible to testify. These are they: A foundling, a midwife, and one who exempts her friends from uncertain impurity.

<sup>138</sup> How so? The case of a foundling is that which we said, that his parents can testify with regard to his lineage before he is collected from the marketplace.

<sup>139</sup> The case of a midwife is as it is taught in a baraita: A midwife is deemed credible to say that this child emerged first from the womb and that child emerged second from the womb. Her testimony is relied upon to determine which of them is the firstborn. In what case is this statement said? When she has not left the birthing room and returned. But if she left the birthing room and returned, she is not deemed credible, since the babies might have been exchanged in the meantime. Rabbi Eliezer says: If she has stood in her place, she is deemed credible. But if not, she is not deemed credible. The Gemara asks: What is the difference between them? The Gemara answers: The difference between them is in a case when the midwife turned her head aside after the birth. According to Rabbi Eliezer she is no longer deemed credible, despite having remained in the room.

<sup>140</sup> What is the case of one who exempts her friends? As we learned in a mishna (Nidda 60b): If there were three women who were sleeping in one bed, and blood was found beneath one of them, they are all deemed impure as menstruating women, as it is not known from which of them the blood came. If one of them examined herself and was found to be impure, i.e., she saw that she was menstruating, she is impure and all the rest are pure. With regard to this, Rav Ḥisda said: This applies provided that she examined herself within the period of time needed for the onset of menstruation, i.e., immediately after the discovery of the blood. But if she did so even a short while later, her discovery is not accepted as proof with regard to the source of the blood.

<sup>141</sup> The Sages taught: If several women gave birth at the same time, the midwife is deemed credible to say: This baby is a priest and that baby is a Levite; this baby is a Gibeonite and that baby is a

mamzer. In other words, she is deemed credible to say which baby was born to which mother. In what case is this statement said? When no objection was registered about it. But if an objection was registered about it, she is not deemed credible.

<sup>142</sup> The Gemara clarifies: An objection of what type? If we say it is an objection of one witness claiming that her testimony is not accurate, but doesn't Rabbi Yoḥanan say: There is no objection with less than two witnesses? Rather, the baraita must refer to the objection of two witnesses, but she is deemed credible when contradicted by a single witness.

<sup>143</sup> And if you wish, say: Actually, I could say to you that she is not deemed credible even when contradicted by the objection of one witness, and when Rabbi Yoḥanan said that there is no objection with less than two witnesses, that statement applies only in a case where there is a presumption of validity, which can be countered only by the objection of two witnesses. But in a case where there is no presumption of validity, such as in this case, when the baby was just born, one witness is also deemed credible to object.

<sup>144</sup> Similarly, if the owner of an item being purchased is confronted by two people, each claiming to have purchased the item, he is deemed credible to say: I sold to this one, and I did not sell to that one. In what case is this statement said? When the item being purchased is still in the seller's possession. But if the item being purchased is not in his possession, he is not deemed credible any more than a single witness is.

<sup>145</sup> The Gemara asks: And let us see from whom he took the money, as it will be obvious that he is the one who bought it. The Gemara answers: No, it is necessary to teach this halakha in a case where the seller took money from both of them, and he then said: One payment I accepted willingly, and one payment was given to me against my will, and it is not known which person gave him money in accordance with his will and which did so against his will. In that case, if the item is no longer in the seller's possession, he is not deemed credible to testify to whom he sold it.

<sup>146</sup> The Gemara cites the continuation of the baraita: Similarly, a judge is deemed credible to say: I found this person victorious in a civil case, and I found this one obligated to pay. In what case is this statement said? When the litigants are still standing before him. But if the litigants are not standing before him but have left, he is not deemed credible. The Gemara asks: And let us see who holds the writ of a favorable verdict. Why is there a need to rely on the statement of the judge?

<sup>147</sup> The Gemara answers: No, it is necessary to teach this halakha in a case where their writs of a favorable verdict have been torn up and cannot be examined. The Gemara asks: If so, then let him return and judge them again, and presumably the same verdict will be issued. The Gemara answers: It was a case of the judges' discretion [shuda dedayyanei]. In certain cases, the verdict depends on the decision of the judges based solely on their sense of which litigant deserves to win. There is no guarantee that they will make the same decision the second time around.

<sup>148</sup> The Gemara continues to discuss the credibility of various people with regard to a firstborn. Rav Naḥman says: Three are deemed credible with regard to stating that a child is a firstborn, and they are: A midwife, his father, and his mother. A midwife is deemed credible only immediately; his mother is deemed credible all of the first seven days after his birth; his father is deemed credible forever. As it is taught in a baraita: Expounding the verse: "But he shall acknowledge the firstborn" (Deuteronomy 21:17), the Sages said: The father shall acknowledge him to others. In other words, he is deemed credible to tell others that this is his firstborn.

<sup>149</sup> From here, Rabbi Yehuda said: A person is deemed credible to say: This is my firstborn son. And just as he is deemed credible to say: This is my firstborn son, so too, if he is a priest he is deemed credible to say about his son: This is a son of a divorced woman, or: This is a son of a ḥalutza. And the Rabbis say: As far as these latter claims are concerned, he is not deemed credible. He is deemed credible to state only which son is his firstborn.

<sup>150</sup> § The mishna teaches that Abba Shaul would call a shetuki by the label of beduki. The Gemara asks: What is the meaning of beduki? If we say that they examine [bodekin] his mother, and if she says: I engaged in sexual intercourse with a man of unflawed lineage, in which case she is deemed credible, then with whose opinion does this halakha accord? With that of Rabban Gamliel. But we already learned this on another occasion, as we learned in a mishna (Ketubot 13a): If an unmarried woman was pregnant, and they said to her: What is the status of this fetus, and she said to them: It is from so-and-so, and he is a priest, then Rabban Gamliel and Rabbi Eliezer say: She is deemed credible, and Rabbi Yehoshua says: We don't live from, i.e., we don't rely on, the words of her mouth, and she is not trusted. And Rav Yehuda says that Shmuel says: The halakha is in accordance with the opinion of Rabban Gamliel. What, then, did Abba Shaul add beyond what was taught in that mishna?

<sup>151</sup> The Gemara answers: Abba Shaul's statement that the woman is deemed credible when she states that the father of the child was of unflawed lineage is nevertheless necessary. One halakha was stated in order to render her fit to marry a priest, and one halakha was stated to render her daughter fit to marry a priest as well. The Gemara asks: This works out well according to the one who says: According to the statement of the one who deems her fit to marry a priest, he nevertheless deems her daughter unfit, as her credibility does not extend to her daughter, who never had a presumptive status of unflawed lineage. Abba Shaul therefore presents a novel ruling, that if she claims to have engaged in intercourse with a man of unflawed lineage, she is deemed credible even with regard to the status of her daughter.

<sup>152</sup> But according to the one who says: According to the statement of the one who deems her fit to marry a priest, he deems her daughter fit to do so as well, what is Abba Shaul coming to teach us?

<sup>153</sup> The Gemara answers: The statement of Abba Shaul is preferable and is more far-reaching than that of Rabban Gamliel, as, if the halakha were learned only from there, the case of an unmarried woman, I would say: There it is a case when most are fit with regard to her, as it is permitted for most people to engage in intercourse with a single woman. But in a circumstance where most are unfit with regard to her, e.g., if she was betrothed and claimed that the man betrothed to her was the father, you might say this: She is not deemed credible when she claims to have engaged in intercourse with a man that would result in the child being of unflawed lineage, as only a small minority of people, i.e., her betrothed, would not render the child unfit, while the rest of the people in the world would render him unfit. Therefore, Abba Shaul's halakha was necessary in order to include that case. Rava says: The halakha is in accordance with the statement of Abba Shaul.

<sup>154</sup> MISHNA: All those for whom it is prohibited to enter into the congregation, i.e., to marry a Jew of unflawed lineage, are permitted to marry into each other's families. Rabbi Yehuda prohibits them from marrying anyone other than those who share their specific flaw.

<sup>155</sup> Rabbi Eliezer says: It is permitted for those with definite flaws to marry with those with definite flaws. For example, it is permitted for mamzerim and Gibeonites to marry each other. By contrast, it

is prohibited for those with definite flaws, such as mamzerim, to marry with those whose flaws result from an uncertainty, such as a child of unknown paternity [shetuki] and a foundling; and it is prohibited for those whose flaws result from an uncertainty to marry with those with definite flaws; and it is prohibited for those whose flaws result from an uncertainty to marry with those whose flaws result from an uncertainty, such as a shetuki and a female shetuki. And these are the ones whose flaws result from an uncertainty: A shetuki, a foundling, and a Samaritan.

<sup>156</sup> GEMARA: What is the meaning of: All those for whom it is prohibited to enter into the congregation? If we say mamzerim and Gibeonites, shetukim, and foundlings, wasn't it already taught in the first clause of the first mishna of the chapter that with regard to mamzerim and Gibeonites, shetukim, and foundlings, it is permitted for men and women in these categories to marry into each other's families?

<sup>157</sup> And furthermore, to which case in the mishna here is it referring when it states: Rabbi Yehuda prohibits them? If we say it is referring to those with definite flaws marrying with those whose flaws result from an uncertainty, and it is teaching that Rabbi Yehuda prohibits them from marrying each other, this is difficult. But from the fact that it teaches in the latter clause that Rabbi Eliezer says: It is permitted for those with definite flaws to marry with those with definite flaws; by contrast, it is prohibited for those with definite flaws to marry with those whose flaws result from an uncertainty, and it is prohibited for those whose flaws result from an uncertainty to marry with those with definite flaws, and it is prohibited for those whose flaws result from an uncertainty to marry with those whose flaws result from an uncertainty; then by inference, it is clear that Rabbi Yehuda does not maintain this opinion.

<sup>158</sup> And if you would say that when Rabbi Yehuda prohibits those with flawed lineage from marrying each other, he is referring to the prohibition against a convert marrying with a mamzeret, does the mishna teach the halakha of a convert marrying with a mamzeret? It teaches: All those for whom it is prohibited to enter into the congregation, which does not include a convert.

<sup>159</sup> Rav Yehuda says:

<sup>160</sup> This is what the mishna is saying: All those for whom it is prohibited to enter into the congregation of the priesthood. Rav Yehuda adds parenthetically: And who are they? Even a female who became a convert at less than three years and one day old, and this is not in accordance with the opinion of Rabbi Shimon ben Yoḥai, who holds that such a girl is permitted to marry a priest. Rav Yehuda resumes his presentation of the statement of Rabbi Yehuda: They are permitted to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another.

<sup>161</sup> The Gemara asks: And let us establish the mishna as referring to a girl who became a convert at three years and one day old or older, and then it will accord even with Rabbi Shimon ben Yoḥai's opinion, as he agrees that this convert may not marry a priest. The Gemara answers: If so, the mishna is broken, i.e., contradicted, from within itself, as if the mishna states that even a female who converted when she was older than three years and a day may marry one with flawed lineage, one would make an incorrect inference, as follows.

<sup>162</sup> Rather, the reason that she may marry one with flawed lineage is that she converted when she was already three years and one day old. But if she converted when she was less than three years and one day old, as she is permitted to enter into the congregation of the priesthood, is she prohibited

from marrying into those families that are prohibited from entering into the congregation but are permitted to marry one another? This cannot be, since according to the opinion of Rabbi Shimon ben Yoḥai, there is also the case of a female who converted when she was less than three years and one day old, who is permitted to enter the congregation of the priesthood and is also permitted to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another. Consequently, the mishna cannot be explained to accord with the opinion of Rabbi Shimon ben Yoḥai.

<sup>163</sup> The Gemara continues to ask: But is it an established principle that all those for whom it is prohibited to enter into the congregation of the priesthood are permitted to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another? But a widow, who may not marry a High Priest, and a divorcée, and a woman disqualified from marrying a priest [ḥalala], and a woman who has engaged in sexual intercourse with a man forbidden to her by the Torah [zona], are prohibited to enter into the congregation of the priesthood and are also prohibited to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another. And furthermore, can it be inferred: But one who is permitted to enter into the congregation of the priesthood is prohibited from marrying a man of flawed lineage? But there is the convert, who is permitted to marry a daughter of a priest, and is also permitted to marry a mamzeret.

<sup>164</sup> Rather, Rav Natan bar Hoshaya said: This is what the tanna of the mishna is saying: Any person about whom the halakha is that a priest may not marry his daughter. Rav Natan bar Hoshaya adds parenthetically: And who is that? A convert who married a female convert, and this is in accordance with the opinion of Rabbi Eliezer ben Ya'akov, who prohibits the daughter of two converts to marry a priest. Rav Natan bar Hoshaya resumes his presentation of the statement of Rabbi Yehuda: People of that status are permitted to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another, since converts are not in the category of "congregation."

<sup>165</sup> The Gemara asks: But is it an established principle that anyone whose daughter a priest may not marry is permitted to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another? But there is the case of a priest disqualified due to flawed lineage [ḥalal] who married a Jewish woman, as a priest may not marry his daughter, since she is a ḥalala. And despite this, she is included among those who are prohibited to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another. The Gemara answers: This is not difficult, since this mishna is in accordance with the opinion of Rabbi Dostai ben Yehuda, who holds that the daughter of a ḥalal and a Jewish woman may marry a priest.

<sup>166</sup> The Gemara asks: But there is the case of a ḥalal who married a ḥalala, as a priest may not marry his daughter, since she is a ḥalala. And despite this, she is included among those who are prohibited to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another. And furthermore, can it be inferred: One with regard to whom it is permitted for a priest to marry his daughter, is he prohibited from marrying Jews of flawed lineage? But there is the case of a convert who married a Jewish woman, and a priest is permitted to marry his daughter.

And despite this, people of that status are permitted to marry into those families that are prohibited from entering into the congregation but are permitted to marry one another.

<sup>167</sup> Rather, Rav Naḥman said that Rabba bar Avuh said a different explanation of the dispute between the first tanna and Rabbi Yehuda: Here, the difference between them concerns a mamzer resulting from intercourse between a man and his sister, and a mamzer resulting from intercourse between a married woman and a man other than her husband.

<sup>168</sup> The first tanna holds: Even a mamzer resulting from intercourse between a man and his sister is also considered a mamzer. And Rabbi Yehuda holds: The offspring resulting from intercourse with a married woman is a mamzer, but offspring resulting from intercourse between a man and his sister is not a mamzer. According to this explanation, the dispute is that according to the first tanna, offspring resulting from intercourse between siblings may marry offspring resulting from intercourse with a married woman, while according to Rabbi Yehuda, the offspring resulting from intercourse between siblings is of unflawed lineage and may not marry a mamzer.

<sup>169</sup> The Gemara asks: What is the tanna teaching us with this? We already learned this in a mishna (Yevamot 49a): Who is a mamzer? Any offspring who is born of a union prohibited by the verse: “He shall not enter” (Deuteronomy 23:2). In other words, if the union was a violation of any kind of prohibition, even that of a prohibition that is not subject to the punishment of karet, the child is a mamzer; this is the statement of Rabbi Akiva.

<sup>170</sup> The mishna continues: Shimon HaTimni says: Any offspring who is born of a union enjoined by a prohibition for which one is liable to receive karet at the hand of Heaven, and the halakha is in accordance with his statement. Rabbi Yehoshua says: Any offspring who is born of a union enjoined by a prohibition for which one is liable to receive court-imposed capital punishment. This demonstrates that the question of whether mamzer status results from sexual intercourse between siblings, for which one is liable to receive karet rather than capital punishment, has already been addressed in a mishna. Therefore, Rav Naḥman’s explanation of this mishna must be rejected.

<sup>171</sup> Rather, Rava said: The difference between them involves the halakha of a male Ammonite and a male Moabite convert, and this is what the tanna is saying: All those for whom it is prohibited to enter into the congregation. Rava adds parenthetically: And who are they? A male Ammonite and a male Moabite convert. Rava resumes his presentation of the statement of Rabbi Yehuda: They are permitted to marry one another.

<sup>172</sup> The Gemara asks: If so, what is the reason of Rabbi Yehuda for prohibiting these marriages? Rabbi Yehuda should also permit an Ammonite convert to marry a mamzeret, as an Ammonite is not fit to enter the congregation. The Gemara answers: This is what the tanna is saying: Although Rabbi Yehuda generally prohibits a convert from marrying a mamzeret, this matter applies only to a regular convert, who is fit to enter into the congregation. But a male Ammonite convert and a male Moabite convert, who are not fit to enter into the congregation, are not prohibited from marrying a mamzeret, and there is no dispute between Rabbi Yehuda and the first tanna.

<sup>173</sup> The Sages taught (Tosefta, Yevamot 8:1): A boy nine years and one day old, whose sexual intercourse is considered an act of intercourse with regard to sexual transgressions, who was an Ammonite or Moabite convert, or an Egyptian or Edomite convert, or a Samaritan, or a Gibeonite, a ḥalal, or a mamzer, and who engaged in sexual intercourse with the daughter of a priest, or the daughter of a Levite, or an Israelite woman, has thereby disqualified her from the priesthood. Rabbi

Yosei says: Anyone whose offspring is unfit to marry a priest disqualifies a woman with whom he engages in intercourse from marrying a priest; and anyone whose offspring is not unfit does not disqualify her. Rabban Shimon ben Gamliel says:

<sup>174</sup> Anyone whose daughter you may marry, you may marry his widow. If a priest is permitted to marry someone's daughter, he is likewise permitted to marry that person's widow; she has not become disqualified to marry a priest by having engaged in sexual intercourse with her husband. And anyone whose daughter you may not marry, you may not marry his widow either.

<sup>175</sup> The Gemara asks: What difference is there between the first tanna of the mishna and Rabbi Yosei, as they appear to be saying the same thing? Rabbi Yoḥanan says: The practical difference between them concerns a Jewish woman who engaged in intercourse with a second-generation Egyptian. The Torah prohibits Egyptian converts and their children from entering into the congregation by marriage, but the grandchildren of the Egyptian convert, i.e., the third generation, are permitted to marry Jews with unflawed lineage. And both of them learned their respective opinions only from the halakha of a High Priest who engaged in intercourse with a widow, although they derived the halakha in different ways.

<sup>176</sup> How so? As the first tanna holds that this case is like that of a High Priest who engages in sexual intercourse with a widow: Just as with regard to a High Priest who engages in intercourse with a widow, his act of intercourse with her is performed by means of a transgression and he disqualifies her from marrying into the priesthood, so too anyone whose act of intercourse is by means of a transgression, such as a second-generation Egyptian who engages in intercourse with a Jewish woman, likewise disqualifies her from marrying into the priesthood.

<sup>177</sup> And Rabbi Yosei holds that the derivation is as follows: It is like a High Priest who engages in sexual intercourse with a widow: Just as with regard to a High Priest who engages in intercourse with a widow, whose offspring is unfit for the priesthood, as they have the status of a ḥalal, and he similarly disqualifies her from marrying a priest by engaging in intercourse with her, so too, anyone whose offspring is unfit for the priesthood also disqualifies her from marrying a priest by engaging in intercourse with her. This comparison serves to exclude a second-generation Egyptian, whose offspring is not unfit, as the verse states: "The children of the third generation that are born to them may enter into the congregation of the Lord" (Deuteronomy 23:9). Therefore, a second-generation Egyptian does not disqualify a woman with whom he engages in intercourse from marrying a priest.

<sup>178</sup> The baraita also taught that Rabban Shimon ben Gamliel says: Anyone whose daughter you may marry, you may marry his widow. And anyone whose daughter you may not marry, you may not marry his widow either. The Gemara asks: What difference is there between the opinions of Rabbi Yosei and Rabban Shimon ben Gamliel? They seem to be stating the same halakha. Ulla said: The difference between them involves a male Ammonite convert and a male Moabite convert. According to the opinion of Rabbi Yosei, male Ammonite and Moabite converts disqualify a woman with whom they engage in sexual intercourse from marrying a priest, whereas Rabban Shimon ben Gamliel says they do not disqualify her. And both of them learned their respective opinions only from the halakha of a High Priest who engaged in intercourse with a widow, although they derived the halakha in different ways.

<sup>179</sup> How so? As Rabbi Yosei holds that this case is like that of a High Priest who engages in intercourse with a widow: Just as with regard to a High Priest who engages in sexual intercourse with

a widow, the halakha is that his offspring are unfit for the priesthood, as they have the status of a ḥalal, and he similarly disqualifies her from marrying a priest by engaging in intercourse with her, so too, anyone whose offspring is unfit for the priesthood, including a male Ammonite or Moabite convert, also disqualifies her from marrying a priest by engaging in intercourse with her.

<sup>180</sup> And Rabban Shimon ben Gamliel holds that the derivation is as follows: It is like a High Priest who engages in sexual intercourse with a widow. Just as with regard to a High Priest who engages in intercourse with a widow, as all his offspring are unfit, the females as well as the males, and he disqualifies her by engaging in intercourse with her, so too, everyone about whom the halakha is that all his offspring are unfit, even the females, disqualifies a woman with whom he engages in intercourse from marrying a priest. This comparison serves to exclude a male Ammonite or Moabite convert, as the females born to them are fit to enter into the congregation. As the Master said: An Ammonite man is prohibited from entering into the congregation, but not an Ammonite woman; similarly a Moabite man is prohibited from doing so, but not a Moabite woman.

<sup>181</sup> Rav Ḥisda says: All concede with regard to a widow of questionable lineage, i.e., a widow whose husband was possibly a ḥalal, that she is unfit to marry into the priesthood. The Gemara explains: Who is the most lenient of these tanna'im? It is Rabban Shimon ben Gamliel, and he says: Anyone whose daughter you may marry, you may marry his widow; and anyone whose daughter you may not marry, you may not marry his widow either. He said the latter clause to exclude what? It is to exclude a widow of questionable lineage; and it teaches that she is unfit to marry into the priesthood, since the daughter of one who was possibly a ḥalal is prohibited from marrying a priest.

<sup>182</sup> The Gemara comments: This statement of Rav Ḥisda serves to exclude the opinion of these following tanna'im. As we learned in a mishna (Eduyyot 8:3): Rabbi Yehoshua and Rabbi Yehuda ben Beteira testified with regard to a widow of questionable lineage, that she is fit to marry into the priesthood. What is the reason for this lenient ruling? It is a case of a compound uncertainty, and the principle is that in a case of a compound uncertainty the ruling is to be lenient.

<sup>183</sup> § The mishna teaches that according to Rabbi Eliezer, it is permitted for those with definite flaws to marry with those with definite flaws. For example, it is permitted for mamzerim and Gibeonites to marry each other. By contrast, it is prohibited for those with definite flaws to marry with those whose flaws result from an uncertainty, and it is also prohibited for those whose flaws result from an uncertainty to marry those whose flaws result from an uncertainty. Rav Yehuda says that Rav says: The halakha is in accordance with the opinion of Rabbi Eliezer. Rav Yehuda added: When I said that halakha in front of Shmuel, he said to me: Hillel the Elder teaches the mishna as stating: Jews with ten types of lineage ascended from Babylonia, and all of them, i.e., all of those who may not enter into the congregation, even those whose flaws result from an uncertainty, are permitted to marry into each other's families; and you said the halakha is in accordance with the opinion of Rabbi Eliezer?

<sup>184</sup> The Gemara comments: And a contradiction can be raised from this statement of Rav against another statement of Rav, and similarly a contradiction can be raised from this statement of Shmuel against another statement of Shmuel. As it was stated that they had the following dispute: With regard to a betrothed woman who became pregnant during her period of betrothal, and it is unknown whether it was her betrothed or someone else who impregnated her, Rav says that the offspring is a mamzer. The assumption is that she was impregnated by a different man and that the child is the offspring of a betrothed woman and a man other than her betrothed. And Shmuel says that the



offspring is a shetuki, since there is no proof that it is a mamzer; she might have been impregnated by her betrothed.

<sup>185</sup> The Gemara explains their respective opinions: Rav says the offspring is a mamzer and is therefore permitted to marry a mamzeret; and Shmuel says the offspring is a shetuki and is prohibited to marry a mamzeret. It is seen here that Shmuel prohibits one whose flaw results from an uncertainty from marrying one with definite mamzer status, whereas Rav permits such a person to marry one with definite mamzer status. This contradicts their earlier statements, in which Rav prohibited one whose flaw results from an uncertainty from marrying one with definite mamzer status and Shmuel permitted it. The Gemara answers: Reverse the opinions in this dispute, so that Rav is the one who says: The offspring is a shetuki and is prohibited to marry a mamzeret; and Shmuel says: The offspring is a mamzer and may marry a mamzeret.

<sup>186</sup> The Gemara asks: If so, why do I need two instances of the same dispute? The Gemara answers: It is necessary to state the dispute twice, because if it were stated only with regard to that mishna, which discusses an unmarried woman whose offspring is a shetuki, one could have said: It was with regard to that case that Rav states his opinion, because the majority are fit with regard to her and only a minority of men are those who are forbidden to her as relatives or are those who are disqualified from entering into the congregation. But there, in the case of a betrothed woman who became pregnant, where the majority are unfit with regard to her and she is forbidden to everyone other than her betrothed, one might say that Rav concedes to Shmuel that her child is a definite mamzer.

<sup>187</sup> And conversely, if it was stated only in this case of a betrothed woman, one could have said it was with regard to this case that Rav states the offspring is a shetuki, because it is most reasonable to ascribe the pregnancy to the betrothed man, which would mean that the offspring is not a mamzer, but in that case of an unmarried woman, one might say that he agrees with Shmuel that the child is considered to be a definite mamzer. It is therefore necessary to state both cases.

<sup>188</sup> And if you wish, say: Actually, do not reverse the opinions, and what is the meaning of the term mamzer that Rav is saying? It does not signify that this offspring is permitted to marry a mamzeret, but merely that he is prohibited from marrying a Jewish woman. And when Shmuel says the offspring is a shetuki, he meant that he is prohibited from marrying a Jewish woman. The Gemara asks: If so, that is the same as Rav. Rather, what is the meaning of the term shetuki in Shmuel's statement? It is that one silences [meshattekin] him, i.e., disqualifies him, from the halakha of the priesthood. In other words, even if the betrothed man was a priest, the child is not considered a priest.

<sup>189</sup> The Gemara questions this: Isn't this obvious? Now, if one silences him from the halakha of a Jew with unflawed lineage, and he is not allowed to enter into the congregation, is it necessary to say that he is silenced from the halakha of the priesthood? Rather, what is the meaning of shetuki in Shmuel's statement? It is that one silences him from his presumed father's property, i.e., he does not inherit from him. The Gemara again questions: This too is obvious; do we know who his father is? The Gemara answers: No, it is necessary in a case where this son seized possession of the property of the betrothed man, claiming that the betrothed man is his father. It is with regard to such a scenario that Shmuel said that the property is taken away from him, and one does not say that the burden of proof rests upon the other inheritors to demonstrate conclusively that the betrothed man is not his father.

<sup>190</sup> And if you wish, say: What is the meaning of shetuki in Shmuel's statement? It means beduki, meaning that they examine his mother, and if she says: I engaged in sexual intercourse with a man with unflawed lineage, she is deemed credible. The Gemara asks: In accordance with whose opinion is this halakha? Is it in accordance with the opinion of Rabban Gamliel? But didn't Shmuel already say it once? As we learned in a mishna (Ketubot 13a): If an unmarried woman was pregnant, and people said to her: What is the status of this fetus? And she said to them: It is from so-and-so, and he is a priest; Rabban Gamliel and Rabbi Eliezer say: She is deemed credible; and Rabbi Yehoshua says: She is not deemed credible. And Rav Yehuda says that Shmuel says: The halakha is in accordance with the opinion of Rabban Gamliel. This shows that Shmuel had already issued an explicit ruling in Rabban Gamliel's favor; why did he repeat himself?

<sup>191</sup> The Gemara answers: It is necessary for Shmuel to rule twice. As, if he had learned it only from there, from the mishna discussing an unmarried pregnant woman, I would say he rules that way there, when the majority are fit with regard to her, as her unmarried status means that the offspring resulting from sexual intercourse with most men would be of unflawed lineage. But here, in the case of a betrothed woman, when the majority of men are unfit with regard to her, as she is forbidden to everyone other than her betrothed, you might say that she should not be deemed credible to say she engaged in intercourse with the betrothed man. It is therefore necessary for Shmuel to state his ruling twice.

<sup>192</sup> § It is taught in a baraita (Tosefta 5:2): And similarly Rabbi Elazar says: A Samaritan man may not marry a Samaritan woman. The Gemara asks: What is the reason for this? Rav Yosef said: The Sages established him to be like the descendant of a convert, after ten generations. As it is taught in a baraita: With regard to the descendant of a convert, he is permitted to marry a mamzeret if he is within ten generations of both parents being descendants of converts; from this point forward the descendant of a convert is prohibited from marrying a mamzeret, as people no longer remember that he has the lineage of a convert.

<sup>193</sup> The baraita continues: And some say that the descendant of a convert is permitted to marry a mamzeret until the name of idol worship is forgotten from him, i.e., as long as people remember that his roots are from gentiles he remains permitted to marry a mamzeret, regardless of the passage of time. Rav Yosef understands that Rabbi Elazar regards a Samaritan as being like a convert after ten generations, who may not marry a mamzeret. Since Samaritans assimilated among the Jewish people and are no longer recognized by the public as having Samaritan lineage, they may not marry those of flawed lineage, including, presumably, other Samaritans.

<sup>194</sup> Abaye said to Rav Yosef: Is it comparable to the case of a convert? There, he is an old convert, i.e., the conversion occurred a long time ago, and she is a new mamzeret, i.e., her status as a mamzeret is known. Consequently, people who see him marrying a mamzeret will say: A Jewish man is marrying a mamzeret. Here, this and that, the two Samaritans, are the same as each other. If people consider the Samaritan man as being assimilated among the Jewish people, and consequently he may not marry a woman of flawed lineage, the Samaritan woman should likewise be considered a Jew of unflawed lineage. Rather, the Gemara rejects the previous explanation in favor of the following: When Rav Dimi came from Eretz Yisrael he said: Rabbi Elazar holds in accordance with the opinion of Rabbi Yishmael,

<sup>195</sup> and Rabbi Yishmael holds in accordance with the opinion of Rabbi Akiva concerning a different halakha. The Gemara clarifies: Rabbi Elazar holds in accordance with the opinion of Rabbi Yishmael, who says: Samaritans are lion converts, i.e., they converted out of fear of being attacked by lions for worshipping idols in Eretz Yisrael. They were never converts for the sake of Heaven, but remained gentiles according to halakha. And Rabbi Yishmael holds in accordance with the opinion of Rabbi Akiva, who says: In the case of a gentile or a Canaanite slave who engaged in sexual intercourse with a Jewish woman, the offspring is a mamzer. Since over the generations Jews assimilated with Samaritans, who have the status of gentiles, the descendants of those Jews who married Samaritans have the status of uncertain mamzerim.

<sup>196</sup> The Gemara asks: But does Rabbi Yishmael hold in accordance with the opinion of Rabbi Akiva in this matter? But doesn't Rabbi Yoḥanan say in the name of Rabbi Yishmael: From where is it derived with regard to a gentile or a Canaanite slave who engaged in sexual intercourse with the daughter of a priest, or with the daughter of a Levite, or with the daughter of an Israelite, that they have disqualified her from marrying a priest? It is as it is stated: "But if a priest's daughter is a widow, or divorced, and has no child, and is returned to her father's house, as in her youth, she may eat of her father's bread" (Leviticus 22:13).

<sup>197</sup> He explains: It is only if she was married to one who has the halakhot of widowhood and divorce, meaning a Jew, that she can return to her father's house and partake of teruma. This serves to exclude a gentile or a Canaanite slave, who do not have the halakhot of widowhood and divorce; if the daughter of a priest engages in intercourse with such a man, she may no longer partake of teruma.

<sup>198</sup> And if it enters your mind that Rabbi Yishmael holds in accordance with the opinion of Rabbi Akiva that the offspring of a Jewish woman and a gentile or a slave is a mamzer, what need is there for this proof? Now that he holds that the offspring from a gentile is a mamzer, is it necessary to state that the gentile or slave disqualifies her from marrying a priest by engaging in intercourse with her?

<sup>199</sup> Rather, the Gemara explains as follows: Rabbi Elazar holds in accordance with the opinion of Rabbi Yishmael, who says: Samaritans are lion converts, and Rabbi Elazar himself also holds in accordance with the opinion of Rabbi Akiva, who says: If a gentile or a Canaanite slave engaged in sexual intercourse with a Jewish woman, the offspring is a mamzer.

<sup>200</sup> The Gemara asks: But does Rabbi Elazar hold in accordance with the opinion of Rabbi Akiva? But doesn't Rabbi Elazar say: Although Beit Shammai and Beit Hillel disagreed with regard to the halakha of rival wives, as to whether the rival wife of a yevama who is a forbidden relative of the yavam is obligated in or exempt from levirate marriage, they concede that a mamzer is only the offspring born from one whose prohibition is a prohibition of forbidden relatives and punishable by karet. Since engaging in intercourse with a gentile or a Canaanite slave is not punishable by karet, Rabbi Elazar would agree that the child of such a union is not a mamzer.

<sup>201</sup> Rather, when Rabin came from Eretz Yisrael to Babylonia, he reported that Rabbi Ḥiyya bar Abba says that Rabbi Yoḥanan says, and some say that it was Rabbi Abba bar Zavda who says that Rabbi Ḥanina says and some say it was Rabbi Ya'akov bar Idi who says that Rabbi Yehoshua ben Levi says: There are three divisions of opinions with regard to the matter.

<sup>202</sup> Rabbi Yishmael holds that Samaritans are lion converts, and the priests who assimilated among them were unfit priests, as it is stated: "And made unto them from among themselves priests of the high places" (II Kings 17:32). And Rabba bar bar Ḥana says that Rabbi Yoḥanan says: What is the

meaning of “from among themselves”? From the thorns that are among the Jewish people, meaning those of flawed lineage. And it was due to that reason that the Sages disqualified them, not due to the Samaritans themselves, who are gentiles, but due to the Jews of flawed lineage who are assimilated among them. When a Samaritan seeks to marry another Samaritan, it is possible that one of them is a Jew of flawed lineage.

<sup>203</sup> And Rabbi Akiva holds: Samaritans are true converts, and the priests who assimilated among them were fit priests, as it is stated: “And made unto them from among themselves priests of the high places” (II Kings 17:32). And Rabba bar bar Ḥana says that Rabbi Yoḥanan says: “From among themselves” means from the chosen ones, the upper echelon of the Jewish people. And for what reason did the Sages prohibit them from entering into the congregation if there is no problem with regard to their conversion or with regard to the Jews who assimilated among them? It is because they did not act in accordance with the halakha, as they would perform levirate marriage with betrothed women. They would perform the mitzva of levirate marriage only with one who was widowed from a betrothal,

<sup>204</sup> and they would exempt married women from ḥalitza and levirate marriage. The Gemara elaborates: In what way would they expound the verse to lead them to this conclusion? The verse states: “The wife of the dead man shall not be married outside of the family to one not of his kin; her brother-in-law will have intercourse with her and take her to him to be his wife, and consummate the levirate marriage” (Deuteronomy 25:5). They understood the word “outside” to be a description of the woman: She who sits outside, i.e., one who is only betrothed; she shall not be married to one not of his kin, and it is with her that the obligation of levirate marriage applies. But she who is not sitting outside, but who has already married, shall marry one not of his kin. Consequently, the concern with regard to the Samaritans is that their descendants include the children of a widow who unlawfully wed one who was not her brother-in-law.

<sup>205</sup> After having explained which prohibition the Samaritans violated, the Gemara explains how this accounts for the prohibition with regard to marriage with Samaritans. And Rabbi Akiva conforms to his standard line of reasoning, as he says: The offspring of intercourse for which one is liable for violating a prohibition is a mamzer. Therefore, the descendants of a yevama who had transgressed the prohibition of: “The wife of the deceased shall not be married outside of the family to one not of his kin,” have the status of mamzerim.

<sup>206</sup> And some say a third opinion as to why the Sages disqualified Samaritans for marriage: It is because they are not well versed in the details of mitzvot. The Gemara asks: Who is the one indicated by the phrase: Some say? Rav Idi bar Avin said: It is the opinion of Rabbi Eliezer. As it is taught in a baraita (Tosefta, Pesahim 2:2): The matza of a Samaritan is permitted to be eaten on Passover and is not considered to be leavened bread, and a person can fulfill his obligation to eat matza on the first night of Passover with it; but Rabbi Eliezer prohibits it, since Samaritans are not well versed in the details of mitzvot, and there is concern that their matza might be leavened. Rabban Shimon ben Gamliel says that this is not a concern, as with regard to any mitzva that Samaritans embraced and accepted, they are more exacting in its observance than are Jews.

<sup>207</sup> The Gemara asks: But here, with regard to marriage, in what details are they not well versed? The Gemara answers: It is because they are not well versed with regard to the laws of betrothal and divorce. Consequently, it is possible that their bills of divorce were invalid, or that a betrothed

woman was allowed to remarry without having received a bill of divorce, which would mean that her future children would be mamzerim.

<sup>208</sup> Rav Nahman says that Rabba bar Avuh says: Samaritans are of flawed lineage because a mamzer resulting from intercourse between a man and his sister and a mamzer resulting from intercourse between a man and his brother's wife were assimilated among them, and they therefore all have the status of mamzerim due to the uncertainty as to the identity of those assimilated mamzerim. The Gemara asks: What is he teaching us by providing the details of how they are mamzerim due to uncertainty? If he intended to incidentally teach us the halakha that the offspring from intercourse for which one is liable to receive karet is a mamzer, let him teach one example, by mentioning the example of a mamzer from a sister. The Gemara answers: He did not mention these details to teach us a halakha, but rather the incident that took place, took place in this way, and that is why the Samaritans were considered to be of flawed lineage.

<sup>209</sup> And Rava says: A Canaanite slave and a Canaanite maidservant were assimilated among them. The Gemara asks: In these cases, the prohibition is due to what? It is due to a Canaanite maidservant, whose children are slaves. But if so, let him teach one example; why also mention a Canaanite slave, whose child resulting from intercourse with a Jewish woman is of unflawed lineage? The Gemara again answers: The incident that took place, took place in this way.

<sup>210</sup> MISHNA: A priest who marries a woman who is the daughter of a priest must investigate with regard to her background, i.e., he must check previous generations of her family tree from both the maternal and paternal sides, for four mothers, which are eight. How so? He investigates the lineage of her mother, and the mother of her mother, and the mother of her mother's father, and her mother, i.e., the mother of her mother's fathers' mother. And he also investigates the lineage of the mother of her father, and her mother, i.e., the mother of her father's mother, and the mother of her father's father, and her mother i.e., the mother of her father's father's mother. If he seeks to marry a Levite woman or an Israelite woman, he adds to these an investigation of mothers of one additional generation.

<sup>211</sup> With regard to these investigations, one need not investigate from the altar and above. If his ancestors included a priest who served at the altar, one checks no further, as the court would have investigated his lineage before allowing him to participate in the Temple service. Nor do they check from the platform, used by Levites for singing in the Temple, and above, nor from the Sanhedrin and above, since only one whose lineage has been examined and who was found to be fit can be appointed to the Sanhedrin. And similarly, anyone whose ancestors held public posts, and anyone whose ancestors were charity collectors, may marry into the priesthood, and there is no need to investigate their lineage, since no one of flawed lineage would be appointed to those positions.

<sup>212</sup> Rabbi Yosei says: Even the descendants of one who had signed as a witness in the old court [ba'arki] of Tzippori do not need to have their lineage investigated. Rabbi Hanina ben Antigonus says: Even the descendants of one who was written in the army list [be'isteratya] of the Jewish king do not need to have their lineage investigated.

<sup>213</sup> GEMARA: What is different about women that we investigate their lineage, and what is different about men that we do not investigate their lineage? Why shouldn't we also examine the lineage of a bride's male ancestors for any possible flaw, as we do her female ancestors? The Gemara answers: When women quarrel with each other, it is through accusations of engaging in forbidden sexual

intercourse, i.e., licentiousness, that they quarrel. And if it is so that there is a matter of a flaw with regard to the lineage of the woman in question, it would not generate publicity. By contrast, when men quarrel with each other, it is through accusations of flawed lineage that they quarrel. Therefore, if it is so that there is a matter of a flaw with regard to her father's lineage, it would generate publicity, even if no investigation is conducted.

<sup>214</sup> The Gemara inquires: But she should also investigate his lineage; why is only the lineage of the woman investigated? The Gemara comments: This supports Rav, as Rav Yehuda says that Rav says: It was not prohibited for women of unflawed lineage, i.e., daughters of priests, to marry men of flawed lineage, such as ḥalalim, converts, or emancipated slaves. Therefore, women are not required to investigate the lineage of potential husbands.

<sup>215</sup> Rav Adda bar Ahava taught that one needs to investigate four mothers who are twelve, adding an additional two generations of mothers of each of the woman's parents. It was taught in a baraita: Four mothers who are sixteen. The Gemara asks: Granted, according to Rav Adda bar Ahava,

<sup>216</sup> he interprets his statement as referring to a Levite woman or an Israelite woman, about whom the mishna states that one must investigate one additional generation. Therefore, Rav Adda bar Ahava's ruling accords with that of the mishna. But shall we say the baraita disputes the mishna? The Gemara rejects this: No, what is the meaning of the mishna's phrase: One additional? It means one pair, i.e., two more mothers on each side.

<sup>217</sup> Rav Yehuda says that Rav says: This mishna presents the statement of Rabbi Meir, but the Rabbis say: All families retain a presumptive status of fitness, and do not require investigation. The Gemara asks: Is that so, did Rav really say this? But doesn't Rav Ḥama bar Gurya say that Rav says: Our mishna is referring only to a case when an objection was registered about the family concerning its lineage, but if no objection was registered, everyone agrees that the family retains its presumptive status of fitness. The Gemara answers: The one who taught this statement in the name of Rav did not teach that other statement.

<sup>218</sup> There are those who say that this discussion occurred as follows: Rav Yehuda says that Rav says: This mishna presents the statement of Rabbi Meir, but the Rabbis say: All families retain presumptive status of fitness. Rav Ḥama bar Gurya says that Rav says: When an objection is registered about a family concerning its lineage, everyone agrees that he must investigate it. According to this version, there is no contradiction between these two complementary statements.

<sup>219</sup> § The mishna teaches that one need not investigate from the altar and above. The Gemara asks: What is the reason for this? The Gemara answers: If the Sanhedrin had not examined his lineage they would not have allowed him to ascend to the altar and perform the sacrificial rites. The mishna further teaches: Nor must one investigate from the platform and above. The Gemara asks: What is the reason? The Gemara answers: It is as the Master said in his description of the Temple chambers (Tosefta, Ḥagiga 2:4): For there in the Hewn Chamber those of the priesthood with unflawed lineage and the Levites of unflawed lineage sat and examined the lineage of everyone who came to serve in the Temple.

<sup>220</sup> The mishna also taught: Nor must one investigate from the Sanhedrin and above. What is the reason there is no need to investigate further? The Gemara answers: It is as Rav Yosef taught that just as the court is clean in justice, so too, it is clean of any blemish, i.e., it does not include anyone of

flawed lineage. Mareimar said: What is the verse from which it is derived? It states: “You are all fair, my love; and there is no blemish in you” (Song of Songs 4:7).

<sup>221</sup> The Gemara asks: But perhaps you should say that this is referring to an actual blemish, that one who has a physical blemish may not be appointed to the Sanhedrin. Rav Aḥa bar Ya’akov said: It is not necessary to derive the halakha that one who has a physical blemish may not be appointed to the Sanhedrin from this verse, as the verse states with regard to the transfer of the Divine Spirit from Moses to the Elders: “That they may stand there with you” (Numbers 11:16), and the phrase “with you” is explained to mean: With similarity to you, teaching that the members of the Sanhedrin must be whole in body like Moses.

<sup>222</sup> The Gemara rejects this proof: But perhaps those who were with Moses had to be free of any blemish due to the Divine Presence, which rested upon them, but this is not a requirement for judges on the Sanhedrin. Rav Naḥman said that the verse states: “So shall they make it easier for you and bear the burden with you” (Exodus 18:22). The phrase “with you” is explained to mean: With similarity to you, i.e., without blemish. This verse is referring to the appointment of regular judges, upon whom the Divine Presence does not rest, and teaches that all members of the Sanhedrin must be whole in body. The verse from Song of Songs teaches that they must be of unflawed lineage as well.

<sup>223</sup> § The mishna teaches: Anyone whose ancestors held public posts may marry into the priesthood without investigation. The Gemara asks: Is this to say that we do not establish officers and other public appointees from people with flawed lineage? And the Gemara raises a contradiction from the following statement: All are fit to judge cases of monetary law, but not all are fit to judge cases of capital law. And we discussed it: What does the word: All, serve to include? And Rav Yehuda says: It serves to include a mamzer, that he may judge cases of monetary law. This indicates that even a mamzer may occupy a public position. Abaye said: The mishna is referring to public officials in Jerusalem, where they were particular that all their judges should be of unflawed lineage. And Rav Shimon bar Zeira similarly taught in the baraita of Kiddushin from the school of Levi: It is referring to public officials in Jerusalem.

<sup>224</sup> The mishna teaches: And anyone whose ancestors were charity collectors may marry into the priesthood without investigation. The Gemara asks: What is the reason for this? The Gemara answers: It is due to the fact that they quarrel with people, as the Master said: Those appointed to collect charity may forcibly take collateral for charity from those who have not fulfilled their obligations even on the eve of Shabbat, when people are preoccupied and rushed, leading to quarrels. And if it is so that there is a flaw in the lineage of the collector’s family, it would generate publicity through the quarrels that are an unavoidable aspect of his job.

<sup>225</sup> The Gemara relates: Rav Adda bar Ahava’s host was the son of a convert, and he and Rav Beivai were quarreling. One said: I will perform the service of the city, i.e., I will be appointed to a position of authority, and one said: I will perform the service of the city. They came before Rav Yosef to decide between them. Rav Yosef said to them: We learned: “You shall set him king over you, whom the Lord your God shall choose; one from among your brothers” (Deuteronomy 17:15). The repetition of the verb “set” in the verse [som tasim] indicates: All appointments that you appoint may be only from among your brothers. Therefore, a convert may not serve in any official position.

<sup>226</sup> Rav Adda bar Ahava said to Rav Yosef: And does this halakha apply even if the mother of the person in question is born Jewish? In other words, does this apply to one whose father is a convert?

Rav Yosef said to him: If his mother is born Jewish, the words: “From among your brothers” are said about him. Therefore, now that it has been determined that this person’s mother was born Jewish and that he is fit to serve a public role, Rav Beivai, who is a great man in Torah learning, should oversee the matters of Heaven, i.e., the public issues that involve the performance of mitzvot; and the Master, Rav Adda bar Ahava’s host, should oversee the other matters of the city. Abaye said, as a moral of the story: Therefore, if one has a Torah scholar as a guest, let him host a person such as Rav Adda bar Ahava, who knows how to plead in his favor, as it was the argument of Rav Adda bar Ahava that led to his host’s appointment.

<sup>227</sup> The Gemara relates: Rabbi Zeira would deal with converts and assign them to positions of authority. Similarly, Rabba bar Avuh would deal with them. In the West, Eretz Yisrael, they would not establish even an appointee over measurements from them, as they extended the prohibition against appointing a convert as a king to include all positions of power. In Neharde’a, they would not establish even an appointee over irrigation of the city fields from them.

<sup>228</sup> The mishna teaches that Rabbi Yosei says: Even the descendants of one who had signed as a witness in the Old Court of Tzipori does not need to have their lineage investigated. The Gemara explains: What is the reason for this? The Gemara answers: In that city, they would first examine witnesses and only afterward have them sign. Consequently, anyone who signed as a witness in Tzipori must certainly have been of unflawed lineage.

<sup>229</sup> The mishna teaches that Rabbi Ḥanina ben Antigonus says: Even the descendants of one who was written in the army list of the Jewish king does not have their lineage investigated. Rav Yehuda says that Shmuel says: The reference is to one who was written in the list of the military troops of the House of David, who were all of pure lineage. Rav Yosef said: What is the verse from which it is derived? The phrase is: “Reckoned by lineage for service in war” (I Chronicles 7:40). The Gemara asks: And what is the reason for this requirement that they be of unflawed lineage? Rav Yehuda says that Rav says: It is in order that their merit and the merit of their ancestors will help them in battle.

<sup>230</sup> The Gemara asks: But isn’t there Zelek the Ammonite, one of David’s warriors (II Samuel 23:37); what, is it not indicated that he was a convert who came from Ammon? The Gemara rejects this: No, his name indicates only that he dwelled in Ammon, but he was born a Jew. The Gemara asks: But isn’t there Uriah the Hittite (II Samuel 23:39); what, is it not indicated that he came from Heth? The Gemara rejects this: No, his name indicates only that he dwelled in Heth.

<sup>231</sup> The Gemara further asks: But isn’t there Ittai the Gittite (II Samuel 15:19)? And if you would say that so too his name indicates that he dwelled in Gath but was born a Jew, but doesn’t Rav Naḥman say, to explain how David could make use of the crown of the idol of Ammon in apparent violation of the prohibition against deriving benefit from idolatry: Ittai the Gittite came and nullified its status of an idol. The halakha is that only a gentile can nullify an idol, by doing something degrading to it. This indicates that Ittai the Gittite must have been a gentile.

<sup>232</sup> The Gemara again questions the statement that all of the soldiers in David’s army were of unflawed lineage. And further, Rav Yehuda says that Rav says: David had four hundred youths in his camp, all sons of beautiful women, i.e., born to women captured in war, who were therefore gentiles, all of whom had their hair cut in the komei style or who grew their hair in a gentile hairstyle [belorit] on the back of their heads, and all of them sat in gold carts [bikroniyyot] and would march at the head of troops in David’s army; and these very ones were the strong men of the House of David, i.e.,



David would rely on their strength. This states that David's army included men of flawed lineage. The Gemara answers: These four hundred youths did not fight in the battles, but rather they would go forth in front of the troops in order to frighten everyone.

<sup>233</sup> MISHNA: The daughter of a male ḥalal is unfit to marry into the priesthood forever. In other words, all daughters of male descendants of a ḥalal are prohibited from marrying priests, as they have the status of ḥalalot. If there was an Israelite who married a ḥalala, his daughter is fit to marry into the priesthood, whereas if there was a ḥalal who married a Jewish woman, his daughter is unfit to marry into the priesthood. Rabbi Yehuda says: The daughter of a male convert is like the daughter of a male ḥalal, and she is also prohibited from marrying into the priesthood.

<sup>234</sup> Rabbi Eliezer ben Ya'akov disagrees and says: If there was an Israelite who married a female convert, his daughter is fit to marry into the priesthood, and similarly if there was a convert who married a Jewish woman, his daughter is fit to marry into the priesthood. But if there was a male convert who married a female convert, his daughter is unfit to marry into the priesthood. With regard to both converts and emancipated Canaanite slaves, their daughters are unfit to marry into the priesthood even up to ten generations. This halakha applies to the offspring until his mother is born Jewish. Rabbi Yosei says: Even if there was a male convert who married a female convert, his daughter is fit to marry into the priesthood.

<sup>235</sup> GEMARA: What is the meaning of the statement that the daughter of a ḥalal is unfit forever? The Gemara explains: It is necessary lest you say that the halakha should be just as it is in the case of an Egyptian convert and an Edomite convert, and that just as there, with regard to an Egyptian and an Edomite, their descendants are permitted to enter into the congregation after three generations, so too here, the daughter of a descendant of a ḥalal should also be allowed to marry into the priesthood after three generations. The mishna therefore teaches us that this prohibition is permanent.

<sup>236</sup> The mishna teaches that in the case of an Israelite who married a ḥalala, his daughter is fit to marry into the priesthood. The Gemara asks: From where are these matters derived? Rabbi Yoḥanan says in the name of Rabbi Shimon that it is stated here: "And he shall not profane his offspring among his people" (Leviticus 21:15), and it is stated there: "He shall not defile himself, being a chief man among his people" (Leviticus 21:4): Just as there the prohibition against a priest contracting ritual impurity from a corpse applies to males but not females; so too here, with regard to the profanation of his offspring, where the term "among his people" is also employed, it is males who are rendered unfit and who render their daughters unfit to marry into the priesthood when they are ḥalalim, but not females.

<sup>237</sup> The Gemara asks: If that is so, that profanation applies only to males, the daughter of a High Priest and a widow should be permitted to marry into the priesthood, and there should be no status of a ḥalala. The Gemara rejects this: Is it written that his son is profaned? It is written: "His offspring," which includes his daughter, as the verse reads: "He shall not profane his offspring among his people." Nevertheless, the daughter of his ḥalala daughter, who is already the third generation, is permitted as a result of the verbal analogy.

<sup>238</sup> The Gemara asks: If so, that the granddaughter is permitted as a result of the verbal analogy, the daughter of his son should also be permitted. The Gemara answers: It is written: "He shall not profane his offspring," by which the Torah links his offspring to him: Just as for him, his daughter is unfit; so too for his son, the son of a High Priest, his daughter is unfit. The Gemara asks: In that case,

the daughter of his daughter from an Israelite should be prohibited, just as his own daughter is unfit. The Gemara answers: If so, that his daughter's daughter is also unfit, of what use is the verbal analogy of: "He shall not defile himself, being a chief man among his people"? It must teach that his daughter's daughter is fit.

<sup>239</sup> § The mishna teaches that if there was a ḥalal who married a Jewish woman, his daughter is unfit to marry into the priesthood. The Gemara questions this ruling: Wasn't this already taught in the first clause: The daughter of a male ḥalal is unfit to marry into the priesthood forever? The Gemara answers: Since it taught in the first clause about an Israelite who married a ḥalala, it also taught in the latter clause about a ḥalal who married a Jewish woman, to present the complete ruling.

<sup>240</sup> The Gemara comments: The mishna is not in accordance with the opinion of Rabbi Dostai ben Yehuda, as it is taught in a baraita: Rabbi Dostai ben Yehuda says: Just as the sons of Israel are a ritual bath of purity for ḥalalot, i.e., the daughter of a ḥalala who marries an Israelite does not transmit her status of a ḥalala, and their daughters may marry priests, so the daughters of Israel are a ritual bath of purity for ḥalalim, and their daughters may marry priests. The Gemara asks: What is the reason of Rabbi Dostai, son of Rabbi Yehuda? The Gemara explains that the verse states: "He shall not profane his offspring among his people" (Leviticus 21:15), which teaches: It is among one people that he profanes, i.e., the offspring is a ḥalal only when he and his wife are both profaned, i.e., ḥalalim, but among two peoples he does not profane. If the mother is of a different people, i.e., not a ḥalala, the offspring is of unflawed lineage.

<sup>241</sup> The Sages taught: The verse states that a priest may not engage in intercourse with a woman who is forbidden to him, so that "he shall not profane his offspring." I have derived only that his offspring resulting from a union with a woman forbidden to him is profaned, i.e., has the status of a ḥalal; from where do I derive that she herself, i.e., the woman who engaged in forbidden intercourse with the priest, is also disqualified from marrying into the priesthood? You can say it is an a fortiori inference: If his offspring, who did not commit a transgression, is profaned, is it not logical that she, who did commit a transgression, is similarly profaned?

<sup>242</sup> The Gemara responds: He, the priest himself, shall prove otherwise, as he committed a transgression but he is not profaned. Although he may not serve in the Temple while he remains married to her, he regains his status of a fit priest once he divorces her. The Gemara rejects this: What is notable about the priest? He is notable in that he is a male, and in no case is a male priest profaned by engaging in forbidden intercourse. Will you say the same with regard to her, a woman, who is disqualified from marrying a priest in all cases? For example, if she engages in intercourse with a man of flawed lineage, she assumes the status of a zona and is permanently disqualified from marrying into the priesthood.

<sup>243</sup> And if it is your wish to say that this reasoning is faulty, there is a different proof: The verse states: "He shall not profane his offspring," which means that the priest may not engage in intercourse with a woman who is forbidden to him so that someone shall not become profaned. The verse is referring to this woman who was at one time fit and then became profaned. In other words, the term profanation does not apply to his offspring, as they were never fit to begin with. Rather, it is referring to the woman with whom he engaged in intercourse, as, since she was initially fit to marry into the priesthood, she can be described as becoming profaned.

<sup>244</sup> The Gemara asks: What is the meaning of: If it is your wish to say that this reasoning is faulty, in what way is it faulty? The Gemara explains the counterargument: And if you would say that the a fortiori argument can be refuted as follows: What is notable about his offspring? He is notable in that he is formed through a transgression. Since the woman was not formed through a transgression, one cannot derive the halakha pertaining to her from that of the offspring. The Gemara therefore continues that even if one were to state that counterargument, the verse nevertheless states: “He shall not profane his offspring,” which means that the priest may not engage in intercourse with a woman who is forbidden to him so that someone shall not become profaned. The verse is referring to this woman who was at one time fit and then became profaned.

<sup>245</sup> § The Sages taught: Who is a ḥalala? The term is referring to any woman born from people of flawed lineage. The Gemara asks: What is the meaning of people of flawed lineage? If we say it means she was born from someone unfit for him, i.e., a woman forbidden to this particular man due to a family relationship or for some other reason, isn’t there the case of one who remarries his divorcée after she had been married to someone else in the interim; she is unfit for him, and yet her children are fit. As it is written with regard to this case: “That is an abomination” (Deuteronomy 24:4), and this is interpreted to mean: That marriage is an abomination, but the children of that marriage are not an abomination and are entirely fit.

<sup>246</sup> Rav Yehuda says: This is what the Sages are saying: Who is a ḥalala? The term is referring to any woman born from one unfit for the priesthood. The Gemara questions this: This implies that one who was born, yes, she is a ḥalala, but one who was not born from one unfit for the priesthood is not a ḥalala. Aren’t there the cases of a widow, or a divorced woman, or a zona who engaged in intercourse with a priest? They were not born from one who was unfit for the priesthood, and yet such a woman is a ḥalala.

<sup>247</sup> Rabba said: This is what the Sages are saying: Who is the ḥalala mentioned that did not have a moment of fitness at all, but was unfit from birth? She is any woman born from one unfit for the priesthood. The Gemara asks: What is the meaning of the term: Mentioned? Where was she mentioned? Rav Yitzḥak bar Avin said: This is what the Sages are saying: Who is the ḥalala whose prohibition is rooted in the words of a verse in the Torah, and it is not necessary to clarify her prohibition further by the words of the Sages? She is any woman born from one unfit for the priesthood. With regard to such a woman the verse explicitly states: “He shall not profane his offspring.” By contrast, the halakha that a woman who engages in forbidden intercourse with a priest becomes a ḥalala is not explicit in the Torah, but is learned through an exposition of the Sages.

<sup>248</sup> § The Sages taught: If a High Priest engages in sexual intercourse with a widow, a widow, a widow, he is liable to receive only one set of lashes. Similarly, if a priest engages in intercourse with a divorcée, a divorcée, a divorcée, he is liable to receive only one set of lashes.

<sup>249</sup> If a High Priest engages in sexual intercourse with a woman who was a widow, and then was a divorcée, and then was a ḥalala, and then was a zona, when the changes to her status occurred in that order, that she was first widowed, then remarried and was divorced, and subsequently engaged in intercourse with a priest, thereby becoming a ḥalala, and then she engaged in intercourse with a gentile or a forbidden relative, thereby becoming a zona, the High Priest is liable to receive lashes for each and every one of these transgressions each time he engages in intercourse with her. By contrast, if she first became a zona by engaging in intercourse with a gentile or a forbidden relative, and then

became a ḥalala by engaging in intercourse with a priest, and subsequently she divorced, remarried, and was widowed, a High Priest who now engages in intercourse with her is liable to receive only one set of lashes.

<sup>250</sup> The Gemara proceeds to clarify this baraita. The Master said in the baraita: If a High Priest engages in intercourse with a widow, a widow, a widow, he is liable to receive only one set of lashes. The Gemara asks: What are the circumstances of this widow? If we say that he engaged in sexual intercourse with three widows: With Reuven's widow, and with Shimon's widow, and with Levi's widow, why is he liable to receive only one set of lashes?

<sup>251</sup> Aren't they separate bodies, i.e., three different people? Aren't they labels [shemot] of separate [muḥlakim] prohibitions, since each one is forbidden in her own right? It is therefore clear that he should receive lashes for each act.

<sup>252</sup> Rather, perhaps it means that he engaged in three acts of intercourse with one widow. The Gemara analyzes this possibility: What are the circumstances? If they did not forewarn him between each act, it is obvious that he is liable to receive only one set of lashes, for one must be forewarned in order to be liable to receive lashes, and here he was forewarned only once for the three acts. There would be no need to state this halakha.

<sup>253</sup> Rather, perhaps the case is that they forewarned him for each and every one of his acts of intercourse. But if that were the case, why is he liable to receive only one set of lashes? But didn't we learn in a mishna (Nazir 42a): A nazirite who was drinking wine in violation of his naziriteship the entire day is liable to receive only one set of lashes. If they said to him: Do not drink, do not drink, i.e., he was forewarned several times, and he nevertheless drinks, he is liable to receive lashes for each and every time he was forewarned and proceeded to drink.

<sup>254</sup> The Gemara answers: No, it is necessary for a case where he engaged in sexual intercourse one time with Reuven's widow, who was previously Shimon's widow, who was previously Levi's widow. Lest you say they are separate labels of prohibitions and he should be liable to receive three sets of lashes, since she was widowed from three different people, the baraita therefore teaches us that we require separate bodies for him to receive separate punishments, and as that is not the case here, he is liable to receive only one set of lashes.

<sup>255</sup> The baraita teaches that if a High Priest engages in sexual intercourse with a woman who was a widow, and then was a divorcée, and then was a ḥalala, and then was a zona, if the changes to her status occurred in that order he is liable to receive lashes for each of them. The Gemara asks: What does this tanna hold? If he holds that a prohibition takes effect where another prohibition already exists, i.e., if an item or a person is rendered forbidden by a prohibition then another prohibition can take effect in addition to the first one, the reverse should also be the case, i.e., if she was initially a zona and subsequently became a ḥalala, the same two prohibitions should apply to her. And if he holds that a prohibition does not take effect where another prohibition already exists, he should likewise not be liable to receive more than one set of lashes even if they occurred in this order.

<sup>256</sup> Rava said: In general, this tanna does not accept the principle that a prohibition takes effect where another prohibition already exists, but he holds that it does take effect in the case of an expanded prohibition. If the second prohibition adds people to the category of those to whom the item is forbidden, then it takes effect in addition to the previous prohibition, which had a more limited range.

<sup>257</sup> In this case, a widow is forbidden to a High Priest but is permitted to a common priest. Once she becomes a divorcée, since a prohibition has been added to her with regard to a common priest, as a common priest is prohibited from marrying a divorcée, the prohibition is also added to her with regard to a High Priest. And at this stage, she is still permitted to partake of teruma if she is the daughter of a priest. When she becomes a ḥalala by engaging in sexual intercourse with a priest, since a prohibition for her to eat teruma has been added, the prohibition with regard to a ḥalala is also added with regard to a High Priest who engages in intercourse with her, in addition to the prohibitions of a widow and a divorcée. It is only if they occurred in this order that each prohibition adds to the previous one, but not if they happened in the reverse order.

<sup>258</sup> Yet, one could ask: But in the case of a zona, what expanded prohibition is there with regard to her? There is no additional prohibition with a zona beyond what is prohibited with regard to a ḥalala. Rav Ḥana bar Rav Ketina said: Since the label of zenut disqualifies her in Israel, it is viewed as an expanded prohibition. Although a zona as precisely defined in this context, i.e., a woman who engages in sexual intercourse with one who is unfit for her, is prohibited only to priests and does not add any prohibition beyond that of a ḥalala, the label of a zona in its broader sense, such as a married woman who commits adultery, does disqualify her to an Israelite, namely her husband. Therefore, there is a prohibition with regard to a zona that has a greater scope than the prohibition with regard to a ḥalala.

<sup>259</sup> A tanna taught a baraita before Rav Sheshet: The command addressed to the High Priest states: “A widow, or one divorced, or a ḥalala, or a zona, these shall he not take; but a virgin of his own people shall he take to wife” (Leviticus 21:14). Any woman who is included in the mitzva: “Shall he take” is included in the prohibition: “Shall he not take” if she becomes a widow or a divorcée. And any woman who is not included in the mitzva: “Shall he take” is not included in the prohibition: “Shall he not take.” This excludes the case of a High Priest who engaged in intercourse with his widowed sister. As his sister, she is forbidden to him even when she is a virgin, so the mitzva: “Shall he take” does not refer to her. Therefore, he does not transgress the prohibition: “Shall he not take” if he engages in intercourse with her after she had been widowed or divorced.

<sup>260</sup> Rav Sheshet said to him: He who said this to you, in accordance with whose opinion did he teach it? It is in accordance with the opinion of Rabbi Shimon, who says as a principle: A prohibition does not take effect where another prohibition already exists. Therefore, his sister, who was already forbidden to him by virtue of being his sister, is not forbidden due to the additional prohibition: “Shall he not take.” As it is taught in a baraita: Rabbi Shimon says: One who eats an unslaughtered animal carcass on Yom Kippur is exempt from karet for eating on the fast day, since the prohibition against eating an animal carcass applied to it beforehand. As, if you say this baraita follows the opinion of the Rabbis, don’t they say: A prohibition takes effect where another prohibition already exists?

<sup>261</sup> The Gemara rejects this: You can even say that the baraita is in accordance with the opinion of the Rabbis, as when the Rabbis say that a prohibition takes effect where another prohibition already exists, that statement applies only when the second prohibition is a more severe prohibition, e.g., eating on Yom Kippur, which takes effect in addition to a light prohibition, in this case, eating an unslaughtered animal carcass. But a light prohibition does not take effect in addition to a severe prohibition. In this case, the prohibition of engaging in intercourse with one’s sister, which is

punishable by karet, is more severe than that of: “A widow or one divorced, or a ḥalala, or a zona, these shall he not take,” which is punishable by flogging.

<sup>262</sup> There are those who say that Rav Sheshet said to the tanna as follows: In accordance with whose opinion is this? It is in accordance with the opinion of the Rabbis, who say: A prohibition takes effect where another prohibition already exists. And when the Rabbis say that a prohibition takes effect where another prohibition already exists, that statement applies when the second prohibition is a more severe prohibition, which takes effect in addition to a light prohibition, but a light prohibition does not take effect in addition to a severe prohibition. As, if it is in accordance with the opinion of Rabbi Shimon, now that he holds that even a severe prohibition does not take effect in addition to a light prohibition, is it necessary to say that a light prohibition does not take effect in addition to a severe prohibition? There would be no novelty in this ruling of the baraita.

<sup>263</sup> The Gemara rejects this: It is necessary, lest you say that a prohibition involving the priesthood is different. You might say that since there are many stringencies that apply only to priests, then with regard to prohibitions of the priesthood, a second prohibition should take effect in addition to a first one. He therefore teaches us that Rabbi Shimon holds that the second prohibition does not take effect even when it is one addressed to members of the priesthood.

<sup>264</sup> § Rav Pappa said to Abaye: In the case of an Israelite who engages in intercourse with his sister, this makes her a zona and she is forbidden to a priest. But does he also make her a ḥalala so that a priest who engages in intercourse with her is also liable for violating the prohibition of engaging in intercourse with a ḥalala, or perhaps he does not make her a ḥalala?

<sup>265</sup> The two sides of the question are as follows: Do we say that this is an a fortiori inference: If she becomes a ḥalala by engaging in sexual intercourse for which she is liable for violating only an ordinary prohibition, should she not all the more so be considered a ḥalala by engaging in intercourse for which she is liable to be punished by karet? Or perhaps the status of ḥalala results only from a prohibition addressed specifically to the priesthood? Abaye said to him: A prohibition with regard to a ḥalala results only from a prohibition addressed specifically to the priesthood and from that alone.

<sup>266</sup> Rava says: From where is this matter that the Sages state, that a ḥalala results only from a prohibition addressed specifically to the priesthood, derived? As it is taught in a baraita: The verse need not explicitly state that a divorcée is forbidden to a High Priest, and one could derive it by means of an a fortiori inference from the halakha of a common priest. As I can state the following argument: Now that a divorcée is forbidden to a common priest, is it necessary to state that she is forbidden to a High Priest? But if it is not necessary to mention it, why is the prohibition with regard to a divorcée to a High Priest stated? It is in order to teach the following: Just as the prohibition with regard to a divorcée is distinct from that of a zona and a ḥalala in the case of a common priest, as a divorcée is forbidden by a separate prohibition for which he is liable to be flogged, so too, the prohibition with regard to a divorcée is distinct in the case of a High Priest, and he will be liable to receive lashes for a separate prohibition if she was a ḥalala as well.

<sup>267</sup> The Gemara questions this statement: This is obvious; is the status of a High Priest any lower than that of a common priest? Since this halakha applied to him when he was a common priest, it certainly applies to him when he becomes a High Priest. His restrictions as a priest are not lessened when he becomes a High Priest. Rather, teach as follows: Just as the prohibition with regard to a divorcée is distinct from that of a zona and a ḥalala in the case of a common priest, since he is liable

to receive lashes for each of the prohibitions, so too, a widow is distinct from a divorcée, and a ḥalala, and a zona in the case of a High Priest, and he is liable to receive lashes for each prohibition, despite the fact that they are stated in the same verse (see Leviticus 21:14).

<sup>268</sup> The baraita further asks: Why is the prohibition with regard to a ḥalala stated with regard to a High Priest, as she is forbidden to him even when he is a common priest? This repetition serves to teach that a ḥalala results only from a prohibition addressed specifically to the priesthood. Why is the prohibition with regard to a zona stated with regard to a High Priest, as she is forbidden to him even when he is a common priest? It is stated here: “Zona” (Leviticus 21:14), with regard to a High Priest, and it is stated there: “Zona” (Leviticus 21:7), with regard to a common priest. Just as here, in the case of a High Priest who engages in sexual intercourse with a zona, his offspring are profaned, in accordance with the verse: “And he shall not profane his offspring” (Leviticus 21:15), so too there, in the case of a common priest who engages in intercourse with a zona, his offspring are profaned.

<sup>269</sup> Rav Ashi says: Consequently, a priest who engages in intercourse with his sister

<sup>270</sup> renders her a zona, as he was forbidden to her, but he does not render her a ḥalala, since her status as a zona does not result from a prohibition specific to the priesthood, but due to the prohibition of a forbidden relative. If her brother, or any other priest, again engaged in intercourse with her, he thereby makes her a ḥalala, in accordance with the halakha pertaining to a priest who engages in intercourse with a zona.

<sup>271</sup> § Rav Yehuda says: A High Priest who engages in sexual intercourse with a widow is flogged two sets of lashes, one set due to transgressing the prohibition of: “A widow, or one divorced, or a ḥalala, or a zona, these shall he not take” (Leviticus 21:14), and one set due to transgressing the prohibition of: “And he shall not profane” (Leviticus 21:15), since he profanes the woman with whom he engages in intercourse. The Gemara asks: And let him also be flogged with a third set of lashes due to the complete phrase: “He shall not profane his offspring,” because the offspring resulting from that act of intercourse is a ḥalal. The Gemara answers: It is referring to a situation where he did not complete his act of sexual intercourse. Since this act does not lead to pregnancy, he is not flogged for profaning his offspring.

<sup>272</sup> Rava raises an objection against Rav Yehuda’s statement from a mishna (Makkot 13a): A High Priest who engages in sexual intercourse with a widow who was previously a divorcée is flogged due to two labels of prohibitions. What, is it not stating that he is flogged due to two labels and no more? This indicates that he receives only one flogging for each prohibition, and not two as Rav Yehuda taught.

<sup>273</sup> The Gemara rejects this: No; it means due to two labels for this, i.e., he is flogged two sets of lashes for engaging in intercourse with a widow, one for transgressing: “Shall he not take,” and one for transgressing: “He shall not profane,” and two labels for that, i.e., engaging in intercourse with a divorcée.

<sup>274</sup> The Gemara asks: If so, say the latter clause of that same mishna: If a priest engages in sexual intercourse with a divorcée who was also a yevama who performed ḥalitza [ḥalutza], he is liable to receive lashes due to only one transgression, since a ḥalutza is not forbidden to a priest by Torah law. This is contrary to the opinion of Rav Yehuda, that he should receive two sets of lashes for engaging in intercourse with a divorcée. The Gemara answers: This is what the mishna is saying: He is liable to receive lashes due to only one act, that of engaging in intercourse with a divorcée, but actually he

is liable to receive two sets of lashes for his act of intercourse with a divorcée, since she is forbidden due to two labels. He does not receive an additional set of lashes on account of her being a ḥalutza, as this prohibition is by rabbinic law.

<sup>275</sup> The Gemara asks: And is a ḥalutza forbidden to a priest only by rabbinic law? But isn't it taught in a baraita: It states in the Torah that a priest may not marry a divorcée. I have derived only a divorcée; from where do I derive that a ḥalutza is also forbidden? The verse states: "And a woman divorced" (Leviticus 21:7), with the additional conjunction of "and" serving to include a ḥalutza, that she is also considered to be a type of divorced woman. The Gemara rejects this: Even so, this prohibition is only by rabbinic law, and the verse is a mere support, but it is not the true source of the halakha.

<sup>276</sup> Abaye says: A priest who betrothed a woman forbidden to him is flogged; if he engaged in sexual intercourse with her he is flogged additional lashes. The Gemara clarifies this: If he betrothed, he is flogged due to transgressing the prohibition of: "Shall he not take." If he also engaged in intercourse, he is flogged due to transgressing the prohibition of: "He shall not profane." Rava says: If he engaged in intercourse he is flogged; if he did not engage in intercourse, he is not flogged at all, because it is written: "Shall he not take...and he shall not profane," which Rava understands to mean: For what reason is he commanded not to take? It is so that he not profane. Rava holds that he is not liable for taking, i.e., betrothing, the woman, but only for engaging in intercourse with her, as this leads to profanation.

<sup>277</sup> The Gemara notes: And although Abaye holds that the act of betrothal itself is forbidden, he concedes in the case of an Israelite who remarries his divorcée after she had been married to someone else in the interim, that if he betrothed her without engaging in intercourse, he is not flogged. Why not? It is as the Merciful One states in the Torah with regard to this prohibition: "Take her again to be his wife" (Deuteronomy 24:4), which indicates that the act of betrothal is forbidden only if it leads to the intimacy of marriage, and there is no such intimacy here since he has not engaged in intercourse with her.

<sup>278</sup> And conversely, Rava concedes in the case of a High Priest with a widow, that if he engaged in sexual intercourse without betrothing her, he is flogged for the act of intercourse, as the Merciful One states in the Torah: "And he shall not profane his offspring among his people" (Leviticus 21:15), and he has profaned her with his act of intercourse. And they both concede in the case of the prohibition with regard to one who remarries his divorcée that if he engaged in intercourse with her without betrothing her he is not flogged, because the Torah forbade them to reestablish their union only through the manner of taking, i.e., betrothal, but it did not prohibit the act of intercourse on its own.

<sup>279</sup> § The mishna teaches that Rabbi Yehuda says: The daughter of a male convert is like the daughter of a male ḥalal, and is prohibited from marrying into the priesthood. It is taught in a baraita that Rabbi Yehuda says: The daughter of a male convert is like the daughter of a male ḥalal, and is prohibited from marrying into the priesthood. And logic dictates that this is so: Just as in the case of a ḥalal, who comes from a fit drop of semen, as both his parents are Jewish, his daughter is nevertheless unfit to marry into the priesthood, in the case of a convert, who comes from an unfit drop, as he was born a gentile, is it not logical that his daughter should be unfit to marry into the priesthood?



<sup>280</sup> The Gemara counters this derivation: What is notable about a ḥalal? He is notable in that he is formed through a transgression, whereas the gentile parents of a convert were permitted to engage in sexual intercourse with each other. Therefore, the halakha of the daughter of a ḥalal might be more stringent than the halakha of the daughter of a convert. The Gemara responds: The case of a High Priest who engages in intercourse with a widow shall prove that this aspect is not germane to the fitness of the offspring, since the formation of the High Priest was not through a transgression, and yet his daughter is unfit to marry into the priesthood, indicating that being formed through a transgression does not play a role in this matter.

<sup>281</sup> The Gemara counters again: What is notable about a High Priest who engages in intercourse with a widow? He is notable in that his act of intercourse is a transgression. This aspect is what leads to the stringent halakha that his daughter is unfit to marry into the priesthood. The Gemara responds: The case of a ḥalal will prove that this aspect is not germane to the fitness of the offspring, as his daughter is unfit despite the fact that his act of intercourse does not involve a transgression.

<sup>282</sup> And the derivation has reverted to its starting point. The aspect of this person, a ḥalal, is not like the aspect of that person, a High Priest, as with regard to each of them there is a unique reason for the halakha to be stringent. Despite this, their common denominator is that they are unlike most of the congregation, in that they both differ from Jews of unflawed lineage, either because their formation or their act of sexual intercourse involved a transgression, and their daughters are therefore unfit to marry into the priesthood. I will also bring the case of the convert, who is unlike most of the congregation, and therefore his daughter is also unfit to marry into the priesthood.

<sup>283</sup> This is rejected: What is notable about their common denominator is that the reason they are not like most of the congregation includes an aspect of a transgression, either with regard to their formation or to their act of intercourse. Therefore, the halakha of the daughter of a convert cannot be derived from them.

<sup>284</sup> The Gemara modifies the proof: Do not say that a High Priest who engages in sexual intercourse with a widow will prove it; rather, say that a first-generation male Egyptian convert who married a first-generation female Egyptian convert will prove it. Although their intercourse does not involve a transgression, their offspring are nevertheless unfit to marry into the priesthood, as Egyptians may enter into the congregation only after three generations.

<sup>285</sup> This proof is also rejected: What is notable about a first-generation Egyptian? He is notable in that he is not fit to enter into the congregation at all, and that is why his offspring may not marry into the priesthood. The Gemara responds that a ḥalal will prove that this aspect is not germane to the fitness of the offspring, since his daughter is unfit to marry into the priesthood although his offspring may enter into the congregation.

<sup>286</sup> And the derivation has reverted to its starting point, as the halakha of the daughter of a convert cannot be derived from the case of the Egyptian alone or from the case of the ḥalal alone. The aspect of this person, an Egyptian convert, is not like the aspect of that person, a ḥalal, as with regard to each of them there is a unique reason for the halakha to be stringent. Despite this, their common denominator is that they are unlike most of the congregation, in that they both differ from Jews of unflawed lineage and their daughters are consequently unfit to marry into the priesthood. I will also bring the case of the convert, who is unlike most of the congregation, and therefore his daughter is also unfit to marry into the priesthood.

<sup>287</sup> The Gemara rejects this: What is notable about their common denominator is that they disqualify the daughter of a priest from marrying a priest through their act of intercourse, which is not the case with a convert. The Gemara explains: And Rabbi Yehuda holds that a convert also disqualifies the daughter of a priest from marrying a priest through his act of intercourse, and he derives the halakha that the daughter of a convert is unfit to marry into the priesthood by means of an analogy derived from the common factor of two sources, i.e., from this halakha of a ḥalal and of an Egyptian.

<sup>288</sup> § The mishna states that Rabbi Eliezer ben Ya'akov says that the daughter of a convert and a Jewish woman is fit to marry into the priesthood. It is taught in a baraita: Rabbi Shimon ben Yoḥai says: A female who converts at less than three years and one day old is fit to marry into the priesthood, as it is stated after the war with Midian: “But all the female children who have not known a man by lying with him, keep alive for yourselves” (Numbers 31:18), i.e., you may marry them. But wasn't Pinehas the priest with them, and yet the Torah permitted these women to all of them, which indicates that girls who are not of age when they convert are permitted even to priests. And how do the Rabbis, who hold that even a girl who converts at less than three years and one day old is unfit to marry into the priesthood, interpret this verse? In their opinion, “keep alive for yourselves” means as slaves and as maidservants, but not for marriage.

<sup>289</sup> The Gemara comments: And all of the tanna'im who have a dispute with regard to the fitness of the daughter of a convert for marrying into the priesthood expounded a single verse. It states with regard to priests: “Neither shall they take as their wives a widow, nor her that divorced; but they shall take virgins of the seed of the house of Israel” (Ezekiel 44:22). Rabbi Yehuda holds: A priest may marry a woman only if the entire seed is from those born to the Jewish people, but not if one of the parents is a convert. Rabbi Eliezer ben Ya'akov holds: “Of the seed of the house of Israel” indicates that not all of the seed must come from the house of Israel, and even if part of the seed is from the house of Israel, that is sufficient to allow her to marry a priest.

<sup>290</sup> Rabbi Yosei, who holds that even the daughter of two converts is permitted to marry into the priesthood, holds that “of the seed of the house of Israel” means one who was seeded, i.e., conceived, in Israel, and the children of converts were conceived by Jewish parents. And Rabbi Shimon ben Yoḥai, who permits a female who converted at less than three years and one day old to marry into the priesthood, holds that the phrase “virgins of the seed of the house of Israel” is referring to one whose hymen was formed as a Jew, i.e., a woman who was already Jewish when her hymen completed its formation, which occurs at the age of three.

<sup>291</sup> Rav Naḥman said to Rava:

<sup>292</sup> Concerning this verse from Ezekiel, the first clause addresses a case with a High Priest, as it states that he may not marry a widow, and the latter clause addresses a case with a common priest, as it states that he may marry a widow. Is that a reasonable manner in which to interpret a verse? Rava said to him: Yes, that is the correct interpretation of the verse.

<sup>293</sup> Rav Naḥman proceeded to ask: But can a verse be written in this way, addressing two different subjects without any demarcation? Rava said to him: Yes, and there is a similar case, as it is written: “And the lamp of God was not yet gone out, and Samuel was laid down to sleep in the Temple of the Lord” (I Samuel 3:3). If read literally, this verse is puzzling. It apparently states that Samuel was lying in the Sanctuary, but there is a right to sit in the courtyard of the Temple only for the kings of the house of David alone. How then could Samuel be laid down to sleep in the Temple? Rather, the

verse should be understood as follows: “And the lamp of God was not yet gone out” in the Temple of the Lord, “and Samuel was laid down” in his place outside the Temple.

<sup>294</sup> Since the Gemara quoted the verse in Ezekiel, it proceeds to discuss it further. The continuation of that verse states: “And a widow who is the widow of a priest, they may take” (Ezekiel 44:22). Does this mean that a priest may marry the widow of a priest, yes, but the widow of an Israelite he may not marry? This is counter to the halakha that allows a priest to marry any widow. Rather, this is what the verse is saying: “And a widow who is the widow of a priest they may take,” meaning that of the rest of the priests, they may take. In other words, it is permitted for all other priests, i.e., common priests, to marry widows, and only the High Priest may not marry them. That is also taught in a baraita: “Of a priest they may take” means of the rest of the priests, they may take.

<sup>295</sup> Rabbi Yehuda states a different explanation of the verse: A widow who is the widow of one whose daughters are fit to marry into the priesthood, they may take. The Gemara clarifies: Rabbi Yehuda conforms to his line of reasoning above, as he says: The daughter of a male convert is like the daughter of a male ḥalal, and he ruled that anyone whose daughter you may marry, you may likewise marry his widow; anyone whose daughter you may not marry, e.g., a male convert, you may not marry his widow either. The verse therefore states that a priest may marry the widow only of one whose daughter is permitted to marry into the priesthood.

<sup>296</sup> § The mishna teaches that Rabbi Yosei says: Even if there was a male convert who married a female convert, his daughter is fit to marry into the priesthood. Rav Hamnuna says in the name of Ulla: The halakha is in accordance with the opinion of Rabbi Yosei, and similarly, Rabba bar bar Ḥana says: The halakha is in accordance with the opinion of Rabbi Yosei. And from the day the Temple was destroyed, the priests were accustomed to act with a higher standard for themselves, in accordance with the opinion of Rabbi Eliezer ben Ya’akov, and they would marry the daughter of a convert only if one parent was born Jewish.

<sup>297</sup> Rav Naḥman says: Rav Huna said to me: If a priest comes to consult with us as to whether or not he should marry the daughter of two converts, we instruct him not to, in accordance with the opinion of Rabbi Eliezer ben Ya’akov. But if he married her, we do not remove her from him, in accordance with the opinion of Rabbi Yosei, as the halakha follows his opinion, as stated above.

<sup>298</sup> MISHNA: One who says: This son of mine is a mamzer, e.g., if he claims that the son was born to one forbidden to him by a prohibition that carries the punishment of karet, he is not deemed credible to render him a mamzer. And even if both of them, the father and the mother, admit that a fetus in her womb is a mamzer, they are not deemed credible. Rabbi Yehuda says: They are deemed credible.

<sup>299</sup> GEMARA: What is the added novelty indicated by the phrase: And even if both of them? What is taught there that is not stated in the clause that taught that a father is not deemed credible to state that his son is a mamzer? The Gemara answers: The tanna is speaking utilizing the style of: It is not necessary. It is not necessary to state this halakha with regard to his claim, when it is not clear to him, i.e., a father can never be sure that a child is his. Rather, the halakha is the same even with regard to her, when it is clear to her who the father is, and yet she is nevertheless not deemed credible. And additionally, it is not necessary to state when the child has a presumption of unflawed lineage, as he was assumed to be of unflawed lineage before his parents came to testify, that they are not deemed

credible. Rather, even in the case of a fetus, who does not have a presumption of unflawed lineage, as he has no status with regard to lineage until he is born, the parents are likewise not deemed credible.

<sup>300</sup> The mishna teaches that Rabbi Yehuda says: They are deemed credible. This is as it is taught in a baraita: Expounding the verse: “He shall acknowledge the firstborn” (Deuteronomy 21:17), the Sages said: He, the father, shall acknowledge him to others. In other words, he is deemed credible to tell others that this is his firstborn. From here, Rabbi Yehuda said that a person is deemed credible to say: This is my firstborn son. And just as a person is deemed credible to say: This is my firstborn son, so too, a person is deemed credible to say about his son: This is a son of a divorced woman, or: This is a son of a ḥalutza. And the Rabbis say: As far as these latter claims are concerned, he is not deemed credible. He is deemed credible only to state which son is his firstborn.

<sup>301</sup> Rav Naḥman bar Yitzḥak said to Rava: Granted, according to Rabbi Yehuda, this is the meaning of that which is written: “He shall acknowledge,” as he derives from these words that a father is deemed credible to attest to the identity of his sons. But according to the Rabbis in the mishna, why do I need the phrase “he shall acknowledge”?

<sup>302</sup> The Gemara answers: It is necessary for a case when he requires identification, if the identity of the firstborn is unknown. In such a situation the verse teaches that the father is deemed credible. The Gemara asks: With regard to what halakha is this relevant? Does it refer to the requirement: “By giving him a double portion” (Deuteronomy 21:17), i.e., that the firstborn receives a double share of the inheritance? Isn’t it obvious that he is deemed credible with regard to this halakha? Why do I need a verse to teach this? His claim is supported by the fact that he could have made a more advantageous claim [miggo]: If he desired to give him a double portion as a gift while he was alive, would the court not give it to him? Since the father could have given a double portion to the firstborn without having to testify that he is his firstborn, it cannot be that the verse is teaching us that he is deemed credible with regard to the halakha that a firstborn receives a double portion of inheritance.

<sup>303</sup> The Gemara answers: The verse is referring to property that came into his possession at a later point, which he was unable to give to his son at the time that he came to testify. The verse teaches that the son whom the father states is the firstborn will receive a double portion even of that property.

<sup>304</sup> The Gemara asks: And according to Rabbi Meir, who says that a person can transfer an entity that has not yet come into the world, which would mean that a person can give away his property even before it enters his possession, why do I need the verse: “He shall acknowledge”? The Gemara answers: It is referring to a case where property came into the father’s possession when he was moribund, at which point he cannot transfer ownership of any of his property to others. It is with regard to such property that the verse states: “He shall acknowledge,” to teach that the son whom the father states is the firstborn will receive a double portion even of that property.

<sup>305</sup> MISHNA: In a case of one who authorized his agent to betroth his daughter to a man that the agent would deem fit, and the father went and betrothed her to someone else, if his betrothal preceded that of the agent, his betrothal is a valid betrothal; and if the betrothal of his agent preceded his own, the betrothal of the agent is a valid betrothal. And if it is not known whose betrothal came first,

<sup>306</sup> both men who might have betrothed her give her a bill of divorce in order to render her permitted to marry someone else. And if they wish and agree between them, one gives a bill of divorce and the other marries her.

<sup>307</sup> And similarly, with regard to a woman who authorized her agent to betroth her and she then went and betrothed herself to someone else, if her own betrothal preceded that of the agent, her betrothal is a valid betrothal, and if that of her agent preceded hers, the agent's betrothal is a valid betrothal. And if they do not know whose betrothal came first, both men who may have betrothed her give her a bill of divorce. And if they wish, one may give a bill of divorce and the other marries her.

<sup>308</sup> GEMARA: And it is necessary to state this halakha with regard to one who betroths his daughter as well as with regard to a woman who betroths herself. As had the mishna taught us this halakha only with regard to the father himself, one might say that it is because a man is expert with regard to lineage, and his decision to betroth his daughter on his own after having appointed an agent must have been due to the superior lineage of the man that he found willing to marry her. But with regard to a woman, who is not expert with regard to lineage, one might say her betrothal should not be considered a valid betrothal, as she still intends for her agent to be able to accept betrothal for her from a man with superior lineage.

<sup>309</sup> And conversely, had the mishna taught us this halakha only with regard to the woman herself, one might say that it is because a woman is particular about whom she marries, i.e., she is careful when selecting a husband for herself. Therefore, she would have chosen the partner she deems most suitable and would not want the agent to act on her behalf after she had found someone on her own. But with regard to the father, one might say that he does not care to the same extent, and he may authorize the agent to act in any case. Therefore, it is necessary for the mishna to include both cases.

<sup>310</sup> § It was stated that the amora'im discussed the following question: If her father betrothed her on the way, when he was traveling, and in the meantime she betrothed herself in the city, and she is now a grown woman, Rav said: She is a grown woman at present, and her father cannot currently betroth her. Therefore, even if he did betroth her at some point, his betrothal is assumed not to have taken effect. And Shmuel said: We are concerned with regard to the betrothal of both of them.

<sup>311</sup> The Gemara clarifies the case: When did the father's betrothal occur? If we say it occurred during the six months when the daughter was no longer a minor and had the status of a young woman, in that case would Rav say: She is a grown woman at present? It is reasonable to say that it is only now that she has reached her majority, i.e., assumed the status of a grown woman, and in that case her father's betrothal should take effect, since a father can betroth his daughter when she is a young woman. Rav would not rule that the father's betrothal is disregarded. Rather, perhaps it occurred after the six months had elapsed since she became a young woman. In that case would Shmuel say: We are concerned with regard to the betrothal of both of them? But doesn't Shmuel say: The difference between the status of a young woman and the status of a grown woman is six months alone, after which the girl has the status of a grown woman, which means her father can no longer betroth her?

<sup>312</sup> The Gemara answers: No, it is necessary in a case where he betrothed her on the day that these six months were completed. Rav said: She is a grown woman at present. There is therefore a presumption that since she is now a grown woman, she was also a grown woman when her father betrothed her in the morning. And Shmuel said: Perhaps it is only now that her signs indicating puberty came, but she might have still been a young woman when her father betrothed her.

<sup>313</sup> The Gemara asks: And according to Shmuel, in what way is this case different from the case of a ritual bath? As we learned in a mishna (Mikvaot 2:2): With regard to a ritual bath that was known to have contained the requisite forty se'a of water, which was then measured and found deficient in its

quantity of water, what is the halakha? All pure items whose purification had been performed in it, i.e., any impure items that had been purified through immersion in this ritual bath, retroactive to when the ritual bath was last measured, whether this ritual bath is found in the private domain or in the public domain, are impure. This indicates that the current situation, i.e., the deficient ritual bath, is presumed to extend back until when it was known with certainty to have contained the requisite amount of water. In this case too, the woman should be considered a grown woman at the time of the first betrothal, and the second betrothal should not take effect.

<sup>314</sup> The Gemara answers: There, in the case of a ritual bath, it is different, since it can be said: Maintain an impure item in its presumptive status and say that it was not properly immersed. There, the presumptive status of the item being ritually impure is supported by the current state of the ritual bath, which is now deficient.

<sup>315</sup> The Gemara continues to compare the two cases: On the contrary, it could be said: Maintain the ritual bath in its presumptive status, that it was known to have previously contained the requisite forty se'a, and say that it was not deficient at the time of the immersion and that the items should be considered ritually pure. The Gemara answers: There is a deficient ritual bath at present, which counteracts the presumptive status that it contained the requisite forty se'a. The Gemara asks: Here too, there is a grown woman before you, which should counteract the fact that she was previously a young woman. The Gemara answers: In this case, it is only now that she has reached her majority. The Gemara asks: There too, in the case of a ritual bath, one can also say it is only now that it has become deficient. Perhaps it contained the requisite forty se'a shortly beforehand.

<sup>316</sup> The Gemara responds: There, in the case of the ritual bath, there are two reasons to weaken the possibility that the items are ritually pure: First, there is a deficient ritual bath at present; second, the item has a presumptive status of impurity. Here, by contrast, there is only one reason to weaken the possibility that she was a young woman at the time of the betrothal, i.e., the fact that she is now a grown woman. Shmuel therefore maintains that her earlier status of young woman is not nullified, and both betrothals must be taken into account.

<sup>317</sup> The Gemara poses another question: And according to Shmuel, in what way is this case different from the case of a barrel? As it is taught in a baraita (Tosefta, Terumot 2:8): If one would inspect the contents of a barrel to see if it still contained enough wine to continually mentally separate teruma from it to exempt other untithed wine he had, until all the wine in that barrel would be teruma and would be given to a priest, and afterward the contents of the barrel were found to be vinegar, which cannot be set aside as teruma for untithed wine, then all three days after he had last inspected it is definitely viewed as having been wine, and any untithed wine for which teruma was separated during those days is tithed. From then onward, more than three days after the previous inspection, it is uncertain as to whether it had already turned to vinegar, and any untithed wine for which teruma was separated during those days is not tithed.

<sup>318</sup> Before stating the difficulty with Shmuel's opinion, the Gemara first clarifies the baraita. And we raised a contradiction between the halakha of the barrel and that of the ritual bath: What is different in that here, with regard to the ritual bath, the halakha is that the items are definitely impure, and what is different in that there, with regard to the barrel, it is only uncertain whether the produce remains untithed? In both cases the situation at present, the ritual bath being deficient and the contents of the barrel having turned to vinegar, should lead to a definite conclusion.

<sup>319</sup> The Gemara continues its analysis of the baraita: And Rav Ḥanina from Syria says: Who is the tanna that taught the halakha of the barrel? It is Rabbi Shimon, who with regard to a ritual bath also considers it as a matter of uncertainty rather than as definitively impure. Therefore, there is no contradiction between the baraita and the mishna.

<sup>320</sup> As it is taught in a baraita: All pure items whose purification had been performed in it, i.e., any impure items that had been purified through immersion in the ritual bath that was found to be deficient, retroactive to when the ritual bath was last measured, whether this ritual bath is found in the private domain or in the public domain, are impure. And Rabbi Shimon says they are impure due to the uncertainty, and therefore, if the ritual bath was located in the public domain, they are pure, in accordance with the principle that uncertain cases of impurity in the public domain are deemed pure. But if the ritual bath was located in the private domain, the decision is suspended, i.e., if the impure items came into contact with teruma, one may not partake of the teruma due to the uncertainty, but it is also not burned as though it were definitively impure.

<sup>321</sup> The Gemara returns to complete the difficulty with Shmuel's opinion: But according to the Rabbis, who hold that in the case of the ritual bath the items are definitively impure, with regard to the wine that had been exempted from teruma by means of separating teruma from the contents of the barrel, that wine will be untithed produce retroactively, since they hold that the current status extends to the past. This is unlike the ruling of Shmuel, who ruled that in the case of the woman who was betrothed to two men it is uncertain to whom she is betrothed. The Gemara answers: There, in the case of the barrel, it is different, as it can be said: Maintain the untithed produce in its presumptive status, as when it first grew it was definitely untithed, and say it was not fixed, i.e., exempted.

<sup>322</sup> The Gemara asks: On the contrary, why not maintain the wine in its presumptive status, and say it had not turned to vinegar? The Gemara rejects this: That is impossible, as it is turned to vinegar at present. The Gemara replies: In the case of the betrothal, here too, she is a grown woman at present; what is the difference? The Gemara rejects this claim: With regard to the woman, it is possible that only now has she reached her majority. The Gemara challenges: Here too, it could be that it is only now that it has turned to vinegar, but not earlier.

<sup>323</sup> The Gemara explains: There, in the case of the barrel, there are two reasons to weaken the possibility that the wine is tithed: First, it is vinegar at present; second, the wine has a presumptive status of being untithed. Here, by contrast, there is only one reason to weaken the possibility that she was a young woman at the time of the betrothal, i.e., the fact that she is now a grown woman. Shmuel therefore maintains that her earlier status of a young woman is not nullified, and both betrothals must be taken into account.

<sup>324</sup> The Gemara suggests: Let us say that it is parallel to a dispute between tanna'im:

<sup>325</sup> The halakha is that a moribund person who transfers all of his property to others without leaving anything for himself can retract his bequest upon regaining his health. This is due to the assumption that one would give away all his possessions only if he believes he is going to die, and the bequest was therefore made in error. By contrast, if a healthy person gave all his property to others, he cannot later retract his bequest. The tanna'im discuss the case of one who gave away all his property and later, seeking to retrieve his property, claims that he was moribund at the time, while the recipients of the bequest maintain that he was healthy. Who is able to remove the property from the possession of whom?

<sup>326</sup> He is able to remove his property held by others from their possession without needing to bring proof that he was moribund at the time, and they may not remove the property from his possession, if he still is in possession of the property, without proof that he was healthy. This is the statement of Rabbi Ya'akov. Rabbi Natan says: If he is currently healthy, the obligation is upon him to bring proof that he was on his deathbed at the time of the bequest, and if he is now on his deathbed, the obligation is upon them to bring proof that he was healthy at the time of the bequest.

<sup>327</sup> The Gemara suggests: Let us say that Rav spoke in accordance with the opinion of Rabbi Natan that one's current status is paramount, and Shmuel spoke in accordance with the opinion of Rabbi Ya'akov, who holds that the question of whether he was moribund remains a matter of uncertainty, and they may not claim the property from him even if he is now healthy. The Gemara rejects this: Rav could have said to you: I spoke even in accordance with the opinion of Rabbi Ya'akov, as Rabbi Ya'akov states his opinion only there, because it can be said that the principle of: Leave the property in its previous status, applies, so the property should remain where it is. But here, with regard to the question of when a young woman became a grown woman, shall we say: Establish the body according to its previous status? It is obvious that her body was due to mature.

<sup>328</sup> And Shmuel could have said: I spoke even in accordance with the opinion of Rabbi Natan, since Rabbi Natan states his opinion that the current state is paramount only there, as everyone has a presumptive status of being healthy. Consequently, if a person removes himself from this presumption by claiming he was moribund, the obligation falls upon him to bring proof. But here, does she remove herself from a presumption that was present? There is no presumption that she was a grown woman in the morning.

<sup>329</sup> The Gemara further suggests: Let us say that this dispute between Rav and Shmuel is parallel to a dispute between these tanna'im: With regard to a case where her father betrothed her on the way, when he was traveling, and in the meantime she betrothed herself in the city, and she is now a grown woman, one baraita taught: She is a grown woman at present, and her father cannot currently betroth her; therefore, his betrothal does not take effect. And it is taught in another baraita: We are concerned with regard to the betrothal of both of them. What, is it not the case that one baraita is in accordance with the opinion of Rav, and one baraita is in accordance with the opinion of Shmuel?

<sup>330</sup> The Gemara rejects this: No; it is possible that both this and that are in accordance with the opinion of Shmuel. Here, in this baraita, it is referring to a case where she denies his right to betroth her, as she claims that she was a grown woman before his betrothal. There, it is referring to a situation where she does not deny his right to betroth her, and therefore it is uncertain which betrothal takes effect.

<sup>331</sup> The Gemara asks: If so, let us also say that since the baraitot do not disagree, the opinions of the amora'im, Rav and Shmuel, do not disagree either. One is referring to a case where she denies her father's right to betroth her, while the other is referring to a case where she does not. The Gemara rejects this: And how can you understand it that way? But Rav Yosef, son of Rav Menashya of Dabil, performed an action in this case in accordance with the opinion of Rav and did not take the father's betrothal into account, and Shmuel took offense at this and said sarcastically: Is wisdom measured out to everyone in a small measure, and measured out to this member of the Sages in a large measure? He was angered that Rav Yosef had the audacity to rule against him in this case. Now, if it enters your mind that they did not disagree at all, why did Shmuel take offense?



<sup>332</sup> Perhaps when Rav Yosef performed an action, he did so in an instance where she denied her father's right to betroth her, in which case even Shmuel would agree that the father's betrothal does not take effect. Rather, it must be that Rav and Shmuel did disagree, and Rav Yosef must have ruled in the case of a woman who did not deny her father's right to betroth her, which explains why Shmuel took exception to his ruling.

<sup>333</sup> Mar Zutra said to Rav Ashi: This is what Ameimar said: The halakha is in accordance with the opinion of Shmuel. And Rav Ashi said: The halakha is in accordance with the opinion of Rav. The Gemara concludes: And the halakha is in accordance with the opinion of Rav.

<sup>334</sup> MISHNA: With regard to one who went overseas with his wife, and returned with his wife and children, and said: This is the woman who went overseas with me and these are her children, he is not required to bring proof with regard to the lineage of the woman, since her lineage was already investigated at the time of their marriage, nor with regard to the lineage of the children. If he returned without the woman and said: My wife died and these are her children, he must bring proof that the children were born to his wife, but he does not need to bring proof with regard to the lineage of the woman.

<sup>335</sup> If he left when he was unmarried and said upon his return: I married a woman overseas, and this is she, and these are her children, he must bring proof with regard to the lineage of the woman, but he is not required to bring proof with regard to the lineage of the children. If he said: I married a woman overseas and she died, and these are her children, he is required to bring proof with regard to both the lineage of the woman and the children.

<sup>336</sup> GEMARA: Rabba bar Rav Huna says: And all of the statements that he is not required to bring proof with regard to the lineage of the children are said in a case where they cling to her and treat the woman like their mother.

<sup>337</sup> The Sages taught that if a man says: I married a woman overseas, he must bring proof with regard to the lineage of the woman, but he is not required to bring proof with regard to the lineage of the children. And he must bring proof with regard to the lineage of the adult children, but he is not required to bring proof with regard to the lineage of the minor children. Since their attachment to their mother is apparent, it can be assumed they are her offspring. In what case is this statement said? It is in the case of one who said he married one woman, but when it is the case of one who said he married two women overseas, he must bring proof with regard to the lineage of both the woman and the children, with regard to the adult ones and with regard to the minor ones. Even if they cling to the woman whose lineage has been found to be unflawed, they might be the children of the other wife and are merely being raised by this one.

<sup>338</sup> Reish Lakish said:

<sup>339</sup> The Sages taught that the children's attachment to her proves that she is their mother only with regard to the consecrated items of the border, i.e., teruma, meaning that if she is the wife of a priest, her children may partake of teruma. But with regard to lineage, this proof is not relied upon, and her daughters may not marry priests. And Rabbi Yoḥanan says: If the children cling to her they are considered hers in all regards, even with regard to lineage.

<sup>340</sup> The Gemara comments: And Rabbi Yoḥanan follows his standard line of reasoning, as Rabbi Ḥiyya bar Abba says that Rabbi Yoḥanan says: The court flogs one about whom witnesses testify that

he violated a prohibition on the basis of presumptive status, even if there is no testimony to definitively establish that the person violated a prohibition, as will be explained. Similarly, the court stones or burns one about whom witnesses testify that he violated a prohibition resulting in court-imposed capital punishment on the basis of presumptive status. But one does not burn teruma on the basis of presumptive status unless there is testimony that it became ritually impure.

<sup>341</sup> How so? The court flogs one about whom witnesses testify that he violated a prohibition on the basis of presumptive status, in accordance with the opinion of Rav Yehuda. As Rav Yehuda says: If a woman had among her neighbors the presumptive status of a menstruating woman, and witnesses testified that her husband engaged in sexual intercourse with her, he is flogged due to her status as a menstruating woman, and there is no need for testimony that she was a menstruating woman.

<sup>342</sup> The court stones or burns one about whom witnesses testify that he violated a prohibition resulting in court-imposed capital punishment on the basis of presumptive status, in accordance with the opinion of Rabba bar Rav Huna. As Rabba bar Rav Huna says: With regard to a man and a woman and a boy and a girl who grew up together in one home as a single family, the presumption is that they are related, even absent witness testimony to that effect. Therefore, they are stoned due to engaging in intercourse with each other if the male child, now an adult, engages in intercourse with the woman, as it is considered incestuous sexual intercourse. And they are burned due to engaging in intercourse with each other if the man engages in intercourse with the female child, now an adult, since she is considered his wife's daughter.

<sup>343</sup> The Gemara cites a related incident: Rabbi Shimon ben Pazi says that Rabbi Yehoshua ben Levi says in the name of bar Kappara: An incident occurred involving a woman who came to Jerusalem with a child riding on her shoulders, in the manner of a mother and a son, and she raised him, and he eventually engaged in intercourse with her. And they brought them to court and stoned them for violating the prohibition against a mother and son engaging in intercourse. This was not because he was definitely her son, as they had no testimony to that effect, but because he clung to her, and he therefore had the presumptive status of being her son.

<sup>344</sup> Rabbi Yoḥanan stated: But one does not burn teruma on the basis of presumptive status. As Rabbi Shimon ben Lakish says: One burns teruma on the basis of presumptive status, and Rabbi Yoḥanan says: One does not burn teruma in this case. The Gemara comments: And they follow their standard lines of reasoning in this matter, as we learned in a mishna (Teharot 3:8): If a ritually impure child is found alongside ritually pure started dough, and he has risen dough in his hand that may have been removed from the larger portion of started dough, Rabbi Meir deems the started dough pure, since there is no proof the child touched it, as he might have been given the piece by someone else. And the Rabbis deem it impure, as they assume that he touched the started dough. The child is presumed to be impure because it is the manner of a child to handle [letappe'ah] items.

<sup>345</sup> And we discussed that case: What is the reasoning of Rabbi Meir? He holds that a majority of children handle items, in this case the dough, that are within reach, and a minority do not handle items within reach, and the dough itself retains a presumptive status of purity, since its impurity has not been definitively determined. And if one appends the minority of children who do not handle items within reach to the presumptive status of purity of the dough, the force of the majority of children who handle items within reach is weakened. Therefore, the dough is considered pure. And the Rabbis contend that in a case where the majority is followed, the minority is considered like it

does not exist. Consequently, there is a conflict between the determining factors of the majority of impure children who handle items within reach and the presumptive status of purity of the dough. In that case, the majority takes precedence.

<sup>346</sup> Reish Lakish says in the name of Rabbi Oshaya: This halakha of a child is an example of a presumption, i.e., that children handle items within reach, that one burns teruma based on it, since the Rabbis hold that it is sufficiently established that the dough has become impure to allow it to be burned. Rabbi Yoḥanan says: This is not the presumption that one burns teruma based on it. Rather, the dough is set aside and may be neither eaten nor burned.

<sup>347</sup> The Gemara asks: But if so, according to Rabbi Yoḥanan, what is the presumption that one burns teruma based on it? The Gemara answers: As we learned in a baraita: In a case where started dough is in the house, and creeping animals, which impart impurity when dead, and frogs, which do not impart impurity, are also present there, and pieces of an unidentified creature were found in the started dough, if the majority of creatures in the house are creeping animals, the dough is impure, since the presumption is that the pieces are from a creeping animal. If the majority are frogs, it is pure.

<sup>348</sup> The Gemara comments: It is taught in a baraita in accordance with the opinion of Rabbi Yoḥanan: There is a principle that when a possible case of impurity cannot be verified, even if it occurred in a private domain, where generally cases of uncertain impurity are deemed impure, it is deemed pure. Two things do not have the capacity to be questioned, i.e., one cannot verify what happened through investigation. Yet in these two cases, the Sages deemed them as things that have the capacity to be questioned and rendered them impure in cases of uncertainty in a private domain. The two cases are that of a child and an additional halakha.

<sup>349</sup> The case of a child is that which we said concerning a child holding some dough discovered alongside a larger piece of dough. All of the dough is deemed impure, since the child cannot be asked whether or not he rendered the dough impure. And what is the additional one? If pure, started dough was located inside the house, and chickens and impure liquids were present there, and there were found to be

<sup>350</sup> small holes in the dough where the chickens had pecked it, in that case the dough is held in suspension; it is neither eaten nor burned, since the chickens may have drunk from the impure liquids before they pecked at the dough but there is no proof of this. Despite this being a case where they cannot be asked, which generally would result in the dough being deemed pure, here it is deemed impure due to the uncertainty. The fact that in the second case of the baraita it is not deemed to be definitely impure supports the opinion of Rabbi Yoḥanan, who holds that in the case of the child the status of the dough also remains a matter of uncertainty.

<sup>351</sup> Rabbi Yehoshua ben Levi says: They taught this halakha only in a case of white liquid, when the appearance of the peck marks provides no proof of whether the chickens had previously drunk from the liquid, but in a case of red, impure liquid, if it is so that they had pecked, it would be known that they had drunk from the liquid, since the peck marks would be colored red. The Gemara asks: Even if the liquid were red and there were no red marks on the dough, how can one say definitively that they did not peck? Perhaps the dough absorbed the liquid, leaving no identifiable mark?

<sup>352</sup> Rabbi Yoḥanan says: The Distinguished, i.e., Rabbi Yehoshua ben Levi, heard this matter, but he did not hear its interpretation, and he should have supplied an additional detail: They taught this

halakha only in a case of clear liquid, which can be absorbed in the dough without leaving a stain. What is meant by clear? It means that in which the reflection [bavua] of a child is recognizable when he peers into it. But in a case of murky liquid, this halakha was not stated, since the liquid would have left a mark.

<sup>353</sup> MISHNA: A man may not be secluded with two women lest he sin with them, but one woman may be secluded with two men. Rabbi Shimon says: Even one man may be secluded with two women when his wife is with him, and in that situation he may even sleep in the same inn with two women, because his wife guards him from sinning with them. They further said that a man may be secluded with his mother, and with his daughter, and sleep alongside them with bodily contact without clothes, since there is no concern that they will engage in sexual intercourse. And when they, the son or daughter, have grown up, this one sleeps in her garment and that one sleeps in his garment, but they may share a bed.

<sup>354</sup> GEMARA: What is the reason that a man may not be secluded with two women, but a woman may be secluded with two men? The school of Eliyahu taught: Since women are of light mind they are more easily seduced.

<sup>355</sup> The Gemara asks: From where are these matters, that it is prohibited for a man to be secluded with women, derived? Rabbi Yoḥanan says in the name of Rabbi Yishmael: From where is there an allusion from the Written Torah to the prohibition against seclusion? As it is stated concerning one who incites others to idolatrous worship: “If your brother, the son of your mother, entices you” (Deuteronomy 13:7).

<sup>356</sup> Rabbi Yishmael considers why the Torah uses the example of “the son of your mother.” But is it only the son of a mother who entices? Doesn’t the son of a father entice? Rather, the verse means to say to you: A son may be secluded with his mother. Consequently, if a woman has two sons from two different husbands, they will both stay close to her. The Torah therefore uses the example of “the son of your mother” because half-brothers who share a mother become close to each other. By contrast, half-brothers who share a father will not become close, since one’s father’s wife who is not one’s mother is a forbidden relative. And it is prohibited to be secluded with those with whom relations are forbidden by the Torah.

<sup>357</sup> Since this verse merely alludes to the prohibition against seclusion, the Gemara asks: With regard to what is the plain meaning of the verse written, i.e., in the context of enticement to idolatrous worship, why does it emphasize “the son of your mother”? Abaye said: The verse is speaking utilizing the style of: It is not necessary. It is not necessary to state that one should not be enticed by the son of a father, who hates him due to their rivalry for their father’s inheritance and therefore gives him bad advice. Rather, the same is true even of the son of a mother, who does not hate him, since they are not rivals for the same inheritance, as each inherits from his own father. One might therefore say that he should listen to him and accept his advice. The verse consequently teaches us that he should pay no heed to his enticements.

<sup>358</sup> The Gemara comments: Shall we say the mishna is not in accordance with the opinion of Abba Shaul, as it is taught in a baraita: If a child dies any time during the first thirty days after his birth, he is not given a proper funeral but is carried out held in their bosom, not on a bier, and buried by one woman and two men. But he may not be buried by one man and two women, due to the prohibition

against seclusion. Abba Shaul says: He may even be buried by one man and two women. This indicates that Abba Shaul deems it permitted for a man to be secluded with two women.

<sup>359</sup> The Gemara rejects this: You can even say that the mishna is in accordance with the opinion of Abba Shaul, as he permits it only in the case of the baraita, because at the time of acute mourning, i.e., immediately after a close relative has died, one's inclination to sin is broken, and there is no concern that he might come to sin.

<sup>360</sup> And the Rabbis, who render seclusion forbidden even then, hold in accordance with the statement of Rabbi Yitzḥak, as Rabbi Yitzḥak says as follows with regard to the verse: "Why does a living man complain, a powerful man due to his sins?" (Lamentations 3:39): Even at the time of a person's acute mourning, his inclination to sin overpowers him. The Gemara asks: And how does Abba Shaul explain this verse? The Gemara answers: When that was written, it was written with regard to one who complains about God's ways. And this is what the verse is saying: Why does one complain about God's ways and claim that he has been treated unjustly? Has he overpowered his sins? God responds: The life I have given him is sufficient for him, and he deserves no more.

<sup>361</sup> And the Rabbis are concerned about the possibility of sin even in times of acute mourning, like that incident involving a certain woman, as there was an incident where she removed her husband from his grave. When visiting her husband's grave, she engaged in intercourse with a man who was tasked with guarding the body of one executed by the king. Meanwhile, that body was taken, and she suggested that they disinter her husband so that the guard could claim that he fulfilled his task properly. This demonstrates that even at a time of mourning one may succumb to temptation.

<sup>362</sup> § The mishna teaches: But one woman may be secluded with two men. Rav Yehuda says that Rav says: They taught this halakha only with regard to men of fit morals, but with regard to those steeped in sexual immorality, she may not be secluded even with ten men. There was an incident where ten men carried out a woman on a bier, as though she were dead, and engaged in intercourse with her. Rav Yosef says: Know that this is so, since ten people will join together and steal a heavy beam without being ashamed before one another. Similarly, several men can join together for a licentious act without shame.

<sup>363</sup> The Gemara suggests: Shall we say the following mishna (Sota 7a) supports him: It was taught with regard to one who is bringing his wife, whom he suspects of having committed adultery [sota], to the Temple to perform the ritual of the bitter water, that they provide him with two Torah scholars to accompany them lest he engage in sexual intercourse with her along the way, as until the ritual has been performed she remains forbidden to her husband? It can be inferred from here: Two Torah scholars, yes; their presence will assure that no one will engage in forbidden intercourse. Regular men, no; there is still a concern that they may engage in intercourse. This indicates that ordinary people are not relied upon with regard to seclusion with a woman. The Gemara rejects this proof: The reason there is a need for them to be Torah scholars is that Torah scholars are different, in that they know

<sup>364</sup> how to warn him not to engage in intercourse with her, since that would neutralize the effectiveness of the examination of the waters.

<sup>365</sup> Rav Yehuda says that Rav says: The Sages taught that two men may seclude themselves with one woman only in a city, where others are present, but on the road it is not permitted unless there are three. Why are two men insufficient on the road? Perhaps one of them will need to urinate and will

walk away, and it will turn out that one person will be secluded with a woman forbidden to him. The Gemara suggests: Shall we say the mishna quoted above supports him: They provide him with two Torah scholars to accompany them lest he engage in sexual intercourse with her along the way? He and two Torah scholars are three, which indicates that there is a requirement for three men when they are traveling. The Gemara answers: That is no proof, as there, in the case of the sota, there is a requirement for an additional two men in order that they should serve as witnesses about him, to testify whether or not he engaged in intercourse with her along the way.

<sup>366</sup> The Gemara relates: Rav and Rav Yehuda were walking along the way, and a certain woman was walking ahead of them. Rav said to Rav Yehuda: Raise your feet and walk quickly away from Gehenna so that we do not remain secluded with her. Rav Yehuda said to him: But wasn't it you, Master, who said that it is permitted in the case of men of fit morals? Rav said to him: Who says that I referred to men of fit morals such as you and me? Rav Yehuda responded: Rather, such as whom? Rav answered: Such as Rabbi Ḥanina bar Pappi and his colleagues, who have proven that they can withstand temptation (see 39b). All other people are not trusted in this matter.

<sup>367</sup> Rav says: The court flogs a man due to his being secluded with a woman. But a wife is not forbidden to her husband, and an unmarried woman is not prohibited from marrying a priest due to being secluded, as it cannot be stated definitively that the secluded pair engaged in sexual intercourse. Rav Ashi says: We stated the halakha that one is flogged due to being secluded only with an unmarried woman, but for being secluded with a married woman, one is not flogged. Why not? It is so that there should not be rumors spread concerning her children. If the secluded pair is flogged, everyone will assume that they engaged in intercourse, and people will consider her children to be mamzerim, whereas in fact they were flogged only for being secluded.

<sup>368</sup> The Gemara relates: Mar Zutra would even flog one who was secluded with a married woman, and he would proclaim the reason for the punishment. Rav Nahman from Parhatya said to Rav Ashi: Let the Master also flog and proclaim the reason. Rav Ashi said to him: I am hesitant to do so, in case there are those who hear about this, i.e., the flogging, and do not hear about that, i.e., the reason for the flogging.

<sup>369</sup> Rav says: The court flogs one due to his being the subject of a bad rumor, meaning that not only is a person flogged when the facts have been ascertained, but even when he has only reportedly committed transgressions he may be flogged. As it is stated: "No, my sons, for it is no good report" (I Samuel 2:24). When Mar Zutra would flog a person for being the subject of a bad rumor, he would place the bridle of a donkey on the person's shoulders and recite before him when administering lashes: "No, my sons, for it is no good report," so that people would know why he was being flogged.

<sup>370</sup> Rabba says: If a woman's husband is in town, there is no concern due to her being secluded with a man. People are afraid to sin with her, since they cannot be sure when her husband will return. Rav Yosef says: If there is an open entrance to the public domain there is no concern due to being secluded. The Gemara relates: Rav Beivai arrived at Rav Yosef's house. After he wrapped his bread, i.e., ate his meal, he said to the members of the household: Remove the ladder from beneath Beivai, who was going to sleep in the upper story, so that he not be able to climb down, due to the prohibition of being secluded with Rav Yosef's wife. The Gemara asks: But doesn't Rabba say: If her husband is in town, there is no concern due to her being secluded with a man? The Gemara answers:

Rav Beivai is different, since Rav Yosef's wife was his friend and she was familiar with him, and therefore there was more cause for concern.

<sup>371</sup> Rav Kahana says: If the men are located on the outside, i.e., in the outer room, and the women in the inside, i.e., in the inner room, there is no concern due to being secluded. Even if one of the men were to enter the inner room, he would be seen by the other men. By contrast, if there were men in the inside and women on the outside, there is a concern due to being secluded, since one of the men can claim that he is leaving and in fact join the women.

<sup>372</sup> The Gemara comments: The opposite was taught in a baraita, that if the men are on the outside and the women are inside there is concern due to being secluded, as one of the men might venture inside without being noticed, but if the men are inside and the women are outside, he knows that one of the other men might go out through the women's quarters at any time, and therefore there is no concern due to being secluded. Abaye said: Now that Rav Kahana has said the halakha in this manner and a baraita teaches the opposite, we shall act stringently in both cases.

<sup>373</sup> Abaye would arrange rows of pitchers between the men and women, so that they would not be able to cross from one area to the other without making noise. Rava would arrange rows of reeds to prevent passage. Avin said: The wound [sakva], i.e., the vulnerable point, of the year is the Festival, since men and women would come together on these joyous occasions, and this would lead to sin.

<sup>374</sup> § The Gemara relates: Those captive women who were brought to Neharde'a, where they were redeemed, were brought up to the house of Rav Amram the Pious. They removed the ladder from before them to prevent men from climbing up after them to the attic where they were to sleep. When one of them passed by the entrance to the upper chamber, it was as though a light shone in the aperture due to her great beauty. Out of his desire for her, Rav Amram grabbed a ladder that ten men together could not lift, lifted it on his own and began climbing.

<sup>375</sup> When he was halfway up the ladder, he strengthened his legs against the sides of the ladder to stop himself from climbing further, raised his voice, and cried out: There is a fire in the house of Amram. Upon hearing this, the Sages came and found him in that position. They said to him: You have embarrassed us, since everyone sees what you had intended to do. Rav Amram said to them: It is better that you be shamed in Amram's house in this world, and not be ashamed of him in the World-to-Come. He took an oath that his evil inclination should emerge from him, and an apparition similar to a pillar of fire emerged from him. He said to his evil inclination: See, as you are fire and I am mere flesh, and yet, I am still superior to you, as I was able to overcome you.

<sup>376</sup> The Gemara relates: Rabbi Meir would ridicule transgressors by saying it is easy to avoid temptation. One day, Satan appeared to him as a woman standing on the other side of the river. Since there was no ferry to cross the river, he took hold of a rope bridge and crossed the river. When he reached halfway across the rope bridge, the evil inclination left him and said to him: Were it not for the fact that they proclaim about you in heaven: Be careful with regard to Rabbi Meir and his Torah, I would have made your blood like two ma'a, i.e., completely worthless, since you would have fallen completely from your spiritual level.

<sup>377</sup> Rabbi Akiva would likewise ridicule transgressors. One day, Satan appeared to him as a woman at the top of a palm tree. Rabbi Akiva grabbed hold of the palm tree and began climbing. When he was halfway up the palm tree, the evil inclination left him and said to him: Were it not for the fact

that they proclaim about you in heaven: Be careful with regard to Rabbi Akiva and his Torah, I would have made your blood like two ma'a.

<sup>378</sup> The Sage Peleimu had the habit to say every day: An arrow in the eye of Satan, mocking the temptations of the evil inclination. One day, it was the eve of Yom Kippur, and Satan appeared to him as a pauper who came and called him to the door, requesting alms. Peleimu brought out bread to him. Satan said to him: On a day like today, everyone is inside eating, and shall I stand outside and eat? Peleimu brought him inside and gave him bread. He said to him: On a day like today, everyone is sitting at the table, and shall I sit by myself? They brought him and sat him at the table. He was sitting and had covered himself with boils and pus, and he was doing repulsive things at the table. Peleimu said to the pauper:

<sup>379</sup> Sit properly and do not act in a revolting manner. Satan then said to him: Give me a cup. They gave him a cup. He coughed up his phlegm and spat it into the cup. They berated him for acting this way, at which point Satan pretended to sink down and die. They heard people around them saying: Peleimu killed a man! Peleimu killed a man! Peleimu fled and hid himself in the bathroom. Satan followed him and fell before him. Upon seeing that Peleimu was suffering, he revealed himself to him. Satan said to him: What is the reason that you spoke this way, provoking me by saying: An arrow in the eye of Satan? He replied: But what then should I say? Satan said to him: Let the Master, i.e., Peleimu, say: Let the Merciful One rebuke the Satan.

<sup>380</sup> The Gemara relates: Rabbi Ḥiyya bar Ashi was accustomed to say, whenever he would fall on his face in prayer: May the Merciful One save us from the evil inclination. One day his wife heard him saying this prayer. She said: After all, it has been several years since he has withdrawn from engaging in intercourse with me due to his advanced years. What is the reason that he says this prayer, as there is no concern that he will engage in sinful sexual behavior?

<sup>381</sup> One day, while he was studying in his garden, she adorned herself and repeatedly walked past him. He said: Who are you? She said: I am Ḥaruta, a well-known prostitute, returning from my day at work. He propositioned her. She said to him: Give me that pomegranate from the top of the tree as payment. He leapt up, went, and brought it to her, and they engaged in intercourse.

<sup>382</sup> When he came home, his wife was lighting a fire in the oven. He went and sat inside it. She said to him: What is this? He said to her: Such and such an incident occurred; he told her that he engaged in intercourse with a prostitute. She said to him: It was I. He paid no attention to her, thinking she was merely trying to comfort him, until she gave him signs that it was indeed she. He said to her: I, in any event, intended to transgress. The Gemara relates: All the days of that righteous man he would fast for the transgression he intended to commit, until he died by that death in his misery.

<sup>383</sup> The Gemara explains the source that one who intended to transgress is punished even though he did not actually sin. As it is taught in a baraita concerning a husband who nullified the vow of his wife: "Her husband has made them null; and the Lord will forgive her" (Numbers 30:13). With regard to what case is the verse speaking? Why would the woman require forgiveness if her husband has nullified her vow? It is referring to a woman who vowed to be a nazirite, and her husband heard and nullified her vow. And she did not know that her husband had nullified her vow, and she drank wine and contracted impurity from a corpse, violating her presumed vow.

<sup>384</sup> The Gemara relates: When Rabbi Akiva came to this verse he would cry. He said: And if with regard to one who intended to eat pork, and kosher lamb came up in his hand, like this woman who



intended to violate her vow but in fact did not, the Torah nevertheless says: She requires atonement and forgiveness, all the more so does one who intended to eat pork and pork came up in his hand require atonement and forgiveness.

<sup>385</sup> In a similar manner, you can say that the same lesson can be derived from the verse: “Though he know it not, yet is he guilty, and shall bear his iniquity” (Leviticus 5:17). When Rabbi Akiva came to this verse he would cry. He said: And if with regard to one who intended to eat permitted fat, and forbidden fat mistakenly came up in his hand, the Torah states: “Though he know it not, yet is he guilty, and shall bear his iniquity,” all the more so is this true for one who intended to eat forbidden fat and forbidden fat came up in his hand. Isi ben Yehuda says with regard to the verse “Though he know it not, yet is he guilty, and shall bear his iniquity”: With regard to this matter all sufferers shall grieve, since the verse teaches that one is punished even for sinning unawares.

<sup>386</sup> § The mishna teaches that a man may be secluded with his mother. Rav Yehuda says that Rav Asi says: A man may be secluded with his sister, and live with his mother or with his daughter in a permanent arrangement, without concern. When he said this before Shmuel, the latter said: It is prohibited to be secluded with all those with whom relations are forbidden by the Torah, and even with an animal, as it is prohibited to engage in intercourse with an animal as well.

<sup>387</sup> We learned in the mishna: A man may be secluded with his mother, and with his daughter, and sleep alongside them with bodily contact, and this appears to be a conclusive refutation of the statement of Shmuel. The Gemara answers: Shmuel could have said to you: And according to your reasoning, how should one explain that which is taught in a baraita: With regard to his sister, and his mother-in-law, and all those with whom relations are forbidden, including his mother and daughter, one may be secluded with them only in the presence of witnesses, from which it can be inferred: In the presence of witnesses, yes; without the presence of witnesses, no. This baraita supports the opinion of Shmuel that one may not be secluded with his mother or sister.

<sup>388</sup> Rather, it is a dispute between tanna'im as to whether one may be secluded with his mother or sister. As it is taught in a baraita: Rabbi Meir said: Be careful with me because of my daughter, i.e., make sure I am not left secluded with her. Similarly, Rabbi Tarfon said: Be careful with me because of my daughter-in-law. A certain student mocked him for being wary of the possibility of sinning with his daughter-in-law. Rabbi Abbahu said in the name of Rabbi Ḥanina ben Gamliel: Not many days passed until that student stumbled into sin with his mother-in-law.

<sup>389</sup> The Gemara stated that according to Shmuel it is prohibited for one to be alone even with an animal. The Gemara relates: Abaye removed the animals from the entire field he was in. Rav Sheshet transferred the animals to the other side of the fence. Rav Ḥanan from Neharde'a happened to come to Rav Kahana in Pumbedita. He saw that he was sitting and studying, and an animal was standing before him. Rav Ḥanan said to him: Doesn't the Master hold that one may not be secluded even with an animal? Rav Kahana said to him: It did not enter my mind that an animal was before me.

<sup>390</sup> Rava says: A man may be secluded with two sisters-in-law and with two rival wives, i.e., two women who share a husband; with a woman and her mother-in-law; and with a woman and her husband's daughter. Since these women typically dislike each other, each fears that the other will publicize her sins, and they will be careful not to transgress. Similarly, a man may be secluded with a woman and a girl who knows the meaning of sexual intercourse, i.e., one who is old enough to understand the nature of intercourse, but is still young enough that she does not submit herself to

intercourse, since she does not yet desire it. In such a situation, the woman is concerned that the child will reveal her behavior.

<sup>391</sup> § The mishna teaches that when one's children have grown up, this one sleeps in his garment and that one sleeps in her garment, but they may share a bed. The Gemara asks: And how old must a child be to be considered grown up for the purposes of this halakha? Rav Adda bar Rav Azza says that Rav Asi says: A girl must reach the age of nine years and one day; a boy must reach the age of twelve years and one day. There are those who say: A girl must reach the age of twelve years and one day; a boy must reach the age of thirteen years and one day. And according to this and that, according to both opinions, the girl is considered a child until she has reached the stage of: "Your breasts were fashioned, and your hair was grown" (Ezekiel 16:7), meaning the onset of puberty.

<sup>392</sup> Rafram bar Pappa says that Rav Ḥisda says: They taught that a man may sleep in close proximity to his minor daughter only if she is not ashamed to stand naked before him, but if she is ashamed to stand naked before him, it is prohibited for him to sleep close to her, regardless of her age. What is the reason? It is that the inclination has a hold upon her, as otherwise she would not be ashamed.

<sup>393</sup> The Gemara relates: Rav Aḥa bar Abba arrived at the house of Rav Ḥisda, his son-in-law. He took his daughter's daughter and placed her on his lap. Rav Ḥisda said to him: Doesn't the Master think that she might already be betrothed? Rav Aḥa said to him: If that is true, you have transgressed the ruling of Rav, as Rav Yehuda says that Rav says, and some say it was said by Rabbi Elazar: It is prohibited for a man to betroth his daughter when she is a minor, until she grows up and says: I want to marry so-and-so, as otherwise she might reject the designated husband and ultimately sin by committing adultery. Rav Ḥisda replied: The Master has likewise transgressed the words of Shmuel. As Shmuel says: One may not make use of a woman, so how can you hold her on your lap? He said to him: I hold in accordance with another statement of Shmuel, as Shmuel says:

<sup>394</sup> All such actions are permitted for the sake of Heaven. In other words, if one is acting out of familial affection, without any element of licentiousness, they are permitted.

<sup>395</sup> MISHNA: A bachelor may not act as a teacher of children, nor may a woman act as a teacher of children. Rabbi Elazar says: Even one who does not have a wife may not act as a teacher of children. Rabbi Yehuda says: A bachelor may not herd cattle, nor may two bachelors sleep with one covering, lest they transgress the prohibition against homosexual intercourse, but the Rabbis permit it.

<sup>396</sup> GEMARA: What is the reason that a bachelor may not teach children? If we say it is due to the children themselves, that it is suspected that he may engage in homosexual intercourse with them, but isn't it taught in a baraita (Tosefta 5:10): They said to Rabbi Yehuda: Jews are not suspected of engaging in homosexual intercourse nor of engaging in intercourse with an animal. Rather, the reason is as follows: A bachelor may not be a teacher of children due to the mothers of the children, who come to the school from time to time, with whom he might sin. Similarly, a woman may not serve as a teacher to children because she may come to be secluded with the fathers of the children.

<sup>397</sup> The mishna teaches that Rabbi Elazar says: Even one who does not have a wife may not act as a teacher of children. A dilemma was raised before the students in the study hall: Does Rabbi Elazar mean one who does not have a wife at all, or perhaps he is referring even to one who has a wife, in a circumstance where she is not residing with him? Come and hear: Even one who has a wife but she is not residing with him may not act as a teacher of children. This statement is in accordance with the opinion of Rabbi Elazar and indicates that his restriction applies even if the man is married.

<sup>398</sup> The mishna teaches that Rabbi Yehuda says: A bachelor may not herd cattle, nor may two bachelors sleep with one covering. It is taught in the Tosefta (5:10): They said to Rabbi Yehuda: Jews are not suspected of engaging in homosexual intercourse nor of engaging in intercourse with an animal.

<sup>399</sup> MISHNA: Anyone who has professional dealings primarily with women may not be secluded with women. There is more of a concern that such a man might sin due to his familiarity with the women. And a person may not teach his son a trade that necessitates frequent interaction with women, for the same reason. With regard to teaching one's son a trade, Rabbi Meir says: A person should always teach his son a clean and easy trade and pray for success to the One to Whom wealth and property belong, as ultimately there is no trade that does not include both poverty and wealth, since a person can become rich from any profession. Poverty does not come from a particular trade, nor does wealth come from a particular trade, but rather, all is in accordance with a person's merit. Therefore, one should choose a clean and easy trade, and pray to God for success.

<sup>400</sup> Rabbi Shimon ben Elazar says: Have you ever seen a beast or a bird that has a trade? And yet they earn their livelihood without anguish. But all these were created only to serve me, and I, a human being, was created to serve the One Who formed me. Is it not right that I should earn my livelihood without anguish? But I, i.e., humanity, have committed evil actions and have lost my livelihood. This is why people must work to earn a living.

<sup>401</sup> Abba Guryan of Tzadyan says in the name of Abba Gurya: A person may not teach his son the trades of a donkey driver, a camel driver, a pot maker, a sailor, a shepherd, or a storekeeper. The reason for all these is the same, as their trades are the trades of robbers; all of these professions involve a measure of dishonesty and are likely to lead to robbery. Rabbi Yehuda says in Abba Gurya's name: Most donkey drivers are wicked, since they engage in deceit, and most camel drivers, who traverse dangerous places such as deserts, are of fit character, as they pray to God to protect them on their journeys. Most sailors are pious, since the great danger of the seas instills in them the fear of Heaven. The best of doctors is to Gehenna, and even the fittest of butchers is a partner of Amalek.

<sup>402</sup> Rabbi Nehorai says: I set aside all the trades in the world, and I teach my son only Torah, as a person partakes of its reward in this world and the principal reward remains for him in the World-to-Come, which is not true of other professions, whose rewards are only in this world. Furthermore, if a person comes to be ill, or old, or undergoes suffering, and is unable to be involved in his trade, behold, he dies in hunger. But with regard to the Torah it is not so, since one can study it under all circumstances. Rather, it preserves him from all evil and sin in his youth, and provides him with a future and hope in his old age.

<sup>403</sup> The mishna explains: With regard to his youth, what does it say about a Torah scholar? "But they that wait for the Lord shall renew their strength" (Isaiah 40:31). With regard to his old age, what does it say? "They shall still bring forth fruit in old age" (Psalms 92:15), and it likewise states with regard to Abraham our forefather: "And Abraham was old, well stricken in age; and the Lord had blessed Abraham in all things" (Genesis 24:1). We found that Abraham our forefather fulfilled the entire Torah before it was given, as it is stated: "Because that Abraham listened to My voice, and kept My charge, My commandments, My statutes, and My laws" (Genesis 26:5), which indicates that Abraham observed all the mitzvot of his own accord and was rewarded in his old age as a result.

<sup>404</sup> GEMARA: The Sages taught: With regard to anyone who has professional dealings primarily with women, his practice and company are bad, and it is best to keep away from him. This category includes, for example, the smiths, and the carders, and the fixers of hand mills of women, and the peddlers of jewelry and perfume to women, and the weavers [gardiyim], and the barbers, and the launderers, and the bloodletter, and the bathhouse attendant [ballan], and the tanner [burseki]. One may not appoint from among those who have these professions neither a king nor a High Priest. What is the reason for this? It is not because they are disqualified, since there is nothing wrong with these jobs, but because their trades are demeaning, and they would not be respected when appointed to a position of authority.

<sup>405</sup> The Sages taught: Ten things were stated with regard to a bloodletter: He walks on his side, i.e., in a haughty manner; and his spirit is arrogant; and he leans and sits, i.e., he does not sit down like others do but leans on an object in a conceited fashion; and he is stingy; and he is envious; and he eats much and discharges only a little; and he is suspected of engaging in intercourse with those with whom relations are forbidden, and of stealing, and of bloodshed in the course of his work.

<sup>406</sup> Bar Kappara taught: A person should always teach his son a clean and easy trade. The Gemara asks: What is such a profession? Rav Yehuda said:

<sup>407</sup> Needlework for embroidery is a clean and easy trade.

<sup>408</sup> It is taught in the Tosefta (5:12): Rabbi Yehuda HaNasi says: There is no trade that disappears from the world, since all occupations are needed, but fortunate is he who sees his parents in an elevated trade; woe is he who sees his parents in a lowly trade and follows them into their trade. Similarly, it is impossible for the world to continue without a perfumer and without a tanner. Fortunate is he whose trade is as a perfumer, and woe is he whose trade is as a tanner, who works with materials that have a foul smell. Likewise, it is impossible for the world to exist without males and without females, yet fortunate is he whose children are males, and woe is he whose children are females.

<sup>409</sup> Rabbi Meir says: A person should always teach his son a clean and easy trade, and he should request compassion from the One to Whom wealth and property belong, as poverty does not come from a trade, nor does wealth come from a trade; rather, they come from the One to Whom wealth belongs, as it is stated: "Mine is the silver, and Mine the gold, says the Lord of hosts" (Haggai 2:8).

<sup>410</sup> The mishna taught that Rabbi Shimon ben Elazar says: Have you ever seen a beast or a bird that has a trade? It is taught in the Tosefta (5:13): Rabbi Shimon ben Elazar says: I never saw a deer work as one who dries figs, nor a lion work as a porter, nor a fox work as a storekeeper. And yet they earn their livelihood without anguish. But all these were created only to serve me, and I, a human being, was created to serve the One Who formed me. If these, who were created only to serve me, earn their livelihood without anguish, then is it not right that I, who was created to serve the One Who formed me, should earn my livelihood without anguish? But I, i.e., humanity, have committed evil actions and have lost my livelihood, as it is stated: "Your iniquities have turned away these things, and your sins have held back good from you" (Jeremiah 5:25).

<sup>411</sup> The mishna taught that Rabbi Nehorai says: I set aside all the trades and I teach my son only Torah. It is taught in the Tosefta (5:14): Rabbi Nehorai says: I set aside all the trades in the world, and I teach my son only Torah, as all other trades serve one only in the days of his youth, when he has enough strength to work, but in the days of his old age, behold, he is left to lie in hunger. But

Torah is not like this: It serves a person in the time of his youth and provides him with a future and hope in the time of his old age. With regard to the time of his youth, what does it say about a Torah scholar? “But they that wait for the Lord shall renew their strength” (Isaiah 40:31). With regard to the time of his old age, what does it say? “They shall still bring forth fruit in old age, they shall be full of sap and richness” (Psalms 92:15).