

JUDAISM

The Talmud

Yevamot

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.

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Chapter 1

¹ The Torah law obligating a man whose brother died without children [yavam] to marry his deceased brother's widow [yevama] or to free her from her levirate bonds through the act of ḥalitza applies only when it is permitted for the widow to marry her surviving brother-in-law. However, in cases where the yevama is forbidden to her yavam due to her status as a close family relative, the mitzva of levirate marriage is not applicable, and she is exempt from both levirate marriage and ḥalitza. The Sages further taught that the exemption of a yevama from levirate marriage also exempts her rival wife. In other words, if the deceased brother had two wives, each a so-called rival of the other, and only one wife is a relative of the surviving brother, then the rival wife is also exempt from both levirate marriage and ḥalitza. Moreover, if that same rival wife entered into levirate marriage with a different brother of the deceased, one to whom she is not forbidden, then were this third brother also to die childless, so that the obligation of levirate marriage would again be incurred by the second brother, not only is the forbidden rival wife exempt from levirate marriage and ḥalitza, her new rival wives from her second marriage are also exempt. That is to say, any other wife of the third brother is exempt from the mitzva of levirate marriage, as she is the rival wife of that first rival wife, who was exempted from levirate marriage following her first husband's death due the exemption of her original rival wife. The same principle applies if that second rival wife subsequently enters into levirate marriage with another permitted brother, and so on. In summary, every widow who is exempt from marrying her brother-in-law due to her status as rival wife of a forbidden relative is treated as a forbidden relative herself and is therefore exempt from both ḥalitza and levirate marriage and causes exemption for future rival wives as well. MISHNA: The mishna describes various cases that invoke the principles above. Fifteen categories of women constitute familial relations that are forbidden as incestuous, and consequently, these women exempt their rival wives and the rival wives of their rival wives from ḥalitza and from levirate marriage forever, i.e., they also exempt rival wives of rival wives of rival wives, and so on.

² And these women are: The daughter of the yavam, i.e., the deceased brother had married a daughter of his brother, which means that when he died childless, his brother's own daughter came before her father for levirate marriage, and therefore she is exempt. And the same applies if the deceased brother's widow is the daughter of the daughter of the yavam, or if she is the daughter of his son, or the daughter of his wife.

³ And similarly, if the yevama is the daughter of the son of the wife of her yavam or the daughter of his wife's daughter, or if she is the mother-in-law of her yavam, or his mother-in-law's mother, or his father-in-law's mother, then she is exempt from ḥalitza and levirate marriage.

⁴ The mishna continues its list of close relatives. If the yevama is the maternal half sister of the yavam, or if she is the sister of his mother, or his wife's sister, then she is exempt from both ḥalitza

and levirate marriage Or if she was the wife of his maternal half brother, and after this brother died or divorced his wife, she married another of his father's brothers, who was not her relative, and this brother died, she is exempt. In this case, the obligation to enter into levirate marriage should be incurred by the surviving brother, but since she was previously the wife of his maternal brother, she is exempt.

⁵ And the same applies to the wife of a brother with whom he did not coexist, i.e., the wife of a man who died before his brother was born. As will be explained, the obligation of levirate marriage does not apply to the yavam in this case. Since levirate marriage does not apply to him, the yevama remains forbidden to him as his brother's wife. And the last case is if one's yevama had previously been his daughter-in-law, and after his son had died one's brother married her, before he too passed away. These fifteen women exempt their rival wives and the rival wives of their rival wives from *halitza* and levirate marriage forever.

⁶ § And with regard to all of these women listed as prohibited relations, these halakhot apply only if they were married to the deceased brother until the time of his death. However, this is not the case if they died during the deceased brother's lifetime, or if they refused their husbands when they were minors. This refusal is referring to the decree of the Sages that a girl under the age of twelve whose father is no longer alive may be married off by her mother or brothers. However, this marriage is not final, as she can terminate it by performing an act of refusal, i.e., by declaring, while still a minor, that she does not desire this marriage. In this case, the marriage is annulled retroactively and she is considered as though she were never married at all.

⁷ Or if those women were divorced by their husband, the deceased brother, or were found to be a sexually underdeveloped woman [*aylonit*], i.e., a woman who is so underdeveloped that she is not considered a woman in the full sense, these halakhot do not apply. Her marriage is considered a mistaken marriage and is null and void. In all these cases their rival wives are permitted, as the exemption for rival wives of forbidden relatives applies only when the forbidden relative was the brother's wife at the time of his death, when the halakhot of levirate marriage came into effect.

⁸ § And the mishna comments that the language of this principle is imprecise, as you cannot say with regard to his mother-in-law and with regard to his mother-in-law's mother and with regard to his father-in-law's mother that they were found to be an *aylonit*, as an *aylonit* is sterile and therefore cannot become a mother or a mother-in-law. Nor is the mishna precise when it states: Or refused, as refusal applies only to minors, who cannot give birth.

⁹ § The mishna explains: How do these women exempt their rival wives? If, for example, his daughter or any one of those women with whom relations are forbidden was married to his brother and this brother had another wife, and the brother died, then just as his daughter is exempt from levirate marriage, so too her rival wife is exempt. If his daughter's rival wife subsequently went and married his second brother, to whom she is permitted, and he had another wife, and he died childless as well, which means that his wife comes before the first yavam, the daughter's father, for levirate marriage, then just as his daughter's rival wife is exempt, so too the rival wife of her rival wife is exempt.

¹⁰ The mishna adds: Even if they are one hundred brothers, the same logic applies. If a woman is exempt from levirate marriage because she is the rival wife of a forbidden relative or the rival wife of

a rival wife of this kind, and she herself has an additional rival wife, this rival wife is also exempt and in turn exempts her own rival wives from levirate marriage.

¹¹ How so? What are the cases in which if they died their rival wives are permitted? If, for example, one's daughter or any one of those women with whom relations are forbidden was married to his brother, and this brother had another wife, and then his daughter died or was divorced and afterward his brother died, her rival wife is permitted to him.

¹² § The mishna states another principle: And if any of these forbidden relatives was a minor who could refuse her husband, then even if she did not refuse, her rival wife performs ḥalitza and does not enter into levirate marriage. The rival wife may not enter into levirate marriage, as she is the rival wife of a forbidden relative. However, she is not entirely exempt from levirate marriage and must be released by ḥalitza because the marriage of the forbidden relative was not a fully valid marriage, and therefore, by Torah law, the other woman is not considered a rival wife of a forbidden relative.

¹³ GEMARA: The Gemara asks a question with regard to the order of the mishna's list: Now, since the halakha that all these women with whom relations are forbidden are exempt from levirate marriage and exempt their rival wives is derived from the case of a wife's sister, as demonstrated later, let the mishna teach the case of a wife's sister first and only afterward mention the other instances, which are derived from that halakha.

¹⁴ And if you would say that the tanna cited the cases in order of severity, then you must say that it is in accordance with the opinion of Rabbi Shimon, who says that execution by burning is more severe than stoning. For this reason, the tanna began with the cases of one's daughter and his daughter's daughter and his son's daughter and so forth, since one who has relations with these women is punished by burning, after which the tanna listed those cases that entail a lesser penalty.

¹⁵ However, the Gemara argues that even so, the order of the mishna remains problematic. If so, let him teach the case of one's mother-in-law first, as the main transgression that entails burning is written with regard to his mother-in-law, as it is stated: "And if a man take with his wife also her mother, it is wickedness; they shall be burnt with fire, both he and they" (Leviticus 20:14). And furthermore, after his mother-in-law let him teach his daughter-in-law, as after execution by burning, stoning is the most severe of the other capital punishments imposed by the courts.

¹⁶ Rather, the Gemara retracts the previous explanation in favor of the following: With regard to his daughter, since this prohibition is actually derived from a homiletical interpretation and is not explicitly stated in the Torah, it is therefore dear to the tanna. Consequently, he listed this novel case of a daughter first.

¹⁷ The Gemara challenges this conclusion: All of the exemptions from levirate marriage for forbidden relatives listed in the mishna are also derived from a homiletical interpretation. The Gemara responds: Although the matter of levirate marriage is derived from a homiletical interpretation, the main aspect of their prohibition is explicitly written. By contrast, with regard to his daughter from a woman he raped but did not marry, the main aspect of this prohibition is derived by homiletical interpretation, as the prohibition itself is not written explicitly in the Torah.

¹⁸ As Rava said: Rav Yitzḥak bar Avdimi said to me: This prohibition is derived by means of a verbal analogy between the word hena, in the verse: "The nakedness of your son's daughter, or of your daughter's daughter, even their nakedness you shall not uncover; for theirs [hena] is your own

nakedness” (Leviticus 18:10) and the word *hena* in a different verse: “You shall not uncover the nakedness of a woman and her daughter; you shall not take her son’s daughter, or her daughter’s daughter, to uncover her nakedness: they [*hena*] are near kinswomen; it is wickedness” (Leviticus 18:17), indicating that every daughter is prohibited, even one from rape, just like one’s daughter through his wife.

¹⁹ Furthermore, it is derived from a verbal analogy between the word “wickedness” (Leviticus 18:17) and the word “wickedness” in the verse: “And if a man take with his wife also her mother, it is wickedness; they shall be burnt with fire, both he and they, that there be no wickedness among you” (Leviticus 20:14), that one who has sexual intercourse with a daughter from a rape is liable to burning.

²⁰ § The Gemara asks: Now that you said that all matters that are derived from a homiletical interpretation are dear to the tanna, and therefore he gives them precedence, let him teach the case of a wife’s sister last, as this is the source of the *halakha* and is therefore the most straightforward case. The Gemara responds: Since the tanna was dealing with the prohibition with regard to different types of sisters, he also taught together with them the prohibition with regard to his wife’s sister.

²¹ The Gemara asks: But if so, let him teach this entire section involving sisters at the end, when he mentions a wife’s sister. Rather, the Gemara rejects the above answer in favor of an alternative explanation: The tanna cited the cases in order of closeness, i.e., the mishna is ordered in accordance with the relative closeness of the various incestuous relations. How so? The tanna taught the cases of one’s daughter, and the daughter of his daughter, and the daughter of his son, who are his own blood relatives.

²² And since he taught three generations of one’s offspring below, i.e., his daughter, his daughter’s daughter, and his son’s daughter, he also taught three generations of his wife’s offspring below, i.e., his wife herself, her daughter, and her daughter’s daughter. And since he taught three generations of his wife’s offspring below, he also taught three generations of her family above, i.e., from previous generations, namely herself, her mother, i.e., his mother-in-law, and his mother-in-law’s mother.

²³ And afterward he taught the case of his sister and his mother’s sister, who are his own blood relatives but less closely related to him than his daughter. And since he was dealing with the prohibition with regard to sisters, he also taught the case of his wife’s sister. And by right the tanna should have preceded the case of his daughter-in-law before that of a wife of a brother with whom he did not coexist, as it is not due to their relationship that she is prohibited but rather because she is excluded from the mitzva of levirate marriage. However, since he was dealing with the prohibition with regard to siblings, he taught the case of a wife of a brother with whom he did not coexist, as this also involves a sibling. And then the tanna taught the case of his daughter-in-law.

²⁴ § The Gemara continues to analyze the language of the mishna: And why does the tanna specifically teach: They exempt their rival wives? Let him teach: They prohibit them, as ultimately the rival wives are not only exempt from levirate marriage but each is actually forbidden to her *yavam*. The Gemara explains that if he had taught: They prohibit them, I would say that this means it is prohibited to enter into levirate marriage, but she must perform *ḥalitza*. Therefore, it teaches us using the language of exemption to indicate that she is entirely exempt and does not even perform *ḥalitza*.

²⁵ The Gemara raises a difficulty: If so, let him teach: She is prohibited from performing ḥalitza. The Gemara rejects this suggestion: It is impossible to formulate the halakha in this manner, as even if they perform ḥalitza, what has he really done? What is wrong with a man allowing a woman to take off his shoe, which is the act of ḥalitza? Consequently, it is not possible to state: Prohibited from performing ḥalitza. The Gemara asks: Why not? There is in fact a prohibited element here: If you say she performs ḥalitza, it might be said that she may also enter into levirate marriage and that in this specific instance he performed ḥalitza merely because he did not wish to marry her. In that case, it might erroneously be claimed that if another wished to marry the rival wife of his yevama he is permitted to enter into levirate marriage.

²⁶ In light of the previous argument, the Gemara suggests another reason that the mishna does not use the expression: Prohibited. Since it is only in cases where the mitzva of levirate marriage applies that the rival wife is forbidden to him, and where no mitzva applies she is permitted, as it is permitted for the man to marry the widowed rival wife of a non-relative, due to that reason he taught: They exempt their rival wives, and not: They prohibit them. In other words, the tanna is teaching that they are not prohibited to him in their own right.

²⁷ § The Gemara continues its analysis of the wording of the mishna. And why does the tanna specifically teach: Exempt from ḥalitza and from levirate marriage? Let him teach: Exempt from levirate marriage, alone. The Gemara answers: If he were to teach: From levirate marriage, I would say that she must perform ḥalitza and she must not enter into levirate marriage. The tanna therefore teaches us that every woman who is eligible for levirate marriage is eligible for ḥalitza, and anyone who is ineligible for levirate marriage is likewise ineligible for ḥalitza, as no obligation of ḥalitza applies unless there is an obligation of a levirate marriage.

²⁸ § The Gemara further inquires: And let him teach: From levirate marriage and from ḥalitza, as the Torah states the option of levirate marriage first. Alternatively, let him teach: From ḥalitza, alone, as this would indicate that she may not enter into levirate marriage either. The Gemara answers: This mishna is in accordance with the opinion of Abba Shaul, who said: The mitzva of ḥalitza takes precedence over the mitzva of levirate marriage, as he maintains that one who does not enter into levirate marriage for the sake of Heaven transgresses the prohibition against marrying one's brother's wife, and therefore it would be better in every case to perform ḥalitza. Consequently, the tanna mentions ḥalitza before levirate marriage.

²⁹ § The Gemara asks another question with regard to the language of the mishna: The enumeration of the first clause of the mishna: Fifteen women, which indicates that those women alone are included in this list, serves to exclude what? Which other cases might have been included? And the enumeration of the latter clause, which states: These exempt their rival wives, again meaning these and no others, serves to exclude what? Since the mishna specifies only these women and no others, the Gemara asks which other women might have been included in these lists.

³⁰ The Gemara answers that these enumerations come to exclude those additions of Rav and of Rav Asi. Rav added the rival wife of a woman suspected by her husband of adultery [sota], while Rav Asi added the rival wife of an ayilonit. The Gemara asks: And according to the opinion of Rav and according to the opinion of Rav Asi, the enumeration of the mishna comes to exclude what?

³¹ The Gemara responds: If each maintains in accordance with the opinion of the other, then one enumeration of the mishna comes to exclude the rival wife of a wife who performed refusal. If the

deceased brother had two wives, one of whom was a minor, and she refused the yavam, her rival wife is prohibited from levirate marriage with him. However, the latter is not entirely exempt and must perform ḥalitza. And the other one comes to exclude the rival wife of the wife of one who remarries his divorcée, i.e., a woman who was illicitly remarried by her former husband after she had been married to another man.

³² And if Rav and Rav Asi do not each maintain in accordance with the opinion of the other, then one enumeration comes to exclude the opinion of the other, as they do not agree that the halakha stated by the other should be included in the mishna, and the other one comes to exclude one of the above suggestions, either the rival wife of a wife who performed refusal or the rival wife of the wife of one who remarries his divorcée.

³³ The Gemara asks: If so, according to the opinion of Rav and according to the opinion of Rav Asi, let the tanna teach these cases. Since in their opinions there are more than fifteen women to whom the principle of the mishna applies, why weren't they all stated by the tanna of the mishna? The Gemara answers: They were not taught because they do not completely fit all of the halakhic rulings here.

³⁴ The Gemara elaborates: This is because they do not involve the case of a rival wife of a rival wife. With regard to the fifteen women listed, the discussion of the mishna concerning rival wives and rival wives of rival wives is appropriate. However, the two cases cited by Rav and Rav Asi do not leave room for such deliberations, as both a sota and an ayilonit are exempt and forbidden equally to all of the brothers, because their prohibition does not result from a familial relation to one of the living brothers but from a personal issue relating to the women themselves. Since none of the brothers may marry her rival wife, there is no possibility of a rival wife of a rival wife, and consequently these cases were omitted from the mishna's list of fifteen women.

³⁵ § After analyzing the order and language of the mishna, the Gemara discusses the halakhot themselves. From where are these matters, that if one's forbidden relative comes before him for levirate marriage he is prohibited from marrying her or her rival wife, derived? It is as the Sages taught with regard to the verse: "And you shall not take a woman to her sister, to be a rival to her, to uncover her nakedness, with her in her lifetime" (Leviticus 18:18). What is the meaning when the verse states the apparently superfluous phrase: "With her"?

³⁶ The baraita explains: Since it is stated with regard to the wife of a deceased brother: "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5), I would derive that when the verse speaks of the mitzva of levirate marriage, it includes even any one of those with whom relations are forbidden, as mentioned in the Torah. Therefore, one derives a verbal analogy: It is stated here, with regard to a wife's sister: "With her," and it is stated there, with regard to a levirate marriage: "With her."

³⁷ The baraita explains the verbal analogy. Just as there, a levirate marriage involves the performance of a mitzva, so too, here, the statement "uncover her nakedness with her" includes the performance of a mitzva, and the Merciful One states in the Torah: "You shall not take." The phrase "with her" teaches that even in a case where there is an obligation of levirate marriage, the Torah prohibition proscribing forbidden relatives remains in force.

³⁸ The baraita continues: And I have derived only that she, his wife's sister, is exempt from levirate marriage; from where do I derive that her rival wife is also exempt? The verse states: "To be a rival

to her” (Leviticus 18:18), which indicates that not only is she prohibited, but so too is her rival wife. And I have derived only her rival wife; from where is it derived that the rival wife of her rival wife is also exempt? The verse states: “To be a rival [litzror],” using the full spelling with a double reish, and not latzor; this indicates that there are several rival wives, one after another.

³⁹ And I have derived from this verbal analogy only that the mitzva of levirate marriage does not apply to a wife’s sister. From where is it derived that the same applies to the other women with whom relations are forbidden? You can say as follows: Just as the case of a wife’s sister is specific in that she is a forbidden relative, and this is a prohibition for whose intentional violation, i.e., for intentional sexual relations with her, one is liable to receive karet, and for whose unwitting violation one is liable to bring a sin-offering, and she is prohibited to the yavam in levirate marriage; so too, with regard to all women with whom relations are forbidden by a prohibition for whose intentional violation one is liable to receive karet and for whose unwitting violation one is liable to bring a sin-offering, they are prohibited to the yavam in levirate marriage.

⁴⁰ The baraita continues: And I have derived only the cases of those women themselves with whom relations are forbidden; from where is it derived that their rival wives are also exempt from levirate marriage? You can say as follows: Just as a wife’s sister is specific in that she is a forbidden relative and this is a prohibition for whose intentional violation one is liable to receive karet, and for whose unwitting violation one is liable to bring a sin-offering, and she is prohibited to the yavam in levirate marriage, and her rival wife is likewise prohibited; so too, any woman with whom relations are forbidden and this is a prohibition for whose intentional violation one is liable to receive karet, and for whose unwitting violation one is liable to bring a sin-offering, and this woman is one who is forbidden to the yavam, her rival wife is likewise forbidden. The baraita concludes: From here the Sages stated that fifteen women exempt their rival wives and the rival wives of their rival wives from *halitza* and from levirate marriage forever.

⁴¹ § One might have thought that I should include in this principle even the six women with whom relations are forbidden that are more severe than these, i.e., one’s mother, his father’s sister, and so on, as stated in a later mishna (13b), since they too are forbidden by a prohibition entailing karet. This would mean that their rival wives should likewise be prohibited to enter into levirate marriage with this yavam as forbidden rival wives.

⁴² In response, you can say: Just as a wife’s sister is specific in that she is a forbidden relative and this is a prohibition for whose intentional violation one is liable to receive karet and for whose unwitting violation one is liable to bring a sin-offering, and yet she is permitted to marry one of the brothers but she is prohibited to the yavam in levirate marriage, and her rival wife is likewise prohibited in levirate marriage; so too, with regard to any woman with whom relations are forbidden and this is a prohibition for whose intentional violation one is liable to receive karet and for whose unwitting violation one is liable to bring a sin-offering, and who is permitted to marry one of the brothers but she is prohibited to the yavam in levirate marriage, her rival wife is also prohibited in levirate marriage.

⁴³ This excludes the six women with whom relations are forbidden by a more severe prohibition than those, since they may not marry the brothers, i.e., they are forbidden to all of the brothers. One’s mother may never marry his brother, either because she is also that brother’s mother, or because she is his father’s wife. Consequently, their rival wives are permitted, as the halakha with regard to a

rival wife applies only due to the brother. In other words, the prohibition against marriage to the rival wife of a forbidden relative is applicable only in instances of levirate bonds. When the levirate bond does not take effect at all, the rival wife is not forbidden.

⁴⁴ The baraita adds: We have learned the warning concerning this prohibition that the yavam may not marry his forbidden relative from the verse: “And you shall not take a woman to her sister, to be a rival to her, to uncover her nakedness, with her in her lifetime” (Leviticus 18:18). From where is the punishment that he incurs if he transgresses and marries her derived? The verse states: “For whoever shall do any of these abominations, the souls that do them shall be cut off from among their people” (Leviticus 18:29).

⁴⁵ § Up until this point, the Gemara has cited the baraita that interprets the biblical basis for the halakha of the mishna. The Gemara further analyzes the foundational principles of this topic. The reason that these women are exempt from levirate marriage is that the Merciful One writes “with her,” from which it may be inferred that if that was not so, I would say that a wife’s sister enters into levirate marriage with her sister’s husband. What is the reason that one would have assumed that this is the case? It is as we say, in accordance with a principle, that a positive mitzva comes and overrides a prohibition. In this case, the positive mitzva to enter into levirate marriage overrides the prohibition against marrying one’s wife’s sister.

⁴⁶ The Gemara asks if that principle is applicable in this case. One can say that we said that a positive mitzva comes and overrides a prohibition only when there is a prohibition for which one is punished by lashes alone. However, with regard to a prohibition that includes the punishment of karet, does a positive mitzva override it? This prohibition is more severe than a regular one, and therefore perhaps a positive mitzva does not override it. And furthermore, with regard to a prohibition for which one is punished by lashes alone, from where do we derive that a positive mitzva overrides it?

⁴⁷ As it is written: “You shall not wear diverse kinds of wool and linen together. You shall make for yourself twisted fringes on the four corners of your covering with which you cover yourself” (Deuteronomy 22:11–12). These verses teach that despite the prohibition against wearing diverse kinds of wool and linen, it is permitted to prepare ritual fringes of diverse kinds, e.g., sky-blue dyed threads of wool on linen garments. This shows that the positive mitzva of ritual fringes overrides the prohibition of diverse kinds.

⁴⁸ And Rabbi Elazar said: From where in the Torah is it derived that one may draw homiletical interpretations from the juxtaposition of verses? In other words, from where is it derived that the fact that certain verses are adjacent one to the other is a reason to apply the halakhot from one verse to the other? As it is stated: “The works of His hands in truth and justice, all His commandments are sure. Juxtaposed forever and ever, made in truth and uprightness” (Psalms 111:7–8). This verse indicates that it is appropriate to draw inferences from the juxtaposition of God’s commandments.

⁴⁹ And similarly, Rav Sheshet said that Rabbi Elazar said in the name of Rabbi Elazar ben Azarya: From where is it derived with regard to a yevama who came before a yavam afflicted with boils that one may not muzzle her, i.e., she cannot be forced to enter into levirate marriage, and he is compelled to release her by ḥalitza? As it is stated: “You shall not muzzle an ox while it treads out the corn” (Deuteronomy 25:4), and, juxtaposed to it, is the verse: “If brothers dwell together” (Deuteronomy 25:5), which begins the passage that deals with the halakhot of levirate marriage. This teaches that

just as it is prohibited to muzzle the ox, so too, one may not muzzle and ignore the complaints of a yevama who does not wish to marry a yavam afflicted with boils.

⁵⁰ And Rav Yosef said: Even according to the one who does not generally derive homiletic interpretations from juxtaposed verses, nevertheless, he does derive them from Deuteronomy, as Rabbi Yehuda does not generally derive homiletic interpretations from juxtaposed verses, and yet he does derive them from Deuteronomy.

⁵¹ § The Gemara asks: And from where do we derive that Rabbi Yehuda generally does not derive homiletic interpretations from juxtaposed verses? As it is taught in a baraita with regard to the punishment of a sorceress that ben Azzai says that it is stated: “You shall not allow a sorceress to live” (Exodus 22:17), although the manner of her execution is not specified, and it is stated: “Whoever lies with a beast shall surely be put to death” (Exodus 22:18). The Torah juxtaposed this matter to that so as to say: Just as one who lies with a beast is executed by stoning (see Leviticus 20:16), so too, a sorceress is executed by stoning.

⁵² With regard to this proof, Rabbi Yehuda said to ben Azzai: And simply due to the fact that the Torah juxtaposed this matter to that one, shall we take this person out to be stoned? Should he be sentenced to the most severe of the death penalties on the basis of a juxtaposition of passages?

⁵³ Rather, Rabbi Yehuda claims that the source is the following statement: Mediums and wizards were included among all sorcerers. And why were they singled out from the rest in the verse: “And a man or a woman who is a medium or a wizard shall surely be put to death; they shall stone them with stones, their blood is upon them” (Leviticus 20:27)? It is to draw an analogy to them and say to you: Just as a medium and a wizard are executed by stoning, so too, a sorceress is executed by stoning. This shows that Rabbi Yehuda does not derive homiletic interpretations from juxtaposed verses.

⁵⁴ § And from where do we derive that Rabbi Yehuda does derive homiletic interpretations in Deuteronomy? As we learned in a mishna: A person may wed a woman raped by his father and one seduced by his father, despite the fact that his father’s wife is forbidden to him. Similarly, he may marry a woman raped by his son and one seduced by his son. Although one is prohibited by Torah law from marrying the wife of his father or the wife of his son, these prohibitions do not apply to a woman raped or seduced by them. And Rabbi Yehuda prohibits him from marrying a woman raped by his father and a woman seduced by his father.

⁵⁵ And Rav Giddel said that Rav said: What is the reason for Rabbi Yehuda’s opinion? As it is written: “A man shall not take his father’s wife, and shall not uncover his father’s skirt” (Deuteronomy 23:1). The latter expression: “And shall not uncover his father’s skirt,” is referring to a skirt that has been seen by his father, i.e., any woman who has had relations with his father may not be uncovered by his son, meaning that his son may not marry her.

⁵⁶ And from where is it known that the verse is written with regard to a woman raped by his father? It is from the previous verse, which deals with the halakhot of rape, as it is written: “And the man who lay with her must give the maiden’s father fifty shekels of silver” (Deuteronomy 22:29), and juxtaposed to it is the verse: “A man shall not take his father’s wife and shall not uncover his father’s skirt.” This shows that Rabbi Yehuda does derive homiletic interpretations from juxtaposed verses in Deuteronomy.

⁵⁷ § The Gemara asks: And how do the Rabbis, who disagree with the opinion of Rabbi Yehuda, respond to this argument? They say: If the two verses were fully juxtaposed, it would be interpreted as you said. However, now that it is not properly juxtaposed, as it is written: “A man shall not take his father’s wife,” in between the halakhot of rape and the pronouncement with regard to uncovering one’s father’s garment, this serves to break the juxtaposition.

⁵⁸ Consequently, this particular verse concerning the uncovering of one’s father’s garment is speaking of a woman waiting for her yavam, in this case one’s father. In other words, the yevama of a father who is waiting for levirate marriage to the father is already considered “his father’s skirt,” and she is therefore forbidden to the son. Although this woman who is awaiting levirate marriage is in fact his uncle’s wife and explicitly prohibited to him in any case, this passage comes to teach that he violates two prohibitions. In other words, were he to engage in relations with her he would be penalized both for relations with his uncle’s wife and relations with “his father’s skirt.”

⁵⁹ § The Gemara asks: But as Rabbi Yehuda does not generally derive homiletic interpretations from juxtaposed verses, what is the reason that he derives these interpretations in Deuteronomy? The Gemara responds: If you wish, say that it is because it is evident from the context; and if you wish, say instead that it is because this verse is extraneous and is therefore free for this inference.

⁶⁰ The Gemara elaborates: If you wish, say it is because it is evident; as, if it is so that the verse did not intend to teach by juxtaposition, let the Merciful One write this halakha prohibiting marriage to a father’s wife alongside the other women with whom relations are forbidden, in Leviticus. Since this verse is out of place, it is certainly coming to teach by way of juxtaposition. And if you wish, say instead that it is because this verse is free, as, if it is so that the verse is not coming to teach an additional halakha, let the Merciful One write only: “A man shall not take his father’s wife.” Why do I need the phrase: “And shall not uncover his father’s skirt”? This phrase is superfluous, and therefore it teaches by juxtaposition.

⁶¹ Learn from this that this phrase is free to teach an additional halakha. And with regard to ritual fringes as well, there is a particular reason to derive a homiletic interpretation from the juxtaposition of verses. If you wish, say that it is because it is evident from the context, and if you wish, say instead that it is because this verse is free for this inference.

⁶² The Gemara elaborates: If you wish, say it is because it is evident; as, if it is so that no inference should be drawn from the adjacent verses, let the Merciful One write this verse by the portion of ritual fringes (Numbers, chapter 15). With regard to what halakha did the Torah write it here? Clearly, the Torah is teaching a halakha from the adjacent verses. And if you wish, say it is because this verse is free, since the Torah has already written: “Neither shall there come upon you a garment of diverse kinds mingled together” (Leviticus 19:19). Why, then, do I need the verse: “You shall not wear diverse kinds, wool and linen together” (Deuteronomy 22:11)? Learn from this that the verse is free for the derivation of a homiletic interpretation from juxtaposed verses.

⁶³ The Gemara rejects this explanation: Both of these verses are necessary, as, had the Merciful One written only: “Neither shall there come upon you,” I would say that the Merciful One prohibits every manner by which a garment of diverse kinds comes upon you, and this applies even to sellers of coverings, who do not wear the garments but merely rest them on their shoulders. Therefore, the Merciful One writes: “You shall not wear diverse kinds,” to teach that the prohibition applies only in

cases similar to wearing, which provides benefit and does not simply involve placing the covering upon oneself.

⁶⁴ And had the Merciful One written only: “You shall not wear,” I would say that this means specifically wearing, which provides significant benefit, both warmth and adornment, but merely placing a garment of diverse kinds upon oneself is not prohibited, even if one is warmed by the clothing. Therefore, the Merciful One writes: “Neither shall there come upon you.”

⁶⁵ The Gemara challenges: In any case part of the verse is superfluous, as, if so, let the Merciful One write only: “You shall not wear diverse kinds.” Why do I need the addition of “wool and linen”? The definition of diverse kinds in clothing is already known from another source.

⁶⁶ How so? Since it is written: “Neither shall there come upon you a garment of diverse kinds mingled together” (Leviticus 19:19), and the school of Rabbi Yishmael taught: Since the word garments is stated in the Torah unmodified, without stating from what materials those garments were made, and the verse specified in one of its references to garments, in the context of the halakhot of ritual impurity of leprosy: “A woollen garment or a linen garment” (Leviticus 13:47), the following conclusion can be drawn: Just as when the Torah mentions a garment in the case of leprosy it is referring to one made of wool or linen, so too, all garments mentioned in the Torah are those made from wool or linen. Other fabrics are not classified as those used for garments. If so, why do I need the phrase: “Wool and linen” that the Merciful One wrote with regard to diverse kinds? Learn from this that the superfluous passage is free.

⁶⁷ The Gemara raises a difficulty: But the verse is still necessary, as it could enter your mind to say that it is referring only to placing a garment on oneself, which does not provide great benefit; however, with regard to the actual wearing of a garment, which entails great benefit, the Merciful One prohibits wearing any two types together. Therefore, the Merciful One writes “wool and linen” with regard to wearing garments of diverse kinds as well.

⁶⁸ The Gemara responds: If so, let the verse be silent and refrain from mentioning wool and linen at all, and the halakha that only wearing wool and linen together is prohibited can be derived by means of a verbal analogy between the terms “diverse kinds” (Deuteronomy 22:11), and “diverse kinds” from placing a covering of diverse kinds upon oneself (Leviticus 19:19). The repetition of wool and linen must be coming to teach that one should derive a homiletic interpretation from these juxtaposed verses.

⁶⁹ The Gemara asks: And according to that which the school of Rabbi Yishmael taught, that the mention of wool and linen is superfluous and teaches that they are not prohibited in the case of ritual fringes, the reason is that the Merciful One specifically writes wool and linen. From here it may be inferred that if that were not so, I would say that the Merciful One prohibits a mixture of diverse kinds in ritual fringes. Can it be considered that this is the case? But isn’t it written: “That they make themselves fringes on the corners of their garments” (Numbers 15:38)?

⁷⁰ And the school of Rabbi Yishmael taught: All garments mentioned in the Torah are of wool or linen, and the Merciful One says, with regard to ritual fringes: Prepare it with a sky-blue dye, and a sky-blue dyed thread is prepared from wool. The Torah explicitly commands that at least one woollen thread of sky-blue dye must be tied even to a linen cloth, which proves that diverse kinds are permitted in the context of ritual fringes. The Gemara establishes the previous claim: And from where is it derived that the sky-blue thread is made of wool? From the fact that the Torah specifies

that one of the strands of the priestly garments was made of shesh, which means linen, this indicates that the other threads, including the sky-blue thread, are from wool.

⁷¹ § Returning to the question, the Gemara explains that the mention of wool and linen is necessary, as it could enter your mind to state an argument in accordance with the opinion of Rava. As Rava raised a contradiction from the following verse: It is written: “That they make themselves fringes on the corners of their garments” (Numbers 15:38). The phrase “the corners” indicates that it must be from the same type of thread as the corner, i.e., the threads of the fringes must consist of the same kind of material as the corner of the garment. And yet it is written: “Wool and linen” (Deuteronomy 22:11), which indicates that ritual fringes may be prepared from only those materials and no others.

⁷² How so? How can this contradiction be resolved? Fringes made of wool and linen fulfill the obligation of ritual fringes whether the clothing is of the same type of material, i.e., wool or linen, or whether it is not of the same type of fabric. Conversely, with regard to all other kinds of material, if the ritual fringes are of the same kind, e.g., silk fringes on silk clothing, they fulfill the obligation, but if the cloth is not of the same type, they do not fulfill the obligation of ritual fringes. Consequently, were it not for the phrase “wool and linen,” it would have been necessary to prepare ritual fringes from the same material as the garment itself, even when using wool or linen.

⁷³ The Gemara asks: But the tanna from the school of Rabbi Yishmael does not maintain in accordance with this opinion of Rava, since that tanna holds that there is no obligation to place ritual fringes on clothing that is not made of wool or linen. The reason is that when the Torah speaks of garments it is referring exclusively to clothes made of wool or linen. Consequently, Rava’s interpretation with regard to different types of material does not apply to the opinion of the tanna from the school of Rabbi Yishmael.

⁷⁴ The Gemara responds: It is nevertheless necessary to state: “Wool and linen,” as it could enter your mind to say, in accordance with the inference of Rava, that the phrase “the corners” indicates that it must be from the same type of thread as the corner, but in a different manner: This is what the Merciful One is saying: Prepare for it wool fringes for a wool garment and linen fringes for a linen garment, and when you prepare wool fringes for wool clothing, dye it sky-blue. However, if you prepare wool fringes for linen garments or linen for wool clothing, you need not include a sky-blue thread. Therefore, the Merciful One states: “Wool and linen,” which teaches that one fulfills the obligation of fringes even with wool fringes for a linen garment or linen fringes for a woolen one.

⁷⁵ § The Gemara comments: This works out well with regard to that which the school of Rabbi Yishmael taught, that all garments mentioned in the Torah are composed of linen or wool. However, according to the opinion of the Rabbis, who do not accept this opinion, from where do they derive the principle that a positive mitzva overrides a prohibition? As stated previously, the conclusion that the positive mitzva to place fringes on a garment overrides the prohibition against mixing linen and wool is derived from a free expression in a biblical verse; however, the expression is free for interpretation only in the opinion of the tanna from the school of Rabbi Yishmael.

⁷⁶ The Gemara responds: They derive it from the verse mentioned with regard to the halakhot of the purification of a leper from his leprosy [tzara’at]: “And it shall be on the seventh day, that he shall shave all his hair off his head and his beard and his eyebrows, even all his hair he shall shave off” (Leviticus 14:9). As it is taught in a baraita: Since it states “all his hair,” what is the meaning when the verse states “his head”? The baraita explains that as it is stated: “You shall not round the corners

of your heads” (Leviticus 19:27), i.e., it is prohibited to shave the corners of the head, I would derive that even a leper is included in this prohibition.

⁷⁷ Therefore, the verse states explicitly: “His head,” to teach that the mitzva that a leper must shave overrides the prohibition against rounding the corners of one’s head by shaving. The Gemara adds: And this tanna holds that the shaving of the entire head is considered rounding. Some Sages maintain that one violates the prohibition against rounding the corners of his head only when he leaves some hair intact and removes the corners alone. Conversely, this tanna holds that even when one removes all of the hair on the head, as a leper does when he performs his ritual shaving, as this act includes the corners, he thereby transgresses the prohibition against rounding the corners. This demonstrates that a positive mitzva overrides a prohibition.

⁷⁸ The Gemara raises an objection against that claim. This proof can be refuted: What about the fact that the prohibition against rounding is specific in that this prohibition is not equally applicable for all, as it does not apply to women, and therefore other cases cannot be derived from it? One cannot learn from this halakha that a positive mitzva that applies only to some people overrides even a prohibition that applies equally to all people.

⁷⁹ Rather, the Gemara provides an alternative suggestion: The principle that a positive mitzva overrides a prohibition is derived from the superfluous phrase: “His beard” (Leviticus 14:9). As it is taught in a different baraita: What is the meaning when the verse states: “His beard”? After all, a beard is already included in the phrase: “All his hair.” The baraita answers: As it is stated with regard to priests: “Neither shall they shave off the corners of their beard” (Leviticus 21:5), I would derive that even a leper who is a priest is included in this prohibition against shaving his beard. Therefore, the verse states “his beard” in the case of a leper.

⁸⁰ However, the shaving of one’s beard is also a prohibition that is not equally applicable for all, as it does not apply to women. Therefore, it is necessary to develop this argument further. And if this derivation from the term “his beard” is not referring to the matter of a prohibition that is not equally applicable for all, as the principle that a positive mitzva overrides a prohibition that does not apply equally for all has already been derived from the phrase “his head,” then the repetition of this specific scenario must serve to expand upon the teaching. Consequently, refer it to the matter of a prohibition that is equally applicable for all, i.e., that a positive mitzva that is not equally applicable for all overrides even prohibitions that apply equally to all people.

⁸¹ The Gemara rejects this proof: Still, it is necessary for the verse to state: “His beard.” This phrase is not in fact superfluous at all, as it has a novelty: It could enter your mind to say that priests are different; since the verse includes for them additional mitzvot it is appropriate to be more stringent with them, and therefore one might think that a positive mitzva should not even override a prohibition that is not equally applicable for all. Consequently, the verse states: “His beard,” and it thereby teaches us that even with regard to priests a positive mitzva overrides a prohibition that is not equally applicable for all. This means that the principle that a positive mitzva overrides even a prohibition that is equally applicable for all cannot be derived from here.

⁸² § Rather, the Gemara rejects this line of reasoning in favor of an alternative answer. The principle that a positive mitzva overrides a prohibition is derived from a different interpretation of the phrase “his head,” cited by this tanna. As it is taught in a baraita with regard to the verse: “He shall shave all his hair off his head” (Leviticus 14:9); what is the meaning when the verse states: “His head”? The

baraita explains: As it is stated with regard to a nazirite: “No razor shall come upon his head” (Numbers 6:5), I would derive that even a leper who is a nazirite is prohibited from shaving his head upon purification. Therefore, the verse states: “His head.” This teaches that the positive mitzva for a leper to shave overrides the prohibition of a nazirite.

⁸³ The Gemara responds that this proof can be refuted as well: What about the fact that the prohibition of a nazirite is not especially severe, as a leprous nazirite can request to have his nazirite vow dissolved by a Sage? Since he can nullify the prohibition against shaving, this prohibition is evidently not very severe, and therefore one cannot prove anything with regard to all of the prohibitions of the Torah from this case. The Gemara adds: As, if you do not say this, that the prohibitions of a nazirite are not as severe as other prohibitions, that halakhic ruling that we maintain that a positive mitzva does not override both a prohibition and a positive mitzva would be negated.

⁸⁴ The Gemara explains the previous claim: Let us derive the opposite of this principle from the case of a nazirite, as in this case the positive mitzva for a leper to shave apparently overrides both the positive mitzva for a nazirite to grow hair and the prohibition against shaving. Rather, what is the reason that we do not derive this principle from the case of a nazirite? The reason is that there is room to refute this proof in the aforementioned manner: One cannot learn from a nazirite, as a leprous nazirite can request to have his nazirite vow dissolved. So too, there is room to refute the proof from the halakha of a nazirite that a positive mitzva overrides a prohibition, as he can request to have his vow dissolved.

⁸⁵ § If so, no proof can be brought from the case of a nazirite. Rather, the Gemara offers a different explanation: Actually,

⁸⁶ they learn this from the first verse, which permits a mixture of diverse kinds of wool and linen in ritual fringes. As for the previous claim that in the opinion of the Rabbis the phrase “wool and linen” is not superfluous and therefore there is no cause to derive from the juxtaposed verses, the answer is as follows: If so, that no homiletical interpretation can be derived from this source, let the verse say only: You shall make fringes for yourself. Why do I need the expression “twisted fringes” (Deuteronomy 22:12)? Conclude from this that this phrase is free, i.e., a homiletical interpretation can be derived by the juxtaposition of verses due to this superfluous phrase.

⁸⁷ The Gemara raises a difficulty: This term, “twisted fringes,” comes to teach the measure of ritual fringes, i.e., the requisite number of strings for the fringes, as it is taught: Twisted fringe, in the singular, indicates that it is entwined, which requires at least two strings. Consequently, when the verse says “twisted fringes” in the plural, it is referring to four strings. This means that one must prepare a twisted fringe and double it over from the middle, so that there are eight strings. Consequently, the term “twisted fringes” is not superfluous at all.

⁸⁸ The Gemara responds: If so, that this phrase is not extraneous at all, and therefore it cannot be used as a homiletical interpretation by the juxtaposition of verses, let the verse say merely: You shall not wear diverse kinds [sha’atnez]. Why do I need the verse to add the phrase “wool and linen together”? Conclude from this that this phrase is free, and a homiletical interpretation can be derived from the juxtaposition of verses.

⁸⁹ The Gemara raises a further difficulty: And still, it is necessary for the verse to state “wool and linen together” to teach another halakha concerning diverse kinds: When one combines a woolen garment with a linen garment, if he stitches two stitches with a needle, this is considered attachment,

but a single stitch is not attachment. This halakha is derived from the term “together,” which indicates that they are attached as one. The Gemara answers: If so, let the Merciful One write: You shall not wear wool and linen together. Why do I need the verse to add the phrase “diverse kinds”? Conclude from this that this phrase is free.

⁹⁰ The Gemara comments: And still, it is necessary for the verse to state “diverse kinds [sha’atnez],” as this is interpreted as an acronym that teaches that the halakha of diverse kinds applies only when it is smooth combed [shoa], spun [tavui] as a thread, and attached [noz], but without these characteristics the connection is not considered diverse kinds. Rather, the Gemara explains that the entire interpretation is derived from the term “diverse kinds.” Since the Torah uses the highly distinctive word “sha’atnez,” in addition to functioning as the above acronym it serves as the source of the verbal analogy with the term in the verse: “Neither shall there come upon you a garment of diverse kinds [sha’atnez] mingled together” (Leviticus 19:19), from which it may be inferred that a positive mitzva overrides a prohibition.

⁹¹ § The Gemara returns to the issue of a mitzva overriding a prohibition: We have found that a positive mitzva overrides a regular prohibition. However, where do we find that a positive mitzva overrides a prohibition that includes karet, as the phrase “with her” is necessary to prohibit her? It was mentioned previously that the superfluous phrase “with her” teaches that the mitzva of levirate marriage does not override the prohibition against taking a wife’s sister. However, why is this necessary? Why would it have been assumed that a positive mitzva is so powerful that it overrides even a prohibition that is punishable by karet?

⁹² And if you suggest an answer and say: Let us derive this claim from the mitzva of circumcision, as there is a positive mitzva to perform circumcision on the eighth day of the boy’s life even on Shabbat, and this mitzva overrides the prohibition against performing labor on Shabbat, which is punishable by karet, one could respond: What about the fact that circumcision is an extremely important and severe positive mitzva, as thirteen covenants were established over it? The term “covenant” is mentioned thirteen times in the chapter of circumcision (Genesis, chapter 17).

⁹³ The Gemara adds: And if you say it is derived from the slaughter of the Paschal lamb, which overrides Shabbat and is therefore a positive mitzva that overrides a prohibition punishable by karet, this too can be rejected: What about the fact that the Paschal lamb is different, as it is a positive mitzva that is so severe that its neglect entails karet for those who do not bring it, unlike all other positive mitzvot?

⁹⁴ The Gemara offers yet another suggestion: Perhaps it is derived from the daily offering, which was slaughtered every day, even on Shabbat. This is a positive mitzva that overrides the prohibition against performing labor on Shabbat, which is punishable by karet. The Gemara rejects this claim as well: What about the fact that the daily offering is special in that it is frequent? Since the mitzva of the daily offering is performed every day, it is perhaps especially important, whereas a positive mitzva that applies only at certain times might not be powerful enough to override a severe prohibition.

⁹⁵ The Gemara says: Clearly, the principle cannot be derived from any single one of these cases. However, let it be derived from two of these cases combined together, by analyzing their common features. The Gemara asks: From which two cases can it be derived? If one would say that it can be derived from circumcision and the Paschal lamb, the factor common to both is their particular

severity, as their neglect entails karet. If one would seek to derive this from the Paschal lamb and the daily offering, these have a different common factor, as both are a requirement of the altar in the Temple, not for personal benefit.

⁹⁶ Likewise, if one would suggest deriving the principle from circumcision and the daily offering, this too must be rejected, as both of these mitzvot were known by the Jewish people before the word of God was revealed at Mount Sinai. And this is according to the opinion of the one who said that the burnt-offering brought by the Jewish people in the desert was the daily offering. And moreover, from all of these together, i.e., circumcision, the Paschal lamb, and the daily offering, it is also not possible to derive a conclusion, as all three of these were known before the word of God was revealed. If so, no principle can be derived from these three mitzvot.

⁹⁷ § Rather, the Gemara suggests an alternative explanation: The inference from “with her” is necessary, as were it not for this inference it might be assumed that the mitzva of levirate marriage overrides the prohibition against marrying one’s wife’s sister despite the fact that this prohibition incurs karet, since it could enter your mind to say that this halakha is derived from the mitzva of honoring one’s father and mother.

⁹⁸ As it is taught in a baraita: One might have thought that honoring one’s father and mother overrides Shabbat; therefore, the verse states: “You shall fear every man his mother and his father and you shall keep My Shabbatot, I am the Lord your God” (Leviticus 19:3). The baraita explains the derivation from the verse: All of you, both parent and child, are obligated in My honor, and therefore honoring one’s parents does not override the honor of God, Who commanded the Jewish people to observe Shabbat.

⁹⁹ The Gemara analyzes this baraita: What, is it not referring to a situation where his father said to him: Slaughter for me, cook for me, or any other labor prohibited on Shabbat on pain of karet? And the reason that the Merciful One specifically writes: “Keep My Shabbatot,” is to warn against violating the prohibition against performing labor on Shabbat, a transgression which incurs karet, for the purpose of honoring one’s parents. It may therefore be inferred that if that was not so, the positive mitzva would override Shabbat. It is therefore possible to deduce from here that in general, positive mitzvot override even prohibitions that entail karet. The Gemara rejects this proof: No,

¹⁰⁰ the reference is not to a situation where a father demanded that his child perform prohibited labor on Shabbat that entails karet. Rather, he instructed him to transgress the prohibition against driving a laden animal. Although it is prohibited to cause animals to work on Shabbat, this does not entail the penalty of karet, as it has the status of a regular prohibition. And this shows that if one’s father told him to desecrate Shabbat by driving a donkey, even so, the positive mitzva to honor one’s parents does not override the prohibition against driving a laden animal.

¹⁰¹ § The Gemara asks: If so, rather than that principle in which we maintain that a positive mitzva comes and overrides a prohibition, let us derive from here that it does not override even a regular prohibition. Just as it was inferred above from the case of ritual fringes, in which the positive mitzva overrides the prohibition against diverse kinds, that all other positive mitzvot similarly override any prohibition, perhaps one should infer from the case of honoring one’s parents that positive mitzvot do not override prohibitions at all.

¹⁰² And if you say that one should not infer this from here, as the prohibitions of Shabbat are different in that they are more serious, and for this reason the mitzva to honor one’s parents does not

override these prohibitions, this cannot be the case, as the tanna speaks generally of a father who instructs a son to perform a regular prohibition, not to desecrate Shabbat, and he does not raise any difficulty of this kind.

¹⁰³ As it is taught in a different baraita: One might have thought that if one's father said to his son, who is a priest or nazirite: Be rendered ritually impure with impurity imparted by a corpse, so as to bring me an item from a ritually impure place, or if he said to him: Do not return this lost item, it might have been supposed that his son should obey him. Therefore, the verse states: "You shall fear every man his mother and his father and you shall keep My Shabbatot, I am the Lord your God" (Leviticus 19:3). This verse teaches: All of you are obligated in My honor. This proves that the tanna does not differentiate between desecrating Shabbat, which is a severe prohibition, and a priest becoming ritually impure with impurity imparted by a corpse, which is a lighter prohibition.

¹⁰⁴ § Rather, the Gemara rejects this line of reasoning and accepts the claim that the baraita does not speak of one whose father asked him to desecrate Shabbat by performing a prohibited labor that entails karet, but of a father who instructed his son to drive a laden animal. As for the difficulty that this apparently indicates that a positive mitzva does not override any type of prohibition, the reason that this is not the case is because there is room to refute this argument.

¹⁰⁵ The Gemara explains how the previous claim can be countered: What about the fact that these instructions of a father are different, as when one drives an animal on Shabbat in honor of his parents this is merely preparation for the mitzva of honoring one's parents, since the son is not actually feeding or clothing his father at the time. Consequently, this is not a proper fulfillment of a positive mitzva, and therefore the case of a father who instructs his son to drive an animal cannot be used as a source with regard to other instances.

¹⁰⁶ Rather, it could enter your mind to say: The principle that a positive mitzva overrides even a prohibition that entails karet is derived from the building of the Temple. As it is taught in a baraita: One might have thought that the building of the Temple should override Shabbat; therefore, the verse states: "You shall keep My Shabbatot and revere My Sanctuary, I am the Lord" (Leviticus 19:30), which means that all of you are obligated in My honor. God is honored when Shabbat is observed, and He demands the observance of Shabbat even when the Temple is being built.

¹⁰⁷ The Gemara analyzes this baraita: What, is it not referring to building the Temple by performing prohibited labors on Shabbat whose violation entails karet, such as building and demolishing? And the reason the building of the Temple does not override Shabbat is that the Merciful One specifically writes: "Keep My Shabbatot," from which it may be inferred that if that were not so, the positive mitzva would override Shabbat. It is therefore possible to deduce from here that in general, positive mitzvot override even prohibitions that entail karet.

¹⁰⁸ The Gemara responds: No, here too the reference is to the prohibition against driving a laden animal, and even so the positive mitzva to build the Temple does not override the prohibition against driving a laden animal on Shabbat. The Gemara asks again, as before: If so, rather than that principle in which we maintain that a positive mitzva comes and overrides a prohibition, let us derive from here that it does not override even a regular prohibition.

¹⁰⁹ And if you say that prohibitions of Shabbat are different in that they are more severe, this cannot be the case, as the tanna speaks generally and he does not raise any difficulty of this kind as it is taught in the aforementioned baraita: One might have thought that if one's father said to his son who

is a priest or nazirite: Be rendered ritually impure, or if he said to him: Do not return this lost item, it might have been supposed that his son should obey him. Therefore, the verse states: “You shall fear every man his mother and his father and you shall keep My Shabbatot, I am the Lord your God” (Leviticus 19:3), which means: All of you are obligated in My honor.

¹¹⁰ Rather, there is no proof from here with regard to all Torah prohibitions, because there is room to refute that argument as follows: What about the fact that these instances of driving an animal on Shabbat are merely a preparation for the mitzva of building the Temple, and are not a mitzva in itself? The Gemara raises a difficulty: Let the halakha that preparation for a mitzva does not override a prohibition be derived from there, the case of honoring one’s parents, as stated previously. Why repeat this matter with regard to the building of the Temple?

¹¹¹ The Gemara responds: Yes, it is indeed so. And why do I need the verse: “You shall keep My Shabbatot, and revere My Sanctuary” (Leviticus 19:30)? After all, the halakha that the building of the Temple does not override the prohibition against driving an animal on Shabbat is derived from the case of honoring one’s parents. The Gemara answers: It is necessary to derive that which is taught in a baraita: One might have thought that a person should be in reverence of the Temple and turn the Temple itself into an object of worship. Therefore, the verse states: “You shall keep My Shabbatot, and revere My Sanctuary.” The term keeping is stated with regard to Shabbat, and the term reverence is stated with regard to the Temple. Just as in the case of keeping stated with regard to Shabbat,

¹¹² you do not revere Shabbat itself, as reverence is not mentioned in this context, but rather, one reveres He Who warned about the observance of Shabbat, so too, the same applies to the reverence stated with regard to the Temple: You do not revere the Temple itself but He Who warned about the Temple.

¹¹³ The baraita explains: And what is the reverence of the Temple? In deference to the Temple, a person may not enter the Temple Mount with his staff, his shoes, his money belt [punda], or even the dust on his feet. One may not make the Temple a shortcut [kappendarya] to pass through it, and through an a fortiori inference, all the more so one may not spit on the Temple Mount, as no disrespect is meant by the other actions, whereas spitting is repulsive even in one’s own private home, and certainly on the Temple Mount.

¹¹⁴ And I have derived only that one is obligated to act in this manner when the Temple is standing. From where do I derive that the mitzva to revere the Temple is in force when the Temple is not standing, i.e., that it is prohibited to be disrespectful toward the place where the Temple stood? The verse states: “You shall keep My Shabbatot, and revere My Sanctuary” (Leviticus 19:30). Just as the keeping stated with regard to Shabbat applies forever, so too, the reverence stated with regard to the Temple is forever.

¹¹⁵ § With regard to the issue at hand, the Gemara has not yet found an explanation as to why a specific inference was required to teach that a positive mitzva overrides a prohibition that incurs karet. Rather, it might enter your mind to say that this claim might be derived from the halakha of kindling, as the school of Rabbi Yishmael taught with regard to the verse: “You shall kindle no fire throughout your habitations on Shabbat day” (Exodus 35:3). What is the meaning when the verse states this, as the general prohibition against performing labor on Shabbat appears elsewhere?

¹¹⁶ The Gemara expresses puzzlement at this question: What is the meaning when the verse states this? What kind of question is this? If the halakha is in accordance with the opinion of Rabbi Yosei,

the verse comes to teach that one who kindles fire on Shabbat merely violates a regular prohibition, which does not entail the penalty of stoning, unlike other prohibited labors. If the halakha is in accordance with the opinion of Rabbi Natan, kindling was singled out to divide the various prohibited labors of Shabbat and to establish liability for the separate performance of each of them.

¹¹⁷ As it is taught in a baraita: The prohibition against kindling was singled out from the general category of prohibited labors and written explicitly to teach that it is unlike other prohibited labors, as it is a regular prohibition, which does not entail the punishment of stoning. This is the statement of Rabbi Yosei. Rabbi Natan says: Kindling is like any other labor prohibited on Shabbat, and it was singled out to divide. In other words, by stating one prohibited labor separately, the Torah teaches that each labor on Shabbat constitutes its own separate prohibition. Consequently, one who unwittingly violates several categories of labor is obligated to bring as many sin-offerings as the prohibited labors he violated.

¹¹⁸ And Rava said in explanation of the question asked by the school of Rabbi Yishmael: For this tanna, the term “habitations” poses a difficulty with regard to his opinion. The baraita should be understood as follows: What is the meaning when the verse states “habitations”? What additional inference is indicated by this term, which might lead to the erroneous conclusion that this Shabbat prohibition applies only in certain places of habitation?

¹¹⁹ The Gemara explains why “habitations” cannot mean that Shabbat observance applies only in certain places. Since Shabbat is an obligation that applies to the body, i.e., to the individual himself and not to an external object, and there is a principle that obligations of the body apply both in Eretz Yisrael and outside of Eretz Yisrael, then why do I need the term “habitations” that the Merciful One writes with regard to Shabbat?

¹²⁰ A student said in the name of Rabbi Yishmael that since it is stated: “And if a man has committed a sin worthy of death, and he is put to death” (Deuteronomy 21:22), I would derive that the death penalty is administered whether on a weekday or on a Shabbat. And how do I establish the verse: “And you shall keep Shabbat, for it is sacred to you; every one who profanes it shall surely be put to death” (Exodus 31:14)? This verse applies to other prohibited labors, except for court-imposed capital punishment, which must be administered even on Shabbat. Or perhaps it is only the case that even court-imposed capital punishment is included in the list of prohibited labors on Shabbat. How, then, do I establish the verse: “And he is put to death”? This is referring to a weekday and not to Shabbat.

¹²¹ Surprisingly, the tanna reverts back to his earlier claim: Or perhaps it is only the case that capital punishments may be administered even on Shabbat? Therefore, the verse states by way of a verbal analogy: “You shall kindle no fire throughout your habitations on Shabbat day” (Exodus 35:3) and below it says, at the end of the chapter dealing with murderers: “And these things shall be for you a statute of judgment to you throughout your generations in all your habitations” (Numbers 35:29).

¹²² Just as the term “habitations” stated below, in Numbers, means in the court, where judgment is performed, so too, the term “habitations” stated here means in the court, i.e., in the place where judges preside. And the Merciful One states in the Torah: “You shall kindle no fire.” Since one of the court-imposed death penalties is burning, which is performed by kindling fire, then evidently, court-imposed death penalties do not override Shabbat.

¹²³ With the above conclusion in mind, the Gemara comments: What, is it not the case that the opinion of the school of Rabbi Yishmael is in accordance with that of Rabbi Natan, who said that the prohibition against kindling fire was singled out to divide, and therefore lighting a fire is punishable by karet and stoning? And if so, the reason why capital punishments are not administered on Shabbat is that the Merciful One writes: “You shall kindle no fire,” from which it may be inferred that if it were not so, then court-imposed capital punishment would override Shabbat. In other words, the positive mitzva of legal execution would override the prohibition against lighting a fire on Shabbat, which incurs karet.

¹²⁴ The Gemara rejects this: No, there is no proof from here, as it can be claimed that the opinion of the tanna from the school of Rabbi Yishmael is in accordance with the opinion of Rabbi Yosei that kindling fire is an ordinary prohibition. The Gemara retorts: And let it even be according to the opinion of Rabbi Yosei. You can say that when Rabbi Yosei said that kindling was singled out as a prohibition, he was referring to kindling alone, i.e., that lighting a regular fire is only a regular prohibition.

¹²⁵ Conversely, the kindling by the court for the execution of burning is actually the cooking of a leaden wick. Since execution by burning involves melting, or cooking, a piece of lead, called a wick, and pouring it into the mouth of the convict, it therefore constitutes the prohibited labor of cooking, which is a different prohibition than kindling fire.

¹²⁶ And Rav Sheshet said in this regard: What difference is there to me between cooking a wick, which is performed for court-imposed capital punishments, and what difference is there to me between the cooking of herbs used to dye curtains for the Tabernacle, from whose work the list of prohibited labors on Shabbat is derived? Since the court-imposed death penalty involves the prohibited labor of cooking, which according to all opinions incurs karet, this apparently indicates that without the special verse that renders this prohibited, one would have said that a positive mitzva overrides a prohibition for which one is liable to receive karet.

¹²⁷ The Gemara rejects this argument as well. Rav Shimi bar Ashi said: This tanna does not raise the possibility that a court-administered death penalty might override Shabbat because a positive mitzva comes and overrides a prohibition. Rather, he entertains this option because he learns this by means of an a fortiori inference, and this is what he is saying: How do I establish the verse “Every one who profanes it shall surely be put to death” (Exodus 31:14)? This applies to other prohibited labors, except for court-imposed capital punishment. However, it could be said that court-imposed capital punishment overrides Shabbat, by an a fortiori inference:

¹²⁸ If the Temple service, which includes the sacrifice of offerings, is so severe that it overrides Shabbat, as offerings were brought on Shabbat, and yet the halakha of murder overrides it, i.e., the obligation to execute a sentenced convict overrides the Temple service, as it is stated with regard to one sentenced to death: “You shall take him from My altar, that he may die” (Exodus 21:14), then in the case of Shabbat, which is overridden by the Temple service, is it not right that the halakhot of murder should likewise override it?

¹²⁹ § The Gemara analyzes a puzzling statement in the above baraita. And what is the meaning of the claim: Or perhaps it is only the case that capital punishments may be administered even on Shabbat, which the tanna stated in an unexplained reversion to his previous suggestion? The Gemara explains that this is what he is saying: The a fortiori reasoning can be refuted, as the obligation to bury a

corpse with no one available to bury it [met mitzva] can prove otherwise, as the obligation to bury a met mitzva overrides the Temple service, and yet it does not override Shabbat. The tanna then retracted his statement and said that one can claim that the burial of a met mitzva overrides Shabbat by means of the same a fortiori inference: If the Temple service overrides Shabbat, and the burial of a met mitzva overrides it.

¹³⁰ The Gemara pauses in the middle of the a fortiori inference to explain this last point. This is derived from the superfluous phrase “or for his sister” in the verse “He shall not make himself ritually impure for his father, or for his mother, for his brother, or for his sister, when they die” (Numbers 6:7), which is referring to a nazirite. This verse teaches that even a nazirite on his way to sacrifice the Paschal lamb must render himself ritually impure to bury a met mitzva. The Gemara resumes the a fortiori inference: If so, as Shabbat is overridden by the Temple service, is it not right that the burial of a met mitzva should override it? Therefore, the verse states: “You shall kindle no fire throughout your habitations on Shabbat day” (Exodus 35:3).

¹³¹ This concludes Rav Shimi bar Ashi’s interpretation of the baraita, that the tanna suggested that a court-administered death penalty might override Shabbat not because of the principle that a positive mitzva overrides a prohibition, but due to a potential a fortiori inference. The Gemara asks: And according to that which entered his mind at the outset, that the assumption of the tanna was indeed based on the principle that a positive mitzva comes and overrides a prohibition, what is the meaning of the clause: Or perhaps it is only the case that capital punishments may be administered even on Shabbat, that the tanna said? How should the baraita be explained according to the initial interpretation?

¹³² The Gemara explains that this is what the tanna is saying: It would have been possible to say the following: How do I establish the verse “Every one who profanes it shall surely be put to death” (Exodus 31:14)? This applies to other prohibited labors, except for court-imposed capital punishment. However, court-imposed capital punishment overrides Shabbat, as a positive mitzva comes and overrides a prohibition.

¹³³ The tanna then retracted his statement and said: You can say that we stated the principle that a positive mitzva comes and overrides a prohibition, yet this is true for a regular prohibition alone. However, did you hear that it overrides a prohibition that includes karet? The tanna then said, hinting at a counter-claim: Is that not to say, with regard to the principle that a positive mitzva overrides a prohibition, that the prohibition is more stringent than the positive mitzva? After all, the court punishes one who violates a prohibition with lashes, which is not the case for a failure to uphold a positive mitzva. And yet by Torah law the positive mitzva comes and overrides it.

¹³⁴ If so, what difference is it to me if it is a case of a minor stringency and what difference is it to me if it is a major stringency? Once the Torah has stated that a positive mitzva supersedes a prohibition, there should be no difference between a relatively stringent prohibition and a lenient one. Therefore, the verse states: “You shall not kindle.” In sum, the Gemara has not found a clear proof for the opinion that a positive mitzva supersedes a prohibition that incurs karet.

¹³⁵ Consequently, the Gemara suggests a different interpretation. The superfluous phrase “with her” indeed teaches that the obligation of levirate marriage does not override the prohibition with regard to women with whom relations are forbidden. However, this derivation is required not because one might have thought that a positive mitzva supersedes a prohibition that incurs karet. Rather, this

phrase is necessary because it could enter your mind to say: Let this case of a brother's wife, to whom the mitzva of levirate marriage applies, be treated in accordance with a well-established hermeneutical principle: A matter that was included in a generalization, but emerged to teach, emerged to teach not just about itself but to teach about the entire generalization.

¹³⁶ The Gemara explains the application of this principle to the current case. Since the prohibition proscribing a brother's wife is included in the general prohibition with regard to women with whom relations are forbidden, it can be claimed that the halakha of levirate marriage renders not only a brother's childless wife permitted, but in this case it renders permitted all women with whom relations are usually forbidden. As it is taught in a baraita that clarifies this hermeneutical principle: A matter that was included in a generalization, but emerged to teach, emerged to teach not just about itself but to teach about the entire generalization. How so?

¹³⁷ The baraita provides an example of this principle by citing a verse: "But the soul that eats of the flesh of the sacrifice of peace-offerings that belong to the Lord, with his ritual impurity upon him, that soul shall be cut off from his people" (Leviticus 7:20). But aren't peace-offerings included in the general category of all consecrated offerings? And why were they explicitly singled out from the rest in the above verse? To draw an analogy between them and to say to you: Just as peace-offerings are unique in that they are consecrated for the altar, so too, this halakha that one who eats of them is liable to receive karet applies to all food that is consecrated for the altar, which excludes objects that are consecrated for the Temple maintenance.

¹³⁸ The above baraita provided an example of the principle that an item singled out from a general category teaches a halakha with regard to the entire category. Here too, one can argue: This case of a brother's wife was included in the general category of all women with whom relations are forbidden, and why was she singled out? To compare to her and say to you: Just as a childless brother's wife is permitted, so too, all women with whom relations are forbidden are likewise permitted.

¹³⁹ The Gemara raises an objection: Is it comparable? There, in the case cited as an example of this hermeneutical principle, the generalization, i.e., all offerings, are included in the prohibition against eating offerings while ritually impure, and the detailed case of peace-offerings is also included in the prohibition. Consequently, it can be said that the specific case was singled out to teach about the entire category. By contrast, here, in the case of levirate marriage with forbidden relatives, the generalization is included in the prohibition against engaging in forbidden relations, and yet the detailed case is permitted. Therefore, it cannot be said that the detail has been singled out so as to clarify some aspect of the general category; rather, its halakha differs from the rest.

¹⁴⁰ Instead, this case is comparable only to those that fit a different hermeneutical principle, concerning a matter that was included in a generalization but emerged to discuss a new matter. If a novel aspect or special ruling is taught with regard to a specific case within a broader general category, then you cannot return it to its generalization even for other matters, to the extent that this case has been entirely removed from the general category until the Torah explicitly returns it to its generalization. As it is taught in a baraita: With regard to a matter that was included in a generalization but emerged to discuss a new matter, you may not return it to its generalization until the Torah explicitly returns it to its generalization.

¹⁴¹ How so? The baraita provides an example of this principle. With regard to the guilt-offering of a leper, the verse states: "And he shall slaughter the sheep in the place where they slaughter the sin-

offering and the burnt-offering, in the place of the Sanctuary; for as the sin-offering is the priest's, so is the guilt-offering" (Leviticus 14:13). As there is no need for the verse to state: "As the sin-offering...so is the guilt-offering," since apparently this comparison does not teach anything new because the halakhot of guilt-offerings are already stated elsewhere (Leviticus 7:1–10), then what is the meaning when the verse states: "As the sin-offering...so is the guilt-offering"?

¹⁴² Since the guilt-offering of a leper was specified from the general category of all guilt-offerings to discuss a new matter, i.e., that the blood is placed on the thumb of the right hand and the big toe of the right foot of the leper, one might have thought that this guilt-offering does not require placement of the blood and sacrificial parts on the altar, as for this guilt-offering the placement of blood on the leper is sufficient.

¹⁴³ Therefore, the verse states: "As the sin-offering...so is the guilt-offering" (Leviticus 7:13), to teach that just as the sin-offering requires placement of the blood and sacrificial parts on the altar, so too, the leper's guilt-offering requires placement of the blood and sacrificial parts on the altar.

¹⁴⁴ The Gemara comments: And had the verse not explicitly restored this case of guilt-offering to its generalization, I would say: With regard to that which was excluded from the generalization as a novel ruling in this case, it was excluded, and with regard to that case which was not excluded, it was not excluded, and therefore the halakha would have been different in the various cases. Here, too, I would say: A brother's wife who was permitted is permitted, whereas the other women with whom relations are forbidden were not permitted at all. Consequently, there is no proof from here that one might have thought that women with whom relations are forbidden are in fact permitted in levirate marriage.

¹⁴⁵ § Rather, the suggestion that other women with whom relations are usually forbidden might be permitted for levirate marriage was based on a different argument: It might enter your mind to say: Let this claim be derived by the hermeneutical principle of: What do we find with regard to, which is a principle of inductive reasoning involving a comparison between cases that include similar details. In other words, the halakha of all other women with whom relations are forbidden can be derived from that of a brother's wife: Just as a brother's wife enters levirate marriage, so too, a wife's sister should enter into levirate marriage.

¹⁴⁶ The Gemara wonders about this: Is it comparable? How can one case be derived from the other? There, in the case of a brother's wife, only one prohibition has been permitted, the prohibition with regard to a brother's wife, whereas here, we are dealing with two prohibitions, both a brother's wife and a wife's sister. The Gemara answers: It is nevertheless necessary to refute this suggestion, lest you say: Since it is permitted, it is permitted. In other words, as the Torah permitted a brother's wife in levirate marriage despite the fact that she is ordinarily forbidden, she remains permitted even if the additional prohibition with regard to a wife's sister applies to her.

¹⁴⁷ And from where do you say that we state this reasoning of: Since it is permitted, it is permitted? As it is taught in a baraita: With regard to a leper whose eighth day, on which he becomes ritually pure from his leprosy and brings his last offerings to the Temple, occurs on the eve of Passover, and he experienced a seminal emission on that eighth day and then immersed in a ritual bath, the Sages said: Although any other individual who immersed himself that day for purification from his ritual impurity may not enter the Temple before sunset, this leper, who saw an emission of semen and immersed, may enter the Temple.

¹⁴⁸ The baraita explains the reason for this exception. It is better that a positive mitzva that includes karet, i.e., bringing the Paschal lamb at the right time, comes and overrides a positive mitzva that does not include karet, i.e., not entering the Temple in a state of ritual impurity. If the leper does not become purified of his leprosy he may not sacrifice the Paschal lamb. And Rabbi Yoḥanan said: By Torah law there is not even the overriding of a positive mitzva in this case of one who immersed himself during the day entering the Temple.

¹⁴⁹ Rabbi Yoḥanan explains his claim: As it is stated: “And Jehoshaphat stood in the congregation of Judah and Jerusalem, in the House of the Lord, before the new courtyard” (II Chronicles 20:5). What is the meaning of “the new courtyard”? Rabbi Yoḥanan said: This is referring to the place where they issued new matters and said that one who immersed himself that day may not enter the camp of the Levites, which in Jerusalem is the Temple Mount, despite the fact that by Torah law no such prohibition applies.

¹⁵⁰ And with regard to this halakha itself, that a leper who experienced a seminal emission may nevertheless sacrifice offerings in the Temple, Ulla said: What is the reason that this is permitted to him? Since it is permitted for his leprosy, i.e., the Torah allowed him to enter the Temple Mount while still a leper to achieve full ritual purification, which requires that he sacrifice offerings, it is permitted with regard to his seminal emission as well. This shows that the tanna accepts the principle that as one prohibition is permitted, two prohibitions are likewise permitted. The Gemara rejects this argument: Is this assumption comparable to the case of Ulla?

¹⁵¹ This works out well when the deceased brother had first married one of the sisters, who was thereby rendered prohibited to the yavam as his brother’s wife, and only afterward had the living brother married her sister, which renders his brother’s wife forbidden to him on another count, this time as his wife’s sister. As in that case one can say that since the first prohibition with regard to a brother’s wife was subsequently nullified and thereby permitted by the mitzva of levirate marriage, the prohibition with regard to a wife’s sister was also nullified and thereby permitted.

¹⁵² However, if the reverse occurred, and first the living brother had married his wife and only afterward the deceased brother had married her sister, in this case the prohibition with regard to a wife’s sister precedes the prohibition proscribing a brother’s wife, i.e., she was initially forbidden to him as his wife’s sister. Consequently, even when the second prohibition lapses upon the death of his childless brother, the first prohibition should remain intact.

¹⁵³ And furthermore, even in a case where the deceased brother had married first, it works out well only when the deceased brother had married the woman and then died, and only afterward the surviving brother married that brother’s wife’s sister. The reason is that in this case, the sister of the wife of the deceased brother was fit for him in between, i.e., during the period from when the deceased brother died until he married that brother’s wife’s sister. Therefore, it can be claimed that the second prohibition should not apply. However, if the deceased brother married first, and did not die yet, and afterward, during the deceased brother’s lifetime, the living brother married the deceased brother’s wife’s sister, she was not fit for him at all, as there was no period of time during which she was permitted to him.

¹⁵⁴ The Gemara provides proof for this claim: Doesn’t Ulla agree that if a leper experienced a seminal emission on the night of the eighth, not on the eighth day but on the previous night, that he may not insert his hands and feet to the thumb and big toe to receive the blood and oil for his

purification? The reason is that in this case he is ritually impure due to the emission and he had not yet emerged from the impurity of leprosy at a time that is fitting to bring an offering, as he cannot sacrifice his offerings until the daylight hours of the eighth day. Since there was not a single moment when he was permitted to enter the Temple in his state of ritual impurity, in this case one cannot apply the principle: Since it is permitted, it is permitted.

¹⁵⁵ § Rather, the Gemara suggests that the phrase “with her,” which teaches the prohibition with regard to a wife’s sister in levirate marriage, is necessary for a case where the deceased brother had first married and then died, and only afterward the living brother married the sister of the deceased brother’s wife, in which case his brother’s wife was permitted to him for a period of time. Accordingly, one might have applied the principle: Since it is permitted, it is permitted. For this reason it was necessary to write “with her,” to teach that this second woman is nevertheless forbidden as his wife’s sister.

¹⁵⁶ And if you wish, say instead that the suggestion that other women with whom relations are forbidden are permitted in levirate marriage is derived from the juxtaposition of Rabbi Yona. As Rabbi Yona said, and some say this was stated by Rav Huna, son of Rav Yehoshua: The verse states: “For whoever shall do any of these abominations, the souls that do them shall be cut off from among their people” (Leviticus 18:29). In this verse all of the women with whom relations are forbidden are juxtaposed with the case of a brother’s wife. Consequently, one might say that just as a brother’s wife is permitted in levirate marriage, so too, all women with whom relations are forbidden are likewise permitted. Therefore, the Merciful One writes: “With her,” which excludes the prohibition with regard to a wife’s sister.

¹⁵⁷ Against this proof, Rav Aḥa of Difti said to Ravina: Since the halakha of all women with whom relations are forbidden can be juxtaposed with the case of a brother’s wife and thereby rendered permitted in levirate marriage, and these cases can equally be juxtaposed with the halakha of a wife’s sister, which would mean that they are forbidden, what did you see that you juxtaposed them with a wife’s sister? Juxtapose them instead with a brother’s wife. If so, the opposite could be derived from the phrase “with her,” i.e., not that all women with whom relations are forbidden are prohibited like a wife’s sister, but that all these women are permitted in levirate marriage, even a wife’s sister.

¹⁵⁸ The Gemara answers: If you wish, say that if one must decide between two possible ways of understanding juxtaposed cases, one of which leads to a lenient ruling and the other to a stringent ruling, we juxtapose to reach the stringent ruling, not the leniency. If you wish, say instead: Here, there are two prohibitions, a brother’s wife and a wife’s sister, and there, in the case of all other women with whom relations are forbidden, there are also two prohibitions. And one may derive a case involving two prohibitions from another case that involves two prohibitions. However, here, in the case of a regular levirate marriage that does not involve any other forbidden relation, there is only one prohibition proscribing a brother’s wife, and one may not derive a case involving two prohibitions from a case that involves only one.

¹⁵⁹ § Rava said that this entire halakha must be understood differently. With regard to a forbidden relation herself, it is not necessary for a verse to teach that she cannot enter into levirate marriage, as a positive mitzva does not override a prohibition that includes karet. Rather, the verse “with her” is necessary to prohibit a rival wife, as a rival wife is not prohibited to the yavam as a forbidden relation.

¹⁶⁰ The Gemara asks: And does the tanna in fact maintain with regard to a forbidden relation that it is not necessary for a verse to teach that she is prohibited in levirate marriage? But isn't it taught in that same baraita: I have derived nothing other than that this woman is exempt from levirate marriage. From where is it inferred that the same applies to her rival wife? This shows that the case of a forbidden relation does require a special inference from a verse.

¹⁶¹ The Gemara answers: It is due to her rival wife, i.e., the baraita does not mean that the halakha of women with whom relations are forbidden is derived from this verse; rather, this case is mentioned only to introduce the case of a rival wife.

¹⁶² The Gemara raises another difficulty: But it is taught in the baraita: I have derived nothing other than that these sisters are exempt from levirate marriage, which again suggests that the derivation from the verse applies to all of them. This is similarly rejected: This is also stated due to their rival wives.

¹⁶³ The Gemara suggests: Come and hear a different baraita that contradicts Rava's statement: Rabbi Yehuda HaNasi says that there is a different proof that a forbidden relation and her rival wife are prohibited in levirate marriage. The Torah says: "He will have intercourse with her and take her to him to be his wife and consummate the levirate marriage with her" (Deuteronomy 25:5). Since the verse does not say simply: Have intercourse, but: "Have intercourse with her," this indicates that he takes this woman specifically, not a different woman who is forbidden. Furthermore, the verse does not simply state: And consummate the levirate marriage, but: "And consummate the levirate marriage with her." These additions serve to prohibit rival wives and women with whom relations are forbidden.

¹⁶⁴ This shows that even the prohibition with regard to women with whom relations are forbidden requires a special inference. The Gemara answers: Amend the language of the baraita and say: To prohibit rival wives of those with whom relations are forbidden, not the women themselves with whom relations are forbidden. The Gemara raises a difficulty: But he brought two proofs from the verse, both "have intercourse with her" and "and consummate the levirate marriage with her." What, is it not because one phrase is required for the halakha of a woman with whom relations are forbidden and the other one for a rival wife?

¹⁶⁵ The Gemara rejects this suggestion: No, this source and that source are necessary for a rival wife, and both phrases are required, for the following reason. One of them comes to prohibit a rival wife in a place where the mitzva of levirate marriage is applicable, and one serves to permit a rival wife in a place where the mitzva is not applicable. If a woman is the rival wife of one of those relatives forbidden to a given man, he is permitted to marry her following the death of her husband, as the prohibition proscribing rival wives of women with whom relations are forbidden pertains only to cases where the halakhot of levirate marriage are applicable, i.e., in the case of a brother's wife.

¹⁶⁶ The Gemara elaborates: What is the reason for this halakha? It is derived from the fact that the verse does not merely state: And consummate the levirate marriage, but instead emphasizes: "And consummate the levirate marriage with her." This comes to teach: It is in a place where levirate marriage applies that a rival wife is prohibited; however, in a place where the levirate marriage is not applicable, a rival wife is permitted.

¹⁶⁷ Rav Ashi said: The mishna is also precisely formulated in accordance with the opinion of Rava, as it teaches: Fifteen women exempt their rival wives, whereas the phrase: Are exempt and exempt

others, is not taught. This indicates that the exemption of these women who are themselves forbidden relations does not necessitate any special inference, as this is not a novel halakha, and therefore the mishna does not even state this point explicitly. The novelty is that they exempt their rival wives. The Gemara summarizes: Conclude from this that Rava's opinion is correct.

¹⁶⁸ The Gemara asks: And if so, what is different about a forbidden relation that a special verse is not necessary to exclude it? The reason must be that a positive mitzva does not override a prohibition that entails karet. If so, a rival wife should also not require an additional verse, due to the fact that a positive mitzva does not override a prohibition that entails karet. The phrase "to be a rival to her" (Leviticus 18:18) teaches that the rival wife of a wife's sister is prohibited like the wife's sister herself.

¹⁶⁹ Rav Aḥa, son of Beivai Mar, said to Ravina that this is what we say in the name of Rava: With regard to a rival wife too, a verse is not necessary, as is the case with a forbidden relation herself, since the prohibition in her case as well incurs karet, and therefore one would not think that the positive mitzva of levirate marriage overrides that prohibition. The verse is necessary

¹⁷⁰ to permit a rival wife in a place where the mitzva of levirate marriage is not applicable. What is the reason, i.e., how is this inferred? The verse states: "With her." In other words, it is in a place where the obligation "her brother-in-law will have intercourse with her" is applicable that a rival wife is prohibited, whereas in a place where the obligation "Her brother-in-law will have intercourse with her" is not applicable, a rival wife is permitted.

¹⁷¹ Rami bar Ḥama said to Rava: If the phrase "with her" is referring only to a case where levirate marriage is applicable, one can say that a forbidden relative herself should be permitted in a place where the mitzva of levirate marriage is not applicable. According to this interpretation, the prohibitions with regard to all those with whom relations are forbidden are in effect only when levirate marriage applies. Rava answered: And is it not an a fortiori inference? If these relatives are prohibited in a place where there is a mitzva, could they be permitted in a place where there is no mitzva?

¹⁷² Rami bar Ḥama said to Rava: That is no proof, as the case of a rival wife herself can prove that this a fortiori inference is incorrect, as in a place where there is a mitzva she is prohibited and in a place where there is no mitzva she is permitted. Rava said to Rami bar Ḥami: With regard to your claim, the verse states: "And you shall not take a woman to her sister...in her lifetime" (Leviticus 18:18). This indicates that all cases in which it is in the lifetime of her sister she is forbidden, even when no mitzva applies.

¹⁷³ The Gemara asks: This phrase "in her lifetime" is necessary, as indicated by the plain meaning of the phrase, to exclude the time after death, i.e., to teach that a wife's sister is forbidden only while the wife is still alive, whereas after her death the sister is permitted. The Gemara answers: That halakha that a woman is permitted after her sister's death is derived from "and you shall not take a woman to her sister" (Leviticus 18:18), as when one of them is dead it is no longer considered "a woman to her sister."

¹⁷⁴ The Gemara further asks: If this halakha is derived from "a woman to her sister," I would say that even if she were divorced, her sister is permitted. Therefore, the verse states: "In her lifetime," which indicates that the prohibition is in effect in all cases that are in her lifetime. This teaches that although she is divorced, her sister is not permitted.

¹⁷⁵ § Rather, the Gemara suggests a different interpretation. Rav Huna bar Tahlisa said in the name of Rava: Two verses are written, i.e., two separate issues are mentioned in the same verse. It is written: “And you shall not take a woman to her sister, to be a rival [litzror],” which indicates that two rival wives are prohibited. And it is written: “To uncover her nakedness” (Leviticus 18:18), in the singular, which means one and not both of them. How is it possible to reconcile this apparent contradiction? In a place where there is a mitzva of levirate marriage, both the forbidden relation and her rival wife are prohibited. In a place where there is no mitzva of levirate marriage, the forbidden relation is prohibited but her rival wife is permitted.

¹⁷⁶ The Gemara raises a difficulty: I can reverse this and suggest the opposite. In a place where there is a mitzva, the forbidden relation is prohibited and her rival wife is permitted, and in a place where there is no mitzva, both of them are prohibited. The Gemara answers: If so, let the verse not say “with her,” at all, as this superfluous phrase teaches that the prohibition with regard to a rival wife applies only when there is a mitzva of “her brother-in-law will have intercourse with her.”

¹⁷⁷ Rav Ashi said to Rav Kahana: From where is it derived that this superfluous phrase “with her,” comes to prohibit, i.e., although there is an obligation that “her brother-in-law will have intercourse with her,” a wife’s sister remains prohibited? Perhaps it serves to permit, and this is what the Merciful One is saying: “You shall not take a woman to her sister, to be a rival” (Leviticus 18:18), i.e., neither her nor her rival wife. When is this the case? It is in a place where the obligation of “her brother-in-law will have intercourse with her” does not apply. However, in a place where “with her” does apply and there is an obligation of levirate marriage, both of them are permitted.

¹⁷⁸ Rav Kahana replied to Rav Ashi: If the above statement is so, and “to uncover her nakedness” is referring to one woman, under what circumstances can you find this case? When is only one of them prohibited? If it is in a place where there is a mitzva, they are both permitted; if it is in a place where there is no mitzva, they are both forbidden. Therefore, the earlier line of reasoning must be accepted: A rival wife is forbidden only in a case where the mitzva of levirate marriage is in effect.

¹⁷⁹ § While clarifying the exposition of the phrase “with her,” an alternative interpretation attributed to Rabbi Yehuda HaNasi was mentioned. The Gemara discusses the matter itself. Rabbi Yehuda HaNasi says: The verse does not say have intercourse, but “have intercourse with her.” And it does not say and consummate the levirate marriage, but “and consummate the levirate marriage with her.” These phrases serve to prohibit rival wives and women with whom relations are forbidden. The Gemara asks: Are rival wives written here? In other words, what is the connection between the verse and the topic of rival wives, an issue that is not even mentioned in the verse? And furthermore: The prohibition with regard to rival wives is derived from the phrase “To be a rival wife [litzror],” not from this source.

¹⁸⁰ The Gemara answers: Rabbi Yehuda HaNasi derives a different halakha from the phrase “to be a rival wife,” in accordance with that statement of Rabbi Shimon. In Rabbi Shimon’s opinion, the exemption of two sisters from levirate marriage applies not only when the yavam is married to one of the sisters, but also if two sisters who come before him for levirate marriage were previously married to two of his brothers. In that case, the levirate bond itself is sufficient for them to be considered rival wives of one another.

¹⁸¹ And with regard to the previous question: Are rival wives written here? The answer is that this is what he is saying: If so, that the verse does not come to exempt rival wives, let the verse state only:

Have intercourse. What is the meaning of “have intercourse with her”? It serves to limit the case to one woman and not two, in the following manner: Anywhere that there are two possibilities of having intercourse, i.e., there is a choice between marrying one of two women in levirate marriage, in such a way that if he wants he may marry this one, and if he wants he may marry that one, then each one is permitted. And if he does not have a choice and is obligated to marry one of them, e.g., if the other is a forbidden relation to him, they are both prohibited, including the rival wife.

¹⁸² When the verse states: “And consummate the levirate marriage with her,” it comes to teach the following. It is in a place where levirate marriage is applicable that a rival wife is prohibited, whereas in a place where levirate marriage is not applicable, a rival wife is permitted. The Gemara asks: And with regard to the Rabbis, who do not interpret the verse in this manner, what do they do with this emphasis on “have intercourse with her”? How do they interpret it?

¹⁸³ The Gemara responds: They need this for that which Rabbi Yosei bar Ḥanina said, as Rabbi Yosei bar Ḥanina said: “And have intercourse with her” means marriage, i.e., she is fully his wife from that moment onward. This teaches that he divorces her with a bill of divorce after levirate marriage, and she can no longer be released by ḥalitza, and he may subsequently remarry her if he so wishes. And the verse “and consummate the levirate marriage with her,” this means against her will. Although betrothal in general does not take effect without the woman’s consent, levirate marriage can be effected against her will.

¹⁸⁴ The Gemara asks: And from where does Rabbi Yehuda HaNasi derive these widely accepted halakhot? The Gemara responds: That halakha cited by Rabbi Yosei bar Ḥanina, that a woman taken in levirate marriage has the status of a regular wife who may be divorced and remarried, is derived from the verse “and take her to him to be his wife” (Deuteronomy 25:5), which means that she will be his wife for all purposes, like any other wife. And the halakha that levirate marriage can be effected against her will is derived from “her brother-in-law will have intercourse with her,” which indicates that it can be achieved without her consent.

¹⁸⁵ The Gemara asks: And what does Rabbi Yehuda HaNasi do with this superfluous phrase, “with her”? The Gemara responds: He needs it for that which is taught in a baraita with regard to a different matter. The Sages said: The court is obligated to bring a bull as a sin-offering for an unwittingly committed communal sin on account of an erroneous halakha they taught only for a matter whose intentional transgression incurs karet and whose unwitting violation necessitates the sacrifice of a sin-offering. And similarly, the anointed High Priest, who also brings a bull for an unwittingly committed sin, is obligated to do so only if his mistake involved a matter whose intentional transgression incurs karet and whose unwitting transgression necessitates the sacrifice of a sin-offering.

¹⁸⁶ And a community brings a bull for an unwitting communal sin for idolatrous worship only if the act of idolatry involved a matter that for its intentional violation one is liable to receive karet and for its unwitting violation one is liable to bring a sin-offering. And we also learned in a mishna: With regard to any mitzva in the Torah for whose intentional violation one is liable to receive karet and for its unwitting violation one is liable to bring a sin-offering, if a private individual sinned unwittingly, he brings a ewe or a she-goat. If it was a Nasi, he brings a goat for a sin of this kind, and if the sinner was an anointed High Priest or the court, they bring a bull.

¹⁸⁷ And if they unwittingly sinned in a matter involving idolatrous worship, a private individual, a Nasi, and an anointed High Priest bring a she-goat, whereas a community brings a bull and a goat, the bull as a burnt-offering and the goat as a sin-offering. The Gemara asks: From where are these matters, that one must bring a sin-offering for this transgression, derived?

¹⁸⁸ The Gemara answers: As the Sages taught with regard to an unwitting communal sin offering: “And the sin by which they have sinned is known” (Leviticus 4:14). Rabbi Yehuda HaNasi says: It is stated here, with regard to a sin-offering: “By which [aleha],” and it is stated there, with regard to the prohibition with regard to a wife’s sister: “Unto [aleha].” This teaches by verbal analogy: Just as there, in the case of a wife’s sister, it is a matter that for its intentional violation one is liable to receive karet and for its unwitting violation one is liable to bring a sin-offering, so too here, the offering is brought for a matter that for its intentional violation one is liable to receive karet and for its unwitting violation one is liable to bring a sin-offering.

¹⁸⁹ The Gemara continues: We found a source for the halakha that the offering brought by the community is a sin-offering; from where do we derive that an anointed High Priest also brings a sin-offering for this transgression? As it is written with regard to an anointed High Priest: “If the anointed priest shall sin so as to bring guilt on the people” (Leviticus 4:3), which indicates that an anointed High Priest brings an offering like the community.

¹⁹⁰ From where is it derived that a private individual and a Nasi bring sin-offerings only for a severe transgression of this kind? This is derived by verbal analogy between the words “mitzvot” and “mitzvot” that are stated three times, with regard to the community’s sin-offering, a private individual’s sin-offering, and the sin-offering of a Nasi: “Any of the mitzvot of the Lord that He has commanded not to be done” (Leviticus 4:2, 13, 22).

¹⁹¹ And it was stated above that this halakha applies to idolatrous worship only if it involved a matter that for its intentional violation one is liable to receive karet and for its unwitting violation one is liable to bring a sin-offering. The halakha of a community that was guilty of idolatrous worship is derived by a verbal analogy between the phrases “from the eyes” and “from the eyes.” With regard to the bull for an unwitting communal sin, the verse states: “From the eyes of the assembly” (Leviticus 4:13), while concerning an unwitting sin of idol worship, it says: “From the eyes of the congregation” (Numbers 15:24). This verbal analogy teaches that a congregation brings a sin-offering for idolatrous worship only if it involved a transgression that incurs karet when performed intentionally.

¹⁹² The cases of a private individual, a Nasi, and an anointed High Priest are derived from a verse that deals with an unwitting sin of idolatry: “And if one person sin” (Numbers 15:27). All of these, a private individual, a Nasi, and an anointed High Priest, are included in this verse. In this case the principle: The letter vav adds to the previous matter, applies. When a phrase begins with the conjunction vav, meaning: And, it is a continuation of the previous matter rather than a new topic. Based on this principle, these two halakhot are connected with one another.

¹⁹³ And therefore let the lower, i.e., the second, subject, a private individual, be derived from the upper issue, the community. Just as a community brings this offering only for a transgression whose intentional violation incurs karet, the same is true of a private individual. The verbal analogy stated in this baraita is Rabbi Yehuda HaNasi’s inference from the phrase “with her.”

¹⁹⁴ § The Gemara asks: And with regard to the Rabbis, who interpret “with her” with regard to rival wives, from where do they derive this conclusion that one is liable to bring the offering for idolatrous worship only for a transgression whose intentional violation incurs karet? The Gemara answers: They derive it from that which Rabbi Yehoshua ben Levi read out to his son to teach him the verses that summarize the case of unwitting idol worship: “You shall have one law [Torah] for him that does unwittingly. But the soul that does with a high hand, whether he be home born or a stranger, he blasphemes the Lord; and that soul shall be cut off from among his people” (Numbers 15:29–30).

¹⁹⁵ In this manner, the entire Torah is juxtaposed with idolatrous worship. Just as in the case of idolatrous worship there is no obligation to bring an offering unless it is a matter that for its intentional violation one is liable to receive karet and for its unwitting violation one is liable to bring a sin-offering, as indicated by the verse: “That soul shall be cut off from among his people,” so too, the same applies to any matter that for its intentional violation one is liable to receive karet and for its unwitting violation one is liable to bring a sin-offering.

¹⁹⁶ The Gemara comments: We found a source for a private individual, a Nasi, and an anointed High Priest, whether with regard to idolatrous worship or with regard to the other mitzvot. From where is it derived that a community is liable only for an unwitting transgression of idolatrous worship of this kind? The verse states: “And if one person sin” (Numbers 15:27). Once again, the letter vav teaches that these two cases are connected, and let the upper, the first, issue of a community, be derived from the lower case, that of a private individual.

¹⁹⁷ However, from where do we derive that a community brings an offering for other mitzvot only if the intentional violation of the prohibition incurs karet? The Gemara responds: He derives it from the aforementioned verbal analogy between “from the eyes” and “from the eyes.” The Gemara asks: And what does Rabbi Yehuda HaNasi do with this verse: “One law”? The Gemara answers: He requires it for that which is taught in a baraita: Since we find that the Torah differentiates between private individuals who sinned and the many who sinned in idol worship.

¹⁹⁸ The baraita elaborates: Private individuals who worshipped idols are sentenced to stoning, and therefore their money is spared from destruction. Although the sinner is put to death, his possessions are not destroyed. By contrast, the many are condemned to the lighter death penalty of decapitation by sword, the punishment for those who worshipped idols in an idolatrous city, and therefore their money is forfeited, as by Torah law all possessions belonging to the residents of an idolatrous city must be burned.

¹⁹⁹ Due to this difference, one might have thought that we should likewise differentiate between their offerings, i.e., if an individual and a community unwittingly practiced idolatrous worship, different offerings are brought in the two cases. Therefore, the verse states: “One law for you.” The word: “you” is in the plural, which indicates that an individual and a community that worshipped idols are subject to the same halakha.

²⁰⁰ Rav Ḥilkiya from the city of Hagronya strongly objects to this: The reason for this ruling is that the Merciful One specifically writes: “One law for you,” from which it may be inferred that if that were not so, I would say that we should differentiate between the offerings of an individual and a community. If so, it is appropriate to ask: What offering would they bring if we were to differentiate? You cannot say they would bring a bull, as it is a community that sinned unwittingly in transgressing other mitzvot who bring a bull, and as this case is written separately, clearly its halakha is different.

²⁰¹ Likewise, you cannot say that they should bring a ewe, as it is an individual who sinned in transgressing the other mitzvot who brings a ewe. Nor can you say that they bring a goat, as it is a Nasi who sinned in transgressing the other mitzvot who brings a goat. And you cannot say that they would bring a bull as a burnt-offering and a goat as a sin-offering, as it is the community, i.e., the majority of Jews, who sinned in performing idolatrous worship who bring these. Rather, what might they bring? If one were to suggest a she-goat, that would not be appropriate, because this is the offering of a private individual as well, since an individual brings a ewe or a she-goat as a sin-offering. Apparently there is no need for a special inference in this case, as there are no other possibilities.

²⁰² The Gemara answers: It is necessary for a verse to teach that there is no difference between the offerings of an individual and a community, as it might enter your mind to say: Since a community that sinned by the erroneous instruction of the court that it is permitted to practice idolatry brings a bull as a burnt-offering and a goat as a sin-offering, then, when a community sins of its own accord they too should bring these animals, but the opposite, i.e., a bull as a sin-offering and a goat as a burnt-offering.

²⁰³ Alternatively, it could be argued: Theoretically a community must bring a different form of atonement from that of an individual, yet they have no remedy, as the Torah did not specify which offering is brought for a sin of the many. Therefore, the verse teaches us by means of the phrase “one law for you” that there is indeed an offering for the many who practiced idol worship.

²⁰⁴ § After discussing different interpretations of the relevant verses, the Gemara addresses the details of the halakhot of the mishna. It first considers the numbers that comprise the structure of the mishna as a whole. The Sage Levi said to Rabbi Yehuda HaNasi: Why does the tanna specifically teach the cases of fifteen women? Let him teach the cases of sixteen women, including the case of a rival wife of a forbidden relation. Rabbi Yehuda HaNasi said to him: Judging by his question, it seems to me that this Sage has no brain in his head.

²⁰⁵ Rabbi Yehuda HaNasi proceeded to explain the question and the answer himself: What is your thinking? Is it that the tanna should have included the case of his mother who had been raped by his father? In the opinion of the Rabbis, a woman raped by one’s father is permitted in marriage to another of his sons. Consequently, it is possible that she might give birth to a son and later marry one of the other sons of the rapist. If her husband subsequently died childless, this woman would come before the brother of the deceased for levirate marriage, who is in this case her son. If so, there are in fact sixteen women with whom relations are forbidden.

²⁰⁶ However, continued Rabbi Yehuda HaNasi, this is incorrect, as the case of his mother raped by his father is a matter of dispute between Rabbi Yehuda and the Rabbis. According to Rabbi Yehuda, a woman raped by one’s father could never come before him for levirate marriage, as it is prohibited for her to marry his brothers. And the tanna of this mishna does not deal with disputed cases. The mishna enumerates only those cases that are accepted by all opinions, not those that are a matter of dispute.

²⁰⁷ The Gemara asks: And does the tanna really not mention disputed cases? But there are the cases of a prohibition resulting from a mitzva of the Sages, and a prohibition stemming from sanctity. In other words, the tanna does refer to the cases of a woman who one is prohibited to marry by decree

of the Sages, e.g., a distant secondary forbidden relation, and one who is prohibited due to a regular prohibition that preserves the sanctity of the Jewish people or the priesthood.

²⁰⁸ These are cases concerning which Rabbi Akiva and the Rabbis disagree whether these women are entirely exempt from both levirate marriage and ḥalitza like a forbidden relation, or whether the mitzva of levirate marriage does in fact apply but since the yavam may not marry her in practice, she must be released by ḥalitza. And yet these disputed cases are taught in the mishna.

²⁰⁹ The Gemara responds: When we say that only accepted halakhot are included in the mishna, we are referring only to our present chapter, whereas the dispute between Rabbi Akiva and the Rabbis is stated in the second chapter. The Gemara raises a difficulty: But in this chapter it is stated that Beit Shammai permit rival wives to the brothers, as they hold that there is no prohibition against rival wives of those with whom relations are forbidden, and Beit Hillel prohibit this. Evidently, the first chapter does deal with disputed cases.

²¹⁰ The Gemara answers: When Beit Shammai express an opinion where Beit Hillel disagree, their opinion is considered as if it were not in the mishna, i.e., it is completely disregarded, as it is commonly accepted that the opinion of Beit Shammai is rejected and not ruled as halakha. Therefore, this cannot be considered a true dispute. The Gemara raises a further difficulty: But there is the case of a wife of a brother with whom he did not coexist, i.e., the yavam was not alive at the time of his brother's death.

²¹¹ This is a case concerning which Rabbi Shimon and the Rabbis disagree, and yet it is taught. If this halakha is taught, evidently this mishna does deal with matters subject to dispute. The Gemara answers that Rabbi Shimon does not disagree with the Rabbis concerning all cases of a wife of a brother with whom he did not coexist. If this yavam was born after his brother's death, he concedes that the obligation of levirate marriage does not apply to the newborn yavam. Rather, the yevama is prohibited to him as his brother's wife.

²¹² Furthermore, in a case where he was born and at the end, i.e., afterward, a second older brother entered into levirate marriage with the yevama and subsequently died as well, and the same woman again came before that same younger brother, Rabbi Shimon did not disagree with the opinion of the Rabbis here either, as he admits that this woman is permanently forbidden to him because when he was born she was classified as the wife of a brother with whom he did not coexist.

²¹³ In fact, Rabbi Shimon disagreed only with regard to a different case, when there were two brothers, one of whom died, and the second took the yevama in levirate marriage. If a third brother was subsequently born and afterward the second brother died, Rabbi Shimon maintains that the youngest brother may enter into levirate marriage with this woman because she was never forbidden to him, as what occurred prior to his birth is of no relevance. Since even in Rabbi Shimon's opinion it is possible to find a case in which the wife of a brother with whom he did not coexist is forbidden to him, it can be claimed that the mishna is taught in accordance with all opinions. The Gemara raises a difficulty: But didn't Rabbi Oshaya say that Rabbi Shimon disagreed even with regard to the first case? In other words, Rabbi Shimon disagreed not only in the case of a woman who entered into levirate marriage before the young brother was born, but even if the young brother was born before the initial levirate marriage took place.

²¹⁴ The Gemara rejects this suggestion: This statement of Rabbi Oshaya was conclusively refuted. Consequently, it remains possible to say that the mishna does not deal with disputes. The Gemara

raises a difficulty from another angle. The third chapter discusses a case involving four brothers, two of whom passed away after they were married to two sisters. As a result, the two sisters simultaneously came before the surviving brothers for levirate marriage or *ḥalitza*. The Sages ruled that in this case the brothers may not enter into levirate marriage with the sisters, as it is as though the two sisters came before each brother individually, and due to the levirate bond each sister was, in a sense, considered married to each brother to a certain extent. Consequently, for each brother the other sister is viewed as his wife's sister, as it were, and is forbidden to him. Since this occurs to both sisters simultaneously, it is prohibited for both of them to enter into levirate marriage. However, the Sages further said that if one of these sisters was a forbidden relation to one of the surviving brothers, e.g., if he had married her daughter or some other relative, the second sister, to whom he is not a close relative, is permitted to him. If the same applies to the other brother and the second sister, the two brothers could perform *ḥalitza* with the two sisters or even enter into levirate marriage with them.

²¹⁵ With this in mind, the Gemara states its objection: And didn't Rav Yehuda say that Rav said, and likewise Rabbi Ḥiyya taught in a baraita: With regard to all of those fifteen women enumerated in the mishna, it is possible to find a scenario in which I would call them: The woman who is forbidden to this brother is permitted to that brother, and the one who is forbidden to this brother is permitted to that brother. And consequently, her sister who is her sister-in-law performs *ḥalitza* or enters into levirate marriage. This complex situation can be demonstrated with regard to each of the women enumerated in the mishna, e.g., if one sister is the mother-in-law of one brother, and the second sister is the mother-in-law of the second brother, and so on.

²¹⁶ And Rav Yehuda explains that this is not true of all of the women listed in the mishna. Only from the case of his mother-in-law and onward, until the end of the list, is it possible for one sister to be a forbidden relation to one brother and the other sister not to be forbidden at all. However, in the first six cases, no, this option does not apply. What is the reason for this?

²¹⁷ Since, for example, in the case of one's daughter, although it is possible that one of the sisters is the daughter of one of the brothers, her mother is prohibited to all of the brothers as their brother's wife, and therefore she could not possibly have a daughter from another brother. This case is possible only if one brother raped a woman who subsequently gave birth to his daughter. Since the prohibition with regard to a brother's wife applies only in the case of marriage, this same woman is not forbidden to a different brother. If another brother came and raped her as well and she gave birth to his daughter too, and these two daughters later married two other brothers, each of these sisters who are sisters-in-law is forbidden to one of the brothers but permitted to the other.

²¹⁸ Accordingly, in the case of rape you can find this scenario, but in the case of marriage you cannot find it. However, the mishna cannot be interpreted as referring to a case of this kind, as it deals with marriage and it does not deal with rape.

²¹⁹ And Abaye explains differently, as he would include in this scenario even his daughter from the woman he raped. Why would he include this case? Since you can find this possibility, if you wish it can be by rape, and if you wish it can be by marriage, i.e., regardless of the details, this situation can occur. However, the last case, that of a wife of a brother with whom he did not coexist, he would not include. What is the reason for this?

²²⁰ Since it is only according to the opinion of Rabbi Shimon that you find this potential scenario, as he permits a yevama to her yavam in a case where he was born after she first entered levirate marriage, it is therefore possible that one sister might be forbidden to one brother if he was born before his brother took her in levirate marriage. Likewise, another sister might be forbidden to another brother for the same reason, although the first woman would be permitted to him, as in his lifetime she was never the wife of a brother with whom he did not coexist. According to the opinion of the Rabbis, however, you cannot find this scenario, and the mishna does not deal with disputes but only with those cases that are accepted by all opinions.

²²¹ But Rav Safra explains that the possibility of one brother permitted only to one woman and another brother likewise permitted only to one woman exists even in the case of a wife of a brother with whom he did not coexist, and you can find this scenario in a case involving six brothers, and this is in accordance with the opinion of Rabbi Shimon.

²²² And your mnemonic to remember how this might occur is as follows: Died, was born, entered into levirate marriage, died, was born, entered into levirate marriage. In other words, there were several brothers, and one, Reuven, died, before another, Yissakhar, was born, and another brother, Shimon, entered into levirate marriage with the deceased's wife, and there was another brother, Levi, who died as well, and yet another brother, Zevulun, was born, and a sixth brother, Yehuda, entered into levirate marriage with the deceased's wife. In this case, if Shimon and Yehuda were to die childless, their wives would come before the surviving brothers, Yissakhar and Zevulun, for levirate marriage. To one of them, Yissakhar, the wife of the first brother, Reuven, is prohibited, and for the other brother, Zevulun, the wife of the second brother, Levi, is likewise prohibited. This is an example of the type of case analyzed in the third chapter, in which the ruling is that the woman who is forbidden to this brother is permitted to that one, and she who is forbidden to this one is permitted to that one. In any case, Rabbi Ḥiyya incorporates the opinion of Rabbi Shimon into this principle, as he maintains that this scenario can apply to each case stated in the mishna. If so, the mishna evidently does deal with disputed legal rulings. How, then, can Rabbi Yehuda HaNasi claim that the cases of the mishna are unanimous?

²²³ § Rather, Rabbi Yehuda HaNasi does not hold in accordance with these general statements applied by Rabbi Ḥiyya, and therefore he maintains that no issue subject to dispute was taught in the mishna. Rav Adda Karḥina, who was sitting before Rav Kahana, said in the name of Rava: Actually, one can explain that Rabbi does hold in accordance with these general statements laid out by Rabbi Ḥiyya. And this is what he said to Levi: In the case of his mother who had been raped by his father, you find this case with only one of the women; however, you cannot find it with two. In other words, the terms mentioned by Rabbi Ḥiyya above: She who is forbidden to this one is permitted to that one, and: A sister who is a sister-in-law performs either ḥalitza or levirate marriage, apply only partly to this complex case.

²²⁴ The Gemara elaborates: If Ya'akov, the father, raped two sisters who gave birth to two sons, and he had two other sons who married these raped sisters and died, in this scenario you find a case of her sister who is her sister-in-law, as there is a yevama who comes before one of the brothers who is a forbidden relative and also a sister and a sister-in-law of another yevama. However, you cannot find the principle of: She who is forbidden to this one is permitted to that one. Although it is possible that

one's brother's wife who is one's mother might come before one for levirate marriage, just as he is forbidden to his mother, he is likewise forbidden to his mother's sister.

²²⁵ And if the father raped two unrelated women, who gave birth to two sons and then married two other sons of the same father who subsequently died, you find the case of: She who is forbidden to this one is permitted to that one, as each of the two raped women comes before one of the brothers for levirate marriage while she is forbidden to the other as his mother. However, you do not find a situation of: Her sister who is her sister-in-law. Therefore, the case of one's mother who was raped by one's father cannot be included in the list of the mishna, as the characteristics stated by Rabbi Ḥiyya do not apply to this case.

²²⁶ § Rav Ashi stated a different explanation: Actually, Rabbi Yehuda HaNasi does not hold in accordance with these general statements of Rabbi Ḥiyya, and the mishna does deal with halakhot that are in dispute. According to his opinion, what is the meaning of the phrase: It seems to me that he has no brain in his head, that Rabbi Yehuda HaNasi said to Levi?

²²⁷ According to Rav Ashi, this is what Rabbi Yehuda HaNasi said to Levi: What is the reason that you were not precise in your interpretation of the mishna? As the mishna is in accordance with the opinion of Rabbi Yehuda, who prohibited the case of a woman who was raped by one's father. Accordingly, the rulings of the mishna cannot be attributed to any opinion that is not in line with that of Rabbi Yehuda. What is the proof that this mishna is indeed in accordance with the opinion of Rabbi Yehuda?

²²⁸ As it teaches in the next mishna: Six women with whom relations are forbidden are more severe than these enumerated in the previous mishna, because they may marry only others and can never be married to any of the brothers, and therefore their rival wives are permitted. These women include: His mother, his father's wife, and his father's sister. Rav Ashi infers: What is the meaning of: His mother? If we say that this mother is married to his father, then this is the same case as: His father's wife, which would mean that the mishna lists only five cases, not six.

²²⁹ Rather, is it not referring to a woman raped by his father? And it is taught in the mishna that the halakhot of levirate marriage do not apply to them because they may marry only others, which indicates: Others, yes; the brothers, no. Since each of the brothers are sons of the same father, each one is prohibited from marrying the mother of one of the other brothers, as although she is not his mother, she is nevertheless a woman raped by his father, whom one may not marry. Who did you hear who holds in accordance with this conclusion that a woman raped by one's father is prohibited to all his sons? It is Rabbi Yehuda who prohibits a woman raped by his father. Due to that reason the case of a woman raped by one's father was not taught in the first mishna.

²³⁰ Ravina said to Rav Ashi: Even according to the opinion of Rabbi Yehuda you can find this possibility that a woman raped by a father comes before the son for levirate marriage. What if one of the brothers transgressed and married a woman raped by his father? Even Rabbi Yehuda concedes that this is a violation of a regular prohibition that does not incur karet, and therefore the marriage is valid. Consequently, if this brother died childless, this woman would come before her son for levirate marriage. The Gemara rejects this proof: The tanna does not teach cases of what if, i.e., the mishna does not cite an example that could result only from a transgression.

²³¹ Rav Ashi said to Rav Kahana: Even without a hypothetical: What if, you can find an example of a woman raped by a father who is not forbidden to the son in marriage. How so? Ya'akov, the father,

raped his daughter-in-law, from whom he fathered a son. And the son, Reuven, the husband of the daughter-in-law, died childless. And as Ya'akov had two sons, the deceased Reuven and a son by Reuven's wife whom Ya'akov had raped, Reuven's wife would then come before her son for levirate marriage. And since she is forbidden, her rival wife is also forbidden. Consequently, a case of this kind is possible without the levirate marriage resulting from an illicit marriage.

²³² Rav Kahana said to Rav Ashi: The mishna deals with cases of legitimate brothers, whereas it does not deal with cases of illegitimate brothers. The offspring of a man who rapes his daughter-in-law is a mamzer, and cases of this kind are not discussed in the mishna. The Gemara comments: Nevertheless, despite Rabbi Yehuda HaNasi's criticism, Levi established this additional possibility of a woman raped by one's father in his mishnayot.

²³³ As Levi taught in his baraita: With regard to the case of his mother, at times she exempts her rival wife, and at other times she does not exempt her rival wife. How so? If his mother was married to his father and after his father's death she illicitly married her son's paternal brother, who then died, this is a case of: His mother who does not exempt her rival wife. The reason is that her marriage to his brother does not take effect at all, as it was forbidden on pain of karet. Since this marriage never occurred, only the other wife, the so-called rival wife, is considered a wife of the brother, and she may enter into levirate marriage.

²³⁴ If, however, his mother was a woman who was raped by his father and subsequently married his paternal brother, and the brother died, this is a case of his mother who exempts her rival wife. According to the opinion of the Rabbis this marriage is permitted, and even according to the opinion of Rabbi Yehuda the marriage is valid despite the transgression. Consequently, both the mother and her rival wife come before the son for levirate marriage. Since the mother is a forbidden relation to him, her rival wife is exempt as well.

²³⁵ And although the Sages taught in the mishna: Fifteen women, we must add a sixteenth case, for example, the situation described above. Reish Lakish said to Rabbi Yoḥanan: According to the opinion of Levi, who said that the mishna teaches even cases of: What if, which involve a transgression, let the mishna also teach the case of one who performs ḥalitza with his yevama and went back and betrothed her, and then died childless. His betrothal is a transgression, as after ḥalitza the yevama is permanently forbidden to him. As, in this case, since she is forbidden to all the brothers, due to the ḥalitza performed by the deceased yavam, her rival wife is also forbidden. This is an additional case of a woman who exempts her rival wife.

²³⁶ Rabbi Yoḥanan said to Reish Lakish: This example is not cited because the case does not include the possibility of a rival wife of a rival wife. All of the other cases listed in the mishna involve both rival wives and rival wives of rival wives. Here, however, this is impossible, as the same prohibition applies equally to all of the brothers, and therefore none of them may marry her.

²³⁷ The Gemara asks: And let Rabbi Yoḥanan say a different answer to Reish Lakish, as he could simply have pointed out that marriage to a woman who had performed ḥalitza is not a violation that incurs karet, neither for the one who performed the ḥalitza nor for his brothers if they marry her after he dies. Rather, it is an act for which they are liable for violating a regular prohibition, and those liable for violating a prohibition are obligated in ḥalitza and levirate marriage. In these cases the mitzva of levirate marriage still applies, and although the woman should be released by ḥalitza, she is not entirely exempt from levirate marriage, and therefore her rival wife is not exempt either.

²³⁸ The Gemara responds that Rabbi Yoḥanan is speaking in accordance with the statement of Reish Lakish, as follows: According to my opinion your question is groundless, as they are liable for violating a prohibition, and those liable for violating a prohibition are obligated in ḥalitza and levirate marriage. However, according to your opinion, those brothers who marry a yevama who had performed ḥalitza are liable to receive karet, and therefore you must resolve the difficulty by saying that the mishna did not teach this case because it does not include the possibility of a rival wife of a rival wife.

²³⁹ The Gemara discusses the dispute alluded to in the previous paragraph. It was stated: With regard to one who performs ḥalitza with his yevama and went back and betrothed her, Reish Lakish said: The brother who earlier performed ḥalitza is not liable to receive karet for returning to the yevama who performed ḥalitza [ḥalutza]. She is no longer forbidden as a brother's wife, although she is forbidden by a regular prohibition.

²⁴⁰ And the brothers who did not actually perform the ḥalitza are liable to receive karet for having relations with a ḥalutza. In their case, the woman retains her status as a forbidden brother's wife even after the ḥalitza. With regard to the rival wife of the ḥalutza, although she too is released from the levirate bond, since the act of ḥalitza itself was not performed with her, both the brother who performed the ḥalitza and the other brothers are liable to receive karet for having relations with the rival wife, as she retains her forbidden status as a brother's wife.

²⁴¹ And Rabbi Yoḥanan said: Neither he nor the other brothers are liable to receive karet, neither for the ḥalutza nor for having relations with the rival wife. The Gemara explains: What is the rationale of Reish Lakish? The verse states with regard to one who performs ḥalitza with his yevama: "Who does not build up his brother's house" (Deuteronomy 25:9), which teaches that since he did not build his brother's house by entering into levirate marriage, opting instead for ḥalitza, he shall never build it again. This statement is understood not only as a negative description of events, but also as a prohibition against marrying this woman at any point in the future.

²⁴² However, it is the man who performed the act of ḥalitza who stands liable to receive punishment for violating this prohibition of: Does not build up, i.e., the prohibition against marrying his ḥalutza. For him the prohibition involving karet has been replaced by the regular prohibition of: Who does not build up his brother's house. However, with regard to his brothers, where they stood before, they stand now. In other words, just as before the mitzva of levirate marriage applied to them this woman was forbidden to them as a brother's wife, once the obligation of levirate marriage has been removed they remain bound by the same prohibition. Consequently, she is forbidden to the brothers on pain of karet.

²⁴³ And furthermore, only with regard to her, the ḥalutza, does he stand liable for: Does not build up, but as for the rival wife, who did not perform ḥalitza, where all the brothers stood before, they stand now. Just as before her rival wife performed ḥalitza she was forbidden on pain of karet, the same applies after the ḥalitza, both for the man who performed ḥalitza and his brothers.

²⁴⁴ And Rabbi Yoḥanan claims: Is there anything of this kind in halakha? After all, at the outset, before the ḥalitza, if this brother wanted he could perform ḥalitza, and if that brother wanted he could perform ḥalitza, and if he wanted he could perform ḥalitza with this woman and if he wanted he could perform ḥalitza with that woman. All the deceased brother's wives were included in the levirate obligation of marriage or ḥalitza, and therefore the prohibition proscribing a brother's wife

was negated for all of them at that time. And now, after the ḥalitza, they stand to incur karet for having relations with her? How can the prohibition proscribing a brother's wife return after it was nullified by the death of the childless brother?

²⁴⁵ Rather, he who performs ḥalitza performs the agency of the other brothers, and therefore he also releases her from the levirate bond of his brothers. Similarly, she who performs ḥalitza performs the agency of the rival wife, as the ḥalitza of one wife serves to release the other one as well. Consequently, it is as though all of the brothers released all of the wives, and there is no longer any prohibition that incurs karet.

²⁴⁶ § The Gemara cites the ensuing discussion between the two disputing Sages. Rabbi Yoḥanan raised an objection to the opinion of Reish Lakish from a baraita: In the case of one who performs ḥalitza with his yevama and went back and betrothed her, and then died, she requires ḥalitza from one of the brothers. Granted, this makes sense according to my opinion, as I say that brothers who marry a ḥalitza are liable only for violating a prohibition, and that is why she requires ḥalitza from the other brothers. The principle is that a woman with whom relations are forbidden by a regular prohibition that does not incur karet may not enter into levirate marriage, but she must undergo ḥalitza.

²⁴⁷ However, according to your opinion that the penalty of karet does apply here, why does she require ḥalitza at all? The penalty of karet indicates that the betrothal did not take effect at all, and therefore she is not bound to the brothers with regard to the requirement of ḥalitza.

²⁴⁸ Reish Lakish answered: And according to your reasoning, how would you state and explain the latter clause of the baraita: If one of the brothers arose and betrothed her, she has no claims on him, i.e., the marriage does not take effect at all and she does not require a bill of divorce from him? But if the brothers are liable only for violating a prohibition, why does she have no claim on him? After all, in cases of regular prohibitions a betrothal is valid. According to my opinion that these brothers are liable to receive karet the matter is clear, as the betrothal is invalid. This indicates that there is a contradiction between the first and latter clauses of the baraita. How, then, can Rabbi Yoḥanan cite a proof from an apparently flawed baraita?

²⁴⁹ Rav Sheshet said in resolution of this contradiction: In the latter clause of the baraita we have come to a different opinion, that of Rabbi Akiva, who said: Betrothal with those who are forbidden as they are liable for violating a prohibition is not valid. In Rabbi Akiva's opinion there is no difference between regular prohibitions and prohibitions that incur karet in this regard, as in both cases the betrothals are invalid. The Gemara raises a difficulty: But if the first clause of the baraita is in accordance with the opinion of the Rabbis, while the latter clause is in accordance with a different opinion, let the mishna teach explicitly: According to the statement of Rabbi Akiva she has no claims on him, as this represents a different opinion.

²⁵⁰ § The Gemara comments: Rav Sheshet's explanation of the contradiction between the first clause and latter clause of the baraita is difficult. Consequently, the Gemara cites different resolutions of this contradiction. Rav Ashi holds in accordance with the opinion of Reish Lakish and resolves the baraita in accordance with the opinion of Rabbi Shimon. Ravina, in contrast, holds in accordance with the opinion of Rabbi Yoḥanan and resolves the baraita in accordance with the opinion of the Rabbis.

²⁵¹ The Gemara elaborates: Rav Ashi holds in accordance with the opinion of Reish Lakish and resolves the baraita in accordance with the opinion of Rabbi Shimon. This is his interpretation: In the case of one who performs ḥalitza with his yevama and went back and betrothed her, and then died, she requires ḥalitza from one of the brothers. Who are the brothers referred to here?

²⁵² Rav Ashi explains that they are the newborn brothers, i.e., those who were born only after the brother betrothed her. Consequently, although this woman was the wife of the first deceased brother before they were born, after their birth she was already the wife of a living brother. Therefore, the prohibition of a wife of a brother with whom he did not coexist never applied, and she requires ḥalitza. In accordance with whose opinion is this ruling? It is in accordance with the opinion of Rabbi Shimon, who maintains that in a case of this kind the brothers are not considered to be coexisting.

²⁵³ Meanwhile, the latter clause speaks of a case where one of the brothers who was born in the lifetime of the first brother arose and betrothed her, after another brother had performed ḥalitza. In this case, she has no claims of a bill of divorce on him. In accordance with whose opinion is this ruling? It is in accordance with the opinion of Reish Lakish, who maintains that the penalty of karet applies in this case, and therefore the betrothal is entirely invalid.

²⁵⁴ The Gemara continues its explanation of the opinions. Ravina holds in accordance with the opinion of Rabbi Yoḥanan and resolves the baraita in accordance with the opinion of the Rabbis. How so? In the case of one who performs ḥalitza with his yevama and went back and betrothed her and then died, she requires ḥalitza from one of the brothers. Who are these brothers? This is referring to the brothers already born in the lifetime of the first brother. In accordance with whose opinion is this interpretation? It is in accordance with the opinion of Rabbi Yoḥanan, who held that this case constitutes a regular prohibition. Consequently, the yevama is not exempt from the obligation of ḥalitza.

²⁵⁵ If one of the newborn brothers, who were born after the death of the first brother, arose and betrothed her, she has no claim on him. Since he is considered a brother who did not coexist with his deceased brother, the yevama is prohibited to him as a brother's wife, and as this prohibition entails karet, the betrothal is invalid. This is the halakha even if he was born after the second deceased brother betrothed her. In accordance with whose opinion is this ruling? It is in accordance with the opinion of the Rabbis, who maintain that the prohibition of a wife of a brother with whom one did not coexist applies even to a brother's widow who entered into levirate marriage before the younger brother was born.

²⁵⁶ It was stated that there is a similar dispute between amora'im with regard to one who had relations with his yevama and thereby performed the mitzva of levirate marriage as required, and one of the other brothers had relations with her rival wife. Rav Aḥa and Ravina disagree with regard to this matter. One said: The second brother is liable to receive karet. And the other one said that he is in violation of only a positive mitzva. The verse: "Who does not build up his brother's house" (Deuteronomy 25:9), is a positive mitzva, as it teaches that one house may be built up, but not two houses, i.e., no more than one wife of a deceased brother may be married by one of his brothers. Any mitzva formulated as a positive injunction has the status of a positive mitzva, even if it is violated by the performance of an action, in the manner of a prohibition.

²⁵⁷ The Gemara explains: The one who said that he is liable to receive karet holds in accordance with the opinion of Reish Lakish, who maintains that after the mitzva is performed with one yevama who

required levirate marriage, the prohibition of a brother's wife is once again fully applicable to her rival wife. And the one who said that he is in violation of only a positive mitzva holds in accordance with the opinion of Rabbi Yoḥanan.

²⁵⁸ The Gemara further analyzes the list of women exempt from levirate marriage. Rav Yehuda said that Rav said: The rival wife of a sota is forbidden. In this context, sota refers to an unfaithful wife. If the husband died, the unfaithful wife and her rival wife are exempt from both ḥalitza and levirate marriage.

²⁵⁹ What is the reason for this? The term defilement is written in that passage dealing with an unfaithful wife: "She being defiled secretly" (Numbers 5:13), just as defilement is written with regard to those with whom relations are forbidden in the verse: "Defile not yourselves in any of these things, for in all these the nations are defiled, which I cast out from before you" (Leviticus 18:24). This teaches that the halakha of an unfaithful wife is like that of a woman with whom relations are forbidden; both she and her rival wife are exempt from levirate marriage and ḥalitza.

²⁶⁰ Rav Ḥisda raised an objection to this from the case of a woman who heard that her husband had died and remarried, only afterward to discover that he had still been alive at that time before dying later. What is the halakha in this case? Rabbi Shimon says: Her relations with or ḥalitza from the brother of the first husband exempts her rival wife. This shows that the obligation of levirate marriage applies to this woman. Although she lived as a married woman with someone else during her husband's lifetime, Rabbi Shimon nevertheless maintains that her sexual intercourse or ḥalitza fulfills the mitzva of levirate marriage and exempts her rival wife. This suggests that the rival wife of an unfaithful wife requires levirate marriage.

²⁶¹ The Gemara answers that Rav could have said to you in response: I spoke to you about the halakha of a sota by Torah law, i.e., a wife who was intentionally unfaithful, and you speak to me of a sota by rabbinic law? The case you mentioned is an unavoidable accident, as the wife married another man only because she received testimony that her husband was deceased. When the Sages instituted that she was forbidden to both her first and second husbands, this was a penalty designed to ensure that women would examine testimony of this kind very thoroughly. However, this is not a case of a sota by Torah law, as she was not intentionally unfaithful, and therefore the mitzva of levirate marriage certainly applies to her.

²⁶² Since this response is overwhelmingly obvious, the Gemara asks: And he who asked it, why did he ask it? There are apparently no grounds for this comparison at all. The Gemara explains: He held that all ordinances that the Sages instituted, they instituted parallel to Torah law. Consequently, if a sota by Torah law is exempt from levirate marriage and exempts her rival wife as though she were a forbidden relative, the same should apply to a sota by rabbinic law.

²⁶³ Rav Ashi raised an objection to Rav's opinion from a different source: The halakha is that a wife who was warned by her husband not to be secluded with a specific man and yet entered alone with him in private, and remained with him long enough to be defiled, i.e., sufficient time to have sexual relations, she is forbidden to her house, i.e., her husband, from that moment until she undergoes the sota ritual. And likewise, if she was the wife of a priest she is prohibited from partaking of teruma, as she was possibly disqualified by unfaithfulness. And if he dies, she performs ḥalitza

²⁶⁴ and may not enter into levirate marriage. This indicates that the levirate bond does apply to a sota, which contradicts Rav's statement. The Gemara retorts that Rav could have said to you: I spoke

to you about a sota whose infidelity was definite, and you speak to me of an uncertain sota. There is no proof that this wife who secluded herself with another man was actually unfaithful, and due to the uncertainty she must still undergo ḥalitza. The Gemara raises a difficulty: And what is different about a definite sota? Is it different because the term defilement is written with regard to her?

²⁶⁵ But with regard to an uncertain sota, who was alone with a specific man enough time to engage in relations, defilement is written as well. As it is taught in a baraita: Rabbi Yosei ben Keifar said in the name of Rabbi Elazar: With regard to one who remarries his divorcée after she had been married to another man, an act prohibited by Torah law, if he remarried her following actual marriage to another, she is forbidden to her first husband. However, if he remarried her following mere betrothal to another man, she is permitted, because it is stated: “Her former husband, who sent her away, may not take her again to be his wife, after she was defiled” (Deuteronomy 24:4), and a woman who was merely betrothed was never defiled, as no sexual relations had taken place.

²⁶⁶ And the Rabbis say: Both this one and that one, i.e., whether she had been fully married or merely betrothed to another, she is forbidden to her first husband. Rather, how do I establish the phrase: “After she was defiled”? This verse does not refer at all to the case of a woman who married another man lawfully, as she is not called “defiled.” Rather, it comes to include a sota who secluded herself with another man, as she is forbidden to her husband due to the concern that she might have committed adultery. This baraita shows that a sota is termed “defiled,” despite the fact that hers is an uncertain case.

²⁶⁷ The Gemara rejects this argument: And what does: Secluded herself, mean in this context? It means that she had actually engaged in relations. And why does the baraita call this: Secluded herself, instead of the more straightforward: Engaged in sexual relations? The baraita employed a euphemistic expression, but it actually means that she engaged in intercourse. The Gemara asks: If this is referring to a woman who had engaged in relations, the term defilement is already explicitly written with regard to her, in the chapter that deals with a sota. Why is it necessary to derive that she is defiled from a different source, as in the context of a sota herself the verse states: “She being defiled secretly” (Numbers 5:13)?

²⁶⁸ The Gemara explains that “may not take her again to be his wife after she was defiled” does not teach that she is called “defiled,” but rather that the halakha establishes upon her a prohibition. In other words, if the husband engages in relations with his wife after she had had intercourse with another, he transgresses a prohibition. And the Gemara comments that Rabbi Yosei ben Keifar does not hold the opinion that there is a prohibition in the case of a sota, as he maintains that a husband who has relations with his sota wife does not transgress any prohibition at all, and the same is true even if she definitely fornicated with another man.

²⁶⁹ What is the rationale of Rabbi Yosei ben Keifar? In his opinion, “after she was defiled” does not refer to a sota but to a woman who had been legally divorced from her first husband and subsequently married another man. This is indicated by the fact that both becoming, i.e., betrothal, and matrimony are written in this context: “Becomes another man’s wife” (Deuteronomy 24:2) and: “Or if the latter husband die, who took her to be his wife” (Deuteronomy 24:3). Here it is clear that the reference is to halakhically valid marriage, whereas a sota had never been another man’s wife, as she cannot marry another man while she is still married.

²⁷⁰ § The Gemara discusses a similar case. Rav Yehuda raised a dilemma before Rav Sheshet: In the case of one who remarries his divorcée after she had married another, and then he dies childless, what is the halakha with regard to the levirate marriage of her rival wife? According to the opinion of Rabbi Yosei ben Keifar, do not raise the dilemma, since Rabbi Yosei ben Keifar said that it is with regard to one who remarries his divorcée that defilement is written, and therefore the status of her rival wife is the same as hers.

²⁷¹ And if one would claim that the dilemma does in fact arise because it is written: “That is an abomination” (Deuteronomy 24:4), and the emphasis on “that” serves to limit the range of the prohibition and teaches that this halakha applies only to her and not her rival wife, still, the accepted interpretation of this verse is as follows: She is an abomination, but her children are not abominations. In other words, if he transgressed the prohibition and remarried this woman, their children are not disqualified from marrying priests. If so, the term “that” does not come to exclude her rival wife from this halakha, and therefore her rival wife is an abomination for the purposes of levirate marriage, just like the wife herself, and she too is exempt.

²⁷² Rather, let the dilemma be raised according to the opinion of the Rabbis. Although the Rabbis said that it is with regard to a sota that defilement is written, perhaps here they apply the principle that a verse does not depart from its literal meaning. In other words, notwithstanding the fact that the Rabbis derive from here a halakhic ruling concerning a sota, the straightforward meaning of the verse should not be entirely disregarded. Accordingly, as the context here is remarriage to one’s divorced wife, this verse would teach that hers is a case of defilement.

²⁷³ Or perhaps once a verse is uprooted from its context, it is entirely uprooted and no longer teaches anything about the subject matter of the chapter in which it is written. This would mean that the sole significance of this particular verse is in reference to a sota. There are those who say the opposite: According to the opinion of the Rabbis, do not raise the dilemma, as once a verse is uprooted from its context, it is entirely uprooted. Consequently, there is no defilement when a man remarries his divorcée, neither with regard to her nor concerning her rival wife.

²⁷⁴ Rather, let the dilemma be raised according to the opinion of Rabbi Yosei ben Keifar. What is the dilemma? Although Rabbi Yosei ben Keifar said that it is with regard to one who remarries his divorcée that defilement is written, one can ask: Does the Merciful One limit this halakha by the phrase “that is an abomination,” which indicates: And her rival wife is not an abomination? Or perhaps this verse teaches that she is an abomination but her children are not abominations, which indicates that her rival wife is an abomination.

²⁷⁵ Rav Sheshet said to him: You learned it in a baraita that deals with a case of two yevamot who came before a yavam for levirate marriage. In a situation where one of the women was fit and the other disqualified, if he would like to perform ḥalitza he performs ḥalitza with the disqualified woman, and if he would like to enter into levirate marriage he enters into levirate marriage with the fit woman.

²⁷⁶ Rav Sheshet analyzes this baraita: What is the meaning of fit, and what is the meaning of disqualified? If we say that fit means fit for all men, and disqualified means disqualified in general, e.g., a woman who had already been divorced is disqualified from marrying any priest, despite the fact that she is fit to marry this particular man himself, then since for him she is suitable, what difference does it make for him whether she is disqualified from or fit for marriage to others?

²⁷⁷ Rather, is it not the case that fit means fit for him, and disqualified means disqualified for him? And what is that case in which a woman is fit or disqualified only with regard to him but not any other man? This is evidently referring to the case of one who remarries his divorcée. The deceased brother had remarried his divorced wife after she had married another man, and therefore she is disqualified from entering into levirate marriage with that particular man but she is permitted to other men. And it is taught there that if he would like to enter into levirate marriage, he may enter into levirate marriage even with the fit woman. This indicates that the rival wife of a remarried divorcée is fit for levirate marriage.

²⁷⁸ The Gemara rejects this argument: No; actually, fit means fit to all men, and disqualified means disqualified in general, e.g., a woman who had already been divorced is disqualified from marrying any priest. And that which you said: Since for him she is suitable what difference does it make for him, this is significant because of the statement of Rav Yosef.

²⁷⁹ As Rav Yosef said: Here Rabbi Yehuda HaNasi taught a valuable moral lesson, that a person should not pour the water from his well when others are in need of it. That is, one should not cause loss in any situation, even when this relates to his own personal life, if he might thereby cause a future loss to others. The same reasoning applies here: If he intends to perform ḥalitza it does not matter to him which of the women he chooses, but if he does so with the one who is fit to others, he thereby disqualifies her from marrying a priest, as the legal status of a woman who underwent ḥalitza is like that of a divorcée. It is therefore preferable to perform ḥalitza with the one who in any case was disqualified from marrying a priest.

²⁸⁰ The Gemara suggests: Come and hear a different baraita: With regard to one who remarries his divorcée after she had married another, she and her rival wife perform ḥalitza. The Gemara first analyzes the wording of the baraita: Can it enter your mind that both she and her rival wife must perform ḥalitza? After all, only one wife of a deceased brother undergoes ḥalitza, not two. Rather, say: Either she or her rival wife. This indicates that both women are unfit for levirate marriage.

²⁸¹ The Gemara rejects this claim: And did you not already resolve a difficulty in the baraita by adjusting its language and not interpreting it as it is? If so, you cannot cite a proof from here, as you can adjust it differently and answer as follows: She performs ḥalitza, while her rival wife either performs ḥalitza or enters into levirate marriage. If so, this baraita provides no conclusive proof that might resolve Rav Yehuda's dilemma.

²⁸² § On the same issue, Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan raised a dilemma: With regard to one who remarries his divorcée after she had been married to another, what is the halakha concerning the levirate marriage of her rival wife? Rabbi Ami said to him: And you can raise the dilemma with regard to this woman herself. Why not ask if she requires levirate marriage when her husband dies? Rabbi Ḥiyya bar Abba replied: The halakha of the divorcée herself is not a dilemma for me, as she is certainly forbidden.

²⁸³ Rabbi Ḥiyya bar Abba elaborates: As in this case we state an a fortiori inference: If she is now forbidden to one who was previously permitted to her, i.e., her first husband, with regard to one who was forbidden to her, the yavam, is it not all the more so the case that she remains forbidden to him? Where I raise the dilemma it is with regard to her rival wife. What is the halakha in this case? Is the aforementioned a fortiori inference strong enough to invalidate her rival wife or not? The divorcée

herself is certainly exempt from levirate marriage, but the question is whether the a fortiori inference applies to the rival wife as well.

²⁸⁴ Rav Naḥman bar Yitzḥak would teach a different version of this discussion, as follows: Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan raised a dilemma: With regard to one who remarries his divorcée after she had been married to another, what is the halakha concerning her levirate marriage? Rabbi Ami said to him: And you can raise the dilemma with regard to her rival wife as well. Rabbi Ḥiyya bar Abba replied: The halakha of her rival wife is not a dilemma for me, as the a fortiori inference is not strong enough to invalidate a rival wife. Rather, where I raise the dilemma it is with regard to the divorcée herself. What is the halakha? Is the a fortiori inference strong enough that it can be accepted even in place of a mitzva to enter into levirate marriage, or not?

²⁸⁵ Rabbi Ami said to Rabbi Ḥiyya bar Abba: We learned it in the same baraita: In a case where one of the women was fit and the other disqualified, if he would like to perform ḥalitza he performs ḥalitza with the disqualified woman, and if he would like to enter into levirate marriage, he enters into levirate marriage with the fit woman. What is fit and what is disqualified? If we say that fit means fit to all men, and disqualified means disqualified to all men, since for him she is suitable, what difference does it make for him whether she is disqualified from or fit for marriage to others?

²⁸⁶ Rather, is it not the case that fit means fit for him, and disqualified means disqualified for him? And what is that case in which a woman is fit or disqualified only with regard to him but not to any other man? This is referring to the case of one who remarries his divorcée. And it is taught that if he would like to enter into levirate marriage, he enters into levirate marriage with the fit woman. This answers Rabbi Yoḥanan's question.

²⁸⁷ The Gemara rejects this argument: No; actually, fit means fit to all men, and disqualified means disqualified in general, e.g., a woman who had already been divorced is disqualified from marrying any priest. And that which you said: Since for him she is suitable, what difference does it make for him, this is significant because of that statement of Rav Yosef. As Rav Yosef said: Here Rabbi Yehuda HaNasi taught a valuable moral lesson, that a person should not pour the water from his well when others are in need of it.

²⁸⁸ Come and hear a different baraita: With regard to one who remarries his divorcée after she had married another, she and her rival wife must perform ḥalitza. Can it enter your mind that both she and her rival wife must perform ḥalitza? Rather, say: Either she or her rival wife. This indicates that both women are unfit for levirate marriage. The Gemara rejects this claim: And did you not already resolve a difficulty in the baraita? If so, answer as follows: She performs ḥalitza, while her rival wife either performs ḥalitza or enters into levirate marriage. If so, this baraita provides no conclusive proof that might resolve Rabbi Yoḥanan's dilemma.

²⁸⁹ § The Gemara cites another discussion concerning women who are forbidden in levirate marriage. Rav Lili bar Memel said that Mar Ukva said that Shmuel said: The rival wife of a girl who performed refusal is forbidden. If the deceased brother had two wives, one of whom was a minor who refused the brother who sought to be her yavam, not only is she forbidden in levirate marriage, but so too is her rival wife. The Gemara asks: To whom is she forbidden? If we say that she is forbidden to the other brothers, this cannot be the case, as now that she herself, the girl who actually performed refusal, is permitted to them, as Shmuel said: A minor yevama who refused this brother is

permitted to that other brother of the deceased husband, is it necessary to state that her rival wife is likewise permitted?

²⁹⁰ Rather, it means that she is forbidden to him, i.e., as she refused a specific brother, both she and her rival wife are forbidden to him. The Gemara clarifies: And in what way is this halakha of the rival wife different from that of one who performed refusal, who is permitted to the other brothers? If the reason is that she did not perform any act of refusal with them that might nullify the obligation of levirate marriage, her rival wife did not perform any act with them either, and therefore she should be permitted to all of the brothers.

²⁹¹ The Gemara answers: This is a rabbinic decree imposed due to the case of a rival wife of one's daughter who performed refusal. If the girl who refused was his daughter or any other forbidden relative, her rival wife would be forbidden as the rival wife of one's daughter. Therefore, the Sages rendered forbidden the rival wives of other women who performed refusal, not only his daughter. The Gemara asks: And is the rival wife of a daughter who performed refusal actually forbidden? But didn't we learn in the mishna: And with regard to all of these women, if they died or performed refusal with their husbands, their rival wives are permitted.

²⁹² The Gemara analyzes this statement: Whom did this girl refuse? If we say that she refused the husband, i.e., the deceased brother before he passed away, this is exactly the same as the case of a divorcée, and the mishna explicitly states that if one's relative who had been married to his deceased brother died, or refused her husband, or was divorced, no prohibition applies to her rival wife. What is the difference between refusal and divorce? Rather, is it not referring to a case where she refused the yavam? If she refuses the yavam, her levirate bond is broken and her rival wife is no longer considered the rival wife of a forbidden relative. Consequently, the rival wife is fit for levirate marriage. This shows that no prohibition applies to the rival wife of a daughter who performed refusal.

²⁹³ The Gemara answers: No; actually, it means that she refused the husband, and two types of divorce are listed in the mishna: Divorce by Torah law and refusal, which is a form of divorce that applies by rabbinic law. The Gemara asks: And what is different between the two cases? Since refusal is not actually divorce but is a form of annulment that nullifies the matrimonial bond retroactively, when she refuses her husband it must be said that she uproots the marriage, and therefore the rival wife is rendered permitted.

²⁹⁴ If so, when she refuses the yavam, one should also say that she uproots the first marriage. The reasoning is that she cannot actually refuse the yavam, as she was never married to him. Rather, it must be that she annuls her first marriage, and the bond with the yavam is canceled automatically. Consequently, it is as though she were not married at all, and there was never a rival wife.

²⁹⁵ The Gemara explains that Shmuel's reasoning is due to the statement that Rami bar Yehezkel taught in a baraita as Rami bar Yehezkel taught: If a minor refused her husband, she is permitted in marriage even to his father, as refusal completely nullifies the marriage, and it is as though there had never been any earlier marriage with the son. However, if she refused the yavam, not her husband, she is forbidden to his father.

²⁹⁶ Apparently, from the moment when she came before the yavam for levirate marriage she appears to be his father's daughter-in-law. Since at the time of the husband's death she had not yet performed refusal, to all appearances she was the father's daughter-in-law. Consequently, although the marriage

of this minor was not valid by Torah law, any observer would have assumed it was a proper marriage. Therefore, the Sages rendered a girl who refused her yavam forbidden to his father, so that people not take lightly the prohibition of those with whom relations are forbidden.

²⁹⁷ Here, too, the same reasoning applies: From the moment when the other wife came before the yavam for levirate marriage she appears to be the rival wife of his father's daughter. For this reason she is forbidden, despite the fact that she is permitted by Torah law. Shmuel's ruling that the rival wife of a girl who performed refusal is forbidden is therefore a decree due to the case of the rival wife of a daughter who performed refusal.

²⁹⁸ § The Gemara continues to discuss various cases of forbidden women. Rav Asi said: The rival wife of a sexually underdeveloped woman [aylonit] is forbidden. In other words, if one of the wives of the deceased brother was an aylonit, who is incapable of giving birth, the mitzva of levirate marriage does not apply. As it is stated with regard to a woman who requires levirate marriage: "The firstborn that she bears" (Deuteronomy 25:6), which comes to exclude an aylonit, who cannot give birth. Since the halakhot of levirate marriage do not apply to an aylonit, she retains her status as a brother's wife who is forbidden, and therefore her rival wife is also exempt from levirate marriage.

²⁹⁹ Rav Sheshet raised an objection to this from a mishna: Three brothers are married to three unrelated women, and one of the brothers died, and a second brother performed levirate betrothal with the yevama. A levirate betrothal does not have the legal status of a regular betrothal, as the levirate bond between yavam and yevama is not dependent upon betrothal; rather, it represents a kind of continuation of the previous marriage with her deceased husband. Full marriage with a yevama is effected by sexual intercourse alone. However, for reasons of modesty, the Sages instituted that the act of betrothal should apply to a yevama as well.

³⁰⁰ And this brother who performed the levirate betrothal died before consummation of the marriage. In this case, both of these, the wife of the first brother, who had already come before the second brother for levirate marriage, and the wife of the second brother, perform ḥalitza and may not enter into levirate marriage. As it is stated: "And one of them dies and he has no child, 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" (Deuteronomy 25:5). This implies that the option of levirate marriage applies only to one who is subject to the levirate bond of one yavam, for only one deceased brother, and not the bond of two yevamin. Since it is considered as though the first widow has two levirate duties to fulfill, neither she nor her rival wife may enter into levirate marriage.

³⁰¹ And it is taught with regard to this issue that Rav Yosef said: This is an example of a rival wife of a paternal half brother's wife, i.e., a fully fit yevama, for whom coming before the yavam for levirate marriage caused her to be forbidden. In other words, she was fully fit for levirate marriage by Torah law, as all conditions of the mitzva are present in her case. The reason for her prohibition has nothing to do with her particular status but is the result of her having come before a yavam for levirate marriage once already. We have not found in the entire Torah an example like this, where the fact that she was obligated in a mitzva she was unable to fulfill means that not only she, but her rival wife as well, are both rendered forbidden.

³⁰² The Gemara analyzes Rav Yosef's statement: The emphasis of: This is, which indicates that it applies to this case and no other, comes to exclude what? Doesn't it come to exclude the rival wife of an aylonit, which would mean that she is permitted? Although an aylonit herself may marry any man,

she is not suitable for levirate marriage. If so, Rav Yosef's comment indicates that only a woman subject to a double levirate bond, not any other case, renders her rival wife forbidden merely by coming before the yavam for levirate marriage.

³⁰³ The Gemara rejects this suggestion: No, Rav Yosef's statement was meant to exclude the rival wife of an ayronit, that she is forbidden. And what is the meaning of: This is? It means that this is the one for whom coming before the yavam for levirate marriage caused her to be forbidden, and therefore her rival wife requires ḥalitza and is not entirely exempt. In contrast, in the case of the rival wife of an ayronit, she does not even require ḥalitza. What is the reason for this difference between the two cases? This one, an ayronit, is exempt from levirate marriage by Torah law, while this one, who was betrothed by levirate betrothal to the other brother, is forbidden by rabbinic law, and she therefore must perform ḥalitza.

³⁰⁴ § The Gemara cites another relevant source. We learned in the mishna: And with regard to all of these women with whom relations are forbidden, if they died, or they refused their husbands, or were divorced, or were found to be ayronit, their rival wives are permitted in levirate marriage. This ruling apparently contradicts the statement of Rav Asi that the rival wife of an ayronit is forbidden. The Gemara responds: This is not difficult. Here, Rav Asi is referring to a situation in which her husband knew that she was an ayronit prior to marriage, and as he married her regardless of her condition their marriage is fully valid. Since the mitzva of levirate marriage does not apply to her because she cannot give birth, her rival wife is also exempt.

³⁰⁵ There, in the mishna, it is referring to a case where he did not know that she was an ayronit at the time of marriage, but only at a later stage. Since in this case it can be said that he would not choose to marry an ayronit, hers was a mistaken betrothal, and it is therefore nullified. Consequently, her rival wife is permitted.

³⁰⁶ The Gemara comments: The language of the mishna is also precise, as it teaches: Were found to be an ayronit, and it does not teach: Were an ayronit. This indicates that her condition was not known to the husband at the time of marriage but was discovered by him only later. The Gemara summarizes: Conclude from this that this is the correct interpretation of the mishna. Consequently, the mishna does not contradict the opinion of Rav Asi. Rava said:

³⁰⁷ And the halakha is that the rival wife of an ayronit is permitted, and this is the case even if her first husband knew of her status and her marriage was fully valid. The mitzva of levirate marriage does not apply to an ayronit, but her rival wife is not forbidden. And even in the case of the rival wife of his ayronit daughter who was recognized as such, the other wife is not considered the rival wife of a forbidden relative.

³⁰⁸ The Gemara asks: However, with regard to that which the mishna teaches: Were found to be, from which it was inferred that there is a difference between an ayronit whose condition was known by the husband beforehand and one who was recognized by him only later, how is this to be explained? The Gemara answers that one should emend this and teach simply: That were, and not: Were found to be. When Ravin came from Eretz Yisrael he said that Rabbi Yoḥanan said: There is one halakha with regard to the rival wife of a girl who refused her husband, and the rival wife of an ayronit, and also the rival wife of one who remarries his divorcée: They are all permitted.

³⁰⁹ § Incidental to the case of refusal, the Gemara cites a related halakha. Rav Beivai taught a baraita before Rav Naḥman: Three women may engage in relations with a contraceptive resorbent, a soft

fabric placed at the entrance to their wombs to prevent conception, despite the fact that this practice is generally prohibited. They are as follows: A minor, a woman who is already pregnant, and a nursing woman. The baraita specifies the reason for each exception: A minor may do so lest she become pregnant and perhaps die; a pregnant woman, lest she be impregnated a second time and her previous fetus becomes deformed into the shape of a sandal fish by being squashed by the pressure of the second fetus. As for a nursing woman, she does so lest she become pregnant and her milk dry up, in which case she will wean her son too early, thereby endangering him, and he will die.

³¹⁰ And the baraita continues: Who is considered a minor? It is a girl from the age of eleven years and one day until the age of twelve years and one day. If she was younger than this or older than this, she may go ahead and engage in relations in her usual manner. This is the statement of Rabbi Meir. Since it is assumed that a minor who is less than eleven years old cannot become pregnant, she is considered to be in no danger. And the Rabbis say: Both this one and that one, i.e., in all these cases, she may go ahead and engage in relations in her usual manner, and Heaven will have mercy upon her and prevent any mishap, since it is stated: “The Lord preserves the simple” (Psalms 116:2).

³¹¹ The Gemara analyzes the baraita: From the fact that the baraita states: Lest she become pregnant and perhaps die, this indicates by inference that there is a minor who can become pregnant and will not die, although the conditions for this scenario of a minor giving birth and surviving are unclear. If so, that a minor might be impregnated and give birth, we find the case of one’s mother-in-law who refused her husband. Since it is possible for a woman to give birth to a daughter while still a minor, if a man betroths this daughter while still an infant, the mother might be a mother-in-law who performed refusal.

³¹² And yet we learned in the mishna: You cannot say, i.e., the possibility does not exist, in the case of his mother-in-law, his mother-in-law’s mother, and his father-in-law’s mother, that they were found to be an ayronit or performed refusal, as refusal may be performed only by a minor, who cannot give birth. If so, there is apparently a contradiction between the mishna and the baraita. The Gemara answers: Do not say: Lest she become pregnant and perhaps die, which indicates that it is possible for her not to die from the impregnation. Rather, say: Lest she become pregnant and die. In other words, although it is uncertain whether she will be impregnated, if she does become pregnant she will certainly die, which means that there is no case in which a minor could give birth and live.

³¹³ As Rabba bar Livai said: There is a limit with regard to her pregnancy, i.e., that of a young girl. Before this time, the age of eleven, she cannot be impregnated at all. During this time, from age eleven to twelve, she dies and her fetus dies. After this time, from twelve onward, she lives and her fetus lives.

³¹⁴ The Gemara raises a difficulty: Is that so? But didn’t Rabba bar Shmuel teach: You cannot say in the case of his mother-in-law, and his mother-in-law’s mother, and his father-in-law’s mother that they were found to be an ayronit or performed refusal, as they already gave birth. This indicates that a minor can give birth, as otherwise he should have stated: As they are already mature. Rather, actually, the original version of the baraita is correct: Lest she become pregnant and perhaps die. But this is difficult with regard to the mishna, which indicates that this scenario is impossible.

³¹⁵ Rav Safra said: Children are equivalent to signs of puberty. In other words, a girl who gives birth does not retain the legal status of a minor, as the very fact that she bore children is equivalent to a physical sign of maturity, usually in the form of pubic hairs. And some say: Children are preferable

to signs of puberty. The Gemara asks: What is the practical difference that arises from the question of whether bearing children is equivalent or preferable to signs of maturity? The Gemara answers: The difference is that even according to the opinion of Rabbi Yehuda, who said that a minor may perform refusal even after she develops two pubic hairs, until the black hairs of her genitals are more plentiful than the hairless skin, in the case of children he concedes that she is considered mature and may not perform refusal.

³¹⁶ § And Rav Zevid said: There are no children without signs of puberty. In other words, if a girl gives birth, she definitely possesses the signs of puberty. The Gemara asks: But if so, let us examine to see whether these physical signs are present, so that there is no need to depend on a presumption. The Gemara answers: We are concerned lest the hairs that constitute the sign have fallen off. The Gemara comments: This works out well according to the one who said that in general we are concerned lest signs fall off, i.e., that there are cases in which she is in fact mature but the hairs have come off.

³¹⁷ However, according to the one who said that if there are in fact hairs they will certainly be found, and we are not concerned that they may have fallen out, what is there to say? The Gemara answers: Even according to the one who said that in ordinary circumstances we are not concerned that the hairs may have fallen out, in this case, due to the pain of childbirth we are concerned that they might have fallen out, and therefore it is impossible to examine the matter conclusively.

³¹⁸ § The Gemara returns to the mishna: How do they exempt their rival wives and the rival wives of their rival wives? The Gemara asks: From where are these matters, that not only is a rival wife exempt but the rival wife of a rival wife is exempt as well, derived? Rav Yehuda said that this is as the verse states: “And you shall not take a woman to her sister, to be a rival [litzror] to her” (Leviticus 18:18). The term litzror is written, with the letter reish appearing twice, rather than latzor, with a single reish, which means that the Torah amplified and included many rival wives. In other words, this verse includes not only the rival wife of a forbidden relative, but also the rival wife of a rival wife.

³¹⁹ Rav Ashi said: It is a logical inference, which does not require a source from the Torah. What is the reason that a rival wife of a forbidden relative is prohibited? The reason is that she stands in place of a forbidden relative. Since the forbidden relative caused her exemption from levirate marriage, she too is considered a forbidden relative who remains categorized as a brother’s wife. Therefore, the rival wife of a rival wife also stands in place of a forbidden relative, as she is like the rival wife of a forbidden relative and is therefore forbidden herself.

³²⁰ § The mishna taught: How so? If the forbidden relative died, performed refusal, or was divorced, from that moment onward their rival wives are no longer considered the rival wives of a forbidden relative and are permitted. The Gemara remarks: This legal ruling with regard to a divorce is presented as a general principle and is therefore correct even if at the time that the deceased brother married the rival wife he was married to the forbidden relative, and ultimately divorced the relative, which means that for a period of time the women were rival wives. Even under these circumstances the prohibition of a rival wife of a forbidden relative does not apply, and she is permitted to enter into levirate marriage.

³²¹ And the Gemara raises a contradiction from a different mishna (30a), which discusses three brothers, two of whom are married to two sisters and one is married to an unrelated woman. One of

the husbands of the sisters subsequently divorced his wife, and the one who was married to the unrelated woman died, and the one who divorced his wife married the yevama by levirate marriage and afterward died as well, which means that this yevama once again came for levirate marriage before the remaining brother, who was married to one of the sisters. It is with regard to this case that they said that if they died or were divorced their rival wives are permitted. This concludes the mishna.

³²² The Gemara infers from this mishna: The reason she is permitted is that the yavam first divorced the sister and only afterward married the unrelated woman. In this case, the unrelated woman was never actually the rival wife of a sister, despite the fact that they were, at different times, married to the same man. However, if the yavam first married the unrelated woman and afterward divorced the sister, she would not be permitted to enter into levirate marriage because for a period of time she had been the rival wife of a forbidden relative.

³²³ These two mishnayot apparently contradict each other. Rabbi Yirmeya said: This mishna is disjointed, i.e., the mishnayot are truly incompatible, and the tanna who taught this halakha did not teach that halakha. The reason for the difference in opinions is that this tanna, of the mishna here, maintains that death causes her to come before him for levirate marriage. In other words, the decisive moment that determines the obligation in or exemption from levirate marriage is the moment of the childless brother's death. Since in the case of the mishna here she was not the rival wife of a forbidden relative at the time of his death, the prohibition does not apply to her.

³²⁴ And that tanna of the mishna dealing with three brothers maintains that the first marriage causes her to come before him for levirate marriage. In other words, the levirate bond is established at the time of the marriage, and since the second wife was the rival wife of a forbidden relative for at least a brief period, her exemption from levirate marriage was determined then.

³²⁵ Rava said: Actually, both mishnayot represent the opinion of a single tanna, but he teaches the mishna employing the style: This and it is unnecessary to say that. In other words, the mishna here is referring to a case where he first married and later divorced, while the mishna that deals with three brothers is speaking of a simpler, more obvious case, in which he first divorced and later married the second wife. In that case she is certainly permitted. Accordingly, there is no real contradiction here between the mishnayot, as they utilize different styles of teaching.

³²⁶ § The mishna taught: And if any of these forbidden relatives was a minor who could refuse her husband, then even if she did not refuse him, her rival wife performs ḥalitza and does not enter into levirate marriage. The Gemara asks: And let the minor perform refusal now, thereby annulling the marriage retroactively after the death of her husband, and let her rival wife enter into levirate marriage. Since this option is not accepted, let us say that it supports the opinion of Rabbi Oshaya.

³²⁷ As Rabbi Oshaya said: A yevama who is a minor can refuse the levirate betrothal of the yavam. In other words, if he betrothed her she is free to say that she does not desire to marry him, a declaration that severs any connection between them. But she cannot refuse his bond. Provided that he has not performed a levirate betrothal, this minor yevama cannot annul the ties between them by a refusal, as theirs is not a bond of marriage, and the institution of refusal was established only with regard to marriage. According to this opinion, it is evident that a minor yevama who is a forbidden relative cannot perform refusal so as to enable her rival wife to enter levirate marriage.

³²⁸ The Gemara rejects this suggestion: No; it is possible that a minor yevama can indeed refuse a levirate bond, but the rival wife of a forbidden relative is different, as she is not permitted in levirate marriage even if the forbidden relative herself can perform refusal. Why? As Rami bar Yehezkel taught in a baraita: If she refused the husband, thereby annulling the marriage, she is permitted to his father, as the marriage bond was entirely nullified retroactively and she is not considered his daughter-in-law at all. If, however, she refused only the yavam, she is forbidden to his father.

³²⁹ Apparently, the reason is that at the moment of her coming before him for levirate marriage she had the appearance of his daughter-in-law. Since people will think she is his daughter-in-law, she is forbidden to the father. Here, too, at the moment of her coming before him for levirate marriage she had the appearance of his daughter's rival wife. Consequently, the Sages did not permit her to enter into levirate marriage even if the other wife refuses the husband.

³³⁰ MISHNA: Six women with whom relations are forbidden who were not enumerated in the first mishna are forbidden by prohibitions that are more severe than those listed in that mishna because they may be married only to others and may never be married to any of the brothers, due to the closeness of their relationship. However, this stringency entails a corresponding leniency: Since the halakha of levirate marriage is entirely inapplicable in these cases, their rival wives are permitted. The rival wife of a forbidden relative is forbidden herself only if the mitzva of levirate marriage is applicable, but where it is not in effect she is permitted.

³³¹ The six women with whom relations are forbidden are as follows: His mother, and his father's wife, and his father's sister, and his paternal half sister, and the wife of his father's brother, and the wife of his paternal half brother. Each of these women with whom relations are forbidden is forbidden equally to all of the brothers, and the mitzva of levirate marriage is inapplicable. Therefore, her rival wife is permitted.

³³² § Up to this point, the discussions were based on the assumption that not only may a forbidden relative not enter into levirate marriage, but her rival wife is also exempt. However, this issue is subject to a long-standing dispute. Beit Shammai permit the rival wives to the brothers, as they did not accept the interpretation of the verses that indicates that rival wives are prohibited. And Beit Hillel forbid them. The previous mishnayot are in accordance with the opinion of Beit Hillel.

³³³ If any of the rival wives of the brother performed ḥalitza, Beit Shammai disqualify her from marrying into the priesthood, as in their opinion these rival wives were fit for levirate marriage, which means that the ḥalitza was fully valid. Consequently, they are disqualified from marrying a priest, like all other women who perform ḥalitza. And Beit Hillel deem them fit, as they maintain that no legal act of ḥalitza was performed here at all. If they entered into levirate marriage, Beit Shammai deem them fit for the priesthood, as in their opinion, this is a fully legal levirate marriage. And Beit Hillel disqualify them, because they engaged in licentious sexual relations as the rival wives of a forbidden relative.

³³⁴ § The mishna comments: Although Beit Hillel prohibit the rival wives to the brothers and Beit Shammai permit them, and although these disqualify these women and those deem them fit, Beit Shammai did not refrain from marrying women from Beit Hillel, nor did Beit Hillel refrain from marrying women from Beit Shammai. Furthermore, with regard to all of the disputes concerning the halakhot of ritual purity and impurity, where these rule that an article is ritually pure and those rule it

ritually impure, they did not refrain from handling ritually pure objects each with the other, as Beit Shammai and Beit Hillel frequently used each other's vessels.

³³⁵ GEMARA: Rabbi Shimon ben Pazi said: What is the reason for the opinion of Beit Shammai? As it is written: "The wife of the dead man shall not be married outside of the family to one not of his kin" (Deuteronomy 25:5). The term "outside" indicates by inference that there is a woman who is considered inside, i.e., a close relative of the yavam, who is inside his family. And the Merciful One states: "Shall not be married" and also "to one not of his kin." In other words, even when one of the wives is a forbidden relative, the rival wife who is outside the family of the yavam is obligated in levirate marriage.

³³⁶ And how do Beit Hillel respond to this argument of Beit Shammai? They require these passages for that which Rav Yehuda said that Rav said, as Rav Yehuda said that Rav said: From where is it derived that betrothal is not effective in the case of a yevama who did not perform *ḥalitza*, if the betrothal is performed by an unrelated man and not a yavam? This betrothal is not valid at all, as it is stated: The wife of the dead man shall not be married outside of the family to one not of his kin" (Deuteronomy 25:5). This verse indicates that there shall not be in her case the becoming married to one not of his kin.

³³⁷ And how do Beit Shammai respond to this claim? They ask: Is it written: To the outside [*laḥutz*], which might indicate betrothal to an unrelated man? It is actually written "outside [*ḥutz*]," which is an adjective describing this woman as one who is from the outside. And Beit Hillel, what is their response? They maintain that since it is written "outside," it is considered as though it is written: To the outside.

³³⁸ As it is taught in a baraita: Rabbi Neḥemya says that with regard to any word that requires the letter lamed at its beginning, meaning: To, the verse at times placed a letter heh at its end, but the meaning is the same. And the school of Rabbi Yishmael taught: For example, the term: To "Elim" (Exodus 16:1) can be rendered as "Elima" (Exodus 15:27) instead of le'Elim; "Maḥanaim" (I Kings 2:8) becomes "Maḥanaima" (II Samuel 17:24); "Mitzraim" (e.g., Genesis 13:1) into "Mitzraima" (Genesis 12:10); Divlatayim is "Divlataima" (Numbers 33:46); to Yerushalaim is "Yerushalaima" (Ezekiel 8:3); and "midbara" (Joshua 18:12) means: To the wilderness [*midbar*]. All these words that contain the letter heh at the end mean the same as if there were a lamed at the beginning.

³³⁹ The Gemara asks: And Beit Shammai, from where do they derive that halakha that Rav Yehuda said that Rav said? The Gemara answers: They derive it from the phrase: "To one not of his kin" (Deuteronomy 25:5). This phrase indicates that marriage is invalid with an unrelated man. However, they learn another matter from the term "outside."

³⁴⁰ The Gemara asks: But if so, let Beit Hillel, too, derive this halakha from: "To one not of his kin." The Gemara answers: Yes, it is indeed so. They, too, infer it from this source. Then why do I need the term "outside"? This word was necessary to include a betrothed woman. With regard to a woman who was betrothed but not yet married to the deceased brother, although she is still technically outside his house, she is nevertheless obligated in levirate marriage.

³⁴¹ And the other one, Beit Shammai, infers this halakhic ruling from a single superfluous letter, as instead of "outside" being written as *ḥutz* it is written as *ḥaḥutz*. And as for the other one, Beit Hillel, they do not derive a halakha from the linguistic difference between *ḥutz* and *ḥaḥutz*, as they maintain that this is not a significant enough difference.

³⁴² § Rava said: The rationale of Beit Shammai for their opinion that rival wives are permitted in levirate marriage is not due to a specific verse. Rather, Beit Shammai apply the well-known halakhic principle that a prohibition does not take effect where another prohibition already exists. Since the first wife was already a prohibited relation to her brother-in-law during his brother's lifetime, the second prohibition of a wife's sister does not apply to her. Accordingly, her presence is entirely disregarded, as though there is no forbidden relative here to exempt the rival wife.

³⁴³ The Gemara raises a difficulty: This works out well where the deceased brother had first married one sister and afterward the surviving brother had married another sister, as in this case it is possible to say that the prohibition of a wife's sister does not come and apply in addition to the prohibition of a brother's wife. However, if the surviving brother had married one sister and afterward the deceased brother had married another sister, in this case the prohibition of a wife's sister precedes that of a brother's wife. How can it be said in this situation that this prohibition of a forbidden relative does not take effect where another prohibition already exists, if actually it came first?

³⁴⁴ The Gemara answers: Since the prohibition of a brother's wife does not come and apply in addition to the prohibition of a wife's sister, the status of a brother's wife does not pertain to her and she is not obligated in levirate marriage with him at all. This means that the other wife is a rival wife of a forbidden relative where no mitzva applies, and she is therefore permitted.

³⁴⁵ § The mishna taught: If any of the rival wives of the brother performed ḥalitza, Beit Shammai disqualify her from marrying into the priesthood, as they hold that the ḥalitza was fully valid. The Gemara asks: If the rival wives are obligated in the mitzva of levirate marriage and they performed ḥalitza, it is obvious that the status of a woman who had undergone ḥalitza applies to them.

³⁴⁶ The Gemara answers: This statement comes to exclude the opinion of Rabbi Yoḥanan ben Nuri, who said: Come and let us institute for rival wives of women with whom relations are forbidden that they should perform ḥalitza and not enter into levirate marriage. If this ordinance were accepted, these rival wives would be disqualified by rabbinic law, even according to the opinion of Beit Hillel. The mishna therefore teaches us that Beit Hillel deem the rival wives fully fit to marry into the priesthood, as no ḥalitza was instituted for rival wives and any ḥalitza performed with them is entirely meaningless.

³⁴⁷ § The mishna further taught: If they entered into levirate marriage, Beit Shammai deem them fit for the priesthood and Beit Hillel disqualify them. The Gemara asks: Why do I need this as well, as this halakha follows logically from the previous statement concerning ḥalitza? The Gemara answers that since the mishna taught: Performed ḥalitza, it also taught the case of: Entered into levirate marriage, despite the fact that this was not necessary, as even without this ruling the matter would have been understood.

³⁴⁸ § Apropos the mishna's comments concerning the details of the relationship between Beit Shammai and Beit Hillel, the Gemara discusses the issue of disputes in general. We learned in a mishna there, in tractate Megilla (2a): The Megilla, the Scroll of Esther, is read on the eleventh of Adar, on the twelfth, on the thirteenth, on the fourteenth, or on the fifteenth, in cities surrounded by a wall, no earlier and no later than this. The obligation to read the Megilla on the fourteenth or fifteenth of Adar is stated in the Megilla itself, while the additional days were instituted by the Sages to allow residents of villages, who would come to the cities on Mondays and Thursdays and supply water and rations to the residents of the cities, to hear the reading of the Megilla at that opportunity.

³⁴⁹ Reish Lakish said to Rabbi Yoḥanan: I should read here the verse: “You shall not cut yourselves [titgodedu]” (Deuteronomy 14:1), which is interpreted as meaning: Do not become numerous factions [agudot]. In other words, the Jewish people should be united, rather than divided into disparate groups that act in different ways. Before analyzing this issue, the Gemara asks: This verse: “You shall not cut yourselves,” is required for the matter itself, as the Merciful One is saying: Do not cut yourselves over the dead. How is the halakha concerning factions derived from this apparently straightforward verse?

³⁵⁰ The Gemara answers: If so, that the verse comes to teach only about the practices of mourning, let the verse state only: You shall not cut. What is the meaning of: “You shall not cut yourselves”? Learn from this that it comes for this purpose as well, to teach the prohibition against splitting into factions. The Gemara asks: But in that case, one can say that the entire verse comes for this purpose and does not refer to cutting for the dead at all. The Gemara answers: If so, let the verse state: Lo tagodu, rather than lo titgodedu, both of which mean: You shall not cut. What is the meaning of: “Lo titgodedu”? Conclude two conclusions from it: Both the simple prohibition against making cuts for the dead and the matter of dividing into factions.

³⁵¹ After this incidental discussion, the Gemara returns to the basic question raised by Reish Lakish: Why doesn’t the reading of the Scroll of Esther in different places at different times violate the prohibition against breaking into factions? Rabbi Yoḥanan said to him: Have you not taught until now: In a place where the people were accustomed to perform labor on Passover eve until midday, one may do so on that day; in a place where the people were accustomed not to perform labor, one may not do so? This shows that different places can have different customs without violating the prohibition against dividing into factions.

³⁵² Reish Lakish said to Rabbi Yoḥanan: I speak to you of a prohibition, as residents of villages are prohibited from reading the Megilla with a blessing on the fifteenth of Adar, as Rav Shemen bar Abba said that Rabbi Yoḥanan said: The verse “to confirm these days of Purim in their appointed times” (Esther 9:31) teaches that the Sages instituted many times for their reading, and it is prohibited to deviate from these dates. And you speak to me about a custom that does not involve a prohibition. How can a prohibition be established in a manner that involves the formation of factions among the people?

³⁵³ Rabbi Yoḥanan replied: And in that case there, on Passover eve, is there no prohibition involved? But didn’t we learn in a mishna: On the night before the fourteenth of Nisan, Beit Shammai prohibit the performance of work and Beit Hillel permit it. Evidently, there is indeed a prohibition involved, and yet some perform work while others do not, which splits the people into factions.

³⁵⁴ Reish Lakish said to him: In that case there, the different factions are not noticeable, as one who sees another idle says: It is because he has no labor to perform. Therefore, refraining from work does not have the appearance of breaking off into factions. Rabbi Yoḥanan raises a difficulty: But Beit Shammai permit rival wives to the brothers, and Beit Hillel prohibit this practice. This is an example of a clear prohibition, and yet two different traditions were followed.

³⁵⁵ Reish Lakish said to him: Do you hold that Beit Shammai actually acted in accordance with their own statement? Beit Shammai did not in fact act in accordance with their own statement, as the dispute was merely theoretical. And Rabbi Yoḥanan said: Beit Shammai certainly did act in accordance with their opinion. The Gemara comments: And this is also reflected in the dispute

between Rav and Shmuel, as Rav says: Beit Shammai did not act in accordance with their own statement, and Shmuel said: They certainly did act in that manner.

³⁵⁶ The Gemara inquires: When does this question apply? If we say that it is referring to the period prior to the Divine Voice that declared that the halakha is in accordance with the opinion of Beit Hillel, then what is the rationale of the one who said that Beit Shammai did not act in accordance with their opinion? But rather, if one would say it is referring to after the Divine Voice, what is the reason for the one who said that they did act in accordance with their opinion? After all, the Divine Voice established that the halakha is in accordance with the opinion of Beit Hillel.

³⁵⁷ The Gemara answers: Neither of these options poses a difficulty. If you wish, say that it is referring to the period prior to the Divine Voice, and if you wish, say instead that it is after the Divine Voice. The Gemara elaborates: If you wish, say it is prior to the Divine Voice, and it is referring to the period when Beit Hillel formed the majority of the Sages. Therefore, according to the one who said that Beit Shammai did not act in accordance with their opinion, the reason is that Beit Hillel was the majority, and the halakha is in accordance with the majority.

³⁵⁸ And the one who said that they did act in accordance with their opinion maintains that when do we follow the majority? It is in a case where the disputing parties are equal in wisdom to one another. Here, however, Beit Shammai are sharper than Beit Hillel, and therefore they acted in accordance with their own opinion despite the fact that they were in the minority.

³⁵⁹ And if you wish, say instead that it was after the Divine Voice. The one who said that Beit Shammai did not act in accordance with their opinion would say that this was due to the pronouncement of the Divine Voice. And the one who said that they did do so, this is in accordance with the opinion of Rabbi Yehoshua, who said, with regard to the Divine Voice that emerged and proclaimed that the halakha is in accordance with the opinion of Rabbi Eliezer in the case of the oven of akhnai (Bava Metzia 59b), that one disregards a Heavenly Voice. Just as he disregarded the Divine Voice in his dispute with Rabbi Eliezer, so too, one disregards the Divine Voice that proclaimed that the halakha is in accordance with the opinion of Beit Hillel.

³⁶⁰ And yet the question remains: According to the one who said that Beit Shammai acted in accordance with their opinion, we should read here: “You shall not cut yourselves” (Deuteronomy 14:1), which is interpreted to mean: Do not become numerous factions. Abaye said: When we say that the prohibition: “You shall not cut yourselves” applies, we are referring to a case where two courts are located in one city, and these rule in accordance with the statement of Beit Shammai and those rule in accordance with the statement of Beit Hillel. However, with regard to two courts located in two different cities, we have no problem with it.

³⁶¹ Rava said to him: But the dispute between Beit Shammai and Beit Hillel is considered like a case of two courts in one city, as these two schools of thought were found everywhere, not in any specific place. Rather, Rava said: When we say that the prohibition: “You shall not cut yourselves” applies, we are referring to a case where there is a court in one city, a section of which rules in accordance with the statement of Beit Shammai and another section rules in accordance with the statement of Beit Hillel. However, with regard to two courts located in one city, we have no problem with it.

³⁶² § The Gemara cites other relevant sources. Come and hear: In the locale of Rabbi Eliezer, where his ruling was followed, they would cut down trees on Shabbat to prepare charcoal from them to fashion iron tools with which to circumcise a child on Shabbat. In Rabbi Eliezer’s opinion, not only

does the mitzva of circumcision override Shabbat, but also any action required for the preparation of the tools necessary for the circumcision likewise overrides Shabbat. The baraita adds: In the locale of Rabbi Yosei HaGelili they would eat poultry meat in milk, as Rabbi Yosei HaGelili held that the prohibition of meat in milk does not include poultry.

³⁶³ The Gemara infers: In the locale of Rabbi Eliezer, yes, they would act in this manner, whereas in the locale of Rabbi Akiva, for instance, no, they would not do so, as it is taught in a baraita that a principle was stated by Rabbi Akiva: Any prohibited labor that can be performed on Shabbat eve does not override Shabbat even if it involves a mitzva. A mitzva whose proper time is on Shabbat overrides Shabbat only if its performance was impossible earlier, e.g., the act of circumcision itself, which cannot be performed earlier.

³⁶⁴ The Gemara asks: And what is this refutation? As stated above, it is different when dealing with numerous places, and the baraita explicitly states that this practice was followed in Rabbi Eliezer's locale. Consequently, there is no violation of the prohibition against splitting into factions. The Gemara asks: He who asked it, why did he ask it, i.e., what is the basis for the question in the first place? It is obvious that the baraita is referring to a specific place.

³⁶⁵ The Gemara answers: It might enter your mind to say that due to the severity of Shabbat, it, i.e., the world, is considered like a single locale. In other words, one might have thought that the permission to tolerate diverse customs in different places applies only to other prohibitions, whereas the prohibition of Shabbat is so severe that it is unacceptable to allow different customs, as this might lead people to disrespect Shabbat. Therefore, the baraita teaches us that even in the case of Shabbat there can be different customs in various locales.

³⁶⁶ § The Gemara cites another relevant case involving Shabbat: Come and hear that Rabbi Abbahu, when he happened to come to the place of Rabbi Yehoshua ben Levi, would move an oil lamp [sheraga] after the flame that had been lit for that Shabbat had burned out, as Rabbi Yehoshua accepted the ruling that it is permitted to carry items of this sort that had been set aside. But when he happened to come to the place of Rabbi Yoḥanan, who prohibited carrying items of this kind that had been set aside on Shabbat, he would not move an oil lamp. This indicates that divergent customs are followed in different places.

³⁶⁷ Again, the Gemara asks: And what is this difficulty? Didn't we say that it is different when dealing with numerous places? The Gemara explains that this is what we are saying: With regard to Rabbi Abbahu himself, how could he act in this manner here and how could he act in that manner there?

³⁶⁸ The Gemara answers: Rabbi Abbahu holds in accordance with the opinion of Rabbi Yehoshua ben Levi that it is permitted to carry this item. And when he happened to come to the place of Rabbi Yoḥanan he would not carry it, in deference to Rabbi Yoḥanan, so as not to act contrary to his ruling in the place where he was the authority. The Gemara asks: But there was a servant accompanying Rabbi Abbahu who would see him carrying these types of articles that had been set aside. Wasn't Rabbi Abbahu concerned that the servant might carry them in Rabbi Yoḥanan's locale? The Gemara explains that he would inform the servant and explain to him the reason for his change in behavior.

³⁶⁹ § The Gemara continues to discuss the question of whether Beit Shammai followed their own rulings. Come and hear that which is taught in the mishna: Although Beit Hillel prohibit and Beit Shammai permit, and these disqualify the women and those deem them fit, Beit Shammai did not

refrain from marrying women from Beit Hillel, nor did Beit Hillel refrain from marrying women from Beit Shammai. Granted, if you say that Beit Shammai did not act in accordance with their opinion, it is due to that reason that they did not have to refrain from marrying women from Beit Hillel. However, if you say that they did act in accordance with their opinion, why didn't they refrain from marrying one another?

³⁷⁰ The Gemara elaborates: Granted, Beit Shammai did not refrain from marrying into Beit Hillel, as even if Beit Shammai maintain in a certain case that a rival wife required levirate marriage or *ḥalitza*, if she went ahead and married another man their children are born to a union whose partners are liable by a regular prohibition: "The wife of the dead man shall not be married outside" (Deuteronomy 25:5). Since this transgression does not entail *karet*, the children of this relationship are not *mamzerim*.

³⁷¹ However, why did Beit Hillel not refrain from marrying into Beit Shammai? In the opinion of Beit Hillel the children of these rival wives who entered into levirate marriage are born of a union whose partners are liable to receive *karet*, as the prohibition of a brother's wife was never nullified in this case, which means that the children are *mamzerim*. If so, how could Beit Hillel allow these marriages?

³⁷² And if you would say that Beit Hillel maintain that the child of a union whose partners are liable to receive *karet* is not a *mamzer*, as a *mamzer* is only one whose parents violated a prohibition that entails the death penalty, didn't Rabbi Elazar say: Although Beit Shammai and Beit Hillel disagreed with regard to rival wives, they concede that a *mamzer* is only from a union whose prohibition is a prohibition of forbidden relations punishable by *karet*? Consequently, the children of rival wives are *mamzerim* according to Beit Hillel. Rather, isn't it correct to conclude from here that Beit Shammai did not act in accordance with their own opinion?

³⁷³ The Gemara rejects this conclusion: No; actually, Beit Shammai did act in accordance with their opinion. As for the problem with these marriages, the answer is that they would inform Beit Hillel and Beit Hillel would withdraw from the match. When those who acted in accordance with the opinion of Beit Hillel would come to marry women from those who followed the rulings of Beit Shammai, they would be notified that certain children were born of rival wives and that those people were considered *mamzerim* in the opinion of Beit Hillel, who therefore declared them forbidden in marriage.

³⁷⁴ The Gemara comments: And so too, it is reasonable that this is the case, as the mishna teaches in the latter clause: With regard to all of the disputes concerning the *halakhot* of ritual purity and impurity, where those, Beit Hillel, rule an article ritually pure and these, Beit Shammai, rule it ritually impure, they did not refrain from handling ritually pure objects each with the other.

³⁷⁵ Granted, if you say that they notified them, it is due to that reason that they did not need to refrain from using their objects. However, if you say that they did not notify them, granted, it is logical that Beit Shammai did not refrain from handling items belonging to Beit Hillel, as ritually impure objects for Beit Hillel are ritually pure for Beit Shammai, and therefore no special care is necessary.

³⁷⁶ However, why didn't Beit Hillel refrain from touching articles that belonged to Beit Shammai? After all, ritually pure objects for Beit Shammai are ritually impure for Beit Hillel. Rather, is it not the case that Beit Shammai notified Beit Hillel that these items were ritually pure only in their own

opinion, and Beit Hillel separated themselves from them? The Gemara summarizes the discussion: Conclude from here that this is the correct interpretation.

³⁷⁷ The Gemara asks: In what way is this case stronger than that case? In other words, why is the statement with regard to ritual purity and impurity more conclusive than the one that deals with marriage? Since the practice of notification was not explicitly stated in the case of ritual purity but was merely inferred logically, the same reasoning applies equally to the case of marriage. The Gemara answers: Lest you say that since it is so unusual, a marriage to a rival wife generates publicity and is so widely known that no special notification is required, therefore, the Gemara teaches us that even in this case notification is required.

³⁷⁸ § Since the statement of Rabbi Elazar was mentioned, the Gemara turns to discuss the matter itself. Rabbi Elazar said: Although Beit Shammai and Beit Hillel disagreed with regard to rival wives, they concede that a mamzer is only from a union whose prohibition is a prohibition of forbidden relations punishable by karet. The Gemara asks: Who concedes to whom? If we say that Beit Shammai concede to Beit Hillel, this is obvious, since if they acted in accordance with their own opinion that rival wives who married others without ḥalitza are liable only for violating a regular prohibition, their children are therefore fit and are not mamzerim at all.

³⁷⁹ Rather, one could say that Beit Hillel concede to Beit Shammai. But in that case she herself, the rival wife of a forbidden relative who married one of the yevamin, is liable to receive karet in the opinion of Beit Hillel, and the child is a mamzer, whereas Rabbi Elazar's statement indicates that they concede with regard to a different case.

³⁸⁰ The Gemara explains: Actually, Beit Shammai concede to Beit Hillel, and this is not a novelty with regard to their basic dispute. Instead, the statement comes to exclude the opinion of Rabbi Akiva, who said: The offspring from forbidden relations for which one is liable for violating a prohibition is a mamzer. Rabbi Elazar teaches us that Beit Shammai and Beit Hillel agree that the offspring from forbidden relations for which one is liable for violating a prohibition is not a mamzer; rather, one is a mamzer only if he is born of a union punishable by karet.

³⁸¹ § The Gemara returns to the initial question of whether or not Beit Shammai acted in accordance with their own opinion. The Gemara suggests: Come and hear: Although Beit Shammai and Beit Hillel disagreed with regard to several cases, nevertheless, they did not refrain from marrying women from each other's communities. The cases with regard to which they disagreed include rival wives, and sisters, i.e., if two sisters had been married to two brothers and simultaneously became obligated in levirate marriage, Beit Hillel prohibit both in levirate marriage, and if they violated the prohibition and married regardless, they require a divorce. By contrast, Beit Shammai permit them to remain married.

³⁸² Furthermore, Beit Shammai and Beit Hillel disagreed with regard to an outdated bill of divorce that had been written but not delivered. Beit Shammai maintain that if the husband and wife continued to live together after the writing of the bill of divorce, the same bill of divorce can still be used later, whereas Beit Hillel dispute this. And they likewise disagreed with regard to an uncertain married woman, i.e., whether a minor who was actually married, and not merely betrothed, may perform refusal. And they also disagreed with regard to one who divorces his wife and later she lodged together with him at an inn, as to whether or not this is sufficient grounds for assuming that they remarried.

³⁸³ Additionally, they disagreed with regard to the issue of betrothal by money and with the equivalent value of money, and by a peruta or with the equivalent value of a peruta. According to Beit Shammai, the minimal amount of money effective for betrothal is a dinar or the equivalent of a dinar, whereas Beit Hillel maintain that even the less valuable peruta or its equivalent is sufficient.

³⁸⁴ Despite the fact that these halakhot entail important ramifications depending on whether or not these women were married or fit for marriage, or whether their offspring are fit for marriage, Beit Shammai did not refrain from marrying women from Beit Hillel, nor did Beit Hillel refrain from marrying women from Beit Shammai. This serves to teach you that they practiced affection and camaraderie between them, to fulfill that which is stated: “Love truth and peace” (Zechariah 8:19). Rabbi Shimon says: They did refrain in the certain cases, but they did not refrain in the uncertain cases. In other words, Beit Hillel were not worried that any ordinary woman from Beit Shammai might be one of those of uncertain status.

³⁸⁵ The Gemara infers from the opinion of Rabbi Shimon: Granted, if you say that Beit Shammai did act in accordance with their opinion, it is due to that reason that they refrained in the certain cases. However, if you say that they did not act in accordance with their opinion, why did they refrain from marriage? The Gemara replies: And how can you understand it that way, that Beit Shammai acted in accordance with their opinion? Even if they acted in accordance with their opinion, granted that Beit Hillel refrained from marrying into Beit Shammai, as those rival wives who entered into levirate marriage are liable to receive karet and their children are mamzerim according to the opinion of Beit Hillel.

³⁸⁶ However, why did Beit Shammai refrain from marrying the offspring of rival wives of Beit Hillel? The parents are liable for violating a regular prohibition, and therefore their children are fit. The Gemara answers as Rav Nahman bar Yitzhak said with regard to a different matter: This halakha was necessary not for the children of the rival wife, but only for the rival wife herself. Here too, it was necessary only for the rival wife herself. The halakha was not taught with regard to the children of the rival wives; rather, it is referring only to the rival wives.

³⁸⁷ The Gemara asks further: And in what way are uncertain cases different from the certain cases, such as forbidden rival wives? If you say that certain cases are undoubtedly prohibited in the opinion of Beit Hillel, the cases involving uncertain circumstances, e.g., one who divorced his wife and then stayed with her in the same inn, are also prohibited. Even if Beit Hillel render these cases prohibited only due to some uncertainty, the ruling is the same.

³⁸⁸ The Gemara answers: Do not say: In the uncertain cases, i.e., that the halakha involved doubtful circumstances. Rather, say: From the unspecified case. In other words, barring clear knowledge of an uncertain betrothal within a specific family, they would take women from that family in marriage. The reason is that Beit Shammai would notify Beit Hillel of the prohibition according to their opinion, and they would refrain from the marriage. If there was no notification, this was a clear sign that no doubt was involved in this case at all.

³⁸⁹ The Gemara asks: But if so, what does this come to teach us? Is it that they had relations of affection and camaraderie between them, i.e., that each trusted that the other side would never cause them to err with regard to something they held to be prohibited? This is the same as the first clause of the baraita. What is Rabbi Shimon adding by his statement? The Gemara answers: This comes to

teach us that the entire baraita is the opinion of Rabbi Shimon. This is not a dispute between two Sages. Rather, Rabbi Shimon's opinion elucidates the earlier statement.

³⁹⁰ § The Gemara offers an alternative resolution: Come and hear, as Rabbi Yoḥanan ben Nuri said: How should one act with regard to this halakha of rival wives? In what form should it become widespread among the Jewish people? If we act in accordance with the statement of Beit Shammai and permit a rival wife in levirate marriage, the offspring will be a mamzer according to the statement of Beit Hillel. If we act in accordance with the statement of Beit Hillel and grant full exemption to the rival wives, the offspring will be of flawed lineage according to the opinion of Beit Shammai, as he is the child of a woman prohibited in marriage by a regular prohibition. Although he is not a mamzer, his lineage is nevertheless defective. Instead, let us enact a general decree for rival wives

³⁹¹ that they should perform ḥalitza and not enter into levirate marriage. If they act in this manner, they will be permitted to marry others and the problem will be solved according to all opinions. They were unable to finalize the matter according to the proposition raised by Rabbi Yoḥanan ben Nuri before times of trouble arrived. Due to the outbreak of war they were unable to gather together to vote and establish an accepted halakhic ruling.

³⁹² Sometime later, when they returned to discuss the issue, Rabban Shimon ben Gamliel said to the other Sages: What shall we do with those earlier rival wives from now onward? Since in the meantime some rival wives had entered into levirate marriage, if we issue a collective ruling that rival wives may not do so, their children will be declared mamzerim. Therefore, it is better not to establish this halakha at all.

³⁹³ The Gemara analyzes this episode in relation to the matter at hand. Granted, if you say that Beit Shammai did act in accordance with their own opinion, this is the meaning of what Rabban Shimon ben Gamliel said: What shall we do? Since these rival wives had already entered into levirate marriage, it was impossible to change the status of their children retroactively. However, if you say that they did not act in accordance with their opinion, what is the meaning of: What shall we do? If Beit Shammai did not act upon their ruling, they never actually permitted a yavam to take a rival wife in levirate marriage.

³⁹⁴ Rav Naḥman bar Yitzḥak said: This amendment was necessary, not for the benefit of the children of rival wives, as Beit Shammai never in fact acted on their ruling; rather, it was necessary only for the rival wife herself. If these rival wives married others, in the opinion of Beit Shammai their marriages were flawed, as they did not perform ḥalitza. And as for the question: What shall we do, this is what Rabban Shimon ben Gamliel is saying: With regard to those rival wives who were entirely exempt according to Beit Hillel, what should we do with them according to Beit Shammai, as these rival wives had already married others without performing ḥalitza?

³⁹⁵ The Gemara elaborates: If you say let them perform ḥalitza, they will be repulsive to their husbands, as it will seem to the husband that the woman he has been living with for some time suddenly requires a permit for marriage. And if you would say, let them be repulsive to their husbands, as that is not our concern, this is not the case, as the Torah says: "Her ways are ways of pleasantness, and all her paths are peace" (Proverbs 3:17).

³⁹⁶ § The Gemara suggests further: Come and hear another source, as Rabbi Tarfon said: I yearn for the following scenario: When shall my daughter's rival wife come before me and I will marry her? In

other words, in this hypothetical case I would act in accordance with the opinion of Beit Shammai and take her in levirate marriage. This statement indicates that those who held by the traditions of Beit Shammai did indeed act upon their opinion. The Gemara amends this statement. Say: And I will marry her off, i.e., I shall act in accordance with the opinion of Beit Hillel and marry her off to others.

³⁹⁷ The Gemara asks: But he said: I yearn, and if he meant that he would follow the ruling of Beit Hillel, which is the common practice, what is the novelty of Rabbi Tarfon's statement? The Gemara responds: Rabbi Tarfon comes to exclude the statement of Rabbi Yoḥanan ben Nuri, who maintains that all rival wives perform ḥalitza. Rabbi Tarfon yearned for an opportunity to demonstrate that the halakha is not in accordance with the opinion of Rabbi Yoḥanan ben Nuri.

³⁹⁸ The Gemara suggests: Come and hear an incident involving Rabban Gamliel's daughter, who was married to Abba, his brother, and Abba died childless, and Rabban Gamliel entered into levirate marriage with her rival wife. This is apparently conclusive proof that the rival wife of a daughter may enter into levirate marriage. The Gemara asks: And how can you understand it that way? Was Rabban Gamliel among the disciples of Beit Shammai? In fact, Rabban Gamliel, who was a descendant of Hillel himself, certainly followed the opinion of Beit Hillel.

³⁹⁹ Rather, the case of Rabban Gamliel's daughter is different, as she was a sexually underdeveloped woman [aylonit], and therefore the prohibition against marrying her rival wife does not apply, as explicitly stated in the mishna. The Gemara asks: But from the fact that it is taught in the latter clause of the same baraita: Others say that Rabban Gamliel's daughter was an aylonit, it can be derived by inference that the first tanna holds that she was not an aylonit.

⁴⁰⁰ The Gemara answers: The dispute between the tanna'im was not about whether or not she was an aylonit, as she certainly was. Rather, the practical difference between them is whether he knew that she was an aylonit at the time of marriage and decided to marry her regardless. Some maintain in general that if the husband was aware of her condition prior to marriage, her rival wife is forbidden, but if he did not know about her status, the rival wife is permitted.

⁴⁰¹ And if you wish, say that the practical difference between them concerns a different case, that of one who married and ultimately divorced. This is referring to an issue discussed above of whether a woman is considered the rival wife of a forbidden relation simply by virtue of her marriage to the specific man or whether she must be married to him at the time when the mitzva of levirate obligation takes effect, i.e., at the time of the brother's death.

⁴⁰² And if you wish, say that the practical difference between them concerns a case where there is a condition in sexual relations. In other words, the first tanna holds that Rabban Gamliel's daughter was married only conditionally, and since the condition was never fulfilled the marriage was nullified. Consequently, Rabban Gamliel could marry the other wife regardless of his daughter's status as an aylonit, as she was never married to his brother at all. However, according to the other tanna, even if the marriage was dependent upon a condition that was not fulfilled, because the man engaged in sexual relations with her the act of intercourse itself serves to nullify the condition. Accordingly, he maintains that the only reason Rabban Gamliel could enter into levirate marriage with his daughter's rival wife was not because of the condition, but due to the fact that his daughter was an aylonit. Whichever explanation is accepted, this case provides no proof with regard to the issue of whether or not Beit Shammai acted in accordance with their ruling.

⁴⁰³ § Rav Mesharshiyya raised an objection against those who claim that Beit Shammai did not act in accordance with their opinion. It is taught in a mishna: There was an incident involving Rabbi Akiva, who collected an etrog on the first of the month of Shevat and performed with it two tenths. In other words, he separated two tithes from the fruit, as though it belonged to two different tithing years. He removed both the second tithe and the poor man's tithe at the same time, two tithes that should not be separated in the same year.

⁴⁰⁴ The mishna explains: One tithe he removed in accordance with the statement of Beit Shammai, who hold that the new year for trees occurs on the first of Shevat, which means that the etrog required tithing according to the regulations of the upcoming year. And one tithe was in accordance with the statement of Beit Hillel, who hold the new year for trees is on the fifteenth of Shevat, and therefore the etrog required tithing in accordance with the previous year. The Gemara infers: Conclude from here that Beit Shammai did act in accordance with their opinion, as Rabbi Akiva took care to act in accordance with the ruling of Beit Shammai.

⁴⁰⁵ The Gemara answers: Rabbi Akiva was uncertain as to his tradition, and he did not know if Beit Hillel said that the New Year for trees occurs on the first of Shevat or if they said it is on the fifteenth of Shevat. He did not act in accordance with the opinion of Beit Shammai at all; rather, he sought to act in accordance with the ruling of Beit Hillel but was uncertain about their opinion on this matter.

⁴⁰⁶ § Mar Zutra raised an objection to this issue from a different source: There was an incident in which the daughter-in-law of Shammai the Elder gave birth to a son. In Shammai's opinion this newborn baby is immediately obligated in the mitzva to sit in a sukka, and he therefore removed the mortar [ma'aziva] covering the ceiling and he placed sukka covering over the bed for the minor. Conclude from here that Beit Shammai did act in accordance with their opinions. The Gemara answers: There is no proof from there, as anyone watching would say that he did it merely to increase the air. Since people would not necessarily think that he removed the mortar as a ruling of halakha, this behavior is not considered the formation of a faction.

⁴⁰⁷ Mar Zutra raised a further objection: There was an incident involving the Yehu water trough in Jerusalem, which had a hole that connected it to a ritual bath, and all the ritual purifications in Jerusalem were performed in it, i.e., people immersed their utensils in this trough. And Beit Shammai sent messengers and they widened the opening in the water trough, as in the opinion of Beit Shammai the hole was not large enough for the trough to be considered connected to the adjacent ritual bath as Beit Shammai say: The two areas are not connected unless the majority of it is opened. In other words, they require the major portion of the barrier between the ritual bath and the nearby trough to be open.

⁴⁰⁸ And we learned in a mishna: Beit Hillel hold that a joining of ritual baths is effective if the hole has the width of the tube used to pour water in and out of a wineskin, and in its open space there is enough room for about two fingers that can return to their place. In other words, if it is possible to insert into the hole two fingers that can move around on all sides, the cavity is sufficiently large to be considered a connection. According to Beit Shammai, however, the hole must open up the majority of the barrier between the two areas. If so, conclude from this that Beit Shammai did act in accordance with their opinions. The Gemara rejects this contention: There,

⁴⁰⁹ anyone watching would say that he did it to increase the water flow, and he did not intend to change the halakha. Rather, they would think that he widened the water trough only because there was not enough water flow.

⁴¹⁰ § The Gemara cites another relevant source. Come and hear, as Rabbi Elazar bar Tzadok said: When I studied Torah with Rabbi Yoḥanan the Ḥorani, who was a disciple of Beit Shammai, I saw that he would eat dry bread in salt in years of drought. I went and informed my father of his meager meal, and he said to me: Take olives for him, and I took for him some olives. Rabbi Yoḥanan saw that they were moist with the liquid that oozes from olives, which renders them susceptible to ritual impurity. Concerned that they had already become ritually impure, he said to me: I do not eat olives. He spoke politely and stated that he did not eat olives because he did not wish to embarrass his benefactor by disclosing that he feared they had become ritually impure.

⁴¹¹ Rabbi Elazar bar Tzadok continued his account. I went and informed my father. He said to me: Go and say to him that the barrel containing the olives was perforated, but it was clogged by sediments in the oil and therefore some moisture remained inside. However, due to the presence of the hole, the olives were not rendered susceptible to ritual impurity. And we learned this in a mishna: With regard to a barrel of preserved olives, Beit Shammai say it does not need to be perforated, as the juice issuing from the olives does not render them susceptible to ritual impurity.

⁴¹² And Beit Hillel say that it does need to be perforated, as they maintain that the juice of olives is considered oil and it therefore renders the olives susceptible to ritual impurity. And Beit Hillel concede that if the barrel was perforated and subsequently clogged by sediments it is ritually pure, despite the moisture on the olives. Since liquids render food susceptible to ritual impurity only if they were placed on them intentionally, the hole in the barrel clearly shows that one did not intend for the juice to be there. By boring a hole in the barrel he has rendered it obvious that he did not desire the presence of the olive juices, and therefore it does not matter that the hole became blocked.

⁴¹³ The baraita adds: And although Rabbi Yoḥanan the Ḥorani was a disciple of Shammai, he always acted only in accordance with the statements of Beit Hillel. The Gemara infers: Granted, if you say that Beit Shammai acted in accordance with their opinions, this is Rabbi Yoḥanan the Ḥorani's greatness, i.e., he is praised for acting in accordance with the opinion of Beit Hillel. However, if you say that Beit Shammai did not act in accordance with their own rulings, what is the greatness and uniqueness of Rabbi Yoḥanan the Ḥorani? From here it can be inferred that Beit Shammai generally did act in accordance with their opinions.

⁴¹⁴ § The Gemara adds: Come and hear a different proof. They asked Rabbi Yehoshua: What is the halakha with regard to the rival wife of a daughter? He said to them: It is a matter of dispute between Beit Shammai and Beit Hillel. They continued to ask him: And in accordance with whose statement is the halakha? He said to them: Why are you inserting my head between two great mountains, i.e., between two great disputing opinions, between Beit Shammai and Beit Hillel? I fear lest these two mountains break my skull.

⁴¹⁵ However, I shall testify to you about two great families that were in Jerusalem, the Beit Tzevo'im family who came from the town of Ben Akhmai, and the Beit Kofai family from the town of Ben Mekoshesh: They were the descendants of rival wives who married others, in accordance with the opinion of Beit Hillel, and from them came High Priests who served on the altar. Accordingly, I can testify that this was the accepted halakhic practice throughout the generations.

⁴¹⁶ The Gemara infers from this statement: Granted, if you say that Beit Shammai acted in accordance with their opinions, this is why Rabbi Yehoshua said: I fear, since a conclusive halakhic ruling would mean that certain children are mamzerim, and the descendants of that family might take vengeance upon him. However, if you say that they did not act in accordance with their opinions, why did he say: I fear? The Gemara retorts: And even if Beit Shammai did act in accordance with their rulings, what is the reason that he said: I fear?

⁴¹⁷ Didn't Rabbi Yehoshua say that in his opinion a mamzer is only someone born from a union of those liable to receive the court-imposed capital punishments, not from those liable to receive karet. If so, in the opinion of Rabbi Yehoshua, the children of rival wives who entered into levirate marriage would not be mamzerim at all, and therefore he had no reason to fear reprisals. The Gemara answers: Even if this is the case, nevertheless, he had something to fear, as, although the child of a rival wife would not be a mamzer, he would nevertheless be of flawed lineage and disqualified from the priesthood.

⁴¹⁸ The Gemara adds that this can be derived by an a fortiori inference from the case of a widow: Just as in the case of a widow, whose prohibition does not apply to all, as she is forbidden in marriage only to a High Priest and not to any other man, and yet the lineage of her son is flawed, as he is disqualified from the priesthood, the son of this rival wife should certainly be disqualified from the priesthood, as her prohibition applies equally to all, even regular Israelites.

⁴¹⁹ § Incidentally, the Gemara notes a problem with the above discussion: They asked Rabbi Yehoshua about rival wives, and he answered them about the children of rival wives. He did not refer to the rival wives themselves. The Gemara explains: They asked him questions on two matters: First, what is the halakha with regard to rival wives? And if you say that the halakha in the case of rival wives is in accordance with the opinion of Beit Hillel and they are exempt, what is the halakha according to Beit Shammai in the case of the children of rival wives who, following Beit Hillel, married others without *ḥalitza*?

⁴²⁰ The Gemara asks: What difference does this question make? Since Rabbi Yehoshua maintains that the halakha is in accordance with the ruling of Beit Hillel, why even discuss Beit Shammai's opinion on this matter? The Gemara explains: His answer enables one to resolve a different issue, the case of a child of one who remarries his divorcée according to the opinion of Beit Hillel. Is the child of a divorcée who remarried her previous husband after she had been married to another man fit or disqualified from the priesthood?

⁴²¹ The Gemara elaborates: Do we say the following an a fortiori inference: And just as with regard to a widow married to a High Priest, whose prohibition does not apply to all, as she is prohibited in marriage only to a High Priest, and yet the lineage of her son is flawed as he is disqualified from the priesthood, so too, in the case of this rival wife, whose prohibition applies equally to all men, is it not right that her son should be of flawed lineage?

⁴²² Or perhaps this comparison can be refuted: What about the fact that a widow is different, as she herself is disqualified from marrying a priest, i.e., if a High Priest has intercourse with her she is disqualified from marrying any member of the entire priesthood, including common priests, whereas a remarried divorcée herself is not disqualified from marrying into the priesthood? And Rabbi Yehoshua said to them: I fear that if I issue a decisive ruling concerning rival wives this might lead to a conflict,

⁴²³ whereas with regard to the children of rival wives, I testify to you that they are not disqualified, since, as stated, their descendants served as High Priests.

⁴²⁴ § The Gemara states: Come and hear another source that indicates Beit Shammai did act upon their opinions: In the time of Rabbi Dosa ben Harkinas, the rival wife of a daughter was permitted to the brothers. Conclude from this that Beit Shammai did act in accordance with their opinions. The Gemara summarizes these proofs: Indeed, conclude from these sources that Beit Shammai did put their rulings into practice.

⁴²⁵ § Since the last source is only part of a larger incident, the Gemara cites the matter itself. In the time of Rabbi Dosa ben Harkinas the Sages permitted the rival wife of a daughter to the brothers. In other words, it became known that Rabbi Dosa ben Harkinas deemed permitted a daughter's rival wife. And this matter was difficult in the eyes of the Rabbis because he was a great Sage and his decision in favor of Beit Shammai carried great weight. They could not approach him immediately, as he was very old and his eyes had dimmed so much that he was incapable of coming to the study hall.

⁴²⁶ They said: And who will go and notify him that this matter requires clarification? Rabbi Yehoshua said to them: I will go. They asked: And who shall go after him? They selected Rabbi Elazar ben Azarya, who was one of the great Sages of the generation, notwithstanding his youth. They further inquired: And who after him? Rabbi Akiva. They went and stood at the entrance of Rabbi Dosa ben Harkinas's house. His maidservant entered and said to him: Rabbi, the Sages of Israel have come to you. He said to her: Let them enter, and they entered.

⁴²⁷ Rabbi Dosa ben Harkinas grabbed Rabbi Yehoshua, with whom he was already acquainted, and sat him on a bed of gold, as Rabbi Dosa was extremely wealthy. Rabbi Yehoshua said to him: Rabbi, call your other disciple so that he may sit. He asked him to call the other Sage as well, as it is a mark of respect when speaking to a great scholar to call every other Sage his disciple. He said to him: Who is it? Rabbi Yehoshua replied: Rabbi Elazar ben Azarya. Rabbi Dosa said: And does our colleague Azarya have a son? Due to his old age and prolonged absence from the study hall he had not heard of him.

⁴²⁸ Rabbi Dosa ben Harkinas recited this verse about Rabbi Elazar ben Azarya: "I have been young, and now am old; yet I have not seen the righteous forsaken, nor his seed begging bread" (Psalms 37:25). He interpreted this verse to mean that the son of a Torah scholar also becomes a Torah scholar. He grabbed him and sat him on a bed of gold. Rabbi Yehoshua said to him: Rabbi, call your other disciple so that he may sit. He said to him: Who is that? He said to him: Akiva ben Yosef. Rabbi Dosa said to him: You are Akiva ben Yosef, whose name has spread from one end of the world to the other? Even Rabbi Dosa had heard of Rabbi Akiva's reputation as a great man. Sit, my son, sit. May the likes of you multiply in Israel.

⁴²⁹ Out of courtesy, they did not wish to broach the subject immediately. Rather, they began to encircle him with deliberations on different halakhot, until they came to the case of the rival wife of a daughter. They said to him: What is the halakha with regard to the rival wife of a daughter? He said that it is a matter of dispute between Beit Shammai and Beit Hillel. They asked him: According to whose statement is the halakha? He said to them: The halakha is in accordance with the opinion of Beit Hillel. They said to him: But didn't they say in your name that the halakha is in accordance with the opinion of Beit Shammai?

⁴³⁰ He said to them: Did you hear that Dosa ben Harkinas issued this ruling, or did you hear that it was stated by ben Harkinas? They said to him: On your life, Rabbi, we heard simply ben Harkinas. He said to them: If so, it is no wonder, as I have a younger brother who is the firstborn of the Satan, i.e., he is extremely sharp and as brazen as a demon. And his name is Yonatan, and he is among the disciples of Shammai. It is he who issued this ruling.

⁴³¹ Rabbi Dosa ben Harkinas added: And beware that he not batter you with halakhot in this matter, as he has with him three hundred proofs with regard to the rival wife of a daughter that she is permitted. However, you need not worry about the issue itself, as I call as witnesses before me the heavens and the earth that on this very mortar, which was preserved in my house due to its historical importance, Haggai the prophet sat, and I have a tradition that he said three matters of halakha: First, that the rival wife of a daughter is forbidden.

⁴³² Second, that the halakhic rulings for the territories of Ammon and Moab in Transjordan, although similar to those of Eretz Yisrael, are not exactly the same, as their residents tithe the poor man's tithe in the Sabbatical Year. The total abandonment of fields in the seventh year does not apply in Ammon and Moab, as they are not part of Eretz Yisrael. Instead, in those areas one must bring the poor man's tithe to the paupers of Eretz Yisrael, as there are no tithes in Eretz Yisrael in the Sabbatical Year. Lastly, Haggai testified: And one accepts converts from the Karduyin and the Tarmodim, without concern that there might be Jews mingled among them, which could render them mamzerim and prohibited from entering the community.

⁴³³ The Sage taught: When they entered, they all entered through one entrance. When they left, they left through three entrances, in an effort to try to find Rabbi Dosa's brother. Rabbi Akiva encountered him. Yonatan ben Harkinas raised against him all of his objections to the opinion of Beit Hillel, and he withstood him, i.e., Rabbi Akiva was able to respond to all of them.

⁴³⁴ Yonatan ben Harkinas grew angry and said to him: You are Akiva ben Yosef, whose name has spread from one end of the world to the other? Be happy that you have merited a great name, and yet you have not yet reached the level of cattle herders. Cattle herders were generally simple individuals who were not familiar even with ordinary matters, and certainly not with halakha. Rabbi Akiva said to him with characteristic modesty: And I have not even reached the level of shepherds, who are considered even worse than cattle herders, as they are unfit for giving testimony.

⁴³⁵ § Since the halakhot of the prophet Haggai were mentioned, the Gemara discusses them here. Haggai said that Ammon and Moab tithe the poor man's tithe in the Sabbatical Year, as the Master said: Many cities were conquered by those who returned from Egypt, and were not conquered by those who returned from Babylonia after the destruction of the First Temple. And the initial consecration of Eretz Yisrael, by those who returned from Egypt, sanctified it for its time and did not sanctify it forever, as the future sanctification of Eretz Yisrael depended on the renewed conquest of the land by the Jewish people.

⁴³⁶ And those who returned from Babylonia left those places aside and did not consider them part of Eretz Yisrael even after Jewish settlement was renewed there. They would plow and harvest in these places in the Sabbatical Year and tithe the poor man's tithe so that the poor of Eretz Yisrael who did not have sufficient income from the previous years could rely upon them. Consequently, in the Sabbatical Year the poor received help from this tithe.

⁴³⁷ § Haggai also declared: And one accepts converts from the Karduyim and the Tarmodim. The Gemara asks: Is that so? But didn't Rami bar Yehezkel teach in a baraita: One does not accept converts from the Karduyim? Rav Ashi said: Kartuyim, not Karduyim, was stated by Rami bar Yehezkel. As people say in common discourse: The Kartuyim are unfit.

⁴³⁸ And there are those who say a slightly different version of this discussion. Rami bar Yehezkel taught: One does not accept converts from the Kartuyim. What, is it not the case that Kartuyim is the same as Karduyim? If so there is a contradiction between the baraita of Rami bar Yehezkel and the statement of Rabbi Dosa ben Harkinas. Rav Ashi said: No; the Kartuyim are one discrete category and the Karduyim are another discrete category, as people say: Kartuyim are unfit.

⁴³⁹ Rabbi Yoḥanan and the Elders both say: One does not accept converts from the Tarmodim. The Gemara asks: And did Rabbi Yoḥanan actually say this, that one does not accept converts from the Tarmodim due to a concern that Jews may have intermingled with them? But didn't we learn in a mishna: All clothing with stains of blood that might be from a menstruating woman and that come from the city on the border of Eretz Yisrael called Rekem are ritually pure, as it can be assumed that they belong to gentiles, and the blood of a menstruating gentile woman is not ritually impure.

⁴⁴⁰ And Rabbi Yehuda deems it ritually impure because those residents of that place are converts and are in error. In other words, some of the inhabitants of Rekem assimilated and no longer observe the halakhot of the Torah, and therefore one must be wary lest the stains are in fact from a Jewish menstruating woman. Stains that came from among the gentiles, however, are ritually pure. And we discussed the following problem:

⁴⁴¹ The tanna concluded and taught: All stains from among the gentiles are pure, from which it may be inferred: And even from Tarmod. This indicates that in all places inhabited by gentiles there is no need to be concerned about stains. And Rabbi Yoḥanan said: That is to say, one accepts converts from Tarmod without concern that they might be Jewish, albeit mamzerim. This contradicts the previous opinion attributed to Rabbi Yoḥanan that converts from the Tarmodim are not accepted.

⁴⁴² And if you would say that Rabbi Yoḥanan specifically emphasized: That is to say, i.e., he meant that this conclusion may be logically inferred from the mishna, and yet he himself does not hold by this opinion, but didn't Rabbi Yoḥanan state a principle that the halakha is in accordance with the ruling of an unattributed mishna, as is the case here? The Gemara answers: They are amora'im, and they disagree in accordance with the opinion of Rabbi Yoḥanan. Some Sages said in Rabbi Yoḥanan's name that the Tarmodim are unfit, while others maintain that they are fit.

⁴⁴³ § The Gemara asks: And what is the reason that the Sages do not accept converts from Tarmod? Rabbi Yoḥanan and the Elders disagree about this matter. Although they concur that converts from Tarmod are not accepted, they disagree with regard to the reason. One of them said that it is due to the servants of King Solomon. Solomon built a city in Tarmod (see I Kings 9:18), and his gentile servants, taking advantage of their status and power, married Jewish women unlawfully. Therefore, it is possible that the inhabitants of Tarmod and their descendants are mamzerim. And the other one said that it is due to the daughters of Jerusalem, who were taken captive and raped and gave birth to children among the gentiles.

⁴⁴⁴ The Gemara comments: Granted, according to the one who said that it is due to the servants of Solomon, this is logical, as he holds that in the case of a gentile or a slave who had intercourse with a Jewish woman, the offspring is a mamzer. Accordingly, as the servants of Solomon were slaves and

they engaged in intercourse with Jewish women, their children are considered mamzerim. However, according to the one who said that it is due to the daughters of Jerusalem, what is the reason that the concern applied specifically to Tarmod and no other cities? Rav Yosef and the Rabbis disagree with regard to this question, and both stated their opinions in the name of Rabba bar bar Ḥana.

⁴⁴⁵ The Gemara elaborates: One of them said that twelve thousand men and six thousand archers came from Tarmod, and the other one said that there were twelve thousand men, of whom six thousand were archers. When the gentiles entered the Sanctuary during the conquest of Jerusalem, they all turned to plunder the silver and the gold they saw there, but the warriors of Tarmod turned to the daughters of Jerusalem, as it is stated: “They have ravished the women in Zion, the maidens in the cities of Judah” (Lamentations 5:11). According to the opinion that children born of relations between gentiles and Jewish women are mamzerim, all the children born to these women are mamzerim.

⁴⁴⁶ § In relation to a verse cited earlier, Rabbi Shmuel bar Naḥmani said that Rabbi Yonatan said: This verse was stated by the ministering angel appointed over the world: “I have been young, and now am old; yet I have not seen the righteous forsaken, nor his seed begging bread” (Psalms 37:25). Who said this? If we say that it was the Holy One, Blessed be He, is there old age before Him? Could God possibly say: “I have been young, and now am old”? And rather, one could say that David himself said it, from his own experience; but was he indeed so old? After all, David died at the age of seventy. Rather, conclude from this that the ministering angel appointed over the world said it, as he can speak both of youth and old age, and it is he who reported his observations from around the world.

⁴⁴⁷ And Rabbi Shmuel bar Naḥmani further said that Rabbi Yonatan said: What is the meaning of that which is written: “The adversary has spread out his hand upon all her treasures; for she has seen that the heathens have entered into her Temple, concerning which You commanded that they should not enter into Your congregation” (Lamentations 1:10)? This is referring to Ammon and Moab. How so? When the gentiles entered the Sanctuary, all turned to plunder the silver and the gold, and the soldiers from Ammon and Moab turned to the scrolls of Torah to destroy them. They said: Is this the scroll in which it is written: “An Ammonite and a Moabite shall not enter into the assembly of the Lord” (Deuteronomy 23:4)? Let it be burnt by fire.

⁴⁴⁸ With regard to the Ammonites, the Gemara cites another verse: “The Lord has commanded against Jacob that they who are round about him should be his adversaries” (Lamentations 1:17). Rav said: For an example of this, there is the city Homanya in relation to the city Pum Nahara, as the descendants of the Ammonites live in Homanya, and they harass the Jews of Pum Nahara.

⁴⁴⁹ § Rav Yehuda said that Rav Asi said: With regard to a gentile who betrothed a Jewish woman nowadays, we are concerned that the betrothal might be valid, despite the fact that a betrothal of a gentile is meaningless, lest he be from the ten tribes of Israel who intermingled with the gentiles. The Gemara raises an objection: But there is an important principle in halakha that any item separated, i.e., not fixed in its place, is presumed to have been separated from the majority. In this case, it can be assumed that any individual singled out from the gentiles belongs to the majority of gentiles and has no Jewish roots at all.

⁴⁵⁰ The Gemara responds: Rav Yehuda means that there is a concern only with regard to those who came from the permanent dwelling places of the ten tribes. As Rabbi Abba bar Kahana said that the

verse states about those exiled from Samaria: “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). Rabbi Abba bar Kahana proceeded to identify these places. Halah; this is the place called Ḥalzon. And Habor;

⁴⁵¹ this is Ḥadyab. The river of Gozan; this is Ginzak. And the cities of the Medes; this is Ḥamadan and its surroundings. And some say: This is Nihar and its surroundings. The Gemara asks: Which are its surroundings? Shmuel said: Kerakh, Mushkhei, Ḥidkei, and Domakya are the surroundings of Ḥamadan. Rabbi Yoḥanan said: And all of them are for disqualification. In other words, if someone from one of these places wishes to convert, there is concern that he might be a descendant of a Jew and therefore a mamzer. Consequently, they all are disqualified.

⁴⁵² Rav Yehuda continued his recounting: When I said this halakha, that there is a concern about the betrothal of gentiles nowadays, before Shmuel, he said to me: One need not worry about this, as your son from a Jewish woman is called your son, i.e., he inherits his lineage from you, and your son from a gentile woman is not called your son, but rather her son. Consequently, all children born to Jews from gentile women are not considered Jews, as their lineage is determined by their gentile mothers.

⁴⁵³ The Gemara asks: Aren’t there Jewish girls who were captured by gentiles, whose children are considered to be Jews? And Ravina said: Learn from this that the son of your daughter from a gentile is called your son. If so, the descendants of Jewish women captured by gentiles would indeed be Jews. The Gemara answers: This is no concern, as it is learned as a tradition that the girls from the ten tribes of that generation became barren and did not give birth to any offspring, whereas some of the exiled men of the ten tribes married gentile women. Consequently, all of the children born there were gentiles.

⁴⁵⁴ There are those who say that Rav Yehuda actually related the following: When I said this halakha before Shmuel, he said to me: They did not move from there, the place where they deliberated on this matter, until they rendered all of them, including those who intermingled with the ten tribes in different locations, full-fledged gentiles. Consequently, there is no concern that their betrothals might be of any effect, as it is stated: “They have dealt treacherously against the Lord, for they have begotten strange children” (Hosea 5:7).

⁴⁵⁵ § The Gemara relates: Rav Yosef sat behind Rav Kahana, and Rav Kahana sat before Rav Yehuda, and he sat and he said this tradition: In the future, the Jews will establish a Festival day when Tarmod is destroyed. The Gemara asks: But it has already been destroyed. The Gemara answers: That place that was destroyed was Tamud, not Tarmod. Rav Ashi said: Tarmod is the same as Tamud. However, the city is doubled. In other words, when it is destroyed from this side it is settled on that side, and when it is destroyed from that side it is settled on this side. Consequently, it has not yet been entirely destroyed.

⁴⁵⁶ The Gemara relates: Rav Hamnuna sat before Ulla and was engaged in the study of halakha. Ulla said about him: What a man; what a man. In other words: What a great man this Rav Hamnuna is. If only Harpanya were not his city, as the inhabitants of that place are all of flawed lineage, which indicates that the lineage of Rav Hamnuna is likewise impaired. Rav Hamnuna was ashamed. Ulla said to him: Where do you give the money for payment of the poll tax? He said to him: I pay it to the city of Pum Nahara, as my city is subject to taxation by that city. He said to him: If so, you are from Pum Nahara, not Harpanya, and your lineage is evidently not flawed.

⁴⁵⁷ § The Gemara asks: What is the meaning of the name Harpanya? Rabbi Zeira said: It means the mountain to which all turn [har shehakol ponin bo]. In other words, it is the destination for all those who could not find wives anywhere else, as most of its population is of flawed lineage. It is taught in a baraita: All those who do not know their family or tribe turn there. Rava said: This type of flaw is appalling and is deeper than the netherworld, as is stated: “Shall I ransom them from the power of the netherworld? Shall I redeem them from death?” (Hosea 13:14). This verse indicates that it is possible to be ransomed and released from the netherworld, whereas their disqualification cannot be rectified.

⁴⁵⁸ The Gemara comments: Those who are disqualified from Harpanya are unfit due to the disqualification of the inhabitants of nearby Meishon, who were unfit and intermarried with the residents of Harpanya. Those disqualified from Meishon are unfit due to those disqualified from Tarmod, and those disqualified from Tarmod are disqualified due to the servants of Solomon.

⁴⁵⁹ The Gemara comments: And this explains the folk saying that people say in this regard: A large ephah and a small ephah, which are both inaccurate utensils that may not be used for measuring, roll onward to the netherworld, and from the netherworld to Tarmod, and from Tarmod to Meishon, and from Meishon to Harpanya. The same idea expressed by the Sages with regard to the disqualification of lineage was also incorporated into a well-known adage among commoners.

Chapter 2

¹ MISHNA: Each of the women enumerated in the first chapter causes exemption from levirate marriage and ḥalitza for her rival wives. This is due to the close family relationship she has with her brother-in-law, making her forbidden to him. The single exception is the case explained in this mishna. What is the case of the wife of a brother with whom he did not coexist? For example: If there were two brothers, and one of them died childless, and subsequently a brother of theirs was born, after which the second brother, the elder, took his deceased brother’s wife in levirate marriage, and then died as well. Consequently, two women require levirate marriage: The widow of the first brother who had been taken in levirate marriage by the second brother, and the widow of the second brother, the first widow’s rival wife. The first widow, who had been the wife of the first brother to die, goes out without any obligation to be taken in levirate marriage by the youngest brother who was born later, since she is the wife of a brother with whom he did not coexist. The first deceased brother never lived at the same time as the newly born brother. The second widow, who had been married to the second brother, is exempt due to her rival wife.

² The mishna discusses an additional situation: If the second brother had performed only levirate betrothal with her, meaning that he had not yet consummated the marriage, and then died, both the wife betrothed by a levirate betrothal to the second brother and the wife of the second brother fall before the youngest brother born after the death of the first brother. In that case, the first wife certainly goes out and is exempt from both ḥalitza and levirate marriage, since she is to him the wife of a brother with whom he did not coexist. The second, however, was never effectively the rival wife of the first brother’s wife, as the first brother’s wife had only been betrothed by levirate betrothal and was not fully married to the second brother. Therefore, she performs ḥalitza and may not enter into levirate marriage.

³ GEMARA: Rav Nahman said: He who taught the version of the mishna which reads: The first widow goes out, is not mistaken in his version, and he who taught a variant version of the mishna which reads: The second widow goes out, is not mistaken either, since it is possible to understand the mishna both ways. Both versions of the text can refer to the same woman, i.e., the wife of the first brother, by different titles. The Gemara explains that he who taught:

⁴ The first, is not mistaken, as what is the meaning of first? It means the first to fall before her yavam for levirate marriage. And he who taught referring to her as the second is not mistaken either, as what is the meaning of second? It means the second to enter marriage. Since the second deceased brother was already married to one woman, this yevama whom he took in levirate marriage was his second wife. The Gemara wonders: Is this the necessary order of events? Are we not also dealing with a scenario in which the second brother took the wife of the first brother in levirate marriage and then later took another wife? Would such a situation not merit the same ruling? Rather, what is the meaning of calling the wife of the first brother the second? It means she who had been married for a second time. She had already been married twice, whereas the wife of the second brother had been married only once.

⁵ § The Gemara turns from a review of the language used in the mishna to a discussion of the halakhot of a wife of a brother with whom one did not coexist. Where is it written that the mitzva of levirate marriage does not apply in the case of the wife of a brother with whom he did not coexist? Rav Yehuda said that Rav said: The verse states “If brothers dwell together and one of them dies” (Deuteronomy 25:5), meaning that they had a common dwelling together in the world. This excludes the wife of a brother with whom he did not coexist. Furthermore, it is derived: “Together” means that they were united together in an inheritance; i.e., they are united in that they inherit together. In other words, since property is inherited by sons from their father, it can be inferred that the verse is speaking specifically of brothers from the same father. This excludes his maternal half brother, with whom he is not united by inheritance, since only brothers who share the same father inherit from each other.

⁶ Rabba said: One learns the ruling that levirate marriage applies only to brothers from the same father by the verbal analogy between the term brotherhood used in the context of levirate marriage and the term brotherhood from the children of Jacob. Just as there, with regard to the children of Jacob, they are all brothers from the father and not from the mother, since they were from four different mothers, so too, here, in the case of levirate marriage, it is referring specifically to brothers from the father and not from the mother.

⁷ The Gemara raises an objection: Why should we learn from the children of Jacob? Let it derive the meaning of the term brotherhood by verbal analogy to the term brotherhood from the verses discussing those with whom relations are forbidden. In the halakhot of forbidden relations, both paternal and maternal half brothers are considered brothers, and are thereby subject to such prohibitions as those against relations with a brother's wife. The Gemara answers: The first analogy is preferable, as we infer “brothers” from “brothers.” The word “brothers” is stated both with regard to the children of Jacob and with regard to the halakhot of levirate marriage, whereas with regard to forbidden relations it says “your brother,” and one cannot make an inference to “brothers” from “your brother.”

⁸ The Gemara objects: What difference does it make if there is a minor difference between the words being compared? As the school of Rabbi Yishmael taught a verbal analogy with regard to leprosy of houses between the verse “and the priest shall return [veshav]” (Leviticus 14:39) and the verse “and the priest shall come [uva]” (Leviticus 14:44), from which it is derived that this is the halakha with regard to returning, i.e., it is after seven days, and this is the same halakha with regard to coming, that it is after seven days. Consequently, a less pronounced difference of one letter between the Hebrew words for “brothers” and “your brother” should certainly not prevent the teaching of a verbal analogy. The Gemara responds: This applies when nothing else was more similar, but where there is something similar we infer from that which is more similar. In such situations, it is preferable to learn from the word that bears greater similarity.

⁹ The Gemara objects on another count: Let the halakha derive the meaning of the term brotherhood from the term brotherhood from Lot, as it is written that Abraham said to Lot: “For we are brothers” (Genesis 13:8). From here one could conclude that the word brothers means relatives and not necessarily brothers. The Gemara rejects this: It is more reasonable to derive from the children of Jacob, due to the fact that the word “brothers” is free in its context and is therefore available to be used in a verbal analogy: Since it could have written: We your servants are twelve children of our father, but instead it writes: “Twelve brothers, the children of one man” (Genesis 42:13), learn from here that this comes to render the word “brothers” free so that it may be allocated to another matter, i.e., the definition of brothers.

¹⁰ The Gemara comments: And although Rav Yehuda and Rabba learned the same ruling from two different passages, according to both it was necessary to write “brothers” and it was necessary to write “together” in the verses discussing levirate marriage, as, if the Merciful One had written only “brothers,” I would say that one should infer the meaning of the term “brothers” from the term “brothers” from Lot. And if you would say it is not free there in the same way that the word “brothers” is free in the passage concerning the children of Jacob, this is not so; in fact, it is free. With regard to Lot it could have written: Friends, as they were not actual brothers but relatives, and yet “brothers” is written. One might learn from here that this is free to be allocated elsewhere and teach that such relatives are called brothers even for levirate marriage. Therefore, the Torah wrote “together” to teach that this applies specifically to those brothers who are united in an inheritance.

¹¹ And if the Merciful One had written “together” alone and not added “brothers,” I would say that they must have both the same father and mother together, and that otherwise the mitzva of levirate marriage would not apply. Therefore, “brothers” is written to compare this to the children of Jacob, who were brothers from the same father but not the same mother. It is for this reason, then, that it is necessary to write both.

¹² The Gemara asks about the last supposition: But from where would it be derived that perhaps levirate marriage would apply only if they are full brothers, sharing both a father and mother? Why should one assume that maternal brotherhood is also of import here? Doesn’t the Merciful One make levirate marriage dependent upon inheritance? The Torah states that the yavam who performs the levirate marriage will establish the name of his deceased brother, meaning that he inherits from him, and inheritance comes from the father and not from the mother. Nevertheless, this was necessary, as it could enter your mind to say that since this halakha of levirate marriage is a novelty in that a woman who was a forbidden relation to him as a brother’s wife is now rendered permitted, say that

this permissibility will be limited only to cases of brothers with the same father and same mother together. It is due to this possibility that the verbal analogy to the brothers who were the children of Jacob is necessary.

¹³ § Rav Huna said that Rav said: In the case of a widow whose husband had died childless and who is waiting for her yavam to perform levirate marriage or set her free with *ḥalitza*, who then died before her yavam could take her in levirate marriage, the yavam is permitted to marry her mother. The levirate obligation does not create a familial relation between them. Apparently, Rav Huna says that Rav holds that the levirate bond [*zikka*] is not substantial. In other words, the bond formed between the yevama and her yavam requiring levirate marriage does not create a halakhic connection between the two. The Gemara asks: Then let him say explicitly: The halakha is in accordance with the statement of he who says that the levirate bond is not substantial, as this issue is in fact a matter of dispute between *tanna'im*. Why did he not simply conclude that the halakha is in accordance with the opinion of the *tanna* who held that the levirate bond is not substantial?

¹⁴ The Gemara answers: If he had said that, I would say: This statement that the levirate bond is not substantial applies only in reference to two brothers, each of whom has the possibility to take her in levirate marriage. In such cases the levirate bond between either one of the brothers and the yevama is not absolute, as it is always possible for the other brother to marry her instead. But in cases of one brother, then since the obligation to the yevama is exclusively his, I would say that the levirate bond is substantial.

¹⁵ The Gemara asks: Then let him say: The halakha is in accordance with the statement of the one who says that the levirate bond is not substantial, even in the case of one brother. The Gemara answers: If he had said that, I would say: Even if his yevama were alive and required levirate marriage with him, he would be allowed to take her mother in marriage. Therefore, this comes to teach us that after death, yes, he is permitted to marry her mother; but while she is alive, he is not. Why not? This is because it is prohibited to nullify the mitzva of levirate marriage. Were he to marry her mother, he would no longer be able to take the daughter in levirate marriage because his wife's daughter is forbidden to him. As a result of his marriage, he would cancel the mitzva of levirate marriage so that it could no longer apply to him.

¹⁶ The Gemara raises an objection to the statement of Rav Huna: We learned in a mishna (49a): If his yevama dies, he is permitted to marry her sister. A precise reading of this phrase leads to the implication that with regard to her sister, yes, it is permitted, as even if it had been his wife who had died he would be permitted to marry her sister. But with regard to her mother, no, it is not permitted.

¹⁷ The Gemara rejects this: No evidence can be derived from here, as it is possible to say that the same is true even for her mother, that she too is permitted. But since it taught in the first clause of this mishna: If his wife dies he is permitted to take her sister, and there the language is precise and implies: Her sister, yes, but her mother, no, as she is forbidden by Torah law because it is prohibited for a man to marry both a woman and her daughter even after one of them dies, therefore he used the same language when he taught the latter clause of the same mishna that he is permitted to take her sister. However, in the latter clause it is not an exact reading, and in actuality one is allowed to marry any of her relatives. This completes the Gemara's explanation of Rav Huna's opinion.

¹⁸ And Rav Yehuda said: In the case of a widow who dies while waiting for her brother-in-law to perform *ḥalitza* or levirate marriage, he is prohibited from marrying her mother. The Gemara

comments: Apparently Rav Yehuda holds that the levirate bond is substantial; this would mean that the attachment between the yevama and the yavam is like that of marriage and that the yavam is therefore prohibited from marrying her relatives. But it must be asked: Why does Rav Yehuda say it in such a way? Let him say: The halakha is in accordance with the statement of the one who says that the levirate bond is substantial.

¹⁹ The Gemara responds: If he would have said that, I would say that with regard to the levirate bond, this applies in the case of one brother, but if there were two brothers then the levirate bond is not substantial. The Gemara objects: But when the tanna'im disagree, they disagree in a case of two brothers, so how could one think that Rav Yehuda is speaking only in the case of a single brother? Rather, one must say: If he were to say that the conclusive halakhic ruling is that the bond is substantial,

²⁰ I would say that the levirate bond applies as long as the yevama requiring levirate marriage is alive but that after her death the bond was terminated. In other words, after the yevama died any relationship between the two dissolved. This comes to teach us that the bond is not terminated without cause but instead requires an actual act, such as *ḥalitza* or levirate marriage. Until one of these acts is performed, the bond remains in place. Let us say that it supports Rav Yehuda's opinion from that which was taught: If his yevama dies, he is permitted to marry her sister. From here the Gemara deduces: Her sister, yes; her mother, no, in accordance with the opinion of Rav Yehuda.

²¹ The Gemara rejects this: The same is true, that even her mother is permitted. And this language was used only since he taught in the first clause of the baraita: If his wife dies he is permitted to take her sister; specifically her sister but not her mother, as she is forbidden by Torah law. Therefore, he also taught in the latter clause that he is permitted to marry her sister.

²² Rav Huna bar Ḥiyya raised an objection to this from the mishna: If he performed levirate betrothal with her and then died, the second woman performs *ḥalitza* and may not enter into levirate marriage. This implies that the reason is specifically that he performed levirate betrothal with her. Had the brother not performed levirate betrothal with her, the second woman would also be permitted to enter into levirate marriage. And if you say that the levirate bond is substantial, then she would be considered a rival wife of the wife of a brother with whom the third brother did not coexist by that bond. Since the wife of a brother with whom he did not coexist is prohibited from entering into levirate marriage, her rival wife would likewise be forbidden from doing so.

²³ Rabba said: This should not be read precisely, as the same is true even if the second brother did not perform levirate betrothal; the second woman must perform *ḥalitza* but may not enter into levirate marriage, as the levirate bond renders her a rival wife of the wife of a brother with whom the third brother did not coexist.

²⁴ And the reason that it teaches the case of levirate betrothal specifically was in order to exclude the opinion of Beit Shammai, who said: The legal status of levirate betrothal with a yevama eligible for levirate marriage is that of a full-fledged acquisition, and it is legally binding to the same degree as an actual betrothal. Therefore, even *ḥalitza* would be unnecessary, similar to the case of a rival wife of a forbidden relation. This is what it comes to teach us: Even if he performed levirate betrothal she is not truly considered the rival wife of a forbidden relation; the prohibition concerning her is by rabbinic law, and she is therefore required to perform *ḥalitza*.

²⁵ Abaye raised an objection to this from that which was taught: In the case of two brothers who coexisted, and one died childless and the second arose to perform levirate betrothal with his yevama but did not manage to perform levirate betrothal before a third brother was born, and then the second brother, who also had a wife, died, whereby both women would fall before the newly born brother for levirate marriage, then the first goes out and is not obligated in levirate marriage because she is the wife of his brother with whom he did not coexist, and the second woman, who was the wife of the second brother, either performs ḥalitza or enters into levirate marriage. But if you say that the levirate bond is substantial, then the wife of the second brother would be rendered a rival wife of the wife of a brother with whom he did not coexist by that bond.

²⁶ The Gemara rejects that: In accordance with whose opinion is this? It is the opinion of Rabbi Meir, who said: The levirate bond is not substantial. The Gemara asks: Does Rabbi Meir hold that the levirate bond is not substantial? After all, unattributed mishnayot are in accordance with the opinion of Rabbi Meir, and didn't we learn in a mishna (26a): In the case of four brothers, two of whom are married to two sisters, if those married to the sisters died, whereby both sisters fall before the surviving brothers for levirate marriage, then those two sisters must perform ḥalitza and may not enter into levirate marriage. It would seem that the reason for this is that each of the sisters has a levirate bond to both remaining brothers.

²⁷ And if it enters your mind to say that Rabbi Meir held that the levirate bond is not substantial, didn't these two sisters come from two different houses, as each was married to a different brother? If so, one brother should take one in levirate marriage and the other should take one in levirate marriage.

²⁸ The Gemara answers: Actually, in Rabbi Meir's opinion the levirate bond is not substantial. The mishna states that they perform ḥalitza and do not enter into levirate marriage because he held that it is prohibited to nullify the mitzva of levirate marriage. That is to say, it is prohibited to act in such a way that the mitzva of levirate marriage becomes obviated. Under these circumstances there is concern that perhaps as one brother performs levirate marriage to one of the sisters the other brother dies before he manages to perform levirate marriage to the other. If that were to happen, you would thereby nullify the mitzva of levirate marriage since the sister that would now fall before the remaining brother would be his wife's sister and therefore prohibited from entering into levirate marriage with him.

²⁹ The Gemara objects: But if the levirate bond is not substantial, then let the mitzva of levirate marriage be nullified. That is, if the levirate bond does not carry any real obligation, then the mitzva itself never truly came into effect. As Rabban Gamliel said: The levirate bond is not substantial, and it is permitted to nullify the mitzva of levirate marriage.

³⁰ As we learned in a mishna (109a): That mishna discusses a case of two brothers who were married to two sisters. One sister is an adult and therefore her marriage was fully effectual, and one sister is still a minor, and she was orphaned from her father, and her marriage was valid only by rabbinic ordinance. If the brother who was married to the elder sister died, then that sister falls for levirate marriage before the brother married to the minor. Under these circumstances, the Sages suggested directing the minor to refuse her marriage to her husband so that he would be able to take his brother's wife in levirate marriage. If the minor does not do so, he would be unable to take her sister in marriage, as she would be the sister of his minor wife and thereby fully exempt from the levirate

obligation. Rabban Gamliel said: If the minor refused in the meantime of her own accord, then she refused, but if she did not refuse, let her wait until she reaches the age of maturity, and then that other adult sister will be exempt from performing ḥalitza or levirate marriage due to the fact that she is his wife's sister. Here it is apparent that Rabban Gamliel is not concerned about nullifying the mitzva of levirate marriage from one of them.

³¹ Rabba said to Abaye: Do you wish to raise a contradiction between the words of Rabban Gamliel and Rabbi Meir? This would imply that the contradiction needs to be resolved, but statements from two different tanna'im do not need to agree or to be resolved. Abaye responded: No, in fact this is what we meant to say: How could one possibly say that Rabbi Meir is concerned lest there be nullification of the mitzva of levirate marriage even when it is uncertain because perhaps the first brother will not die, whereas Rabban Gamliel is not concerned that the mitzva be nullified even when it is certain? It is surprising that there should be such a great difference between the tannaitic opinions. Rabba answered: Perhaps the one who is not concerned about nullification of the mitzva of levirate marriage is not concerned even if nullification is certain, and the one who is concerned is concerned even if nullification is uncertain.

³² With regard to the actual dispute between Rav Huna and Rav Yehuda, Abaye said to Rav Yosef: This halakha stated by Rav Yehuda, that even if a woman waiting for levirate marriage dies her mother is still forbidden to the yavam, is from his teacher Shmuel and not from Rav, who was also one of his teachers. Evidence for this can be found in that which we learned in a mishna (41a):

³³ In the case of a widow waiting for her yavam to take her in levirate marriage or perform ḥalitza, if his brother betrothed her sister they said in the name of Rabbi Yehuda ben Beteira: They say to the brother who betrothed her: Wait and do not marry your betrothed until your brother performs the required action, either ḥalitza or levirate marriage. This is because until that time the levirate bond is still applicable and the woman betrothed to you is forbidden to you as the sister of a woman bonded to you. And Shmuel said: The halakha is in accordance with the opinion of Rabbi Yehuda ben Beteira. From here one may infer that Shmuel holds that the levirate bond is substantial.

³⁴ Rav Yosef said to him: And if it were the opinion of Rav, what problem would there be? Abaye said to him: It is difficult because there would be a contradiction between the opinion of Rav and another statement of Rav, since Rav Huna cited Rav, and the conclusion from his statements was that the levirate bond is not substantial. He said to him: Rav Huna and Rav Yehuda each cited Rav. Perhaps they are amora'im and disagree in accordance with the opinion of Rav, i.e., with regard to his opinion? The Gemara answers: Since that which was stated in the name of Shmuel was explicit, while that said in the name of Rav must be explained as an amoraic dispute, we will not leave that statement said explicitly in the name of Shmuel and explain it as an amoraic dispute according to the opinion of Rav.

³⁵ Rav Kahana said: I reported this discussion before Rav Zevid of Neharde'a. He said: That is how you teach this, without knowing for certain that Rav Yehuda was stating the halakha in the name of Shmuel. We learn it explicitly: Rav Yehuda said that Shmuel said: In the case of a widow waiting for her yavam who died before he could perform ḥalitza or levirate marriage, he is prohibited from marrying her mother. Apparently Shmuel holds that the levirate bond is substantial. And Shmuel conforms to his standard line of reasoning, as Shmuel also said: The halakha is in accordance with the opinion of Rabbi Yehuda ben Beteira.

³⁶ The Gemara comments: Both statements by Shmuel on the subject are necessary and there was no redundancy here, as, if he were to teach us only the principle that the levirate bond is substantial, I would say that this applies only to the case of one yavam but not to a case of two yevamin, where the levirate bond is not as strong. This comes to teach us that even in the case of two yevamin there is a bond, and that is the conclusive halakha put forth by Rabbi Yehuda ben Beteira. And if he were to teach us only that the halakha is in accordance with the opinion of Rabbi Yehuda ben Beteira, I would say that this applies only in the case where the woman awaiting levirate marriage is living, but after her death the levirate bond is terminated and he is permitted to marry her relatives. This comes to teach us that the levirate bond is not terminated without cause but rather it is necessary to perform some act in order to exempt her from it.

³⁷ MISHNA: If there were two brothers, and one died, and the second entered into levirate marriage with his brother's wife while he was already married to another woman, and subsequently a third brother was born to them, and the second brother then died, whereby both of his wives happened before the third brother for levirate marriage, then the first woman, who was the wife of the first brother, is exempt due to the fact that she is the wife of a brother with whom the third brother did not coexist, and the second woman, who was the first wife of the second brother, is exempt due to her rival wife. If the second brother had performed only levirate betrothal with her and then died before fully marrying her, the second woman performs *ḥalitza* and may not enter into levirate marriage, as the levirate betrothal is not considered a sufficiently valid marriage so as to render her the rival wife of a relation forbidden to the third brother.

³⁸ Rabbi Shimon says with regard to the first clause of the mishna: The third brother either enters into levirate marriage with whichever one he wishes, or he performs *ḥalitza* with whichever one he wishes. Since he was born after his second brother had already entered into levirate marriage with the first brother's widow, she is considered the wife of a brother with whom he did coexist, not the wife of a brother with whom he did not coexist. Therefore, he may enter into levirate marriage with her.

³⁹ GEMARA: Rav Oshaya said: Rabbi Shimon's opinion differed even on the first mishna. That is, Rabbi Shimon disagreed not only in the case stated explicitly in this mishna, in which the newly born brother came into the world after the widow of his first brother had already married his second brother, but he also disagreed in the case of the first mishna in the chapter, where the third brother was born prior to his second brother entering into levirate marriage with the widow. From where is this derived? Rav Oshaya came to this conclusion from the fact that it teaches a superfluous mishna.

⁴⁰ How so? In accordance with whose opinion is it teaching the section of the first clause, i.e., the previous mishna? If we say it is the opinion of the Rabbis, who prohibit marriage to the wife of a brother with whom one did not coexist in all cases, then let us look at the second mishna. Now that even in the case where the second brother entered into levirate marriage and afterward the third brother was born, such that when he found her, i.e., when he was born, she had a permitted status, as she was already married to the second brother, she was never in his lifetime the wife of a brother with whom he did not coexist but was in fact for him the wife of a living brother. Nevertheless, even under such circumstances, the Rabbis prohibit him from entering into levirate marriage with her. Is it necessary, then, to teach the case presented in the first mishna of a third brother who was born and subsequently the second brother entered into levirate marriage with the wife of the first brother?

According to the opinion of the Rabbis, this first mishna is redundant. Rather, is it not that it was necessary to state this first mishna for the opinion of Rabbi Shimon?

⁴¹ If so, this is how it must be understood: The first mishna was taught in order to convey to you the far-reaching nature of the opinion of Rabbi Shimon, which allows even the case specified in the first mishna, and the latter clause, i.e., the present mishna, was taught to convey the far-reaching nature of the opinion of the Rabbis, that even if the third brother was born after levirate marriage to the second brother she remains forbidden to the third brother. And by right it should have explained that Rabbi Shimon disagrees even in the first mishna, but the author of the mishna waited until the Rabbis finished their words, and then he went back and wrote that Rabbi Shimon disagreed with them.

⁴² The Gemara asks: But according to the opinion of Rabbi Shimon, how can you find this case of the wife of a brother with whom he did not coexist? The Gemara answers: It is in the case of a single brother who died and subsequently another brother was born to him. Here, the widow would be the wife of a brother with whom he did not coexist, and she would not be required to perform *ḥalitza* or enter into levirate marriage with him. Alternatively, it can be found in the case of two brothers, one of whom died, and the remaining brother did not take the deceased brother's wife in levirate marriage, and did not die, and in the meantime a third brother was born. She still has the levirate bond due to the deceased brother, who was a brother with whom the newly born brother did not coexist.

⁴³ The Gemara proceeds to clarify Rabbi Shimon's position: Granted, in the case when the second brother first performed levirate marriage and subsequently the third brother was born, it is possible to explain that when the third brother found her, i.e., when he was born, he found her in a permitted state because when he was born she was already the wife of a living brother with whom he coexisted. But if he was born and subsequently the second brother performed levirate marriage, what is the reason that Rabbi Shimon renders her permitted? The Gemara answers: One must say that Rabbi Shimon holds that the levirate bond is substantial, and that the bond itself created a tie of kinship. Moreover, a woman with a levirate bond is considered like a married woman. Since there is a bond between the *yevama* and the living brother it is as though she were already married to him. Accordingly, she is, for the new brother, like the wife of his brother with whom he coexisted.

⁴⁴ Rav Yosef strongly objects to this: Now that in the case of a levirate bond and a levirate betrothal together Rabbi Shimon is uncertain as to whether she is similar to a married woman or an unmarried woman, is it necessary to say that by levirate bond alone she is not like a married woman? If so, how can the Gemara assume that for Rabbi Shimon, the levirate bond alone gives her the status of a married woman?

⁴⁵ What is the proof that this is Rabbi Shimon's opinion? As we learned in a mishna (31b): In the case of three brothers who were married to three unrelated women, and one of the brothers died, and the second brother performed levirate betrothal with the widow and subsequently died, then these women, both the first wife of the second brother and the betrothed widow of the first brother, must perform *ḥalitza* and may not enter into levirate marriage with the third brother.

⁴⁶ What is the reason that the wife of the first brother is not eligible for levirate marriage? As it is stated: "And one of them dies...her brother-in-law will have intercourse with her and will take her to him to be his wife and consummate the levirate marriage" (Deuteronomy 25:5). From here it is derived: She who is subject to a levirate bond with a single *yavam* enters levirate marriage and not

she who is subject to a levirate bond with two yevamin. This woman requires levirate marriage due to the death of the first brother, and also, due to the subsequent levirate betrothal, requires levirate marriage following the death of the second brother.

⁴⁷ However, Rabbi Shimon says: Let him enter into levirate marriage with whichever he wishes and perform ḥalitza with the second. Rabbi Shimon does not accept the homiletical interpretation forbidding a woman who is subject to two levirate bonds. The Gemara explains his opinion: Rabbi Shimon does not allow him to take both in levirate marriage. Why not? Perhaps the levirate bond is substantial, and combined with the levirate bond to the second brother the woman might be considered to be already married to the second brother, and then these two women would be two yevamot who come

⁴⁸ from a single household, i.e., husband, and everyone agrees that only one wife from each household may be taken in levirate marriage, as the verse states: “To build his brother’s house,” which is interpreted to mean that the remaining brother may perform levirate marriage with only one wife of his late brother and not with two. To take one in levirate marriage and exempt the other without any procedure, he may not do, as perhaps the levirate bond is not substantial enough to make the first brother’s widow like a married woman to the second brother. In that case this woman whose husband died first remains the wife of the first brother, and the second woman is the wife of the second brother. Then there would be two separate levirate obligations, and one could not exempt the other; they would be two yevamot who come from two households. Therefore, apparently even when levirate betrothal was performed Rabbi Shimon is uncertain whether or not the levirate bond is substantial.

⁴⁹ And if you would say that by Torah law, indeed, one of them may be taken in levirate marriage and thereby exempt the other, and this was prohibited only by rabbinic law, this would be a rabbinic decree due to the concern lest those who were not aware of the details mistakenly say that in general if two yevamot come from two households then one is taken in levirate marriage and the other is exempt without anything. One might have thought that the reason Rabbi Shimon required the other woman to perform ḥalitza is to avoid the possibility of such a mistake.

⁵⁰ But this cannot be, as Rabbi Shimon’s reason is mentioned explicitly in the baraita, and there he does not state that this is a decree of the Sages. Rather, his reason is due to the question with regard to the strength of levirate betrothal, specifically whether the status of marriage is achieved by levirate betrothal or not achieved by levirate betrothal. As it is taught in a baraita: Rabbi Shimon said to the Rabbis in explanation of his opinion that one of the women could enter into levirate marriage: If the levirate betrothal of the second brother is indeed levirate betrothal and is considered as a fully valid marriage, then the third brother is engaging in relations with the wife of the second brother when he takes her in levirate marriage. That is, if the levirate betrothal by the second brother has the same status as full marriage, then she becomes the wife of this second brother, and all previous connections are no longer relevant.

⁵¹ But if the levirate betrothal of the second brother is not levirate betrothal, i.e., it does not have the full status of marriage, then there was never in fact any connection between the two. If she is then taken by the third brother in levirate marriage, he would be engaging in relations with the wife of the first brother. From here one can conclude that the basis for Rabbi Shimon’s uncertainty is related to the questions concerning the strength of the levirate betrothal.

⁵² Abaye said to him: From here you cannot prove what Rabbi Shimon's opinion was. Is there no difference to you between a levirate bond to a single yavam and a bond to two yevamim? Perhaps when Rabbi Shimon said that a levirate bond is substantial enough to render her like a married woman, this applies only when there is a single yavam. If these were the circumstances of the case discussed, that when one brother died there remained only one yavam, then because the obligation of levirate marriage would apply only to him, she would be considered his wife. But perhaps he held that if there were two yevamin, then no, she would not be considered a married woman, as here the bond would apply to both at once. Accordingly, Rabbi Shimon's uncertainty is with regard to the case of a levirate bond with two yevamin.

⁵³ The Gemara challenges: Does Rabbi Shimon differentiate between the case of one yavam and the case of two yevamin in the matter of a wife of a brother with whom he did not coexist? But it is taught in a baraita with regard to the wife of a brother with whom he did not coexist: Rabbi Shimon stated a principle: Whenever the birth of the third brother precedes the levirate marriage of the second brother, if this second brother dies and the yevama falls before the third brother, she does not perform ḥalitza and she does not enter into levirate marriage. In such circumstances she is the wife of a brother with whom he did not coexist. But if the levirate marriage preceded his birth, she either performs ḥalitza or enters into levirate marriage.

⁵⁴ What, is it not referring to the case of a single yavam, and it is taught in a baraita: She does not perform ḥalitza and she does not enter into levirate marriage. Even if there is only a single yavam this is not considered full marriage, and she remains forbidden as the wife of a brother with whom he did not coexist. Consequently, she who is subject to a levirate bond is not like a married woman. The Gemara answers: No. it refers to a case of two yevamin.

⁵⁵ The Gemara asks: But what, then, is the ruling for a single yavam? So too, one should say she either performs ḥalitza or enters into levirate marriage, as the woman who requires levirate marriage is like the wife of the second brother for all purposes. If so, rather than teaching the case when the marriage of the second brother precedes the birth of the third brother, that if this second brother dies and she falls before the third brother, she either performs ḥalitza or enters into levirate marriage, let Rabbi Shimon distinguish and teach the distinction within the situation itself and say: In what case is this statement said? When there are two yevamin. But if there is one yavam, she either performs ḥalitza or enters into levirate marriage.

⁵⁶ The Gemara rejects this: No, the entire baraita is in reference to two yevamin and differentiates between various cases involving two yevamin, namely, the case where the birth of the third brother preceded the marriage of the second brother and the case where the marriage of the second brother preceded the birth of the third brother. The Gemara asks: Rather, what is the principle in this matter? If Rabbi Shimon is speaking of two yevamin and not a single yavam, then it makes no sense to speak of a principle, as the halakha is different in the case of a single yavam.

⁵⁷ Moreover, Rav Oshaya raised an objection from that which was taught in a mishna (28b): If there were three brothers, two of whom were married to two sisters, or to a woman and her daughter, or a woman and her daughter's daughter, or a woman and her son's daughter, who are, in each case, two women who may not be married to the same person simultaneously, and subsequently these brothers who were married to relatives died, then those two women must perform ḥalitza and may not enter into levirate marriage. Since they both have a levirate bond to the third brother at the same time and

he is prohibited from marrying both, they cause one another to be unable to perform levirate marriage. And Rabbi Shimon exempts them even from ḥalitza.

⁵⁸ And if it enters your mind that Rabbi Shimon held that a levirate bond is substantial enough to make her like a married woman, then let the third brother consummate the levirate marriage to the widow of the first husband to die, since as soon as her husband dies she has a levirate bond with the other brothers and should be considered to be like his wife, and let the other be exempt as a result, as her levirate bond began only with the death of the second husband.

⁵⁹ Rav Amram said: What is really the meaning of the word exempt used by Rabbi Shimon? Only the second is exempt. The Gemara objects: But it is taught in a baraita: Rabbi Shimon exempts both. From here it is clear that in his opinion a woman subject to a levirate bond does not have the same status as a married woman.

⁶⁰ Rava said: In the case mentioned in that baraita, there were three brothers, two of whom died. Each of the deceased brothers had four wives who were related to the wives of the other brother as described in the mishna. One wife of the first brother was the sister of a wife of the second brother. Another wife was the mother of a wife of the second brother. Another was the daughter of the daughter of a wife of the second brother. And another was the daughter of the son of a wife of the second brother. When these brothers died, all eight women happened before the remaining brother for levirate marriage. When Rabbi Shimon deemed both of them exempt, he was referring to the second from this pair and the second from that pair. That is, since one of them was bound to the third brother her relative became exempt as a forbidden relative, and the other of the pair was her rival wife in each of the cases.

⁶¹ The Gemara comments: Rava was mistaken about there being four pairs. He mistakenly understood that the mishna spoke of two brothers who married four pairs of relatives. Why does the Gemara assume that he was mistaken? One piece of evidence is that the mishna teaches the case using the expression: Or, or. The mishna teaches: Or to a woman and her daughter, or to a woman and her daughter's daughter, or a woman and her son's daughter, meaning that not all of the pairs happened before a single yavam for levirate marriage. And further, the baraita should have said: Rabbi Shimon exempts all four of them, i.e., the four women married to the second brother.

⁶² And further, it is taught explicitly in a baraita that Rabbi Shimon exempts both of them from both ḥalitza and levirate marriage, as it is stated: "And you shall not take a woman to her sister, to be a rival to her" (Leviticus 18:18). From here it is derived that when two sisters are about to become rival wives one to the other, that is, at the moment they fall before one brother for levirate marriage, you do not have the option of taking even one of them. In other words, levirate marriage to either of them is not permitted, and therefore both are exempt and not only the second. Thus Rava's explanation is rejected.

⁶³ Rather, Rav Ashi said an alternative answer to the Gemara's challenge: If these yevamot happened before him for levirate marriage one after the other, indeed it is so that the first woman bound is like a married woman, and she exempts the second, who is her close relative. However, here we are dealing with a case when both brothers died at once and so both women happened before him at once. And Rabbi Shimon holds in accordance with the opinion of Rabbi Yosei HaGelili, who said: It is possible to be precise. He held, contrary to the opinion of the Rabbis, that it was possible to be

exact about measurements of time. Therefore, it is possible for two things to truly occur at once, and it is possible that both brothers died simultaneously.

⁶⁴ Until this point the Gemara dealt with Rav Oshaya's opinion stating that according to Rabbi Shimon's statement, even in the case of one who was born before his brother's levirate marriage the ruling of a wife of a brother with whom one did not coexist would not apply. However, Rav Pappa said: Rabbi Shimon disagreed in the case where the second brother performed levirate marriage and after that the third brother was born; however, where the third brother was born after the death of the first brother and after that the second brother performed levirate marriage Rabbi Shimon did not disagree. He agreed that in this case she would be forbidden to the newly born brother as the wife of a brother with whom he did not coexist.

⁶⁵ As for the question that Rav Oshaya raised with regard to the apparent redundancy of the similar rulings in both the first mishna of the chapter and the mishna on 18b, it can be explained that both were necessary for the opinion of the Rabbis who prohibited marriage to the wife of a brother with whom one did not coexist in every case. The difficulty raised concerning the apparent redundancy of the first mishna, given the greater scope of the opinion revealed in the second mishna, can be explained by saying that the tanna teaches the mishna employing the style: Not only this but also that. That is, the mishna follows the stylistic principle of first teaching the obvious case and continues by saying that this principle applies not only in the obvious case but even in the less obvious case. If so, there is no need to assume that there is an additional dispute with Rabbi Shimon.

⁶⁶ The Gemara continues: It is taught in a baraita in accordance with the opinion of Rav Pappa, and this is a conclusive refutation of the opinion of Rabbi Oshaya: If there were two coexisting brothers, and one died childless, and the second was about to perform levirate betrothal with his yevama but did not manage to perform levirate betrothal before his brother was born, and then the second brother died, then the first woman goes out and is free to remarry without *ḥalitza* or levirate marriage due to the fact that she was the wife of a brother with whom the third brother did not coexist, and the second either performs *ḥalitza* or enters into levirate marriage. She was never the rival wife of the widow of the first brother.

⁶⁷ If the second brother performed levirate betrothal with her and afterward his brother was born, or if his brother was born and then he performed the levirate betrothal, and then he died, the first goes out and is free to remarry as the wife of a brother with whom he did not coexist, and the second, the wife of the second brother, must perform *ḥalitza* and may not enter into levirate marriage. This is because, due to the levirate betrothal, she is considered by the Rabbis to be the rival wife of a wife of a brother with whom he did not coexist.

⁶⁸ Rabbi Shimon says: Intercourse or *ḥalitza* with one of them, i.e., the wife of the second brother, exempts her rival wife, but if he performed *ḥalitza* with the one who received the levirate betrothal, then her rival wife, i.e., the wife of the second brother, is not thereby exempt, since possibly levirate betrothal does not have the same strength as marriage. If the second brother married his deceased brother's wife and then died himself, and afterward a brother was born, or if a brother was born and then he married her and died, the two wives are both exempt from *ḥalitza* and levirate marriage. In this case, one was the wife of a brother with whom he did not coexist and the other her rival wife.

⁶⁹ The baraita continues: If he married his yevama and then a brother was born, and then he died, both the wife of the first deceased brother and the original wife of the yavam are exempt from *ḥalitza*

and levirate marriage; this is the statement of Rabbi Meir. And Rabbi Shimon says: Since the third brother came and found her in a permitted state, and she was never for a moment prohibited to him, as when he was born she was already the wife of the second brother, who was still alive, he therefore takes whichever he wishes in levirate marriage, or performs ḥalitza with whichever he wishes.

⁷⁰ The Gemara clarifies: The section of the latter clause of the baraita, which refers to the case of a brother born after the levirate marriage, according to whom is it taught? If we say it is taught for the purpose of clarifying the opinion of Rabbi Meir, it does not make sense, since it makes no difference to Rabbi Meir whether the levirate marriage preceded the birth or the birth preceded the levirate marriage. In his opinion under both circumstances she is the wife of a brother with whom he did not coexist. And if this were in fact taught for the purpose of clarifying his opinion it should have combined the cases and taught them together.

⁷¹ Rather, is it not that the latter segment was meant to clarify the opinion of Rabbi Shimon, since the different parts of the baraita enumerate different possibilities? And Rabbi Shimon disagrees in the case when the brother first performed levirate marriage and afterward his brother was born, but he does not disagree in the case where the younger brother was born and afterward the second brother performed levirate marriage. The Gemara summarizes: Conclude from this that Rabbi Shimon disagrees only here, as Rav Pappa explained.

⁷² § The Gemara proceeds to discuss the baraita itself. The Master said: The second was about to perform levirate betrothal with his yevama, but did not manage to perform levirate betrothal with his yevama before his brother was born, and then the second brother died. The first woman goes out and is free to remarry without ḥalitza or levirate marriage due to the fact that she was the wife of a brother with whom the third brother did not coexist, and the second woman performs ḥalitza or enters into levirate marriage. The Gemara asks: What is the meaning of the phrase: Was about to, and what is the meaning of: Did not manage to perform levirate betrothal? The important issue is not his intention but his actions. If he did it, he did it; and if he did not do it, he did not do it.

⁷³ Rather, the correct interpretation is: Was about to means that he was about to perform levirate betrothal with her consent. Did not manage means that he did not manage to perform it with her consent, but instead did it against her will. Consequently, it is understood that this baraita is not in accordance with the opinion of Rabbi Yehuda HaNasi, as it is taught in a baraita: With regard to one who performs levirate betrothal with his yevama without her consent, Rabbi Yehuda HaNasi says: He acquired her and the betrothal is fully valid, like a consensual levirate betrothal with his yevama; and the Rabbis say: He did not acquire her.

⁷⁴ The Gemara explains: What is the reason for Rabbi Yehuda HaNasi's opinion? He learned this from the case of a yavam engaging in intercourse with a yevama. Just as even non-consensual intercourse with the yevama renders her his wife, as the matter does not require her consent, so too, betrothal of a yevama can be non-consensual. But the Rabbis learned from the halakhot of betrothal in general; just as betrothal in general requires consent by the woman, so too, betrothal of a yevama for purposes of levirate marriage requires consent.

⁷⁵ The Gemara explains: With regard to what principle do Rabbi Yehuda HaNasi and the Rabbis disagree? One Sage, Rabbi Yehuda HaNasi, holds that halakhic matters concerning yevamot must be inferred from matters concerning yevamot and not from other areas of halakha. And one Sage, the

Rabbis, holds that halakhic matters concerning levirate betrothal must be inferred from matters concerning betrothal.

⁷⁶ The Gemara clarifies another segment of the baraita. It is taught: If the second brother performed levirate betrothal with her, and afterward his brother was born, or if his brother was born and then he performed levirate betrothal and died, the first woman goes out and is free to remarry because she is the wife of a brother with whom he did not coexist, and the second, the wife of the second brother, performs ḥalitza but does not enter into levirate marriage. Rabbi Shimon says: Intercourse or ḥalitza with one of them exempts her rival wife.

⁷⁷ The Gemara asks: To which case is Rabbi Shimon referring? If we say that he is referring to the case when his brother was born and then he performed levirate betrothal with her, didn't you already say that Rabbi Shimon did not dispute the case where the brother was born and then ultimately he performed a levirate marriage, and she would be forbidden as the wife of a brother with whom he did not coexist. Rather, one must say that Rabbi Shimon disputed the case where he performed levirate betrothal with her and afterward his brother was born.

⁷⁸ Later in the baraita it is taught: If the third brother performed ḥalitza with the wife of the first brother, to whom the second brother performed levirate betrothal, her rival wife is not exempt. The Gemara clarifies: What is the reason for this? It is because the rival wife, the widow of the second brother, has a definite legal status that requires an act to free her to remarry, as she is the wife of a brother with whom he did coexist, whereas the widow of the first brother with whom the second brother performed levirate betrothal had only an uncertain legal status, as it is not clear if she is to be considered truly the wife of the second brother by means of the levirate betrothal or not. And the principle is that an uncertainty does not override a certainty. Therefore, even if the third brother performs ḥalitza, since the status of the first woman's obligation is uncertain, the status of the ḥalitza itself is uncertain, as it is possible that she did not require ḥalitza at all. Consequently, this ḥalitza is not sufficient to exempt her rival wife. This teaches that he must perform ḥalitza or levirate marriage with the woman who is definitely obligated, and then the other will be exempt.

⁷⁹ Rav Menashe bar Zevid sat before Rav Huna. He sat and said: What is the reason that Rabbi Shimon allows the third brother to marry the wife of his brother with whom he did not coexist where she was taken in levirate marriage prior to his birth? The Gemara also wonders: What is Rabbi Shimon's reason? The reason is as he stated in that same baraita: Since the third brother came and found her in a permitted state, and she was never for a moment prohibited to him he may perform levirate marriage with her.

⁸⁰ Rather, the question was as follows: Rabbi Shimon gave such a persuasive explanation of his opinion that it raises the question: What is the reason for the Rabbis' opinion? The Gemara answers that the verse states: "Her brother-in-law will...take her to him to be his wife and consummate the levirate marriage [veyibbema]" (Deuteronomy 25:5). This means that the first levirate bond is still upon her. Even after she is taken as a wife by the second brother, her earlier status as wife of her late first husband is still in effect. The Gemara challenges this: But what about that which we learn in a mishna (38a): If he took his yevama in marriage as his wife, then her legal status is that of his wife in every sense; and Rabbi Yosei bar Ḥanina said: This teaches

⁸¹ that he must divorce his yevama with a bill of divorce and she does not also require ḥalitza. And he may remarry her, if he wishes, after the divorce; as the halakha is not ruled in accordance with the

opinion that after he performs the mitzva she is once more forbidden to him as his brother's wife. Why? There, too, let the halakha say that the verse states: "And consummate the levirate marriage [veyibbema]," as explained above, meaning that the first levirate bond is still upon her and she should also require ḥalitza.

⁸² The Gemara answers: It is different there, as the verse states: "And take her to him to be his wife" (Deuteronomy 25:5) to teach that once he has taken her, her legal status is that of his wife in every sense. The Gemara objects: If so, here too, in the case of a brother born after the levirate marriage, according to the opinion of the Rabbis this same principle should apply. The Gemara answers that The Merciful One states: "And consummate the levirate marriage [veyibbema]," that is, even after the marriage she is still considered to be the wife of the deceased brother [yevama] with respect to any brothers who are born later.

⁸³ The Gemara asks: What did you see to distinguish in this way and say that once she is married the levirate obligation is totally abrogated with regard to ḥalitza, but that she remains prohibited as the wife of a brother with whom one did not coexist with respect to any brothers born in the future? The Gemara answers: It stands to reason to say: Toss that which is permitted on that which is permitted, and toss that which is prohibited on that which is prohibited. In other words, in cases where the woman becomes permitted to her yavam through levirate marriage, it stands to reason that this permitted state is absolute, but with regard to the prohibition against taking the wife of a brother with whom one did not coexist, it stands to reason that the verse comes to teach that she retains her prohibited status with respect to any brothers born in the future.

⁸⁴ The Gemara suggests: But according to Rabbi Shimon, who said that since he came and found her in a permitted state a brother born subsequently may perform levirate marriage since she was never for a single moment prohibited to him; however, if that is so, consider the case of one's maternal half sister, who married his paternal half brother; their marriage was fully permissible since the husband and wife were in no way related to each other. And then his brother was born and the married brother died; in that case, let the sister enter into levirate marriage with her newly born half brother for the same reason, i.e., since he came and found her in a permitted state, as when he was born she was already his brother's wife.

⁸⁵ The Gemara challenges this suggestion: How can you say that? What happened to the prohibition against marrying his sister, to where did it go? This widow is the maternal sister of the newly born brother and is therefore forbidden to him. The Gemara objects: If so, here too, one could have said: What happened to the prohibition against marrying the wife of a brother with whom one did not coexist, to where did it go? In this case as well, the prohibition against marrying the wife of a brother with whom he did not coexist already applied from the first brother, so why does Rabbi Shimon see this as abrogated by marriage? The Gemara answers that the comparison is unsound. This prohibition against marrying one's sister has no case where it is permitted and so in this case is also not canceled, whereas that prohibition against marrying a brother's wife has a case where it is permitted, when the mitzva of levirate marriage applies to a second brother and is therefore removed completely before the third brother is born.

⁸⁶ MISHNA: The Sages stated a principle about a yevama: Whoever is forbidden by a prohibition of forbidden relations to her yavam neither performs ḥalitza nor enters into levirate marriage and is completely exempt. If she is forbidden by a prohibition resulting from a mitzva or by a prohibition

stemming from sanctity, as will be explained later, then since in these cases the obligation of levirate marriage is not fundamentally nullified she performs ḥalitza in order to become free of the levirate bond, and due to her prohibition she does not enter into levirate marriage.

⁸⁷ The Sages stated another principle: If two sisters who had been married to two brothers who subsequently died happened before the third brother for levirate marriage, and one of those sisters is a close relation to this third brother and is therefore forbidden to him, she is exempt from levirate marriage. But the other, her sister who is her yevama, i.e., her sister-in-law, performs ḥalitza or enters into levirate marriage. In this case, they are not ruled to be two sisters who happened before him simultaneously for levirate marriage, since one of them is prohibited to him as a forbidden relation, and therefore she never actually happened before him at all.

⁸⁸ The mishna explains: A prohibition resulting from a mitzva is referring to secondary forbidden relationships, which are prohibited by rabbinic law. The Sages prohibited marriage to certain women who were not forbidden by the Torah but were nevertheless deemed forbidden incestuous relations. A prohibition stemming from sanctity is referring to marriage of a widow to a High Priest, a divorcée or a woman who has performed ḥalitza [ḥalutza] to a common priest, a daughter born from an incestuous or adulterous relationship [mamzeret] or a Gibeonite woman to an Israelite, and also an Israelite woman to a Gibeonite or to a son born from an incestuous or adulterous relationship [mamzer].

⁸⁹ GEMARA: The Gemara asks: This principle stated in the mishna about yevamot, what other cases does it add? Since the entire list of cases involving a forbidden relation was already detailed in the first chapter, what is this mishna adding? Rafram bar Pappa said: It comes to include the case of a rival wife of a sexually underdeveloped woman [aylonit], who is incapable of bearing children. Not only does an aylonit herself not enter into levirate marriage, since she is unable to give birth, but her rival wife is exempt as well. And this is like the principle of Rav Asi, who said that the rival wife of an aylonit is forbidden because the aylonit herself remains prohibited to the yavam as the wife of his brother, as she was never rendered permitted by the obligation of levirate marriage. Therefore, her rival wife is the rival wife of someone prohibited as a forbidden relation.

⁹⁰ And there are those who say that Rafram bar Pappa's statement was made in a different context. It was taught in the mishna: Whoever is forbidden to her yavam by a prohibition of forbidden relations is completely exempt, which implies that it is specifically in such a case that her rival wife is forbidden. But any case when one wife is not forbidden by a prohibition of forbidden relations but is instead forbidden for some other reason, then her rival wife is not forbidden. This case comes to exclude what? Rafram said: It excludes the rival wife of an aylonit, who requires levirate marriage or ḥalitza because the aylonit is not prohibited as a forbidden relation. And this statement is not in accordance with the opinion of Rav Asi.

⁹¹ The mishna states: Her sister who is her yevama performs ḥalitza or enters into levirate marriage. The Gemara clarifies this: Whose sister? If we say it is the sister of one who is forbidden due to a prohibition resulting from a mitzva, since by Torah law she is cast before him for levirate marriage, then this would in fact simply be a case of two sisters who fell simultaneously before him, both requiring levirate marriage, since according to Torah law there is no prohibition against entering into levirate marriage with such a woman. If so, it turns out that he encounters the sister of the woman with whom he has a levirate bond; but that case has already been taught. Rather, it must refer to the

sister of a woman who is forbidden to him by a prohibition of forbidden relations, and since he may not enter into levirate marriage with a forbidden relation, her sister is not considered to be the sister of a woman with whom he has a levirate bond. Therefore, the sister may be taken in levirate marriage.

⁹² The mishna states that a prohibition resulting from a mitzva is referring to secondary forbidden relationships, which are prohibited by rabbinic law. The Gemara asks: Why is this called a prohibition resulting from a mitzva? Abaye said: This is because it is a mitzva to listen to and obey the words of the Sages.

⁹³ The mishna states: A prohibition stemming from sanctity is referring to a marriage of a widow to a High Priest, or a divorcée or a ḥalutza to a common priest. The Gemara asks: Why are these called a prohibition stemming from sanctity? As it is written with regard to the priests: “They shall be sacred to their God...they shall not take a woman that is a harlot, or profaned; neither shall they take a woman divorced by her husband” (Leviticus 21:6–7).

⁹⁴ It is taught in a baraita: Rabbi Yehuda switches the terms: A prohibition resulting from a mitzva is referring to a widow to the High Priest, or a divorcée or a ḥalutza to a common priest. And why is this called a prohibition resulting from a mitzva? As it is written in summarization at the end of Leviticus: “These are the mitzvot that the Lord commanded Moses for the children of Israel in Mount Sinai” (Leviticus 27:34).

⁹⁵ A prohibition stemming from sanctity is referring to secondary relationships forbidden by rabbinic law. And why is this called a prohibition stemming from sanctity? Abaye said: Whoever fulfills the words of the Sages is called sacred. Rava said to him: The language you use is not precise, since if so, whoever does not fulfill the words of the Sages is not called sacred, which implies that he is also not called wicked. However, anyone who transgresses the words of the Sages is in fact referred to as wicked. Rather, Rava said that the reason why this is called a prohibition stemming from sanctity is that the term sanctity indicates differentiation or separation, and there is a principle that you must sanctify yourself by refraining from that which is permitted to you by Torah law. The Sages decreed against secondary forbidden relations so that one would not eventually come to transgress Torah law.

⁹⁶ The mishna states that the levirate bond of a widow to a High Priest requires her to perform ḥalitza, and she may not enter into levirate marriage. The Gemara comments: The halakha that a widow does not enter into levirate marriage with a High Priest is taught categorically, merely in a general manner. It is no different whether she is a widow from marriage or she is a widow from betrothal alone.

⁹⁷ Granted, she certainly may not enter into levirate marriage if she is a widow from marriage, since she is forbidden to the High Priest by the positive mitzva stated in the verse: “And he shall take a wife in her virginity” (Leviticus 21:13), and by the prohibition stated in the verse: “A widow, or one divorced...these he shall not take” (Leviticus 21:14). And a positive mitzva, levirate marriage, does not override both a prohibition, not marrying a widow, and a positive mitzva, marrying a virgin, together. However, if she is a widow from betrothal, then there is only a prohibition, as she is still a virgin. In that case, why not say that the positive mitzva of levirate marriage should come and override the prohibition against marrying a widow from betrothal?

⁹⁸ Rav Giddel said that Rav said in response: The verse states: “His yevama shall ascend to the gate to the Elders and say: My brother-in-law refused to establish a name for his brother in Israel, he did

not wish to consummate the levirate marriage” (Deuteronomy 25:7). As there is no need for the verse to state: “His yevama,” since it is clear to whom the verse refers and no new information is added by this word, what is the meaning when the verse states: “His yevama”? It comes to teach that there is one yevama who ascends for ḥalitza but may not ascend for levirate marriage, and her brother-in-law is not given a choice. Who is this? This is a woman with whom it is prohibited for her yavam to enter into levirate marriage, as he would be liable for the violation of a prohibition, and the positive mitzva of levirate marriage does not override the prohibition.

⁹⁹ The Gemara asks: Say that this is referring to those women who are forbidden and would be liable to receive the penalty of karet as well, i.e., that these too may not enter into levirate marriage but nevertheless require ḥalitza. The Gemara answers: The verse states: “And if the man does not wish to take his yevama” (Deuteronomy 25:7). This implies that if he wishes, he takes her in levirate marriage; it depends upon his wishes. However, one who is eligible for levirate marriage is eligible for ḥalitza. And conversely, one who is ineligible for levirate marriage is ineligible for ḥalitza and therefore does not require ḥalitza at all. Since those relations that carry a penalty of karet have no possibility of entering into levirate marriage, they do not require ḥalitza either.

¹⁰⁰ The Gemara asks: If so, those relations who are forbidden as he would be liable for the violation of a standard prohibition also should not require ḥalitza, as they may not enter into levirate marriage. The Gemara answers: But the Merciful One included one category of yevama who is eligible for ḥalitza alone and not levirate marriage through the term: “His yevama.” The Gemara asks: And what did you see to conclude that the additional term is referring to relations who are forbidden and with whom he would be liable for the violation of a prohibition and not those who are liable to receive karet?

¹⁰¹ The Gemara answers: That stands to reason, since betrothal takes effect with those women who are forbidden and with whom he would be liable for the violation of a prohibition. That is, if a man betroths a woman who is forbidden to him and with whom he would be liable for the violation of a prohibition, then although he violates a prohibition in doing so, the betrothal is valid and cannot be ended without a bill of divorce. Therefore, such a woman also requires ḥalitza. In contrast, betrothal does not take effect at all with those who are forbidden and would be liable to receive the punishment of karet, and therefore in these cases the laws of levirate marriage and ḥalitza do not apply at all.

¹⁰² Rava raised an objection to the explanation of Rav: It is taught in a baraita with regard to a prohibition resulting from a mitzva and a prohibition stemming from sanctity that if he engages in intercourse with such a woman or performs ḥalitza with her, her rival wife is exempt, even though it was prohibited for him to have engaged in intercourse with her in the first place. If it enters your mind that women who are forbidden, as he would be liable for the violation of a prohibition, require ḥalitza by Torah law but do not require levirate marriage, then when he engages in intercourse with his yevama why is her rival wife exempt? If there is no biblical mitzva to engage in intercourse with her, his action would carry no halakhic validity and the rival wife should not be exempt.

¹⁰³ Rava raised the objection and he resolved it: The baraita teaches it disjunctively; it did not all deal with the same case. When the baraita says: Engages in intercourse with her, it is referring to a prohibition resulting from a mitzva. If one engages in intercourse with a yevama prohibited to him by rabbinic law, since by Torah law levirate marriage with her is valid, then although his act involved the transgression of a rabbinic decree, he nevertheless fulfilled the Torah mitzva and the rival wife is

thereby exempt. When the baraita says: Performs ḥalitza with her, it is referring to a prohibition stemming from sanctity, and by Torah law there is no option of levirate marriage because of the prohibited relation; therefore, only ḥalitza exempts her rival wife.

¹⁰⁴ Rava raised an objection from that which was taught in the Tosefta (Yevamot 11:3): A man with crushed testicles or with other wounds to his genitals or one whose penis has been severed, one who is a eunuch caused by man and not from birth or by disease, or an elderly man, all of whom are incapable of fathering children, one either performs ḥalitza or levirate marriage. How so? If any of these infertile men died, and they had brothers and they also had wives, and they then died childless, and the brothers proceeded to perform levirate betrothal with their wives, or gave them a bill of divorce, or performed ḥalitza, whatever they did is done; i.e., their act was effective. And if any one of the brothers engaged in intercourse with the widow of one of those infertile men, he thereby acquired the woman as a wife according to the laws of levirate marriage.

¹⁰⁵ The inverse is also true: If the brothers died childless, and the infertile men proceeded to perform levirate betrothal with their wives, or gave a bill of divorce, or performed ḥalitza, whatever they did is done and took effect. And if they engaged in intercourse with their yevama, they thereby acquired the yevama as their wife. However, it is forbidden to maintain them, i.e., allow them to continue to live as husband and wife, because it is stated: “One with crushed testicles or whose penis has been severed shall not enter into the assembly of the Lord” (Deuteronomy 23:2); they are prohibited from entering the congregation, i.e., marrying a Jew. And if it enters your mind that women who are forbidden, as he would be liable for the violation of a prohibition, require ḥalitza by Torah law but do not require levirate marriage, then one could ask: if they engaged in intercourse why are they acquired as wives even though there would be no mitzva of levirate marriage because the men are prohibited from marrying them?

¹⁰⁶ Rather, Rav’s opinion is rejected, and Rava said an alternative explanation: The reason why a High Priest does not take a widow from betrothal in levirate marriage is because that relationship is also a violation of both a positive mitzva and a prohibition and therefore a different positive mitzva does not override it. How so? As it is written: “They shall be sacred to their God” (Leviticus 21:6), which teaches that there is a positive mitzva of sanctity associated with all prohibitions applying to priests. Therefore, any such prohibition contains both a positive and a negative mitzva.

¹⁰⁷ The Gemara asks: This resolves the issue of priestly prohibitions, but what is there to say about a daughter born from an incestuous or adulterous relationship [mamzeret] or a Gibeonite woman, who are prohibited from entering the congregation due to considerations of sanctity? They too may not enter into levirate marriage despite the positive mitzva, which would ordinarily override a prohibition. The Gemara answers: It is written with regard to all of the mitzvot: “Sanctify yourselves, therefore, and be sacred” (Leviticus 11:44). This teaches that in addition to the prohibition, there is the positive mitzva of sanctity.

¹⁰⁸ The Gemara raises an objection: If so, then every single prohibition in the entire Torah contains both a positive mitzva and a prohibition, as it is written: “Sanctify yourselves” (Leviticus 11:44). Rather, this reasoning must be rejected, and Rava stated a different reason: While in essence the mitzva of levirate marriage does apply here, nevertheless, a widow from betrothal is prohibited from entering into levirate marriage with the High Priest by rabbinic decree, due to the case of a widow from marriage.

¹⁰⁹ The Gemara asks: What is there to say about the case of a mamzeret or a Gibeonite woman? There appears to be no reason for a rabbinic decree in such cases. The Gemara answers: There, one must say that intercourse with a mamzeret even when the mitzva of levirate marriage applies was prohibited by rabbinic decree due to cases when the mitzva of levirate marriage does not apply. The decree was issued lest one come to think that since in the case of levirate marriage a mamzeret is permitted, even in cases when there is no levirate marriage a mamzeret is similarly permitted.

¹¹⁰ The Gemara asks: However, if that is so, and the levirate marriage is prohibited lest it become confused with another case, then the wife of a paternal brother should not enter into levirate marriage; i.e., by the same logic, although the Torah allowed it, the Sages should have established a rabbinic decree requiring that she perform ḥalitza due to the case of the wife of a maternal brother, who always remains prohibited as a brother's wife. The Gemara answers: The Merciful One made levirate marriage dependent upon inheritance, and it is well known by everyone that only patrilineal relatives inherit, so there is no likelihood of confusion.

¹¹¹ The Gemara objects further: Then a childless woman should not enter into levirate marriage even though the mitzva applies to her; there should be a rabbinic decree due to the case of a woman who has children. The Gemara answers: The Merciful One made levirate marriage dependent upon children; it is well known by everyone that the entire purpose of levirate marriage is to establish one's brother's name and that levirate marriage applies only when there are no children. Here, too, there is no likelihood of error.

¹¹² The Gemara challenges further: The wife of a brother with whom one did coexist should not enter into levirate marriage; there should be a rabbinic decree due to the case of the wife of a brother with whom he did not coexist. The Gemara responds: The Merciful One made levirate marriage dependent upon a common dwelling together and coexistence of brothers, and this is well known by everyone since the matter is explicit in the Torah.

¹¹³ The Gemara continues to object: No woman should enter into levirate marriage; there should be a rabbinic decree due to the case of an ayilonit. Since an ayilonit may not enter into levirate marriage, all other women should be prohibited by rabbinic decree from doing so to avoid confusion. The Gemara answers: The case of an ayilonit is not commonplace, and the Sages did not institute rabbinic decrees on matters that are not common. The Gemara asks: If so, neither a mamzeret nor a Gibeonite woman is commonplace either. Therefore, since the likelihood of taking a mamzeret in levirate marriage is so small, there is no danger that one might think it is permitted to marry a mamzeret even where the mitzva does not apply.

¹¹⁴ Rather, Rava said that it is necessary to reject the previous suggestion and to offer a different reason: The first act of intercourse is prohibited by rabbinic decree due to the likelihood of a second act of intercourse. Although intercourse the first time with the yevama is the fulfillment of a positive mitzva, which does override the prohibition, once the mitzva is fulfilled with that act there is no longer any positive mitzva involved. Afterward, this yevama becomes prohibited because there is no longer a positive mitzva to override the prohibition. Therefore, due to the possibility that one might engage in intercourse a second time with this woman, the Sages decreed that even the first act is prohibited.

¹¹⁵ The Gemara comments: This is also taught in a baraita: If one of those yevamin who may not marry their yevama due to a prohibition engaged in intercourse with her, he acquired her with the first act of intercourse; however, it is prohibited to retain her for a second act of intercourse.

¹¹⁶ The Gemara continues with a retraction from Rava: Rava then said, and some say it was actually Rav Ashi who said: That which I said, that the reason for the rabbinic decree was to prevent a second act of intercourse, is not correct, as there is a simpler explanation. As Reish Lakish said about the same matter: In every place that you find a positive mitzva and a prohibition applying to the same matter, if you can fulfill both of them together, this is best, and the positive mitzva does not override the prohibition. And if there is not any possibility of fulfilling both, then let the positive mitzva come and override the prohibition. Here, too, in the case of levirate marriage, it is possible, by way of ḥalitza, to fulfill the positive mitzva and not to transgress the prohibition prohibiting marriage to these women.

¹¹⁷ The Gemara raises an objection to this last statement by Rava from that which is taught in a baraita: And if one of those yevamin engaged in intercourse, he acquired her as a wife. This shows that although it is possible to perform the mitzva by way of ḥalitza, if he nevertheless performs levirate marriage then the positive mitzva overrides the prohibition and the yevama is thereby acquired as his wife. The Gemara concludes: This is a conclusive refutation, and Rava's last explanation is rejected. The previous explanation is the correct one: The prohibition is due to rabbinic decree.

¹¹⁸ § On the same subject, it was stated with regard to the case of a High Priest who engaged in intercourse with a widow who was his yevama requiring levirate marriage that the amora'im Rabbi Yoḥanan and Rabbi Elazar disputed the matter. One said that intercourse does not exempt her rival wife who had also been married to the High Priest's brother, since the act was prohibited, and one said that it does exempt her rival wife, because although intercourse was forbidden, it is nevertheless a valid enactment of levirate marriage, and so her rival wife is thereby exempt.

¹¹⁹ As for a widow from marriage, everyone agrees that this does not exempt the rival wife, as a positive mitzva does not override a prohibition and a positive mitzva together. When they disagree, it is in the case of a widow from betrothal. The one who said that it exempts the rival wife holds that the positive mitzva of levirate marriage comes and overrides the prohibition against a High Priest marrying a widow. And the one who said that it does not exempt the rival wife held that a positive mitzva does not come and override a prohibition, since it is possible to perform ḥalitza.

¹²⁰ The Gemara raises an objection to the opinion that the rival wife would not be exempt, from the previously cited baraita: If one of those yevamin engaged in intercourse, he acquired her as a wife. This shows that the act of levirate marriage is valid, even when prohibited. If so, in the case of the High Priest and a widow as well, her rival wife should be exempt. This is a conclusive refutation, and that opinion is rejected.

¹²¹ The Gemara asks: Shall we say that this is also a conclusive refutation of the opinion of Reish Lakish and therefore reject his principle? The Gemara answers: Reish Lakish could have said to you: When I say that in every place that you find a positive mitzva and a prohibition applying to the same matter, if you can fulfill both of them together without transgressing the prohibition, this is best, and the positive mitzva does not override the prohibition, this is applicable only when the mitzva is

fulfilled properly; but here, ḥalitza in place of levirate marriage is not considered a proper fulfillment of the mitzva.

¹²² § Rava said: Where is the prohibition against secondary forbidden relationships hinted at in the Torah? As it is stated at the end of the portion discussing forbidden incestuous relations: “For all these abominations have the men of the land done” (Leviticus 18:27). “These” must be understood to mean the harsh ones, i.e., the severe transgressions. This proves by inference that there are also lesser transgressions that are, as it were, soft ones. And what are those soft ones? They are secondary forbidden relationships.

¹²³ The Gemara asks: From where may it be inferred that the word “these” [ha’el] is an expression meaning harsh? As it is written: “And the mighty [eilei] of the land he took away” (Ezekiel 17:13). The similarity of these words implies that “these” also has connotations of mighty or harsh.

¹²⁴ The Gemara asks: Shall we say that this statement contradicts the opinion of Rabbi Levi? As Rabbi Levi said: The harshness of the punishment for using dishonest measures is more than the punishment for transgressing the prohibition of forbidden relationships, as with regard to this, forbidden relations, it is stated only: “These [el],” whereas with regard to that, dishonest measures, it is stated: “These [eleh]” with an additional letter heh as a suffix: “For all that do these [eleh] things, even all that do unrighteously, are an abomination unto the Lord your God” (Deuteronomy 25:16). This implies that the word eleh indicates harshness and not the word el. The Gemara answers: This does not contradict his opinion. The word el has the connotation of harsh, but eleh has the connotation of even harsher than el.

¹²⁵ The Gemara asks: With regard to forbidden relationships the word eleh is also written: “For whosoever shall do any of these [eleh] abominations, even the souls that do them shall be cut off from among their people” (Leviticus 18:29). If so, why is the punishment for using dishonest measures considered harsher? The Gemara answers: That expression meaning these [eleh] in the context of forbidden relations does not emphasize their severity; rather, it comes to exclude one who uses deception in measures from the penalty of karet.

¹²⁶ The Gemara asks: Rather, in what way is deception in measurements more severe than forbidden relations? The Gemara answers: Those who engage in forbidden relations have the possibility of repentance. If one engaged in relations with a forbidden relative he can rectify the sin through repentance. In the case of those who deceive the public with dishonest measures, it is not possible to repent fully because, having deceived the general public, they have no way of returning the money. Whereas generally a thief can return stolen property to its rightful owner, one who used dishonest measures with multiple customers has no way to track them all down in order to return the money.

¹²⁷ Rav Yehuda said that the prohibition of secondary forbidden relationships is learned from here: As it says with regard to King Solomon: “He weighed [izzen] and sought out, and set in order many proverbs” (Ecclesiastes 12:9), and Ulla said that Rabbi Elazar said: Before Solomon came, the Torah was like a basket [kefifa] without handles [oznayim], until Solomon came and made handles for it. By means of his explanation and proverbs he enabled each person to understand and take hold of the Torah, fulfill its mitzvot, and distance himself from transgressions.

¹²⁸ Rabbi Oshaya said that the prohibition of secondary forbidden relationships is learned from here: “Avoid it, pass not by it; turn from it, and pass on” (Proverbs 4:15). One must distance oneself from any prohibited act and not pass near a place of forbidden objects or situations.

¹²⁹ Rav Ashi said a parable: To what is this matter, the opinion of Rabbi Oshaya, comparable? It is comparable to a man guarding an orchard; if he guards it from the outside, all of it is guarded. But if he guards it from the inside, only that which is in front of him that he can see is guarded, while that which is behind him is unguarded. The Gemara comments: And this parable of Rav Ashi is a mistake [beduta] and is not accurate. There, in his metaphor, that which is in front of him at least is guarded; here, in the case of forbidden relationships, were it not for the rabbinic decree against secondary forbidden relationships one would eventually encounter and transgress the biblically forbidden relationship itself. Guarding from the outside is not only preferable, it is essential.

¹³⁰ Rav Kahana said that the prohibition of secondary forbidden relationships is alluded to from here, in the verse stated at the conclusion of the verses discussing the halakhot of forbidden relationships: "Therefore shall you protect [ushmartem] My prized possession [mishmarti], that you do not any of these abominable customs" (Leviticus 18:30). This means: Establish a safeguard [mishmeret] for My prized possession.

¹³¹ Abaye said to Rav Yosef: If the prohibition against secondary forbidden relationships is learned from here then it would be by Torah law, yet the prohibition against secondary forbidden relationships is by rabbinic law. He answered him: The requirement to add an additional safeguard itself is in fact by Torah law, and the Sages interpreted and defined where and when to apply this law. Abaye objected: But isn't all of the Torah also interpreted by the Sages and yet has the force of Torah law? In that case, why are these laws considered to be rabbinic? Rather, the prohibition of secondary forbidden relationships was decreed by rabbinic law, and the verse is a mere support but does not indicate a Torah law.

¹³² § The Sages taught in a baraita: What are the secondary forbidden relationships that were prohibited? His mother's mother, and his father's mother, and his father's father's wife, and his mother's father's wife, and the wife of his father's maternal half brother, and the wife of his mother's paternal half brother, and his son's daughter-in-law, and his daughter's daughter-in-law. A man is permitted to take his father-in-law's former wife, provided she is not the mother of his wife, and his stepson's wife, if the stepson died or divorced her. And he is prohibited from marrying the daughter of his stepson. And it is permitted for one's stepson to marry the stepfather's wife or daughter.

¹³³ Due to these rabbinic decrees concerning stepsons, unusual situations might arise. For example: And his stepson's wife says to him, i.e., her husband's stepfather, I am permitted to you, but my daughter is forbidden to you, since she is your stepson's daughter.

¹³⁴ The Gemara challenges that which is stated in the baraita: His stepson's daughter is not a secondary relation by rabbinic law. She is forbidden by Torah law, since the daughter of his stepson is the daughter of his wife's son, as it is written: "You shall not take her son's daughter or her daughter's daughter" (Leviticus 18:17). The Gemara answers: This case was included because the baraita wanted to teach the latter clause, which states: His stepson's wife says to him: I am permitted to you, but my daughter is forbidden to you. And although my daughter is forbidden to you by Torah law, nevertheless the Sages did not issue a decree forbidding me. Therefore, the case of his stepson's daughter was also taught in the first clause, even though she is forbidden by Torah law and is not a secondary relation.

¹³⁵ The Gemara raises an objection: If so, that the baraita wished to teach this peculiarity, then why did it not teach: His father-in-law's wife also says: I am permitted to you and my daughter is

forbidden to you, as she is his wife's sister. The Gemara answers: This matter is conclusive for him. In other words, his stepson's wife is forever permitted and his stepson's daughter is always forbidden to him. But as for the matter of his father-in-law's wife's daughter, this is not conclusive for him. This ruling is not final and might change, since if his wife dies her sister is permitted to him.

¹³⁶ Rav said that he received a tradition with regard to secondary forbidden relationships that four women have a conclusion; i.e., the prohibition does not continue to later generations but applies only to those women who were mentioned explicitly. Rav held three of them in his hand; he knew with certainty three of the four categories. They were: The wife of his mother's paternal half brother, and the wife of his father's maternal half brother, and his daughter-in-law. And Ze'eiri adds: Also the wife of his mother's father. Rav Naḥman bar Yitzḥak said: And your mnemonic for remembering who said what is as follows: Ze'eiri adds an extra generation on top of the prohibitions of Rav, i.e., the wife of his mother's father, which Rav did not mention.

¹³⁷ The Gemara asks: And what is the reason that Rav did not reckon this category mentioned by Ze'eiri to be among those who have a conclusion? The Gemara answers: In his opinion, this category might be mistakenly switched with the category of the wife of his father's father, which does not have a conclusion. With regard to the wife of his father, the prohibition applies equally to the wife of all ancestors in the father's line. Therefore, according to Rav, the Sages also included the ancestors of the mother's father's wife as secondary forbidden relationships.

¹³⁸ The Gemara asks: And why is Ze'eiri not concerned that the two categories will become confused? The Gemara answers: He is often found there, in his father's father's home, and goes there frequently, but here, to his mother's household, he is not commonly found to go. Since he goes to his father's home frequently, he knows that his father's relatives are forbidden to him, and he will not confuse them with his mother's relatives.

¹³⁹ Among the women enumerated by Rav is his daughter-in-law.

¹⁴⁰ The Gemara asks: Is this relationship not forbidden by Torah law? As it is written: "You shall not uncover the nakedness of your daughter-in-law" (Leviticus 18:15). The Gemara emends: Say instead his son's daughter-in-law. The Gemara asks: And does the prohibition against having a relationship with his son's daughter-in-law indeed have a conclusion? Isn't it taught in a baraita: His daughter-in-law is a forbidden relation by Torah law, his son's daughter-in-law is a secondary forbidden relation, and similarly, you say the daughter-in-law of his son and the daughter-in-law of his son's son until the end of all generations are secondary forbidden relationships. Rather, say instead that Rav was referring to his daughter's daughter-in-law.

¹⁴¹ As Rav Ḥisda said: I heard this matter from a great man, and who was that great man? It was Rabbi Ami, and he said: They prohibited a daughter-in-law only due to the daughter-in-law. Rav Ḥisda heard this in his youth but did not understand the meaning. The Chaldean astrologers said to me: You will be a teacher.

¹⁴² Rav Ḥisda further said: I said to myself: If the astrologers meant that I will become a great man and one who teaches the public, I will certainly be able to reason and understand this matter with my knowledge. If the astrologers meant that I will become the teacher of children, I will ask it of the Sages who come to the synagogue and in that way I will learn the meaning of Rabbi Ami's teaching. Now I understand the matter on my own. Rabbi Ami meant: They prohibited his daughter's daughter-in-law only due to his son's daughter-in-law, to avoid confusion between these daughters-in-law. The

rabbinic decree prohibited one's daughter's daughter-in-law but did not extend to subsequent generations.

¹⁴³ Various Sages proceed to give contemporary examples of families where the halakhic status of the daughters-in-law of the sons and the daughters-in-law of the daughters could be confused with each other. Abaye said to Rava: I will explain to you with an example how one might become confused about these daughters-in-law. For example, this would be possible in the case of the daughter-in-law of the house of bar Tzital, as there the children of the sons and the daughters of the same family lived together, and it was possible to confuse the halakhic status of the sons' daughters-in-law and the daughters' daughters-in-law. Rav Pappa said: For example, the daughter-in-law of the house of Rav Pappa bar Abba. Rav Ashi said: For example, the daughter-in-law of the house of Mari bar Isak.

¹⁴⁴ § A dilemma was raised before the Sages: What is the halakha with regard to the wife of one's mother's maternal half brother? The Gemara presents the different sides of the question: Both the wife of one's father's maternal half brother and the wife of one's mother's paternal half brother contain some aspect of a father, and perhaps this is the reason that the Sages enacted a prohibition. That is, they were both forbidden rabbinically to avoid confusion with the case of the wife of one's father's paternal half brother, who is forbidden by Torah law. But in the case of the wife of one's mother's maternal half brother, where there is no aspect of a father whatsoever, perhaps the Sages did not make a decree? Or perhaps this case is no different?

¹⁴⁵ Rav Safra said: She herself, the wife of the mother's paternal half brother, is forbidden by rabbinic decree, and will we then proceed to issue a decree to prevent violation of a decree? Rava said: Is that to say that all of these rabbinic decrees with regard to secondary relations are not decrees to prevent violation of a decree? For example, his mother is a forbidden relation by Torah law, and the Sages decreed that his mother's mother is a secondary forbidden relationship. And they decreed that his father's mother is also a secondary forbidden relationship due to his mother's mother. And what is the reason? They are all called the house of the grandmother, and therefore people may confuse their halakhic status.

¹⁴⁶ Rava continues: Similarly, his father's wife is a forbidden relation by Torah law, and the Sages decreed that his father's father's wife is a secondary forbidden relationship. And they decreed that his mother's father's wife is also a secondary forbidden relationship due to his father's father's wife. And what is the reason? They are all called the house of the grandfather.

¹⁴⁷ Also, the wife of his father's paternal half brother, his uncle, who is mentioned explicitly in the Torah (Leviticus 18:16), is a forbidden relation by Torah law, and the Sages decreed that the wife of his father's maternal half brother is a secondary forbidden relationship. And they decreed that the wife of his mother's paternal half brother is also a secondary forbidden relationship due to the wife of his father's maternal half brother. And what is the reason? It is because they are all called the house of the uncle; it seems that in the realm of forbidden relations the Sages did issue decrees to prevent violation of a decree, and Rav Safra's claim is incorrect.

¹⁴⁸ If so, then what is the halakha in this case of the wife of his mother's maternal half brother? Come and hear: As when Rav Yehuda bar Sheila came from Eretz Yisrael to Babylonia, he said: In the West, Eretz Yisrael, they say this principle: For every female relative who is a forbidden relation

by Torah law, the Sages decreed on the wife of the equivalent male relative due to her similarity to a secondary forbidden relationship.

¹⁴⁹ And Rava said: Is this really an established principle? Isn't his mother-in-law a forbidden relation by Torah law, while his father-in-law's wife is permitted? Also, his mother-in-law's daughter is a forbidden relation by Torah law, as she is his wife's sister, yet his mother-in-law's son's wife is permitted. His father-in-law's daughter is a forbidden relation by Torah law, yet the wife of his father-in-law's son is permitted. His stepdaughter is a forbidden relation by Torah law, yet his stepson's wife is permitted. His stepdaughter's daughter, i.e., his wife's granddaughter, is a forbidden relation, yet the wife of his stepson's son is permitted.

¹⁵⁰ The Gemara continues: If so, what did that statement of Rav Yehuda bar Sheila come to include? Since his principle is not true in every case, it must be intended to include a specific halakha. Does it not come to include the case of the wife of one's mother's maternal half brother, since for every female relative who is a forbidden relation by Torah law, such as his mother's maternal half sister, the Sages decreed on the wife of the equivalent male relative, in this case his mother's maternal half brother's wife, due to her similarity to a secondary relation.

¹⁵¹ The Gemara asks: What is different with regard to these cases, the wife of his father-in-law or the wife of his mother-in-law's son, who are permitted, and this case of the wife of a mother's maternal half brother, who is prohibited? The Gemara answers: This, the wife of a mother's maternal half brother, is related by a single act of betrothal. One's mother's brother is a blood relative, and his wife is therefore a secondary relation. In contrast, these other cases with regard to which the Sages did not issue a decree are related only when there are two acts of betrothal. For example, one's father-in-law is related to one through one's marriage to his own wife, and his father in law's wife is related to him through his father-in-law's marriage.

¹⁵² § Rav Mesharshiyya from Tusneya sent a message to Rav Pappi: Let our Master teach us: What is the halakha with regard to the wife of a father's father's brother and the sister of a father's father? Did the Sages prohibit these as secondary forbidden relations? The Gemara presents the different sides of the dilemma: Since one generation below is a forbidden relation, i.e., a father's sister and the wife of a father's paternal brother, who are both forbidden by Torah law, perhaps the Sages also decreed about the women one generation above. Or, perhaps the generations are separate and the women in the generation above are not considered to be forbidden relatives.

¹⁵³ The Gemara attempts to answer: Come and hear from that baraita cited above, which taught: What are the secondary forbidden relationships that were prohibited? And these women, i.e., the wife of one's father's father's brother and the sister of his father's father were not reckoned among them. This implies that these women are permitted.

¹⁵⁴ The Gemara replies that this is not conclusive. Perhaps the tanna of the baraita taught some examples and omitted other examples of secondary forbidden relations; i.e., perhaps the list is not exhaustive. The Gemara asks: What else did he omit that he omitted this? It cannot be that the tanna had an exhaustive list except for one case. He either left out more than one case or he included all possible cases. The Gemara answers: He omitted the list of secondary forbidden relationships that were enumerated by the school of Rabbi Ḥiyya, which is listed later. Therefore, this baraita is not conclusive, as the tanna left out many cases.

¹⁵⁵ The Gemara states that Ameimar permitted the wife of one's father's father's brother and the sister of one's father's father. Rav Hillel said to Rav Ashi, challenging Ameimar's statement: I myself saw a list of secondary forbidden relationships written by Mar, son of Rabbana, and it was written there that sixteen women were forbidden. What, is it not that these sixteen must be the eight cases listed in the baraita, and six from the school of Rabbi Ḥiyya, and these two cases of the wife of one's father's father's brother and one's father's father's sister, and this totals sixteen?

¹⁵⁶ Rav Ashi defended Ameimar's opinion: And according to your reasoning, Rav Hillel, that these cases should be included, there are seventeen cases, as there is the additional case of the wife of a mother's maternal half brother, whose status was resolved earlier, concluding that she is forbidden. If it is as you say, then there should be seventeen cases. The Gemara answers on behalf of Rav Hillel: This is not difficult.

¹⁵⁷ Those two, the wife of a father's father's brother and the sister of a father's father, are similar to each other and are counted as a single case, and so there are sixteen. The Gemara restates Rav Hillel's challenge to Ameimar's opinion: But in any case I myself saw them written as prohibited. Rav Ashi said to Rav Hillel: And according to your reasoning, if in the list it was written that they were permitted, would you have relied on that? Is the signature of Mar, son of Rabbana, signed on it? Although you saw the list, you don't know for certain who wrote it. Now too, that it is written that they are prohibited, the same holds true; the signature of Mar, son of Rabbana, is not signed on it, and so it cannot be relied upon to reject the opinion of Ameimar.

¹⁵⁸ § One of the Sages of the school of Rabbi Ḥiyya taught: The third generation from one's son and one's daughter, i.e., one's great-grandchildren, and the third generation from his wife's son and his wife's daughter, i.e., one's wife's great-grandchildren, are all forbidden as secondary forbidden relationships. So too, the fourth generation from his father-in-law and from his mother-in-law, i.e., his wife's great-grandmothers, are prohibited as secondary forbidden relationships.

¹⁵⁹ Ravina said to Rav Ashi: What is different between the generations above, referring to his wife's great-grandmothers, such that the Sage counts his wife as one of the generations and refers to them as the fourth generation, and what is different with regard to the generations below, referring to his great-granddaughters, such that he did not count his wife and referred to them as only the third generation? The Gemara answers: When counting above, the prohibition stems from his wife, as they are not his blood relatives but his wife's. Therefore, she is counted. When counting below, however, the prohibition does not stem from his wife, as they are his own blood relatives, and so she was not counted.

¹⁶⁰ The Gemara objects: But he includes the granddaughter of his wife's son and his wife's daughter in his list of those forbidden due to his wife, yet he does not count her and refer to this as the fourth generation. The Gemara answers: Since he already taught three generations below himself, i.e., his own great-granddaughter, and there he did not count from his wife because it is his own blood relative, he taught three generations below his wife and did not count her. Instead, he referred to her great-granddaughter also as three generations below to maintain the uniform style of his words.

¹⁶¹ Rav Ashi said to Rav Kahana: Do those secondary forbidden relationships taught by one of the Sages of the school of Rabbi Ḥiyya have a conclusion, or do they not have a conclusion? Are those specified cases alone forbidden, or are all generations above and below also forbidden?

¹⁶² Come and hear that which Rav said: Four women have a conclusion. This implies that it is only these four and no more. The Gemara rejects this: Perhaps when Rav said this he was referring only to the relationships listed in the baraita and not to all cases of secondary relationships. The Gemara suggests: Come and hear from the baraita itself, which states: The third generation from his son and his daughter and the fourth generation from his father-in-law and mother-in-law. This implies that with regard to the third and the fourth generations, yes, they are forbidden; but more than that, no. The Gemara rejects this: Perhaps this means from the third onward and from the fourth onward. The Gemara does not resolve this issue.

¹⁶³ § Rava said to Rav Naḥman: Did the Master see this one of the Sages who came from the West, Eretz Yisrael, who said: In the West they asked whether the Sages issued a decree prohibiting secondary forbidden relationships for converts, or whether they did not issue a decree prohibiting secondary forbidden relationships for converts?

¹⁶⁴ Rav Naḥman did not answer whether he had seen this Sage, but said to him: Now, with regard to all the forbidden relationships themselves, were it not for the fact that if converts would find that as Jews they were permitted to enter into relationships that were forbidden to them as gentiles and would say that they went from a state of more stringent sanctity as gentiles to a state of lesser sanctity as Jews, then the Sages would not have decreed to prohibit these relationships. Without the rabbinic decree it would have been permitted for a convert to marry even a close female relative, even his twin sister, who also converted. This is because a convert has the legal status of a newborn, with no family ties. Is it necessary to state that the Sages did not extend that decree to include secondary forbidden relationships? The purpose of the rabbinic prohibitions is to protect the Torah prohibitions, but in the case of converts this particular Torah prohibition does not apply.

¹⁶⁵ Rav Naḥman said: Since the issue of converts and their relatives has come to hand and is the topic of discussion, let us say a matter of halakha: Maternal half brothers who both convert may not testify together as a pair of witnesses before the court, but if they did testify, their testimony is valid. Although blood relatives are invalid as witnesses, converts are considered as though they have no relations. Paternal half brothers who both convert may testify together *ab initio*, since the halakha does not consider paternal half brothers of gentiles to be true relatives. Ameimar said: Even maternal half brothers may also testify together *ab initio*.

¹⁶⁶ In what way is this case different from forbidden relations, where a convert may not marry his maternal sister due to rabbinic decree? The halakhot of forbidden relations are handed over to all, and every individual chooses his own wife. Therefore, the Sages issued a decree to prevent confusion between the status of a convert and that of a born Jew. However, testimony is handed over to the court, and the court knows to distinguish between the status of a born Jew and that of a convert. And the legal status of a convert who just converted is like that of a child just born, and all previous family ties become irrelevant.

¹⁶⁷ MISHNA: In the case of anyone who has a brother of any kind, that brother creates a levirate bond causing his yevama to be required to perform levirate marriage if the first brother dies childless. And he is his brother in all respects, except for one who has a brother born from a Canaanite maidservant or from a gentile woman, as these do not have the legal status of brothers. Similarly, in the case of anyone who has a child of any kind, that child exempts his father's wife from levirate marriage, since his father did not die childless. And that child is liable to receive capital

punishment if he strikes his father or curses him. And he is his child in all respects, except for whoever has a child born from a Canaanite maidservant or from a gentile woman, as these do not have the halakhic status of children.

¹⁶⁸ GEMARA: The Gemara asks: With regard to the statement that a brother of any kind causes his yevama to be required to perform levirate marriage, what additional case does this come to add? Rav Yehuda said: This adds the case of a mamzer, who, notwithstanding his status, is considered a brother. The Gemara wonders: But isn't that obvious? He is his brother. The Gemara explains: This is necessary lest you say: Let us derive a verbal analogy between the word "brother" stated in the verse with regard to levirate marriage and "brother" stated with regard to the children of Jacob. Just as there, Jacob's children are of unflawed lineage and not of flawed lineage and are not mamzerim, so too here, one might think that only brothers of unflawed lineage and not brothers of flawed lineage, i.e., mamzerim, obligate the yevama in levirate marriage. Therefore, this teaches us that a mamzer is considered a brother for the purposes of levirate marriage.

¹⁶⁹ The Gemara asks: And say that is indeed the halakha. Perhaps a brother who is a mamzer does not obligate his yevama in levirate marriage. The Gemara answers: Since with regard to levirate marriage, if the husband had a child who was a mamzer he would exempt the wife from levirate marriage,

¹⁷⁰ the husband's brother also causes a levirate bond with his yevama even if he is a mamzer.

¹⁷¹ § The mishna stated that he is his brother in all respects. The Gemara asks: With regard to what halakha was this said? The Gemara answers: To inherit from him, and to become ritually impure for him if he is a priest, as a brother is one of the relations for whom a priest is permitted to become ritually impure by attending his funeral.

¹⁷² The Gemara asks: Isn't this obvious, as he is his brother? The Gemara answers: It might enter your mind to say that a priest does not become impure for his brother of flawed lineage, since it is written with regard to priests: "None shall defile himself for the dead among his people except for his kin, that is near unto him" (Leviticus 21:1–2), and the Master said "his kin"; this is his wife, and a priest may defile himself for his wife. But it is written: "He shall not defile himself, being a husband among his people, to profane himself" (Leviticus 21:4), implying that he may not defile himself for his wife. This apparent contradiction is resolved as follows: There is a husband who does become impure for his wife, and there is a husband who does not become impure. How so? He becomes impure for his wife if she was fit and was permitted to a priest, but he does not become impure for his wife if she was unfit to marry a priest.

¹⁷³ So too, one might have thought that a priest becomes impure for a brother who is of unflawed lineage and not a mamzer, but he does not become impure for a brother of flawed lineage. Therefore, this comes to teach us that he does become impure for a brother who is a mamzer. The Gemara asks: Say this also, that by the same reasoning by which a priest may not become impure for a wife who was unfit for him, he may not become impure for an unfit brother either. Just as he does not become impure for an unfit wife, he should not become impure for an unfit brother? The Gemara answers: The two cases are different, as there, with regard to the unfit wife, she stands to be dismissed, since according to Torah law unfit women must be divorced. For this reason he does not become impure for her. Here, he is his brother.

¹⁷⁴ § The mishna says: Except for whoever has a brother born from a Canaanite maidservant or from a gentile woman, as in these cases he is not considered a brother. The Gemara asks: What is the reason for this halakha? The Gemara answers: The verse states with regard to a Jewish slave who has children with a Canaanite maidservant: “The wife and her children shall be her master’s” (Exodus 21:4). This means that the children also have the status of Canaanite slaves, which implies that the lineage of a Canaanite maidservant’s child comes from the mother and not from the father.

¹⁷⁵ The mishna states: With regard to anyone who has a son of any kind, that son exempts his father’s wife from any levirate bond. The Gemara asks: What is added by the phrase: Of any kind? Rav Yehuda said: It adds a child who is a mamzer. What is the reason that a mamzer exempts a woman from any levirate bond? As the verse states with regard to levirate marriage: “And he has no [ain lo] child” (Deuteronomy 25:5). The phrase ain lo can be understood as ayyen alav, meaning investigate him. That is to say, investigate whether he is indeed childless, because any child, even a mamzer, exempts the widow from a levirate bond.

¹⁷⁶ It states in the mishna that a child who is a mamzer is liable to receive punishment if he strikes his father or curses him. The Gemara asks: Why should he be liable? Read here the verse: “You shall not curse a ruler of your people” (Exodus 22:27), which is interpreted to imply that the prohibition against cursing applies only to one who acts according to the deeds of your people. However, this father must have engaged in sexual relations with a woman who was forbidden to him in order to have a child who is a mamzer. Therefore, he did not act according to the deeds of the people. In that case, why should this son be liable to receive punishment for hitting him or cursing him?

¹⁷⁷ The Gemara answers: As Rav Pineḥas said in the name of Rav Pappa with regard to a different matter: This is referring to one who performs repentance. Here too, it is referring to one who performed repentance after the mamzer was born. He is thereafter considered to be living in accordance with halakha, and so his mamzer son is liable to receive punishment for cursing him.

¹⁷⁸ The Gemara objects: Is he in fact able to repent after fathering a mamzer? Didn’t we learn in a mishna that Shimon ben Menasya says: Which is: “That which is crooked cannot be made straight” (Ecclesiastes 1:15)? This is referring to one who engaged in intercourse with a relative who is forbidden to him and fathered a mamzer with her. This implies that he has no possibility of achieving total repentance. The Gemara responds: At least now, after repenting, he is considered as one who acts according to the deeds of your people. Although he cannot totally rectify his transgression, his child is liable to receive punishment for cursing or hitting him.

¹⁷⁹ § The Sages taught: He who unwittingly engages in sexual relations with his sister, who is the daughter of his father’s lawful wife, is liable and must bring two sin-offerings. He must bring one sin-offering because she is his sister and another because she is the daughter of his father’s wife, which is mentioned in a separate verse in the Torah. Rabbi Yosei ben Yehuda says: He is liable only because she is his sister alone, and not because of the prohibition against engaging in sexual relations with the daughter of his father’s wife.

¹⁸⁰ The Gemara asks: What is the reason for the opinion of the Rabbis, the first tanna of the baraita? They said: Since it is written in the Torah: “The nakedness of your sister, the daughter of your father, or the daughter of your mother...you shall not uncover” (Leviticus 18:9), then why do I need the verse: “The nakedness of your father’s wife’s daughter, begotten of your father, she is your sister...you shall not uncover” (Leviticus 18:11)? Conclude from this that the additional verse serves to make

him liable separately due to the fact that she is his sister and due to the fact that she is his father's wife's daughter.

¹⁸¹ And Rabbi Yosei, son of Rabbi Yehuda, says: The verse states: "She is your sister," which comes to limit and emphasize that you hold him liable due to the fact that she is his sister but you do not hold him liable a second time due to the fact that she is also his father's wife's daughter.

¹⁸² The Gemara asks: And what do the Rabbis do with this verse: "She is your sister"? They require it in order to hold him liable to receive punishment for having relations with his sister who is both the daughter of his father and the daughter of his mother, to say that the Sages do not derive an additional Torah prohibition by way of a logical derivation, i.e., an a fortiori inference. In other words, although it would seem that since he is liable to receive punishment for having relations with his father's daughter and also for his mother's daughter, this must be all the more true in a case where she is the daughter of both his father and his mother, yet nevertheless, there is no new prohibition here. Therefore, the matter was taught explicitly in the Torah, to teach that the Sages may not derive additional prohibitions by way of a fortiori inferences.

¹⁸³ And Rabbi Yosei, son of Rabbi Yehuda, says: If so, that the matter was written for this purpose, then the Merciful One should have written only: Your sister. Why do I need the phrase "she is"? This limits the halakha and teaches that for unintentional intercourse with his sister who is also his father's wife's daughter you hold him liable because she is his sister; you do not additionally hold him liable because she is his father's wife's daughter.

¹⁸⁴ And how do the Rabbis interpret the additional phrase "she is"? Although "your sister" is written, it was necessary to write "she is" so that you not say that generally the Sages may derive additional prohibitions by way of a logical derivation, i.e., an a fortiori inference.

¹⁸⁵ The Gemara explains how this principle is derived from the text. As, if you would say: Why do I need the term "your sister" that the Merciful One writes in the Torah, since it is possible to derive this by a fortiori inference and it therefore appears redundant? The answer is that the Torah wrote this apparently redundant term to teach the principle that with regard to a matter that could be derived by means of an a fortiori inference, the verse unnecessarily wrote it explicitly. The Merciful One writes the term "she is" in order to teach that just as in this case the Sages may not derive additional prohibitions by way of an a fortiori inference, so too, in all other cases they may not derive additional prohibitions that are not stated in the text.

¹⁸⁶ And Rabbi Yosei, son of Rabbi Yehuda, says: If this is the reason for the verse, then let the Merciful One write: She is your sister, in the other verse, which states: "The nakedness of your sister, the daughter of your father, or the daughter of your mother," and not in the verse that speaks of the daughter of one's father's wife.

¹⁸⁷ The Gemara asks: And what does Rabbi Yosei, son of Rabbi Yehuda, do with this verse, which states: "The daughter of your father's wife" (Leviticus 18:9)? He requires it to teach that one is liable only for relations with a half-sister whose mother is someone with whom there is a possibility of forging marital ties with your father, even if she was not in actuality his wife. This comes to exclude his sister from a Canaanite maidservant or a gentile woman, with whom your father cannot have marital ties, since betrothal does not take effect with these women.

¹⁸⁸ The Gemara asks: So say: “Your father’s wife’s daughter” comes to teach specifically the case of a daughter from a woman married to his father, thereby excluding from the definition of: His sister, his sister from a woman who had been raped. Perhaps if she was born of a woman who was not married to his father she would not be considered his sister. The Gemara answers: You cannot say that due to the reason said by Rava.

¹⁸⁹ As Rava raised a contradiction: In one verse it is written: “The nakedness of your son’s daughter, or of your daughter’s daughter, you shall not uncover” (Leviticus 18:10), which implies, consequently, that her son’s daughter or her daughter’s daughter is permitted. And it is written elsewhere: “You shall not uncover the nakedness of a woman and her daughter; you shall not take her son’s daughter or her daughter’s daughter” (Leviticus 18:17), which states explicitly that her son’s daughter and daughter’s daughter are prohibited. How can these texts be reconciled?

¹⁹⁰ Here, it is referring to a daughter by a woman whom one raped, in which case he is allowed to marry her daughter provided she is not also his daughter. There, it is referring to a woman whom one married, in which case it is forbidden to marry her daughter under any circumstances. However, even in a case where one’s father raped a woman, one is still permitted to marry the woman’s daughter by another man. If one’s father had a daughter with this woman, one would be prohibited from having a relationship with that daughter, as she is his paternal half-sister.

¹⁹¹ The Gemara raises a challenge: And say that the verse: “The daughter of your father’s wife” comes to exclude women who were forbidden, as they are liable for violating prohibitions but were nevertheless married to his father, such as a mamzeret. If so, his sister from such a union would not be considered his sister. Rav Pappa said: Betrothal comes into effect with women who are forbidden, and one would be liable for violating prohibitions despite the fact that union with them is forbidden, and so she is called the wife of your father.

¹⁹² This is derived from the verse in which it is written: “If a man has two wives, the one beloved, and the other hated” (Deuteronomy 21:15). Is there one who is loved by the Omnipresent and one who is hated by the Omnipresent? Rather, “beloved” means her marriage is beloved, as it was permitted for her to be married, in accordance with halakha, and “hated” means her marriage is hated because it was not permitted for her to be married, according to halakha. And the Merciful One states: “If a man has two wives,” meaning that both are considered to be married.

¹⁹³ The Gemara asks: Say that this verse comes to exclude a union between one’s father and a woman that is forbidden to him as they are liable to receive karet, and that since betrothal does not come into effect with her there is no marriage bond. Perhaps a sister born of such a woman would not be prohibited as the daughter of one’s father’s wife. Rava said that the verse states: “The nakedness of your sister, the daughter of your father, or the daughter of your mother, whether born at home or born outside” (Leviticus 18:9). This includes all daughters, whether from a woman for whom the Sages tell your father: Maintain her within your home, or whether the Sages tell your father she is a woman who is forbidden to him and therefore: Send her out of your home. And the Merciful One states that nevertheless: “She is your sister.” Even the daughter of a woman who was forbidden to your father such that both parties are liable to receive karet is called your sister.

¹⁹⁴ The Gemara asks: Say that whether the Sages say to your father: Maintain her, or whether they say to your father: Send her out, and the Merciful One states that “she is your sister,” this comes to include the additional cases of his sister from a Canaanite maidservant or a gentile woman. The

Gemara rejects this: The verse states: “The daughter of your father’s wife,” and this means whoever can enter a marriage bond with your father. This excludes his sister from a Canaanite maidservant or gentile woman, with whom no marital bond is possible.

¹⁹⁵ The Gemara asks: Since the verse rendering his sister forbidden both includes and excludes cases, what did you see as a reason to include a daughter from a woman who is forbidden and both parties are liable to receive karet, and to exclude the daughter of a Canaanite maidservant or gentile woman? The Gemara answers: It stands to reason that those relationships that are forbidden because they render both parties liable to receive karet should be included, since in general betrothal can come into effect with them. This is because although this woman is forbidden to his father, she is nevertheless permitted to other men.

¹⁹⁶ The Gemara rejects this: On the contrary, it should include a Canaanite maidservant or a gentile woman, as, if she converts, betrothal can come into effect with the father himself. The Gemara answers: When she converts, she is considered like a different body, i.e., a new person, but when she was a gentile there was no possibility of marital relations with her. Therefore, the verse excludes her.

¹⁹⁷ The Gemara asks: And with regard to the Rabbis, who infer a different matter from the verse “your father’s wife’s nakedness,” from where do they derive the halakha to exclude one’s sister from a Canaanite maidservant or gentile woman? The Gemara answers: They derive it from that which was said with regard to a Canaanite maidservant who was married to a Hebrew slave: “The wife and her children shall be her master’s” (Exodus 21:4). From here they learn that the lineage of the maidservant’s children is connected only to their mother and not at all connected to their Jewish father.

¹⁹⁸ The Gemara asks: And why does Rabbi Yosei, son of Rabbi Yehuda, not learn this from here? The Gemara responds: One verse was necessary to teach the case of a Canaanite maidservant, and one verse was necessary to teach the case of a gentile woman. And both verses are necessary, as, if the Torah taught us only about a Canaanite maidservant, one could say she is excluded only because she does not have a pedigree, since the Torah ascribes no family relationships to maidservants, but with regard to a gentile woman who does have a pedigree, say no. It was therefore necessary to say that one’s daughter by a gentile woman does not have the legal status of a daughter.

¹⁹⁹ Conversely, if it would teach us only the case of a gentile woman, one might say that this is because she does not have any connection with the mitzvot and therefore her children are in no way Jewish. But since a Canaanite maidservant has a connection with the mitzvot, as she is obligated to observe the prohibitions in the same way as a Jewish woman, say no, i.e., her children should be considered children of their Jewish father. Therefore, this additional proof is necessary.

²⁰⁰ The Gemara asks: And according to the opinion of the Rabbis, we found a source that the children of a Canaanite maidservant are not considered the children of their Jewish father, but from where do we derive that children born to a Jewish father by a gentile woman are not considered his children? And if you say: Let us derive it from the case of the Canaanite maidservant, it has already been shown that these are both necessary, and one cannot be derived from the other.

²⁰¹ The Gemara answers: Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yoḥai: The verse states: “Neither shall you make marriages with them: Your daughter you shall not give unto his son, nor his daughter shall you take unto your son, for he will turn away your son from following Me” (Deuteronomy 7:3–4). This teaches that your son born from a Jewish woman is called your son, but

your son born from a gentile woman is not called your son, but her son. The verse teaches that since the son of a gentile woman is her son alone, he is not considered related at all to his Jewish father.

²⁰² Ravina said: Conclude from here that the son of your daughter by a gentile father is nevertheless called your son, i.e., grandson. The Gemara asks: Shall we say that Ravina holds that if a gentile or slave engaged in intercourse with a Jewish woman, the offspring is of unflawed lineage? The Gemara answers: There is no conclusive proof from here, because granted, she is not a mamzer, but nevertheless she is still not of unflawed lineage; rather, she is called a Jew who is unfit to marry into the priesthood.

²⁰³ The Gemara asks with regard to Rabbi Shimon's reasoning: Was this verse not written in relation to the seven nations who inhabited the land of Canaan when Joshua entered Eretz Yisrael but not with regard to other nations? The Gemara responds that the words "He will turn away" comes to include all those who would turn one's grandson away from God, i.e., any gentile.

²⁰⁴ The Gemara asks: This works out well for Rabbi Shimon, who interprets the rationale behind the mitzva in the verse and draws halakhic conclusions based on that interpretation. Although the verse is stated with regard to the seven nations, the reason for the verse applies to all other gentile nations. However, according to the opinion of the Rabbis, who do not draw inferences from the rationale of the verse to apply this ruling to all other nations, from where do they derive this halakha? The Gemara answers: Who is the tanna who disagrees with Rabbi Yosei, son of Rabbi Yehuda? It is Rabbi Shimon, who applies the rationale of the verse to all other nations.

²⁰⁵ MISHNA: In the case of one who betrothed one of two sisters and does not know which of them he betrothed, so that both are forbidden to him, he gives a bill of divorce to this one and a bill of divorce to that one due to the uncertainty. If the man who had betrothed one of these women died before he could give a bill of divorce, and he had one brother, that brother performs *ḥalitza* with both of them, but he may not take either in levirate marriage. This is because he does not know which woman is his yevama and which is forbidden to him as the sister of a woman with whom he has a levirate bond.

²⁰⁶ If the man who betrothed one of these women had two brothers, one of them performs *ḥalitza* with one of the sisters, but he may not enter into levirate marriage with her due to the possibility that she is the sister of a woman with whom he has a levirate bond. And one takes the other in levirate marriage if he so desires. If the two brothers married the two sisters before consulting the court, the court does not remove them from their marriage and they are permitted to remain married. The couple who performed levirate marriage second was even permitted to do so, since there was no longer any doubt about the levirate bond.

²⁰⁷ Furthermore, in the case of two unrelated men who betrothed two sisters: If 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. If the two men died before they 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.

²⁰⁸ If this one had one brother and that one had two brothers, the single brother performs *ḥalitza* with both of them, and of the two brothers, one performs *ḥalitza* and one performs levirate marriage if he so desires. If they married the sisters before consulting the court, the court does not remove them from the marriage and they are not told to divorce them. If this one had two brothers and that one had

two brothers, the brother of this one performs ḥalitza with one sister, and the brother of that one performs ḥalitza with one sister. The brother of this one who performed ḥalitza may take the woman who performed ḥalitza [ḥalutza] of that other's brother in levirate marriage, and the brother of that second one who performed ḥalitza may take the ḥalutza of that other's brother in levirate marriage.

²⁰⁹ If the two brothers performed ḥalitza with both wives before consulting the court, the two brothers of the second man may not take either sister in levirate marriage lest one marry the sister of a woman with whom he had a levirate bond. Rather, one performs ḥalitza and one performs levirate marriage if he so desires. If they married their wives before consulting the court, the court does not remove them from the marriage.

²¹⁰ GEMARA: Learn from here in the mishna that betrothals that cannot ultimately lead to consummation are nevertheless betrothals. There is a dispute between Abaye and Rava in tractate Kiddushin with regard to a case of a betrothal that, due to some halakhic complication, can never be consummated. The cases in this mishna may not be consummated, since each of the two sisters is forbidden due to the uncertainty as to whether she is the woman he betrothed or the sister of the woman he betrothed. Therefore, both are forbidden to him. Nevertheless, the mishna instructs that he must give a bill of divorce to both of them. This implies that such betrothals are valid, in contrast to Rava's opinion that betrothals that cannot ultimately be consummated are not betrothals at all.

²¹¹ The Gemara rejects this: With what are we dealing here? We are dealing with a case when at first both sisters were recognized and at the moment of betrothal he knew whom he betrothed; it was a betrothal destined for consummation. But later the two sisters were mixed up so that he was no longer certain which he betrothed. If so, there was not any flaw in the betrothal itself initially. The language of the mishna is also precise, as it teaches: And he does not know which of them he betrothed, but it does not teach: It is unknown completely. This implies that the matter was known at some time. The Gemara adds: Conclude from here that this is the case.

²¹² The Gemara asks: If so, what is the mishna teaching us in the segment of the mishna referring to the giving of two bills of divorce? That is obvious. The Gemara answers: It was necessary to teach the last clause of the mishna, as there it teaches: If he died and he had one brother, that brother performs ḥalitza with both of them; if he had two brothers, one performs ḥalitza and the other one enters into levirate marriage if he so desires. Specifically, one brother must perform ḥalitza first, and only subsequently the other brother may perform levirate marriage. But one brother may not enter levirate marriage first, before the other brother has performed ḥalitza, as he would thereby encounter the sister of a woman with whom he has a levirate bond.

²¹³ The mishna says: In the case of two unrelated men who betrothed two sisters: If 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. The Gemara asks: Learn from here that betrothals that cannot ultimately lead to consummation are valid betrothals. The Gemara rejects this: Here too, this is referring to a case where they were recognized and later mixed up. The language is also precise, as it teaches: And he does not know, meaning that he does not know now whom he betrothed, and it does not teach: It is unknown. The Gemara summarizes: Indeed, conclude this from here that this is the case.

²¹⁴ The Gemara asks: If so, what does it come to teach us in relating that both of them must give bills of divorce? The Gemara explains: It was necessary to teach the last clause, where it says: If they died

and this one had one brother and this one had two, the single brother performs ḥalitza with both of them. And of the two, one performs ḥalitza and one enters levirate marriage if he so desires.

²¹⁵ The Gemara asks: That is obvious, as this is identical to the halakha taught in the first clause of the mishna. Why should this case be different from the previous case of two brothers? The Gemara answers: It is necessary to teach this lest you say the Sages should issue a decree in the case of two brothers due to the case of one brother. In a case of one brother he may only perform ḥalitza but may not enter into levirate marriage. Without this mishna one may have thought the same should be true for two brothers. This comes to teach us that they did not issue such a decree, and in this case one of them is allowed to enter into levirate marriage.

²¹⁶ And this is specifically if the brother of one man first performs ḥalitza and subsequently the brother of the other man consummates the levirate marriage, but if he consummated the levirate marriage first, then no, that is prohibited. And why is that? He might be encountering the prohibition of a yevama to a member of the public. Possibly the woman he married was not his yevama but someone else's yevama, and until the other man's brother performs ḥalitza with her she is still forbidden to other men.

²¹⁷ The mishna taught: If this one had two brothers and that one had two brothers, the brother of this who performed ḥalitza may take the ḥalitza of that other's brother in levirate marriage, and the brother of that second one who performed ḥalitza may take the ḥalitza of that other's brother in levirate marriage. The Gemara asks: Why do I need this as well? This clause is identical to that previous halakha. The Gemara answers: It is necessary lest you say: Let the Sages issue a decree lest he consummate the levirate marriage without the other first performing ḥalitza at all. This comes to teach us that such a decree is not issued. Rather, one of each pair of brothers can enter a levirate marriage.

²¹⁸ The Gemara asks: In what way is this case different from that which we learned in a mishna (26a): If there were four brothers, and two of them were married to two sisters, and those married to the sisters died, then those two sisters perform ḥalitza but may not enter into levirate marriage with the remaining brothers, since each woman is the sister of a woman with a levirate bond to each of the brothers. Why not say here as well that each is the sister of a woman with a levirate bond?

²¹⁹ The Gemara rejects this: How can these cases be compared?

²²⁰ There, in that mishna, if it is according to the one who said that the levirate bond is substantial, then there is a bond in that case, as two sisters were certainly married to the brothers and require levirate marriage. And if it is according to the one who said that it is prohibited to nullify the levirate mitzva through marrying the sister of the yevama, then the explanation of that mishna is that it is prohibited to nullify the levirate mitzva and for this reason they must perform ḥalitza and may not enter into levirate marriage. However, here, in this mishna, there is uncertainty concerning the betrothal such that with regard to each one of the brothers, one could say that possibly he encountered his own yevama. Perhaps each brother took his own brother's wife in levirate marriage, and for this reason the Sages did not issue a decree.

²²¹ § The mishna states that if they married their wives before consulting the court, the court does not remove them from the marriage. Sheila teaches a baraita that clarifies the mishna: And this is the case even if both of the brothers were priests. A woman who performed ḥalitza is normally forbidden to a priest, yet in this case, although the brother of the other man performed ḥalitza, they are not required

to divorce. What is the reason for this halakha? It is as follows: A ḥalutza is forbidden to a priest by rabbinic law because her status is similar to that of a divorcée, who is forbidden to a priest by Torah law. And in a case of uncertainty as to whether she is a ḥalutza, since it may not have been her yavam who performed the ceremony, the Sages did not issue a decree.

²²² The Gemara asks: And is the prohibition against a ḥalutza marrying a priest really by rabbinic law? But isn't it taught in a baraita: "They shall not take a woman that is a harlot, or profaned; neither shall they take a woman divorced from her husband; for he is holy unto his God" (Leviticus 21:7). I have derived only a divorcée; from where do I derive that a priest may not marry a ḥalutza? The verse states: "Neither shall they take a woman." The repetition of the word "woman" extends the halakha to include a ḥalutza. The Gemara answers: This prohibition is by rabbinic law, and the verse is a mere support.

²²³ MISHNA: It is a mitzva for the eldest to consummate the levirate marriage, i.e., the eldest takes precedence over the other brothers, though they too are obligated. But if the younger brother consummated the levirate marriage first, he acquires the yevama as his wife.

²²⁴ GEMARA: The Sages taught the following interpretation of the verse: "And it shall be that the firstborn that she bears shall be established in the name of his dead brother and his name will not be blotted out of Israel" (Deuteronomy 25:6). From here the Sages derive that the mitzva to consummate the levirate marriage is upon the eldest. The next phrase: "That she bears," is interpreted to exclude levirate marriage in the case of a widow who is an aylonit, who cannot bear children. From the next phrase: "Shall be established in the name of his dead brother," it is derived that the same brother who performs the mitzva of levirate marriage is established in his brother's name with regard to inheritance, i.e., he inherits his brother's property.

²²⁵ The baraita continues and asks: Do you say that he succeeds in the name of his brother for inheritance, or perhaps it is only to inherit his name? If, e.g., the deceased brother was named Yosef, they must call the son born from levirate marriage Yosef, or if his name was Yoḥanan, then they must call him Yoḥanan. The baraita answers: It is stated here: "He shall succeed in the name of his brother," and it is stated there: "They shall be called after the name of their brothers in their inheritance" (Genesis 48:6). Just as the word "name" stated there in Genesis is referring explicitly to inheritance, so too, the word "name" stated here in Leviticus means with regard to inheritance.

²²⁶ The baraita continues to expound the next phrase of the verse: "And his name will not be blotted out of Israel" (Deuteronomy 25:6). This excludes the case where the deceased was a eunuch, as his name is already blotted out, since it is impossible for him to have children.

²²⁷ Rava said: Even though in the entire Torah a verse does not depart from its literal meaning, and even if the Sages offer a homiletical interpretation of the verses, the literal meaning remains intact, here the verbal analogy teaching that the word "name" is referring to inheritance comes to remove the verse from its literal meaning altogether.

²²⁸ The Gemara asks: Were it not for the verbal analogy, would I have said that the meaning of the word "name" is the actual name? The verse would be incomprehensible according to the literal reading. Whom is the Merciful One instructing in this verse? To whom does the possessive pronoun in the phrase "his brother" apply? If He is speaking to the yavam, He should have stated: Shall succeed in the name of your dead brother. And if the verse is instructing the court about the halakha in general, it should have said: Shall succeed in the name of his father's brother.

²²⁹ The Gemara rejects this question: And perhaps this is what the Merciful One is saying to the court: Say to the yavam that the child born to him shall be established in the name of his brother. Were it not for the verbal analogy, the verse could have been understood according to its literal meaning. Rather, the verbal analogy comes to remove it from its literal meaning altogether.

²³⁰ The Gemara challenges the baraita: Now that you say that the verse: “And it shall be that the firstborn that she bears” is written in reference to the eldest brother, say that the firstborn brother consummates the levirate marriage but that an ordinary brother, i.e., not the firstborn, may not consummate the levirate marriage, and that if the firstborn son is unable to enter into levirate marriage or is no longer alive, no one else may perform the mitzva.

²³¹ The Gemara answers: If so that the mitzva of levirate marriage applies only to the firstborn, then in the case of a wife of a brother with whom he did not coexist, which the Merciful One excluded by the verse: “If brothers dwell together,” why do I need such an exclusion? If only the firstborn is obligated to perform levirate marriage, then there is no need to separately exclude the case of a wife of one’s brother with whom one did not coexist, because by definition one in that position cannot be the firstborn.

²³² Rav Aḥa refutes the Gemara’s answer: But say that the verse comes to exclude the case of a brother with whom one did not coexist when one is nevertheless the firstborn of the mother, e.g., if the father had two wives. The Gemara rejects this: You cannot say that, as the Merciful One made levirate marriage dependent upon inheritance, and inheritance comes from the father and not from the mother.

²³³ The Gemara again challenges the baraita: Then say that when there is a firstborn the mitzva of levirate marriage can be fulfilled by any of the brothers, but that when there is no firstborn, e.g., if he had already died, the mitzva of levirate marriage may not be fulfilled by any of the younger brothers. The Gemara answers: The verse states: “And one of them dies” (Deuteronomy 25:5), without specifying which brother dies. Are we not dealing even with the case where the firstborn died, and yet the Merciful One states that the younger brother should consummate the levirate marriage?

²³⁴ The Gemara refutes this answer: Say that the case in the Torah is referring to when the younger brother died, and only then the Merciful One states that the firstborn must consummate the levirate marriage. The Gemara answers: Didn’t the Merciful One explicitly exclude the wife of a brother with whom he did not coexist, which can apply only to a brother who was not the firstborn?

²³⁵ The Gemara challenges the halakha: Say that when there is no firstborn brother, if a younger brother went ahead and consummated the levirate marriage, then he acquires his yevama as a wife. But if there is a firstborn, and the younger brother went ahead and performed levirate marriage first, then he does not acquire his yevama as a wife, because the Torah specifies that the firstborn brother must perform the mitzva. The Gemara rejects this: The verse states: “If brothers dwell together” (Deuteronomy 25:5), implying that the brothers’ dwellings were equated one with the other, and all the brothers are equally obligated in this mitzva.

²³⁶ The Gemara challenges the halakha again: Then say: When there is a firstborn, let the mitzva return to the eldest brother if the other brothers refuse to perform levirate marriage. But when there is no firstborn, the court does not return to the eldest, as the mitzva primarily applies specifically to the firstborn, and if there is no firstborn, none of the brothers take precedence. Why did Abaye the Elder teach: It is a mitzva for the eldest of the brothers to consummate the levirate marriage? If the eldest

did not wish to do so, then the court goes to his younger brother. If he also did not wish to do so, the court returns again to the eldest. This implies that the eldest, even if he is not the firstborn, has a greater mitzva than the younger brothers.

²³⁷ The Gemara answers: Since it is derived that the eldest brother takes precedence from the verse about the firstborn, then just as with regard to the firstborn, his status as firstborn causes him to take precedence, so too, with regard to the eldest, his status as eldest causes him to take precedence.

²³⁸ The Gemara challenges the halakha again: Then say that if the firstborn consummates the levirate marriage he receives his deceased brother's inheritance, but if an ordinary brother consummates the levirate marriage he does not receive the inheritance. The Gemara answers that the verse states: "The firstborn that she bears shall be established in the name of his dead brother" (Deuteronomy 25:6), and if the younger brother performs levirate marriage he has established his brother's name and thereby earns the inheritance.

²³⁹ The Gemara asks: But if there is no difference between the firstborn and the eldest, why does the Merciful One call the brother who enters levirate marriage the firstborn?

²⁴⁰ With regard to what halakha was that word written in the Torah? This is in order to limit the inheritance. Just as a firstborn does not take in inheritance property due as he does property possessed, but instead receives a double inheritance only from that property already in actual possession of their father, so too, this one who enters levirate marriage, whether firstborn or younger, does not take in inheritance property due as he does property possessed.

²⁴¹ MISHNA: One suspected by others of engaging in sexual relations with a Canaanite maidservant and she was later set free, or one suspected of relations with a gentile woman and she subsequently converted, may not marry that woman, since this will strengthen the suspicions against him. But if he did marry her, they, the judges of the court, do not remove her from him, i.e., they do not require him to divorce her. With regard to one who is suspected of illicit relations with a married woman and they, the judges of the court, removed her from her husband, i.e., required them to divorce due to this, even if the man suspected of the illicit relations subsequently married her, he must divorce her.

²⁴² GEMARA: The mishna teaches that one who is suspected of relations with a gentile woman who later converted may never marry her. This implies that she is, however, a convert, although it appears that she converted only in order that he might marry her. The Gemara raises a contradiction from a baraita: Both a man who converted for the sake of a woman and a woman who converted for the sake of a man, and similarly, one who converted for the sake of the king's table, so that he could serve in a prestigious capacity, or for the sake of Solomon's servants, who were also considered prestigious, in all of these cases they are not converts; this is the statement of Rabbi Neḥemya.

²⁴³ As Rabbi Neḥemya would say: With regard to converts by lions, i.e., forced converts such as the Samaritans [Kutim] described in II Kings (17:24–25); and converts who convert based on their dreams; and converts of the time of Mordecai and Esther described in the verse, "And many from among the peoples of the land became Jews; for the fear of the Jews was fallen upon them" (Esther 8:17); all of these are not converts until they are converted at this present time.

²⁴⁴ The Gemara clarifies the meaning of the words: Could it enter your mind to say only at this present time? Since he mentioned the converts of Mordecai and Esther, who were deceased before Rabbi Neḥemya made this statement, he therefore cannot possibly mean this phrase literally. Rather,

say: Like at this present time, when the Jewish people are in exile and there is no material benefit to conversion.

²⁴⁵ Returning to the question above: How could a woman who converted for the sake of a man be considered a true convert? The Gemara answers: But wasn't it stated with regard to that baraita that Rav Yitzhak bar Shmuel bar Marta said in the name of Rav: The halakha is in accordance with the statement of the one who says that they are all converts.

²⁴⁶ The Gemara asks: If so, why is one suspected of relations with such a woman not permitted to enter into marriage with her ab initio as well? The Gemara answers: The reason for the prohibition is due to the following statement of Rav Asi. As Rav Asi said with regard to such cases: "Put away from yourself a twisted mouth, and perverse lips put far from you" (Proverbs 4:24). If they were to marry, they would give substance to the prior suspicions.

²⁴⁷ The Sages taught: Converts are not accepted in the days of the Messiah. Similarly, they did not accept converts in the days of King David or in the days of King Solomon. Rabbi Eliezer said: What is the verse that hints at this halakha? "Behold, they may gather together [gor yagur], but without Me; whosoever shall gather together [gar] with you shall fall on yours" (Isaiah 54:15). The word gor implies that only a convert [ger] who becomes part of the Jewish people when the Jews are living in exile, at a time when God is not clearly revealed, i.e., "without Me," are considered part of the Jewish people. But another who wishes to convert in a time when God is clearly revealed shall not be accepted.

²⁴⁸ § The mishna states that one who was suspected of relations with a married woman may not marry her even after she divorces her husband. Even if they marry without permission, they must divorce. Rav said: This is only in a case when there were witnesses to her infidelity, and because of their testimony the court required her first husband divorce her. However, if her first husband divorced her due to suspicion and rumors but without witnesses, her second husband would not be obligated to divorce her.

²⁴⁹ Rav Sheshet said: I say that when Rav was dozing or sleeping he said that halakha, and it is mistaken. As it is taught in a baraita: With regard to one who was suspected of adultery with a married woman and as a result the court requires her husband to divorce her, and later she married someone else and was then divorced by this other, if the one who had been suspected of illicit relations with her then married her, he need not divorce her.

²⁵⁰ The Gemara clarifies this: What are the circumstances of this case? If it is referring to a case where there are witnesses to their adultery, when another came and put an end to the rumor of her misconduct by marrying her, what of it? If there were witnesses, the adulterers may never marry each other. Rather, is it not referring to a case where there were no witnesses to the adultery, and the reason she does not have to be divorced from her third husband, with whom she committed adultery while married to her first husband, is specifically because another came and, by marrying her, put an end to the rumor? This implies that were it not so, i.e., had she not married someone else before marrying the man suspected of committing adultery with her, the court would have removed her from him and required them to divorce, even without witnesses to their adultery. This contradicts Rav's statement above that they must divorce only if there were witnesses to the infidelity.

²⁵¹ The Gemara responds: Rav could have said to you that the same is true even if another did not come and put an end to the rumor by marrying her. The same principle applies: If there were

witnesses to the adultery the court removes her and requires them to divorce, but if there were no witnesses, the court does not remove her. And this is what the baraita is saying: The novelty in this baraita is that even though another came and put an end to the rumor by marrying her, nevertheless, the suspected adulterer may not marry her *ab initio* due to the original suspicions.

²⁵² The Gemara raises an objection from a different baraita that qualifies the previous one: In what case is this statement, that the court removes her from the suspected adulterer, said? It is when she has no children from her first husband. But if she has children from him, she is not required to be divorced from the suspected adulterer. On the contrary, if they were required to divorce, it could strengthen the original rumor and others might suspect that her children are *mamzerim*. However, if witnesses to her impurity, i.e., her adultery, came and testified that she had relations with this man while she was married, then even if she has several children from the first husband, she is required to be divorced. This implies that a woman without children from her first husband must separate from a man suspected of illicit relations with her on strength of suspicion alone.

²⁵³ The Gemara answers and explains that Rav establishes the mishna as referring only to a case where she has children by her first husband and there are witnesses to her adultery. In such a situation, she and the adulterer must divorce, but without witnesses they are not required to divorce. The Gemara asks: What forced Rav to establish the mishna as referring to a case where she has children and there are witnesses and explain that the reason that the court removes her from the suspected adulterer is because there were witnesses, but that if there were no witnesses they do not remove her? Why does he not establish the mishna as referring to a case where there were no children and that they must divorce even if there were no witnesses?

²⁵⁴ Rava said: The language of the mishna was difficult for him; due to that he deemed it necessary to interpret it as he did. Why does the tanna specifically teach: They remove her from him [*hotziuha*]? Let it teach: He divorces her [*hotziah*] in the singular. Rather, every time the plural form: They remove her, is used, it is referring to the judges of the court. And a court removes a woman from her suspected adulterer only if there were witnesses, and not due to suspicion alone.

²⁵⁵ If you wish, say a different answer for Rav's explanation: Those baraitot that require the wife and the suspected adulterer to divorce even without witnesses to the adultery are taught in accordance with the opinion of Rabbi Yehuda HaNasi. As it is taught in a baraita: With regard to a case where a husband saw a peddler leaving the house, and when he entered he found his wife retying her smock [*sinar*], i.e., putting her clothes back on, Rabbi Yehuda HaNasi said: Since this is a distasteful matter because it looks as though she committed adultery with the peddler, she must be divorced by her husband. Alternatively, if the husband entered after the peddler had left and found saliva above the netting of the bed, implying that someone had lain on the bed and spit upward, although no actual act was witnessed, Rabbi Yehuda HaNasi said: Since this is a distasteful matter, she must be divorced.

²⁵⁶ The same applies if the husband found the shoes reversed under the bed, so that the toe of the shoe faced the bed; this is a sign that a stranger came in and placed them like that. Rabbi Yehuda HaNasi said: Since this is a distasteful matter, she must be divorced. The Gemara questions this: Shoes turned around? Let him see whose they are and clarify who the stranger was and then find out what he was doing there. Rather, the case was that he found the place of the shoes, i.e., shoe prints, reversed under the bed and cannot recognize whose shoe prints they are. Rabbi Yehuda HaNasi said: Since this is a distasteful matter, she must be divorced.

²⁵⁷ The Gemara concludes: The halakha is in accordance with the opinion of Rav, that they must divorce only if there were witnesses, and the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, that they must divorce if there is a matter that is distasteful. The Gemara challenges this: One halakha is difficult, as it contradicts the other halakha. The Gemara answers: This contradiction is not difficult. This one relates to a case where the rumor ceases and the woman is sent away only if there are witnesses, but that one relates to a case where the rumor does not cease, in which case he divorces her even if there are no witnesses. The Gemara elucidates the cases: In cases of a rumor that does not cease, even if there are no witnesses the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi and he divorces her. If the rumor ceases and there are witnesses, the halakha is in accordance with the opinion of Rav, and he divorces her because there are witnesses.

²⁵⁸ The Gemara clarifies this: At what point is it considered to be a persistent rumor? Abaye said: My mother told me: A rumor in the city lasts a day and a half. The Gemara comments: We said that this is the length of time only if the rumor did not cease in the meantime. But if the rumor did cease in the meantime, even if it was later renewed, this is considered a rumor that has ceased and is disregarded. And we said that a rumor that ceased is not considered persistent only if the reason it ceased was not due to fear of the individual about whom it is said. But if it ceased due to fear, it is only due to fear and is still considered a persistent rumor. And we said that a persistent rumor has validity only if the subject of the rumor does not have any known enemies, but if he has enemies it may be assumed that it is the enemies who put out the rumor about him.

²⁵⁹ § We learned in a mishna there (Gittin 45b): A man who divorces his wife due to her bad reputation may not take her back again, even if it turns out that the rumor was untrue. Likewise, if he divorced his wife due to a vow of hers that is unbearable to him he may not take her back even if she is released from that vow. Rabba bar Rav Huna sent a question to Rabba bar Rav Nahman: Our teacher, instruct us. If one of those men listed in that mishna divorced his wife due to her bad reputation or vow and it was therefore prohibited for him to take her back, yet he nevertheless remarried her, what is the halakha? Must he divorce her?

²⁶⁰ Rabba bar Rav Nahman said to him: We already learned in the mishna (24b): With regard to one who is suspected of committing adultery with a married woman, and he, her husband, divorced her, even if he subsequently remarried her he must divorce her. Rabba bar Rav Huna said to him: Is this comparable to the case I asked about? There, in the mishna, it says: They, the court, remove her from him, whereas here (Gittin 45b), the mishna states: He divorced her of his own accord. Perhaps if the court requires them to divorce, the halakha is different. The Gemara explains: And Rabba bar Rav Nahman, who held that the two mishnayot were comparable, had a text of the mishna that also read: He divorced her, instead of: They remove her.

²⁶¹ Rabba bar Rav Huna asks: Still, is this comparable? Here, the question was raised in a case where the first husband remarried her, which will not strengthen the rumors of her bad reputation, but there, the mishna refers to the man with whom she committed adultery remarrying her, which strengthens those rumors. He said to him: They are certainly comparable to each other: Here, in the mishna discussing one who is suspected of committing adultery, the Sages said that he may not marry her and if he did marry her he must divorce her. So too, the Sages said in the case of one who divorced his wife due to her reputation or vow that he may not take her back, and if he does remarry her he must divorce her.

²⁶² The Gemara rejects this: That is not so, as there, when the man suspected of committing adultery marries the woman, he thereby strengthens the rumor of adultery. For this reason he must divorce her. Here, we say that he, the husband, established the facts of the rumor and found that it was not so and the rumor was baseless. Therefore, there is no need for him to divorce her if he remarries her. Rabba bar Rav Huna's question remains unresolved.

²⁶³ MISHNA: An agent who brought a bill of divorce from a country overseas and said: It was written in my presence and it was signed in my presence, as required in order to establish the bill of divorce as valid, may not marry the wife, i.e., the divorcée. Since the validity of the bill of divorce is based upon his testimony, marrying the divorcée creates the impression that he had an ulterior motive for his testimony. Similarly, a witness who testified that a certain man died, or testified: I killed him, or: We killed him, may not marry that man's wife. Rabbi Yehuda says: If he testified: I killed him, his wife may not be married at all based on that evidence, as his testimony is unreliable, but if he said: We killed him, his wife may be married to anyone other than those witnesses.

²⁶⁴ GEMARA: The Gemara clarifies: The reason that the agent may not marry the divorcée applies specifically in a case where he brings the bill of divorce from a country overseas, as in this case we, the court, rely upon his testimony to validate the bill of divorce. But an agent who brings a bill of divorce from Eretz Yisrael need not make any verbal declaration, and since we, the court, do not rely upon his testimony but upon the written bill of divorce alone, he may marry his wife, i.e., the divorcée, since it does not arouse suspicion.

²⁶⁵ The Gemara challenges this: But also in the case of a witness who said that the husband died, we, the court, do not rely solely upon his testimony. As the Master said: A woman is exacting in her investigation of the truth of the testimony that her husband died before she marries again, and it is primarily on that basis that she is permitted to remarry. Yet it is taught that he still may not marry his wife.

²⁶⁶ The Gemara answers: The two cases are not comparable, as there, in the case when a witness testifies that the husband has died, there is not anything written as proof, and therefore he may not marry the widow. However, here, in a case where an agent brings a bill of divorce from Eretz Yisrael, there is a written document that is valid without any testimony. As we learned in a mishna (117a): What is the difference between a bill of divorce and death? Why does the court rely upon those men who are not trusted as witnesses to the death of a husband if they act as agents to bring a bill of divorce, even from overseas, such that they must give testimony that it was written and signed in their presence? The difference is that with regard to a bill of divorce the writing proves their testimony.

²⁶⁷ The mishna stated that if the witness said with regard to the husband that he died, or: I killed him, or: We killed him, then he may not marry the wife of the deceased. The Gemara infers that he, the witness himself, may not marry the wife; this implies that to another she may be married on the basis of his testimony.

²⁶⁸ The Gemara challenges this: Didn't Rav Yosef say: With regard to one who testified that so-and-so sodomized me against my will, then he who testified to being the victim of the sexual assault and another bystander witness can combine as a pair of witnesses in order to put the assailant to death for homosexual intercourse. But if he testified: I was willingly sodomized by so-and-so, then he is wicked by his own admission, since he willingly transgressed. And the Torah said: "Put not your

hand with the wicked to be a corrupt witness” (Exodus 23:1). If one renders himself unfit as a witness by admitting to murder, how can his testimony be accepted to permit the wife to remarry?

²⁶⁹ And if you would say that testimony that a woman’s husband died is different, as the Sages ruled leniently in such matters and perhaps accepted testimony of a wicked witness in such cases, didn’t Rav Menashe say:

²⁷⁰ Although one who is considered a robber according to the words of the Sages is unfit for other forms of testimony, he is fit as a witness for testimony that a woman’s husband died. A robber according to Torah law is unfit as a witness even for testimony that a woman’s husband has died. Should we say that what Rav Menashe said is in accordance with the opinion of Rabbi Yehuda? Rabbi Yehuda said in the mishna that one who is considered absolutely wicked because he admitted that he is a murderer is unfit for testifying to the death of a husband, but one who was merely present among a gang of murderers is not.

²⁷¹ The Gemara rejects this: Rav Menashe could have said to you: I am speaking even according to the opinion of the Rabbis. Although the Rabbis did not allow one who was wicked by Torah law to testify for a woman, a witness who admitted: I killed him, is nevertheless believed. And the rationale of the Rabbis here is in accordance with the opinion of Rava, as Rava disputed Rav Yosef’s opinion and said: Even if one said that he was willingly sodomized by this man, he is not believed concerning his own actions, because a person is his own relative. Consequently, he may not testify about himself, just as the testimony of any relative is disqualified. And furthermore, a person does not make himself wicked. His testimony with regard to his own actions is inadmissible because he is his own relative, but his testimony is accepted both to put a sodomizer to death or to render it permitted for a woman to remarry by saying that he killed her husband.

²⁷² The Gemara asks: Shall we say according to this explanation that the opinion that Rav Yosef spoke is in accordance with the opinion of Rabbi Yehuda? The Gemara rejects this: Rav Yosef could have said to you: I am speaking even according to the opinion of the Rabbis, as in my opinion, testimony enabling a woman to remarry is different in that the Rabbis ruled more leniently and they even accept testimony from a completely wicked individual. However, Rav Menashe, who renders unfit one who is wicked by Torah law from testimony enabling a woman to remarry, spoke in accordance with the opinion of Rabbi Yehuda, who differentiates even in such testimony between one who is considered wicked according to Torah law and one who is considered wicked by rabbinic law.

²⁷³ In the mishna it is taught that the court accepts testimony from one who said: I killed him, or: We killed him, while Rabbi Yehuda differentiates between one who said: I killed him, whose testimony is not accepted, and one who said: We killed him, whose testimony is accepted and the woman may be married to others. The Gemara asks: What is different between: I killed him, and: We killed him? Isn’t he a murderer by his own admission as well when he testifies: We killed him? Rav Yehuda said: Do not understand that by saying: We killed him, he included himself among the murderers. Rather, it is referring to a case where he said: I was with his murderers, but he was not an active participant to the murder.

²⁷⁴ And it is taught in a baraita that this is the basis for Rabbi Yehuda’s distinction: They told Rabbi Yehuda: There was an incident involving an armed bandit [listim] who was taken out to be executed in the passage [megizat] of Cappadocia, and he said to those present: Go and tell the wife of Shimon

the Priest that I killed her husband as I entered Lod. And some say that he said: As he entered Lod. And they married off his wife on the basis of this testimony. This implies that the court accepts testimony from the murderer himself. Rabbi Yehuda said to them: You derive proof from there? The case was that he said: I was with his murderers, but not that he himself murdered the woman's husband.

²⁷⁵ The Gemara challenges: How could Rabbi Yehuda understand the incident in such a way? But it is taught in the baraita that the witness himself was an armed bandit. The Gemara answers: He was captured for a charge of armed banditry. The Gemara asks: But it is taught that he was taken out to be executed, implying that he was found guilty of murder. The Gemara answers: That was a gentile court, and they execute without being precise. One who is among a gang of bandits is executed by a gentile court regardless of whether or not he himself was a murderer. This baraita therefore provides evidence that Rabbi Yehuda admits the testimony of such a witness only if he says: I was with his murderers.

²⁷⁶ MISHNA: A Sage who refused to release a woman from a vow that rendered the wife forbidden to her husband by that vow, resulting in her being divorced from her husband, may not marry her, so as to avoid suspicion that he rendered her forbidden to her husband in order to marry her himself. However, a judge before whom a woman performed refusal when she was a minor, declaring that she did not desire the husband chosen for her by her family, or before whom she performed ḥalitza, may marry her because he was only one member of the court, thereby alleviating suspicion.

²⁷⁷ GEMARA: The mishna taught that a Sage who rendered a woman forbidden to her husband may not then marry her. The Gemara deduces from here: This implies that if he rendered her permitted to her husband and she was later widowed or divorced, then he may marry her. The Gemara clarifies this: With what are we dealing? If we say that he was a single judge and not part of a court, can a single judge dissolve vows? But didn't Rav say that Rabbi Ḥiyya bar Avin said that Rav Amram said: It is taught in a baraita: Dissolution of vows requires a court of three judges?

²⁷⁸ Rather, could it be a case of three judges rather than one? In such a case, would they be suspect of distorting judgment? But didn't we learn in the mishna: If she performed refusal or performed ḥalitza before him, he may marry her because he functioned as a member of a court of three? This teaches that there is no suspicion of a judge in a court of three.

²⁷⁹ The Gemara answers: Actually, you should explain that this case is that of a single judge, and it is as Rav Ḥisda said that Rabbi Yoḥanan said: Vows may be dissolved even by a single expert, and a three-member court is not always necessary. Here too, it is referring to a single expert refusing to nullify her vow.

²⁸⁰ It is taught in the mishna that if a woman performed refusal or performed ḥalitza before a judge, he may still marry her, as he was part of a court. The Gemara deduces from here: The reason is specifically that he functioned on the court as one of three judges. The Gemara deduces: Then, if there were only two judges, he would not be permitted to marry her.

²⁸¹ If so, in what way is this case different from that which we learned in a baraita: If witnesses signed on the document of sale of a field or on a woman's bill of divorce, the Sages were not concerned about this matter if one of the witnesses subsequently purchased the field or married the divorcée. Since there are two witnesses, there is no suspicion that they collaborated for the benefit of one of them. The Gemara answers: If there were two judges there would also be no concern;

however, this mishna itself comes to teach us that a refusal must be performed before a full court, to exclude the opinion of the one who said that refusal may be performed before two. This teaches us that refusal must be performed before three judges.

²⁸² § A dilemma was raised before the Sages with regard to one who was prohibited from marrying a certain woman: If he nevertheless married her despite the prohibition, what is the halakha with regard to whether he must divorce her? Rav Kahana said: If he married her, he must divorce her. Rav Ashi said: If he married her, he need not divorce her. Rav Zuti from the school of Rav Pappi taught the Sages a baraita in accordance with the statement of the one who said that if he married her, he need not divorce her.

²⁸³ The Rabbis said to Rav Ashi: With regard to the halakha that you said, that if he married her he need not divorce her, was it based upon tradition or is it your own conclusion? He said to them: It is the mishna. I reached this conclusion from the wording of the mishna, which taught that one suspected by others of engaging in sexual relations with a Canaanite maidservant and she was subsequently set free, or with a gentile woman and she subsequently converted may not marry that woman. But if he did marry her, they, the judges of the court, do not remove her from him. Apparently,

²⁸⁴ we do not remove her from her husband owing to suspicion due to rumor alone. Here too, we do not remove her from her husband due to a rumor.

²⁸⁵ MISHNA: And for all of these who were involved in permitting the wife to remarry, i.e., the judge, the agent who brought a bill of divorce, and the one who testified for a woman that her husband died, if they had wives at the time of the ruling or the testimony and their wives died thereafter, then those women they had set free are permitted to be married to them. There is no concern that while their wives were still alive these individuals set their eyes upon another woman.

²⁸⁶ And with regard to all of these women who were prohibited from marrying a certain man due to some suspicion, if they were subsequently married to others and then were divorced or widowed from the second husband, they are permitted to be married to them, i.e., to the judge, messenger, or witness who permitted her to remarry. And all of these women who were prohibited from marrying due to some suspicion are permitted to the sons or to the brothers of those who set them free.

²⁸⁷ GEMARA: The mishna taught that if any of the men had wives who subsequently died, they may marry those women freed by them. The Gemara deduces from here: If the wives of those who rendered the woman permitted died, yes, they are permitted to marry the woman that they freed for marriage; but if the wives were divorced, no, it is prohibited. In such a case, marrying the woman that one had rendered permitted would raise suspicions that he had in fact planned to marry her all along.

²⁸⁸ Rav Hillel said to Rav Ashi: Yet it is taught in a baraita: Even if they were divorced from their first wives they are permitted to marry the women they freed. The Gemara responds: This is not difficult: This mishna is referring to a case when there was a quarrel between the husband and the wife at the time that he freed the other woman, as then there is legitimate concern that he was already interested in her. That case of the baraita was when there was no quarrel between them at the time, and therefore the divorce clearly resulted from some other reason.

²⁸⁹ And if you wish, say: Both this and that were said in cases when there was no quarrel between the one who freed the woman and his first wife, and only later did they quarrel and divorce. And this is not difficult: This case of the mishna was when he started the quarrel himself, as then there is legitimate concern that he had an interest in this other woman and therefore sought out a reason to divorce his wife. And that case of the baraita was when his wife started the quarrel, as then there would be no reason to suspect him of freeing the other woman in order to marry her.

²⁹⁰ The mishna stated: And with regard to all of these women, if they were married to others and then were divorced or widowed, it is permitted for them to marry those who caused them to be free to marry in the first place. It enters our mind to say that the case referred to here was one of death after death, i.e., the case of a woman whose first husband's death had been substantiated by a single witness but whose second husband died as well, and also to the case of divorce following a bill of divorce that had been validated by a single witness.

²⁹¹ Based on this, should we say that the mishna, which permits a woman to remarry even after her two previous husbands have died, is not in accordance with the opinion of Rabbi Yehuda HaNasi? As, if it is in accordance with the opinion of Rabbi Yehuda HaNasi, didn't Rabbi Yehuda HaNasi say: After two times a woman has the presumptive status to cause death to her husbands, and such a woman is considered murderous. Therefore, she may not remarry. Since there is no mention of such concern in the mishna, it appears that the mishna is not in accordance with the opinion of Rabbi Yehuda HaNasi.

²⁹² The Gemara rejects this: No evidence can be derived from here, as the reference here may be to death after divorce or divorce after death. The mishna could be referring either to a woman who was at first divorced and then later widowed by her second husband's death, or to a woman whose first husband died and who was subsequently divorced, but not to a case where she was widowed by the death of two husbands.

²⁹³ § The mishna taught: And all of these women who were prohibited from marrying the man who freed them due to some suspicion are permitted to the sons or to the brothers of those who set them free. The Gemara asks: In what way is this case different from that which we learned in the Tosefta (4:5) that one suspected of adultery with a specific woman is prohibited not only from marrying her, but also from marrying her mother, and her daughter, and her sister. Yet here we allow his sons and brothers to marry the woman despite the suspicion.

²⁹⁴ The Gemara answers: There is a distinction between the situations, for it is common for women to be at the house of other women and to stay overnight. Therefore, there is concern that a relative of the alleged adulterer's wife, with whom he was suspected of misconduct, might frequent his house and he might be tempted to repeat his transgression. On the other hand, it is not common for men to be at the house of other men, so that even if she was married to his relative, the one suspected of misconduct would not generally sleep at the house of the husband.

²⁹⁵ Alternatively, a different argument could be made: Women are not so strict with one another, as lying with them and having sexual relations with them does not render them mutually forbidden. In other words, if a man commits adultery with his wife's close relative, his wife does not become forbidden to him, so she may not pay attention to his behavior with the woman under suspicion. However, men are strict with one another, as lying with them and having sexual relations with the other man's wife does render them, the husband and wife, mutually forbidden. In other words, if

another man has relations with a married woman, she is forbidden to her husband, and so men pay close attention to what the others are doing.

²⁹⁶ The Gemara asks: If so, one's father should be permitted to marry a woman set free by his son as well. So why does the mishna say: Their sons or their brothers, and not: Their fathers? The Gemara answers: Certainly his father is allowed as well, but the mishna is speaking utilizing the style of: It is not necessary. It is not necessary to mention the case of his father because he is most certainly permitted to marry a woman set free by his son, as his son is embarrassed [baziz] before him and so would not come to sleep with his father's wife. But I might say that since the father is not embarrassed before his son, she may not be married to the son of one for whom there is suspicion. Therefore, this comes to teach us that there is no such concern.

Chapter 3

¹ MISHNA: In the case of four brothers, two of whom were married to two sisters, and the ones married to the sisters died, then those sisters must perform ḥalitza and may not enter into levirate marriage. Since both sisters require levirate marriage with each of the surviving brothers, a levirate bond exists between each sister and the brothers. Each of them is considered the sister of a woman with whom each brother has a levirate bond and is therefore forbidden to him by rabbinic law. And if they married the sisters before consulting the court, they should divorce them, for the Sages decreed that in this situation they may not remain married. Rabbi Eliezer says that there is a dispute in this matter: Beit Shammai say: He may maintain her as his wife, while Beit Hillel say: They must divorce them.

² If one of the sisters was forbidden to one of the brothers due to a prohibition against forbidden relations because she was a relative of his wife or a relative on his mother's side, then he is forbidden to marry her but permitted to marry her sister. Because she is his close relative, she is exempt from levirate marriage with him, and therefore she is not bound to him with a levirate bond. Consequently, her sister is not considered the sister of a woman with whom he has a levirate bond, and he is permitted to enter into levirate marriage with her. But the second brother, who is not a close relative of either sister, is forbidden to marry both of them. Indeed, for him each woman remains the sister of a woman with whom he has a levirate bond.

³ If a prohibition resulting from a mitzva or a prohibition stemming from sanctity will be transgressed when one of the women marries one of the brothers, then her sister must perform ḥalitza and may not enter into levirate marriage, as she is considered the sister of a woman with whom he has a levirate bond. In this case, the sister who is forbidden to the brother due to a mitzva or due to sanctity is bound to the brother for the purpose of ḥalitza.

⁴ If one of those women was forbidden to this one brother due to a prohibition against forbidden relations and the second woman was forbidden to that second brother due to a prohibition against forbidden relations, then she who is forbidden to this brother is permitted to that brother, and she who is forbidden to that brother is permitted to this one.

⁵ And this is the case that was referred to when they said: When her sister is also her yevama, i.e., in a case where two sisters are also yevamot and therefore happened for levirate marriage before two

brothers, she either performs ḥalitza or enters into levirate marriage. This must be referring to a case where each sister is forbidden to one of the brothers due to a prohibition concerning forbidden relatives. In this case, each sister has a levirate bond only with the one brother to whom she is permitted, and the prohibition against marrying the sister of a woman with whom one has a levirate bond does not apply. Therefore, each brother can either perform the act of ḥalitza or consummate the levirate marriage with the sister to whom he is not related.

⁶ GEMARA: The Gemara deduces from the halakha cited in the mishna: Conclude from here that the levirate bond is substantial. That is, the very obligation of levirate marriage creates a bond that is similar to marriage. For if the levirate bond were not substantial, why would these two women not enter into levirate marriage? After all, these two women come from two households, as each had a different husband, and they both require levirate marriage. Let this brother consummate the levirate marriage with one sister and let that brother consummate the levirate marriage with the other sister. The fact that the mishna requires ḥalitza in this situation indicates that the levirate bond is substantial and resembles marriage to the extent that each sister is forbidden to each brother due to the prohibition against marrying the sister of a woman to whom one has a levirate bond.

⁷ The Gemara rejects this: Actually, I could say to you that according to this tanna the levirate bond is not substantial, and yet they are prohibited from entering levirate marriage for a different reason. It is because the tanna holds that it is prohibited to negate the mitzva of levirate marriage. It is prohibited to act in a way that would lead to a situation where the mitzva to perform levirate marriage is negated. How would this situation arise? Perhaps before one brother consummates the levirate marriage, the other brother dies, and only one brother remains. In that case, the second sister would also happen before him for levirate marriage, and by performing levirate marriage with one sister he would thereby negate the mitzva of levirate marriage with the other sister. When the remaining brother marries one of the sisters, the mitzva to enter into levirate marriage or perform ḥalitza is automatically negated from the second sister, as she is then forbidden to him as his wife's sister.

⁸ The Gemara asks: If so, if this is the rationale behind the ruling in the mishna, then the same concern would exist if there were three brothers, as well. Why did the mishna specify four brothers? It could have cited the case of three brothers, two of whom were married to two sisters. In these circumstances, the concern for negating the mitzva of levirate marriage also exists.

⁹ The Gemara answers: Indeed, the ruling would be the same in that case. However, the mishna is speaking utilizing the style of: It is not necessary. It is not necessary to specify that the women must perform ḥalitza in a case involving three brothers, as certainly the mitzva of levirate marriage is negated with one of the sisters when the yavam marries the other sister. But in the case of four brothers, where there is concern only over the possibility that one of the brothers might die, we might have said that we are not concerned over the possibility of the death of a brother and therefore allow the brothers to consummate the levirate marriage. The mishna therefore teaches us that even in the case where there is concern only for the negation of the mitzva, they must perform ḥalitza and not consummate the levirate marriage.

¹⁰ The Gemara asks: If so, i.e., if we are concerned over the possibility that the remaining brother might die,

¹¹ then this should also be true in a case of five brothers, two of whom were married to two sisters and died, and their wives happened before the three remaining brothers for levirate marriage. The Gemara answers: We are not concerned over the possibility of the death of two brothers in such a short period of time.

¹² § Rava bar Rav Huna said that Rav said: In a case where three sisters who were married to three brothers became yevamot and happened before two remaining brothers who were their yevamin for levirate marriage, then this one brother performs ḥalitza with one of the women, and that brother performs ḥalitza with another one of the women. And the middle, i.e., third, sister requires ḥalitza with both of the brothers.

¹³ Rabba said to them: From the fact that you say that the middle one requires ḥalitza with both of the brothers, it can be deduced that you hold that the levirate bond is substantial and creates a familial relationship, and similarly this ḥalitza performed by each of the brothers with the third sister is invalid ḥalitza. Since the third woman is the sister of a woman with whom he performed ḥalitza, it is not possible to consummate the levirate marriage with her. Therefore, the ḥalitza performed with her is not entirely valid and does not release her from the levirate bond between her and the two brothers. And there is a principle that invalid ḥalitza must be repeated by all of the brothers; each of them must perform an act of ḥalitza with this woman.

¹⁴ The Gemara asks: If that is so, the first two women should also require ḥalitza from each of the brothers because each act of ḥalitza was invalid, as each woman has the status of the sister of a woman with whom the man has a levirate bond, and it is therefore prohibited for the men to consummate the levirate marriage with them.

¹⁵ The Gemara responds: If the case is that they, i.e., the sisters, happened before the brothers simultaneously, it is indeed so that the two brothers would each be obligated to perform ḥalitza with each of the three sisters. This halakha is necessary only in the case where they happened before the brothers, one after the other.

¹⁶ How so? One sister happened before the brothers for levirate marriage and then Reuven, one of the brothers, performed valid ḥalitza with her. Another sister happened before the brothers for levirate marriage, and the brother Shimon performed ḥalitza with her. In this case, Shimon was allowed to consummate the levirate marriage with her if he so desired, as she had no family relationship to him at all. When Reuven performed ḥalitza with the first sister, he removed the levirate bond between her and the other brothers, such that Shimon has no relationship with the first sister at all and is free to marry the second sister. Therefore, when he performed ḥalitza, the act was valid.

¹⁷ Another third sister then happened before the brothers for levirate marriage. When this first brother performs ḥalitza with her, he terminates his levirate bond, and when this second brother performs ḥalitza with her, he terminates his levirate bond. However, neither brother can, by performing ḥalitza, terminate the other brother's levirate bond because each brother's ḥalitza is invalid, as each brother is unable to consummate the levirate marriage in this case. This is due to the woman's status as the sister of a woman with whom he performed ḥalitza.

¹⁸ The Gemara asks: How can this statement be cited in the name of Rav? But didn't Rav say: The levirate bond is not substantial. This halakha, however, was explained based on the assumption that the levirate bond is substantial. The Gemara answers: Indeed, according to Rav himself it is

unnecessary to perform ḥalitza with multiple brothers. He, however, states this halakha in accordance with the statement of the one who says that the levirate bond is substantial, despite the fact that he does not hold this himself.

¹⁹ And with regard to the above case Shmuel said a different halakhic ruling: It is sufficient if one brother performs ḥalitza with each of the sisters. The Gemara raises a difficulty: But since we have heard that Shmuel said: We require a full-fledged ḥalitza, and invalid ḥalitza does not result in complete exemption, this ruling is difficult. It is not clear why the invalid ḥalitza in this case would be sufficient, as Shmuel said:

²⁰ In the case of three brothers, two of whom were married to several women, including two sisters, and the two married brothers later died, and their wives happened before the yavam for levirate marriage, if the yavam performed ḥalitza with the sisters who were among the wives, the rival wives are not thereby exempt. One can deduce from here that since the yavam cannot consummate the levirate marriage with the sisters, as each is the sister of a woman with whom he has a levirate bond, then the act of ḥalitza is invalid, and invalid ḥalitza is ineffective in exempting their rival wives. It is concluded from here that even Shmuel requires valid ḥalitza, i.e., ḥalitza that occurs when there is a possibility of consummating the levirate marriage. According to this rationale, however, Shmuel's ruling in the above case is difficult: With regard to the second sister, when there exists the possibility for Shimon's ḥalitza, i.e., the ḥalitza of the second brother who did not yet perform ḥalitza, to be a valid ḥalitza, would it be allowed for Reuven, the brother who already did ḥalitza with one sister, to perform invalid ḥalitza with her?

²¹ The Gemara resolves this difficulty by reinterpreting Shmuel's statement. What does it mean that it says: One performs ḥalitza with each of them, that Shmuel stated? Shmuel says that with regard to the middle one, i.e., the third sister, one of the two brothers performs ḥalitza with her. The Gemara asks: But didn't he say: Each of them, indicating that one brother performs ḥalitza with all of the sisters? The Gemara answers: Since the brother who performed ḥalitza with one sister repeats the act with another, it turns out that most of the acts of ḥalitza are performed with him, and this is called: With each of them. And if you wish, say a different answer: When Shmuel said we require a full-fledged ḥalitza, this applies only to exempt her rival wife by means of that ḥalitza. But to exempt the woman herself, even invalid ḥalitza would render her exempt. In the case above, since no rival wives are involved, it would be sufficient for one brother to perform ḥalitza with each of the sisters.

²² § Apropos of Shmuel's statement, the Gemara examines the matter itself. Shmuel said: In the case of three brothers, two of whom were married to several women, including two sisters, and the two married brothers later died, and their wives happened before the yavam for levirate marriage, if the yavam performed ḥalitza with the sisters, the rival wives are not thereby exempt. But if he performed ḥalitza with the rival wives, the sisters are exempt. Similarly, if he gave a bill of divorce to one of these women, whereby he would no longer be permitted to consummate the levirate marriage with them due to a rabbinic decree, and he then performed ḥalitza with the woman who received a bill of divorce, the rival wife is not thereby exempt. Since he was unable to consummate the levirate marriage with her, the ḥalitza performed with her was invalid, and invalid ḥalitza does not exempt the rival wife. If he performed the act of ḥalitza with the rival wife, then the woman who received a bill of divorce is exempt.

²³ The ruling is similar with regard to the case where the yavam performed ma'amar, i.e., levirate betrothal, to one of the wives. If he then performed ḥalitza with the woman who received his levirate betrothal then the rival wife is not exempt. Indeed, this ḥalitza is invalid as well, for once the yavam performed levirate betrothal, this act can be rescinded only by means of a bill of divorce. Because the woman needs to receive a bill of divorce in addition to the ḥalitza in order to exempt her from her bond, the ḥalitza is considered invalid and is not sufficient to exempt the rival wife. But if the yavam performed ḥalitza with the rival wife, then she who received his levirate betrothal is exempt from ḥalitza and requires only a bill of divorce.

²⁴ The Gemara asks: What is different in the two cases? Why, if he performed ḥalitza with the sisters, are the rival wives not exempt? This is because the sister is related to him as the sister of a woman with whom he has a levirate bond. Since, under these circumstances he would not be permitted to consummate the levirate marriage with her, her ḥalitza is then considered invalid ḥalitza. However, if that is so, when he performed ḥalitza with the rival wives, the sisters should not be exempt either, as the rival wives are related to him as rival wives of the sister of a woman with whom he has a levirate bond. If the woman is forbidden to him due to a relationship created by the levirate bond, then her rival wife is forbidden to him in the same way, and her ḥalitza would be invalid as well. The Gemara answers: Shmuel holds that the levirate bond is not substantial, and therefore the levirate bond does not create a relationship between the yavam and the sisters such that the prohibition would be extended to the rival wives as well.

²⁵ The Gemara challenges: But didn't Shmuel say explicitly that the levirate bond is substantial? The Gemara responds: He stated this halakha in accordance with the statement of those who say that the levirate bond is not substantial, although he himself maintains the opposite.

²⁶ The Gemara asks: If that is indeed so, that he stated this ruling in accordance with the opinion that the levirate bond is not substantial, then when the yavam performed ḥalitza with the sisters, why were their rival wives not exempt? Granted, Rachel's rival wife, i.e., the rival wife of the second sister, would not be exempt, for once he performed ḥalitza with Leah, the first sister, and then later performed ḥalitza with Rachel, it turns out that Rachel's ḥalitza was invalid ḥalitza, as he could not consummate the levirate marriage with Rachel because she is the sister of a woman with whom he performed ḥalitza, and invalid ḥalitza does not exempt a rival wife. However, the rival wife of Leah should be exempt because if the levirate bond is not substantial, the ḥalitza with the first sister would have been completely valid.

²⁷ The Gemara explains: What does it mean that it says: The rival wives are not exempt, that Shmuel stated? It is referring only to the rival wife of Rachel, the second sister, who is not exempt. The Gemara challenges: But he said rival wives in the plural, seeming to refer to both rival wives? The Gemara answers: He spoke of rival wives in general. In other words, this is a general halakha, and for that reason it was stated in the plural. However, it does not mean that both the rival wife of the first sister and the rival wife of the second sister are not exempt.

²⁸ The Gemara challenges this: If that is so, that when Shmuel chose to speak in the plural he was referring only to the rival wife of Rachel, there arises a difficulty with the second half of the statement: If he performed ḥalitza with the rival wives, the sisters are exempt. But would Rachel become exempt by ḥalitza performed with her rival wife? But didn't we learn in a mishna: A man is forbidden to marry the rival wife of a close relative of his ḥalitza? Once the yavam performs ḥalitza

with one sister, Leah, then her sister's rival wife, i.e., Rachel's rival wife, would be considered the rival wife of the sister of a woman with whom he performed ḥalitza. Being as she is forbidden to him, her ḥalitza is invalid and should not exempt Rachel.

²⁹ The Gemara answers: Shmuel also meant to distinguish between a case where he began and the case where he did not begin. This is how his statement should be understood: If he began by performing ḥalitza with one of the sisters, he may not finish by performing a second act of ḥalitza with any one of the rival wives, as we learned in a mishna (40b): A man is forbidden to marry the rival wife of a close relative of his ḥalutza. Due to this prohibition, ḥalitza performed with the second rival wife is invalid ḥalitza and would not exempt the second sister. If, however, he began with the rival wives and performed the first ḥalitza with the rival wife of Leah, he may finish with the sisters as well and perform the second ḥalitza with Leah, as we learned in a mishna (40b): A man is permitted to marry the close relative of the rival wife of his ḥalutza. Therefore, if he performed ḥalitza with Leah's rival wife, then Rachel, who is the sister of the rival wife of his ḥalutza, is permitted to him. He can therefore perform a completely valid ḥalitza with her and thereby exempt her rival wife.

³⁰ Rav Ashi said: Actually, Shmuel's statement should be interpreted as you originally said, that Shmuel's rationale for these halakhot accords with his opinion that the levirate bond is substantial. As for the objection that was raised as to why the sisters would be exempted by ḥalitza performed with the rival wives if these rival wives were considered the rival wife of the sister of a woman with whom the yavam had a levirate bond, this can be resolved as follows: This is because the levirate bond is not so strong as to render the status of a rival wife like an actual forbidden relative. The levirate bond is sufficient to prohibit levirate marriage with the sister of a woman with whom he has a levirate bond, but not sufficient to prohibit their rival wives to the yavam.

³¹ The Gemara comments: It is taught in a baraita in accordance with the opinion of Rav Ashi: If he performed ḥalitza with the sisters, the rival wives are not exempt from levirate marriage. From here one can deduce: Consequently, if he performed ḥalitza with the rival wives, the sisters are exempt. What is the reason for this? Is it not because this tanna held that the levirate bond is substantial, and therefore the rival wives were not rendered exempt by the ḥalitza of the sisters, but nevertheless the levirate bond is not so strong as to render the rival wife equivalent to a forbidden relative? Therefore, the prohibition with regard to the rival wives in this case is less severe than the prohibition concerning the sisters themselves, and when they perform ḥalitza, the ḥalitza is valid and the sisters are exempt.

³² Rabbi Abba bar Memel rejected this explanation and said: In accordance with whose opinion is this baraita taught? It is in accordance with the opinion of Beit Shammai, as we learned in a mishna: Beit Shammai permitted the rival wives to marry the brothers; even if they are the rival wives of his actual relatives, they are permitted to enter into levirate marriage. In the case above, where they are merely rival wives of the sister with whom he has a levirate bond, all the more so they are permitted to enter into levirate marriage. The Gemara objects: If that is so, if this ruling is in accordance with the opinion of Beit Shammai, who say that the rival wives are permitted, then the rival wife should enter into levirate marriage as well. Why does it speak here only of ḥalitza but not of the possibility of entering levirate marriage?

³³ The Gemara answers: The ruling is in accordance with the opinion of Rabbi Yoḥanan ben Nuri, who said: Come and let us establish a ruling that the rival wives must perform ḥalitza and may not enter into levirate marriage, thereby circumventing the dispute between Beit Shammai and Beit Hillel. Although Beit Shammai permitted the rival wives to perform levirate betrothal, they should perform ḥalitza instead in order to conform to Beit Hillel's opinion as well. The Gemara objects: But didn't the Master say that they did not succeed in finalizing the matter and establishing Rabbi Yoḥanan ben Nuri's amendment before the times of trouble came in the form of the anti-Jewish decrees, and so this ruling was never actually established? Rav Naḥman bar Yitzḥak said: After his time, other Sages returned to this issue and established this amendment in accordance with his opinion.

³⁴ § Apropos of the statement of Shmuel with regard to a woman who received a bill of divorce and a woman who received levirate betrothal, a dilemma was raised before the Sages:

³⁵ If two women happened before a single yavam for levirate marriage, and one is a woman who received a bill of divorce and the other is a woman who received levirate betrothal, which has precedence for ḥalitza? Is the woman who received a bill of divorce preferred because he began the process of ḥalitza with her, as presenting a bill of divorce represents the first step separating the woman from him? Or perhaps the woman who received levirate betrothal is preferred, because she is closest to being able to enter into permitted sexual intercourse. The act of levirate betrothal is generally done just prior to levirate marriage and is equivalent to the act of betrothal in non-levirate contexts. As a result, levirate betrothal strengthens the connection between the woman and the yavam. For this reason, it may be preferable to perform ḥalitza with the woman who received levirate betrothal.

³⁶ Rav Ashi said: Come and hear: The Sages disputed the ruling with regard to a yavam who performed levirate betrothal with one sister-in-law and then performed it with her rival wife as well, or conversely, gave both women a bill of divorce. In such cases, would the second levirate betrothal or bill of divorce be effective? It was taught: And Rabban Gamliel concedes that a bill of divorce is effective after levirate betrothal. Therefore, the bill of divorce that the yavam gave to one yevama after having performed levirate betrothal with the other yevama is effective to some degree. Similarly, Rabban Gamliel concedes that levirate betrothal performed after a bill of divorce is effective.

³⁷ If the bill of divorce is preferred to levirate betrothal, then levirate betrothal performed afterward should not be effective. The opposite would hold true as well: And if levirate betrothal is preferred, then a bill of divorce given afterward should not be effective. Rather, must one not conclude from this statement that the two are equivalent to each other? The Gemara summarizes: Indeed, conclude from this statement that they are equivalent. Therefore, neither the woman who received a bill of divorce nor the woman who received levirate betrothal has precedence for ḥalitza.

³⁸ § Rav Huna said that Rav said: In a case of two sisters who became yevamot, i.e., the two sisters were married to two brothers who died, who happened before one yavam for levirate marriage, if he performed ḥalitza with the first sister, then she is permitted to marry any man. If he performed ḥalitza with the second sister, then she is permitted to do so as well.

³⁹ If the first sister died before the yavam was able to perform ḥalitza with her, then he is permitted to take the second sister in levirate marriage, for even if he had actually been married to the first

sister, one is permitted to marry the sister of his wife after his wife dies. And needless to say, if the second sister died, then he is permitted to take the first sister in levirate marriage because she would be considered a yevama who was permitted at the time that she happened before the yavam for levirate marriage; and then later forbidden as the sister of a woman with whom he has a levirate bond when the second sister happened before him for levirate marriage; and subsequently became permitted by the death of the second sister. Therefore, she can return completely to her original permitted status.

⁴⁰ However, Rabbi Yoḥanan said: If the second sister dies, he is permitted to take the first. But if the first sister dies, he is prohibited from taking the second sister. What is the reason for this ruling? The reason is that any yevama to whom the verse “her brother-in-law will have intercourse with her” (Deuteronomy 25:5) cannot be applied at the time that she happens before him for levirate marriage because she was forbidden to him at that moment, is then forever considered to be like the wife of a brother who has children, and she is forbidden to him. Because the second sister was forbidden to the yavam at the time that she happened before him for levirate marriage, being the sister of a woman with whom he had a levirate bond, she can never again be permitted to him.

⁴¹ The Gemara asks: And does Rav not accept that reason? Didn’t Rav himself say the exact same words: Any woman to whom the verse “her brother-in-law will have intercourse with her” cannot be applied at the time that she happens before him for levirate marriage is then considered to be like the wife of a brother who has children, and she is forbidden to him? The Gemara answers: This applies only when the prohibition that stands before her and prevents the levirate marriage is the prohibition against marrying the sister of one’s wife, which is prohibited by Torah law. Therefore, if the woman who happens before the yavam for levirate marriage is his wife’s sister, he is prohibited from performing levirate marriage even if his wife dies afterward. But here the prohibition to marry the sister stems from a relationship created by a levirate bond. This prohibition is by rabbinic law, and therefore the bond does not render her forbidden to him forever.

⁴² Rabbi Yosei bar Ḥanina raised an objection to the opinion of Rabbi Yoḥanan from the mishna: In the case of four brothers, two of whom were married to two sisters, and those married to the sisters died, then those sisters must perform ḥalitza and may not enter into levirate marriage. And why does the mishna require ḥalitza? Let one of the brothers rise and perform ḥalitza with the second sister, i.e., the sister whose husband died later. As a result, the first would be like a yevama who was permitted at the time of her husband’s death but later became forbidden due to the bond that was created with her sister, and she then subsequently became permitted by means of ḥalitza performed with her sister, insofar as the other brother, i.e., he who did not perform ḥalitza, is concerned. Therefore, she should return to her original permitted status.

⁴³ Rabbi Yoḥanan said to him: I do not know who taught: Sisters. Rabbi Yoḥanan was in doubt as to the correct version of this mishna, as he could not find any reasonable explanation of this mishna according to any known opinion. The Gemara asks: Why did Rabbi Yoḥanan respond in such an extreme manner. Let him say to him, to Rabbi Yosei bar Ḥanina, an alternate solution: What is the meaning of the ruling that the sisters perform ḥalitza, which the mishna teaches? The meaning is that one sister performs ḥalitza. The Gemara answers: Such a solution is untenable, as the mishna teaches the ruling using the words: Perform ḥalitza, in the plural.

⁴⁴ The Gemara suggests: And let Rabbi Yoḥanan say to him: What is the meaning of the ruling to perform ḥalitza? They perform ḥalitza in general. Accordingly, the mishna teaches that in such cases the second woman performs ḥalitza. The Gemara responds: The mishna teaches: Then those women perform ḥalitza. The emphasis on the word: Those, indicates that it is specifically those two women who both perform ḥalitza. The Gemara asks further: And let him say that the mishna is referring only to the specific case where the yavam performed ḥalitza with the first sister first. As a result, there was no longer any possibility of rendering the second sister permitted, as Rabbi Yoḥanan permitted levirate marriage only in the case where ḥalitza was performed with the second sister first. The Gemara answers: This cannot be suggested either, for the phrase: Perform ḥalitza,

⁴⁵ implies that the mishna teaches a case in which ḥalitza is performed ab initio. This indicates that this is the first course of action and the only way to resolve the situation. The Gemara asks further: And let him say to him the following: The mishna prohibits levirate marriage ab initio in this case, due to a rabbinic decree lest he proceed and perform the ḥalitza with the first sister first, whereby it would be prohibited to consummate the levirate marriage with the second. Perhaps for this reason the Sages decreed that it is prohibited to consummate the levirate marriage even if ḥalitza was performed with the second sister. The Gemara answers: It teaches: They may not enter into levirate marriage. This indicates that the halakha of levirate marriage does not apply here at all. Accordingly, even after the fact, if he performed ḥalitza with the second sister, the halakha of levirate marriage would not apply to the first sister.

⁴⁶ The Gemara asks: And let him say to him a different reason for the ruling of the mishna: It is due to a rabbinic decree lest the second brother die, and it is prohibited to negate the mitzva of levirate marriage. Perhaps for this reason it would be forbidden to consummate the levirate marriage in the case where two sisters happened before him for levirate marriage, and not due to the prohibition proscribing the sister of a woman with whom he has a levirate bond. The Gemara answers: Rabbi Yoḥanan was not concerned over the possibility of the death of a brother, and in his opinion there is no need to make a decree to address such cases.

⁴⁷ The Gemara asks: And let Rabbi Yoḥanan say to him that this mishna is in accordance with the opinion of Rabbi Elazar, who said: Once the yevama stood before him at one time as forbidden, even if it was not at the time that she happened before him, she remains forbidden to him forever. Perhaps the mishna could be explained according to Rabbi Elazar's opinion. The Gemara answers: Since the opinion of Rabbi Elazar is cited explicitly in the latter clause of the mishna, it can be deduced that the first clause is not according to the opinion of Rabbi Elazar. Therefore, this ruling cannot be attributed to Rabbi Elazar.

⁴⁸ The Gemara asks: And let him say to him that here the reference is to a situation where the two brothers died at once, and consequently both of the women happened before the yevamin for levirate marriage at the same time. And this mishna is in accordance with the opinion of Rabbi Yosei HaGelili, who says: It is possible to be precise. It is possible to determine that two events occurred at exactly the same moment, where both sisters were forbidden at the time that they happened before the brothers-in-law. The Gemara answers: The tanna did not teach an unattributed mishna in accordance with the opinion of Rabbi Yosei HaGelili. Any time the mishna is cited in accordance with Rabbi Yosei HaGelili's opinion, it is always attributed to him explicitly.

⁴⁹ The Gemara asks: And let him say to him a different explanation for the ruling: This mishna is indeed addressing a case where the brothers died one after the other, yet we do not know which sister happened before the yevamin for levirate marriage first. In that case, it would be impossible to determine which sister would be permitted.

⁵⁰ The Gemara answers: If so, that which the mishna teaches in the latter clause: And if they married their wives before consulting the court they should divorce them, is difficult. Why must they divorce their wives in this situation? Granted, the brother who took the first sister in levirate marriage must divorce her, as we say to him: Who permitted her to you? Indeed, she was forbidden as the sister of a woman with whom he had a levirate bond, and so he must divorce her. However, the brother who took the second sister could say: My fellow brother consummated the levirate marriage with the second sister, but I am consummating the levirate marriage with the first sister. It is possible that after the other brother consummated the levirate marriage with the second sister, the first sister would then be permitted to him after the fact, and he is not required to divorce her unless it is certain that he violated a prohibition.

⁵¹ The Gemara concludes: Indeed, this is what Rabbi Yoḥanan meant when he said to Rabbi Yosei bar Ḥanina: I do not know who taught: Sisters, for according to these considerations he cannot properly resolve the ruling of this mishna.

⁵² We learned in the mishna: If one of the sisters was forbidden to one of the brothers due to a prohibition against forbidden relatives because she was a relative of his wife or a relative from his mother's side, then he is prohibited from marrying her but permitted to marry her sister. But the second brother, who is not a close relative of either sister, is prohibited from marrying both of them. It enters your mind to say that a forbidden woman, such as his mother-in-law, happened before the yavam for levirate marriage first.

⁵³ Accordingly, the Gemara asks: And why would both women be forbidden to the second brother? Let the son-in-law rise and consummate the levirate marriage with the sister who is not his mother-in-law first. Consequently, with regard to the other brother, his mother-in-law would be considered a yevama who was permitted to perform levirate marriage at the time that she happened before him, and then forbidden when her sister happened before him for levirate marriage as well, and then subsequently became permitted when his brother consummated the levirate marriage with her sister. If so, the mother-in-law should return to her original permitted status and may enter into levirate marriage with him.

⁵⁴ Rav Pappa said: The mishna is referring to a case where the woman who was not his mother-in-law happened before the brothers for levirate marriage first, in which case she was permitted to both of them. When her sister, i.e., the mother-in-law, happened before them for levirate marriage as well, both women were rendered forbidden to the second brother, as each one is the sister of a woman with whom he has a levirate bond. Because the mother-in-law was forbidden from the time that she happened before the yavam for levirate marriage, she can never be permitted to him.

⁵⁵ § With regard to the case of two brothers who married their wives before consulting the court, the mishna states that the women should be divorced. Rabbi Eliezer disagrees and says that this is a matter of dispute between Beit Shammai and Beit Hillel, as Beit Shammai say: They may maintain them as their wives, and Beit Hillel say: They should divorce them. An expanded version of this discussion is taught in the Tosefta (5:1): Rabbi Eliezer says that Beit Shammai say: They may

maintain them as their wives, and Beit Hillel say: They should divorce them. Rabbi Shimon says: They may maintain them as their wives. Abba Shaul disagrees with Rabbi Eliezer and says: This was a matter of leniency for Beit Hillel. They were the ones who put forth a lenient ruling, as Beit Shammai say: They should divorce them, and Beit Hillel say: They may maintain them as their wives.

⁵⁶ The Gemara asks about this baraita: In accordance with whose opinion is the statement of Rabbi Shimon? This matter is a dispute between Beit Hillel and Beit Shammai, with different versions of their opinions, and therefore Rabbi Shimon should not have formulated the halakha in this manner. Indeed, if he holds in accordance with the opinion of Beit Shammai, then that is the same as the opinion of Rabbi Eliezer. He would thereby conclude that the halakha is in accordance with the opinion of Beit Shammai, as per Rabbi Eliezer's version. If so, he should have formulated his opinion in that way. If, however, he holds in accordance with the opinion of Beit Hillel, then that is the opinion of Abba Shaul. The Gemara responds: This is what he is saying: Rabbi Shimon actually maintains a third opinion: Beit Shammai and Beit Hillel did not dispute this matter; both agreed that the marriages may be maintained.

⁵⁷ § The mishna stated: If one of the sisters was forbidden to one of the brothers due to a prohibition against forbidden relations, then he is prohibited from marrying her but permitted to marry her sister. The Gemara asks: We already learned this on one occasion: When her sister, who is a forbidden relative to the yavam, is her yevama as well, she either performs ḥalitza or enters into levirate marriage.

⁵⁸ The Gemara answers: It is necessary that this be said here as well, for if it taught us this halakha only there in its more general formulation (Yevamot 20a), then I might have said: The yavam is permitted to marry the sister because there is no reason to issue a rabbinic decree due to a second brother. There, there is only one yavam, to whom one sister is permitted and the other is forbidden. Here, however, in the case of two brothers, where there is reason to issue a rabbinic decree due to the second brother, lest he consummate the levirate marriage as well, I would say that we do not allow even the first brother to perform levirate marriage, and both sisters-in-law should be forbidden to both brothers.

⁵⁹ And if the mishna had taught us the halakha only here, it would have been possible to say that the permissibility of levirate marriage here is because there is a second brother who indicates, by refraining from performing levirate marriage, that the sister of a woman bound by a levirate bond is forbidden. However, there, where there is not a second brother, I would say no, this halakha would not apply, due to a concern that people might wrongly conclude that the sister of a woman bound by a levirate bond is permitted. Therefore, it is necessary to state this halakha in both places.

⁶⁰ It was taught in the mishna: If one of the sisters was forbidden to one of the brothers due to a prohibition resulting from a mitzva or due to a prohibition stemming from sanctity, then her sister must perform ḥalitza and may not enter into levirate marriage. The Gemara wonders: We already learned this as well:

⁶¹ If a prohibition resulting from a mitzva or a prohibition stemming from sanctity will be transgressed through the levirate marriage, then the woman must perform ḥalitza and she may not enter into levirate marriage. The Gemara answers: There is a novelty here: There, where the halakha is reviewed in general terms, it speaks of a prohibition due to a mitzva alone. One woman happened

before the yavam for levirate marriage and it is only as a result of this prohibition that she is prevented from entering levirate marriage. Here, there is a prohibition resulting from a mitzva and, in addition, her sister happened before the yevamin for levirate marriage together with her.

⁶² It might enter your mind to say: Let the prohibition resulting from a mitzva stand in the same place, i.e., level of severity, as the prohibition against forbidden relatives. Consequently, the woman who is forbidden to the yavam is considered a forbidden relative and her sister is permitted to him. Despite the fact that the prohibition resulting from a mitzva is not as severe, here it is given equal status, and we might say: Let her sister enter into levirate marriage. Therefore, this comes to teach us that this is not the case.

⁶³ The Gemara asks: And why in fact does her sister not enter into levirate marriage? The Gemara answers: Her sister is forbidden to him because by Torah law the prohibited woman is still set before the yavam for levirate marriage. Were he to take the sister in levirate marriage he would essentially be encountering the sister of the woman with whom he has a levirate bond. It might enter your mind to say that due to the mitzva of levirate marriage, the Sages did as they did and nullified their decree prohibiting the sister of a woman with whom the yavam has a levirate bond from entering levirate marriage, when the original sister is forbidden only as the result of a mitzva. Therefore, it teaches us that they did not cancel their decree in this situation.

⁶⁴ It was taught in the mishna: If one of those women was forbidden to this one brother due to a prohibition against forbidden relatives and the second was forbidden to that second brother due to a prohibition against forbidden relatives, then she who is forbidden to this brother is permitted to that brother, and she who is forbidden to that brother is permitted to this one. The Gemara asks: Why do I need this halakha as well, for this is identical to that which was taught earlier, when the mishna stated that if one of the sisters was forbidden to one of the brothers due to a prohibition against forbidden relatives, then he is forbidden to marry her but permitted to marry her sister. However, the second brother, who is not a close relative of either sister, is prohibited from marrying both of them. Once the mishna taught that the yavam is permitted to marry the woman to whom he is not related, what is the difference to me if there is one brother or two brothers? If this happened to both brothers, clearly both should be allowed.

⁶⁵ The Gemara answers: It is necessary to state this, for if it taught us the halakha only there, in the case where only one brother is permitted, one might have said: This is because there is a second brother who indicates that the sister of a woman bound by a levirate bond is forbidden to him by refraining from levirate marriage with her. However, here, where there is not a second brother who indicates this, as both brothers are performing levirate marriage, then I would say no; this halakha would not apply, due to the concern that people might wrongly conclude that the sister of a woman with whom the yavam has a levirate bond is permitted even in cases where the other woman is not a forbidden relative.

⁶⁶ And the opposite could also be said: If it taught us the ruling only here, in the case of two brothers, one might have said: On the contrary, they both indicate the nature of each other's status. Each of the brothers married a specific sister-in-law, i.e., the woman who was not his close relative, indicating he does not have a levirate bond with the other sister. But in the other case, where one brother is allowed to consummate the levirate marriage and the second brother is forbidden to both sisters, I might say

that no, we would not allow marriage to the first brother either. Therefore, it is necessary to state the halakha in both instances.

⁶⁷ It was taught in the mishna: And this is the case that was referred to when they said: When her sister is also her yevama, she either performs ḥalitza or enters into levirate marriage. The Gemara asks: What does the expression: This is, come to exclude? The Gemara answers: It excludes the case where there is a prohibition resulting from a mitzva for this one and a prohibition resulting from a mitzva for that one. Although each woman is forbidden to a different brother due to a prohibition resulting from a mitzva, they may not both enter into levirate marriage.

⁶⁸ The Gemara asks: Why do I need this as well? This is identical to that which was taught previously, that if one of the sisters was forbidden to the yavam due to a prohibition resulting from a mitzva, then he is not permitted to consummate the levirate marriage with either of them. What difference is there to me if she happened before one brother or two?

⁶⁹ The Gemara answers: Lest you say: There is only one instance when we do not say: Let the prohibition resulting from a mitzva stand in the same place, i.e., level of severity, as a prohibition against forbidden relatives. It occurs in a case where it is appropriate to issue a rabbinic decree due to the second brother, who is prohibited from marrying both sisters. But in a case where it is not appropriate to issue a rabbinic decree due to the second brother, as the second sister is permitted to the second brother as well, I might say: For this brother, let us stand the prohibition resulting from a mitzva in the same place as a prohibition against forbidden relatives, and for this brother let us stand the prohibition resulting from a mitzva in the same place as a prohibition against forbidden relatives, and as a result both brothers may consummate the levirate marriage. Therefore, it teaches us that this is not so.

⁷⁰ § Incidental to this halakha, the Gemara cites the following statement: Rav Yehuda said that Rav said, and similarly Rabbi Ḥiyya teaches in a baraita: With regard to all of those women enumerated in the first mishna of the tractate, who are forbidden to the yevamin as forbidden relatives, the following situation could arise: These women could also be two sisters who were married to two brothers who happen before their yevamin for levirate marriage while each one is a forbidden relative to one of the yevamin. In these situations, I could apply the ruling that she who is forbidden to this brother is permitted to that brother, as well as the ruling that when her sister is also her yevama she may either perform ḥalitza or enter into levirate marriage.

⁷¹ But Rav Yehuda interprets these principles as applying only to those cases found in the list from the mother-in-law of the yavam and onward, but not to the six cases at the beginning, which include his daughter, and his wife's daughter, and their descendants.

⁷² What is the reason for Rav Yehuda's distinction? This is because you find the scenario where two women who are candidates for levirate marriage are both sisters as well as the daughters of the two yevamin only in a case where the women are the daughters of the yevamin through rape, but you cannot find it in a case where they are his daughters through marriage. If one brother married a woman and had a daughter with her, then this woman, the wife of a brother who has children, is forbidden to all of his brothers. Therefore, it would be impossible for another brother to have a daughter with that same woman, and therefore the two daughters could never be sisters. The scenario of daughters who are also sisters is possible only when the first brother raped a woman and gave birth to a daughter, such that the woman is not forbidden to his brothers. If one of the brothers then

had a daughter with this woman and both daughters married other brothers who then died, it is possible that these daughters would happen before their fathers for levirate marriage.

⁷³ Rav Yehuda maintains that the current mishna deals with cases of marriage but does not deal with cases of rape, and therefore he does not apply the principles governing sisters to those cases.

⁷⁴ And Abaye interprets these principles as applying even to his daughter from a woman he raped. Since you can find this scenario, if the statement wants to deal with cases of rape, let it; if it wants to deal with cases of marriage, let it. It is preferable to explain this matter with regard to cases of marriage, but if that is not possible, it can still be explained as dealing with cases of rape. However, it cannot be explained as referring to the wife of a brother with whom he did not coexist. Even according to the opinion of Abaye, this case cannot be included, since you can find a situation where two sisters happen before two brothers for levirate marriage while each woman is the wife of a brother with whom he did not coexist only according to the opinion of Rabbi Shimon, while such a case cannot be found according to the opinion of the Rabbis. And Rabbi Ḥiyya does not deal with cases that are subject to dispute.

⁷⁵ And Rav Safra interprets these principles as applying to the wife of a brother with whom he did not coexist, and you can find this scenario in the case of the six brothers and according to the opinion of Rabbi Shimon. And your mnemonic to remember how this might come about is as follows: Died, born, consummated the levirate marriage; died, born, consummated the levirate marriage.

⁷⁶ How could this come about? There were two brothers, Reuven and Shimon, who were married to two sisters. And there were two other brothers, Levi and Yehuda, who were married to two unrelated women. Reuven died, Yissakhar was born, and Levi consummated the levirate marriage with Reuven's wife. Afterward, Shimon died, Zevulun was born, and Yehuda consummated the levirate marriage with Shimon's wife. Later, Levi and Yehuda died childless and these two sisters happened before Yissakhar and Zevulun for levirate marriage.

⁷⁷ In this scenario, the woman who had been Reuven's wife is forbidden to this brother, Yissakhar, as the wife of a brother with whom he did not coexist, because he was not alive at the same time as Reuven, and yet she is nevertheless permitted to this brother, Zevulun, because when Zevulun was born this woman was already the wife of Levi, a brother with whom he did coexist. According to Rabbi Shimon, the fact that she had previously been the wife of Reuven, a brother with whom he did not coexist, is not taken into account. Similarly, with regard to Shimon's wife, we find that she who is forbidden to this one is permitted to that one. Shimon's wife is forbidden to Zevulun as the wife of a brother with whom he did not coexist, but she is nevertheless permitted to Yissakhar. Accordingly, the situation of her sister who is her yevama, i.e., two sisters who are yevamot and yet are allowed to perform levirate marriage, can be applied to this case as well.

⁷⁸ The Gemara asks: Why do I need to assume that this is referring to a scenario where Yehuda consummated the levirate marriage? You can find this possibility in a case where Yehuda did not consummate the levirate marriage as well. This scenario can also take place with only five brothers and without Yehuda: Reuven and Shimon were married to two sisters, Reuven died, Yissakhar was born, and Levi consummated the levirate marriage with Reuven's wife. Then Shimon died and Zevulun was born. If Levi then dies, Levi's wife is forbidden to Yissakhar as the wife of his brother Reuven, with whom he did not coexist, but she would be permitted to Zevulun because she was

already the wife of Levi when Zevulun was born. Shimon's wife would be forbidden to Zevulun but permitted to Yissakhar.

⁷⁹ The Gemara responds: This is due to the rival wife. It was taught in this way in order to make the principle applicable not only to the wives, but also to their rival wives. In this scenario, Levi and Yehuda were previously married to two sisters who then became the rival wives of a wife of a brother with whom one did not coexist. This allows the ruling to apply to the case of rival wives as well. The Gemara notes: This works out well if the mishna comes to include only a rival wife herself, but what can be said about the rival wife of a rival wife? How can this case explained? If one aims to include all of the details of the mishna in Rabbi Hiyya's principle, then the mishna must be referring not only to a case involving the brothers' rival wives, but also to the rival wives of those rival wives mentioned in the mishna.

⁸⁰ The Gemara answers: Therefore, one must include a case where Gad and Asher subsequently consummated the levirate marriage with these women as well. That is, initially there were two other brothers, Gad and Asher, who consummated the levirate marriage with the previous wives of Levi and Yehuda, each of whom had taken one of the wives of Reuven and Shimon. Later, when Gad and Asher died, their previous wives, who are the rival wives of the rival wives of Reuven and Shimon's wives, happen before Yissakhar and Zevulun for levirate marriage.

⁸¹ MISHNA: In the case of three brothers, two of whom were married to close relatives, e.g., two sisters; or a woman and her daughter; or a woman and her daughter's daughter; or a woman and her son's daughter, if the two brothers who were married to two close relatives died and their wives happened before a third brother for levirate marriage, then these two women must perform ḥalitza and may not enter into levirate marriage, as each of them is a relative of a woman with whom he has a levirate bond. And Rabbi Shimon exempts them even from the obligation to perform ḥalitza.

⁸² If one of them was forbidden to him, the third brother, due to a prohibition against forbidden relatives, then he is prohibited from marrying her but is permitted to marry her sister. Because the woman who is forbidden to him is not considered to be a woman who requires him for levirate marriage, there is only one woman who happens before him for levirate marriage. However, if one of the women was forbidden due to a prohibition resulting from a mitzva or a prohibition stemming from sanctity, then they must perform ḥalitza and may not enter into levirate marriage. This is because these prohibitions do not completely cancel the levirate bond.

⁸³ GEMARA: It is taught in a baraita: Rabbi Shimon exempts both of them from ḥalitza and from levirate marriage, as it is stated: "And you shall not take a woman to her sister, to be a rival to her" (Leviticus 18:18). This indicates that at the time that a situation arises wherein they are to become rival wives to each other, e.g., two sisters happen before one yavam for levirate marriage, you shall not have the ability to take even one of them in marriage. In his opinion, both women are exempt from both levirate marriage and ḥalitza at the moment that they happen before the yavam, just as a forbidden relative is exempt from both levirate marriage and ḥalitza.

⁸⁴ It was taught in the mishna: If one of them was forbidden to him due to a prohibition against forbidden relatives, he is prohibited from marrying her but is permitted to marry her sister. The Gemara asks: Why do I need this statement as well? This is identical to that which was taught in the previous mishna.

⁸⁵ The Gemara answers: It was necessary to state this again here according to the opinion of Rabbi Shimon. It might enter your mind to say: Since Rabbi Shimon said that two sisters may not perform ḥalitza and may not enter into levirate marriage, as the very fact that they require levirate marriage from the same man and stand to become rival wives to each other renders them forbidden, we should issue a rabbinic decree in this case as well. Although in this case only one of the sisters is eligible for levirate marriage, as the other is a forbidden relative, perhaps there should be a rabbinic decree prohibiting the yavam from marrying the permitted sister, due to the similarity to the case of two sisters in general who happen before him for levirate marriage. This teaches us that even Rabbi Shimon does not hold that there is a rabbinic decree in this case.

⁸⁶ It was taught in the mishna that if the wives are forbidden to the yavam due to a prohibition resulting from a mitzva or sanctity, they must perform ḥalitza and may not enter into levirate marriage.

⁸⁷ This halakha was also taught in the previous mishna (26a), and it is cited in this mishna according to the opinion of Rabbi Shimon. The Gemara asks: But didn't Rabbi Shimon say: Two sisters neither perform ḥalitza nor enter into levirate marriage? Because these women are eligible for levirate marriage according to Torah law, they are considered the sisters of a woman with whom he has a levirate bond. In this case, Rabbi Shimon exempts them from both ḥalitza and levirate marriage. Why, then, does the mishna require them to perform ḥalitza?

⁸⁸ The Gemara answers: It is a rabbinic decree due to the general case of a prohibition resulting from a mitzva. If they did not perform ḥalitza in this case, where they are sisters, there is a concern that people would assume that their exemption from ḥalitza stemmed not from their status as sisters but rather due to the prohibition. This would lead to the mistaken conclusion that women who are forbidden due to a mitzva do not require ḥalitza. Therefore, the Sages issued a rabbinic decree requiring ḥalitza in this case.

⁸⁹ The Gemara asks: This works out well for her, as she is forbidden due to the prohibition resulting from a mitzva. It is appropriate to require ḥalitza with her, to demonstrate that ḥalitza is generally applied in cases where there is a prohibition resulting from a mitzva. But with regard to her sister, what is there to say? Why must she perform ḥalitza as well? The Gemara answers: There is a rabbinic decree with regard to her sister due to her.

⁹⁰ The Gemara asks: If Rabbi Shimon issues a decree in this case requiring ḥalitza for the sister, out of concern for confusion, then there is a difficulty: But, with regard to a forbidden relative we do not issue a decree requiring ḥalitza due to her sister; why does Rabbi Shimon issue a rabbinic decree requiring ḥalitza with a woman forbidden due to a prohibition resulting from a mitzva and not with a woman who is a forbidden relative? The Gemara answers: Forbidden relatives are different, as people learn the halakhot pertaining to them because they are stated explicitly in the Torah and are well known to all, and the ruling has publicity. Therefore, there is no concern lest people mistakenly confuse this case with cases of yevamot who are not sisters. Prohibitions resulting from mitzvot are not, however, explicit in the Torah, nor are they generally known.

⁹¹ MISHNA: In the case of three brothers, two of whom were married to two sisters, and one who was single, the following occurred: The husband of one of the sisters died childless, leaving behind his wife, and the single brother performed levirate betrothal [ma'amar] to this wife. The single brother performed an act of betrothal to the yevama but did not yet consummate the marriage by

engaging in sexual intercourse. Afterward, the second brother died, and therefore the second brother's wife, the sister of the betrothed, happened before the single brother for levirate marriage as well.

⁹² In this case, Beit Shammai say: His wife remains with him. The woman he betrothed is considered like his wife, and he is not required to divorce her. And this other woman leaves the yavam and is exempt from levirate marriage as the sister of a wife. Beit Hillel say: Being as he had not yet entered into marriage with the first woman, he is required to perform levirate marriage with both women. Therefore, he divorces his wife, i.e., the woman to whom he performed levirate betrothal, with a bill of divorce, which nullifies levirate betrothal, and by *ḥalitza*, which nullifies the levirate bond. And, he sends away the wife of his second brother with *ḥalitza* as well. They comment: This is the case that was referred to when the Sages said: Woe unto him for his wife and woe unto him for the wife of his brother. Due to the combination of circumstances, he loses them both.

⁹³ GEMARA: The Gemara asks: What does the mishna's formulation of the term: This is, which indicates limitation and exactitude, come to exclude? The Gemara answers: It excludes that statement of Rabbi Yehoshua (109a). There, Rabbi Yehoshua holds that if a man is married to a minor when her sister happens before him for levirate marriage, he must send both of the women away. He said there: Woe unto him for his wife and woe unto him for the wife of his brother. From the language in the mishna here, we learn that we do not act in accordance with his opinion. Rather, we act either in accordance with the opinion of Rabban Gamliel or in accordance with the opinion of Rabbi Elazar. According to the opinion of both of these tanna'im in the mishna (109a), despite the conflict between the brother's marriage to the minor and the levirate bond with her sister, there is still a way for him to marry one of the women.

⁹⁴ § With regard to the main issue of levirate betrothal, it would seem from this mishna that Beit Shammai hold that levirate betrothal has the legal force of levirate marriage. However, Rabbi Elazar said: Do not say that levirate betrothal acquires the woman as a full-fledged acquisition according to the opinion of Beit Shammai, such that the first woman becomes his wife to the extent that if he wants to divorce her a bill of divorce would suffice without an act of *ḥalitza*. Rather, for Beit Shammai, levirate betrothal acquires the woman only insofar as it precludes a rival wife from entering levirate marriage. The legal force of levirate betrothal is limited to preventing the rival wife of the sister from performing levirate marriage; she is exempt from both levirate marriage and *ḥalitza*.

⁹⁵ Rabbi Avin said: We, too, learn in the mishna a proof that levirate betrothal is not a full-fledged act of acquisition, even according to Beit Shammai. The mishna at the beginning of this chapter (26a) teaches that when two sisters who are yevamot happen before two brothers for levirate marriage, if the brothers married their wives before consulting the court, then Beit Shammai say: They may maintain them as their wives. From here it can be deduced: If they already married them, yes, they may maintain them. However, marrying them *ab initio*, no, this is prohibited due to the prohibition against marrying the sister of a woman with whom one has a levirate bond.

⁹⁶ And if it enters your mind that according to Beit Shammai levirate betrothal acquires the woman as a full-fledged acquisition, then this matter could potentially have been resolved *ab initio*: This brother should perform levirate betrothal and acquire one sister, and that brother should perform levirate betrothal and acquire the other sister. As there is no prohibition whatsoever involved in

performing levirate betrothal, the concern for violating a prohibition by consummating the levirate marriage with a sister of a woman with whom he has a levirate bond is avoided; he only betroths her, but does not engage in sexual intercourse with her. After the betrothal, the levirate bond of her sister is dissolved and he can freely consummate the levirate marriage with her.

⁹⁷ The Gemara objects: Rather, what then? If levirate betrothal does not serve to fully acquire the woman, what is the alternative? It must be that according to Beit Shammai levirate betrothal precludes the rival wife from entering levirate marriage with a complete preclusion. If so, there is an additional potential scenario: This one should perform levirate betrothal with one sister and preclude the second sister from entering levirate marriage, and that one should perform levirate betrothal with the second sister and preclude the first sister from entering levirate marriage. In this way, the yevamin can consummate the levirate marriage with the sisters *ab initio* as well. Yet the mishna does not allow for this possibility.

⁹⁸ Rather, what have you to say? One must assert that levirate betrothal performed in circumstances where it is permitted to perform levirate marriage, i.e. where there is no prohibition with regard to the close relative of a woman with whom the yavam has a levirate bond, completely precludes the rival wife from entering levirate marriage. However, levirate betrothal performed in circumstances where it is forbidden to perform levirate marriage, does not preclude entering levirate marriage. Therefore, in the case of two sisters who happen simultaneously before two brothers for levirate marriage, the sisters cannot be precluded from entering levirate marriage via levirate betrothal. So too here, with regard to levirate betrothal performed by the third brother, the same distinction can be made. Even according to the one who said that levirate betrothal acquires a woman as a full-fledged acquisition, just like marriage, there is the following difference: Levirate betrothal under permitted circumstances acquires the woman, but levirate betrothal under forbidden circumstances does not acquire the woman. Therefore, there is no proof as to the nature of levirate betrothal according to the opinion of Beit Shammai from the first mishna in the chapter.

⁹⁹ Rav Ashi teaches this discourse in this manner: Rabbi Elazar said: Do not say that according to Beit Shammai levirate betrothal precludes entering levirate marriage as a complete preclusion, so that the rival wife of the woman who received levirate betrothal does not require even *ḥalitza*. Rather, it precludes entering levirate marriage and yet leaves a remnant of the levirate bond in place. Accordingly, levirate betrothal precludes the rival wife's entering levirate marriage to the degree that the yavam is not required to divorce the woman he betrothed, but the levirate bond with the rival wife remains to the extent that he must still perform *ḥalitza* with her.

¹⁰⁰ Rabbi Avin said: We, too, learn this statement from the mishna, where it states: Beit Shammai say: They may maintain them as their wives. From here it can be deduced: Yes, they may maintain them as their wives after the fact; no, they are not allowed to marry them *ab initio*. And if it enters your mind to say that, according to Beit Shammai, levirate betrothal precludes entering levirate marriage as a complete preclusion, then this brother should perform levirate betrothal and preclude one sister from levirate marriage, and that brother should perform levirate betrothal and preclude the other sister from levirate marriage. The Gemara challenges this conclusion: But didn't the mishna teach that Beit Shammai say: His wife remains with him, and this other is sent away due to her status as a sister of his wife? This indicates that she is exempt from levirate marriage and does not even require *ḥalitza*.

¹⁰¹ Rather, one must resolve this by asserting that a yevama who is suitable for all of the aspects of levirate marriage is also suitable for part of it. If a yevama is eligible for both levirate marriage and ḥalitza when she happens before the brothers, as in the case cited in the present mishna where the woman who happened before the third brother was permitted to enter into levirate marriage, she is eligible for part of it. This indicates that if the yavam does not take her in levirate marriage but performs only levirate betrothal, the levirate betrothal has sufficient legal force to preclude the rival wife completely. However, a yevama who is not suitable for all of the aspects of levirate marriage is also not suitable for a part of it. If the yevama is not eligible for levirate marriage, such as in the case referred to in the first mishna of this chapter, where both women happened simultaneously so that the yavam is not permitted to consummate the levirate marriage with either woman, she is not suitable for part of it. In that case, if the yavam performs levirate betrothal, it does not have the legal force to affect a total preclusion.

¹⁰² § With regard to Beit Shammai's opinion about levirate betrothal, Rabba asks: Does levirate betrothal, according to the opinion of Beit Shammai, create a full-fledged marriage bond? Or, does it merely create betrothal, similar to all other acts of betrothal? Abaye said to him: With regard to what halakha do you ask this?

¹⁰³ If we say it pertains to inheriting from her when she dies, and to becoming ritually impure for her if he is a priest, and to nullifying her vows, all of which are rights and obligations acquired by marriage, this is difficult. Now, with regard to a betrothed woman in general, i.e., a woman who was betrothed by Torah law, Rabbi Ḥiyya teaches in a baraita: One does not enter acute mourning on the day of the death of his betrothed wife, nor can he become ritually impure for her if she dies if he is a priest. Similarly, she does not enter acute mourning for him and is not obligated to become ritually impure for him. If she dies, he does not inherit from her; if he dies, she collects the payment of her marriage contract. In a case where he performed only levirate betrothal with her, is it necessary to say that he does not inherit from her, nor does he become ritually impure for her? Therefore, this halakha is obvious and Rabba's question seems superfluous.

¹⁰⁴ Rather, the question must relate to the matter of delivery of the woman to the husband under a wedding canopy. What is the ruling with regard to this? Is the yavam obligated to enter the wedding canopy in the manner that he would with any other betrothed woman, or not? This is the dilemma: Does levirate betrothal create a full-fledged marriage bond, whereby the yevama would not require further delivery to a wedding canopy? Or, does levirate betrothal perhaps create only betrothal, whereby she would require delivery to a wedding canopy?

¹⁰⁵ Abaye said to him that this question is not necessary, as well: Now, if he did not perform levirate betrothal with her at all, it is written: "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5). It is deduced from this verse that he can take her even against her will. Is it necessary to say that if he performed levirate betrothal with her, even without a wedding canopy, that he is allowed to engage in sexual intercourse with her?

¹⁰⁶ Rabba said to him: This question is relevant, as I say that anyone who performs levirate betrothal with his yevama causes the levirate bond to be removed from him, and he is no longer considered subject to the halakhot of levirate marriage. Instead, a standard bond of betrothal applies to him. Therefore, it is appropriate to ask if this act of levirate betrothal is similar to a standard betrothal insofar as the wedding canopy is concerned, and consequently the woman would be required to enter

the wedding canopy. Alternatively, perhaps the halakhot of levirate marriage still apply somewhat, in which case the woman would not be required to enter a wedding canopy in order to become married, similar to a standard yevama to whom levirate betrothal was not performed. Does the performance of levirate betrothal weaken the capacity of intercourse to establish levirate marriage on its own? What is the halakhic ruling here?

¹⁰⁷ The Gemara suggests: Come and hear an answer from what is taught in a mishna (Nedarim 74a): What is the ruling with regard to the nullification of vows for a widow who is waiting for her yavam, whether she is waiting for a single yavam or two yevamin? Rabbi Eliezer says: Let him nullify her vows. The yavam may nullify her vows as though he were her husband. Rabbi Yehoshua says: This holds true only if she is bonded to a single yavam, but not to two. Rabbi Akiva says: It does not hold true, neither to one yavam nor to two yevamin. They may not nullify her vows.

¹⁰⁸ And we discussed this issue, interpreting the various opinions: Granted, Rabbi Akiva holds that the levirate bond is not substantial, even in the case of one yavam. In his opinion, the levirate obligation does not create a marriage bond at all, even if there is only a single yavam. And according to Rabbi Yehoshua, the levirate bond with one yavam is substantial. The yevama undoubtedly requires this yavam for levirate marriage, and therefore she is considered to be like his wife. But with two yevamin, the levirate bond is not substantial, since it is not clear which brother will consummate the levirate marriage with her. However, Rabbi Eliezer, if he indeed holds that the levirate bond is substantial, his opinion is difficult. Granted, if there is one yavam, he can nullify her vows, but if there are two, why should only one of them suffice to nullify her vows, as it is not yet clear which of them will eventually marry her?

¹⁰⁹ And Rabbi Ami bar Ahava said: With what are we dealing here? This is a case where one of them performed levirate betrothal with her, and this is in accordance with the opinion of Beit Shammai, who say: Levirate betrothal acquires her as a full-fledged acquisition.

¹¹⁰ This interpretation can resolve Rabba's question. Granted, if you say levirate betrothal creates a full-fledged marriage, it is due to that reason that the yavam can nullify her vows just as a full-fledged husband does. However, if you say that levirate betrothal merely creates betrothal, how can he nullify the vows? Even in standard cases of betrothal by Torah law the husband cannot nullify her vows, for didn't we learn in a mishna: With regard to a betrothed young woman, only her father and her husband together can nullify her vows? How could a yavam nullify the vows without the father of the yevama, if he is not considered a full-fledged husband? Rav Nahman bar Yitzhak said that this proof can be rejected by interpreting the mishna as follows: What is the meaning of the phrase: He nullifies? That he nullifies her vows only in conjunction with her father.

¹¹¹ The Gemara questions this reading of the mishna: And according to the opinion of Rabbi Elazar, who said that for Beit Shammai levirate betrothal acquires the woman only insofar as it precludes a rival wife from entering levirate marriage, and it is not a full-fledged acquisition, why should the yavam nullify her vows, even if he does so in conjunction with her father? The Gemara answers: Rabbi Eliezer could have said to you: One can say that when I said that levirate betrothal acquires the woman only insofar as it precludes the rival wife from entering levirate marriage, it was to emphasize that a bill of divorce would not suffice for her, but rather she also requires *ḥalitza*. However, with regard to the matter of nullifying her vows, do we say that levirate betrothal is not effective, and that he cannot nullify her vows alone?

¹¹² And if you wish, say an alternate explanation: Rabbi Elazar could have said to you: And as for Rav Naḥman bar Yitzḥak, does this resolution that the mishna is only referring to a case where the father and the yavam can nullify her vows together work out well? Did the mishna teach that they can nullify her vows? It teaches that he can nullify her vows in the singular, implying that he nullifies the vows alone and not in conjunction with anyone else. Rather, the mishna must be explained differently: With what are we dealing here? It is a case where the yavam, regardless of whether or not he performed levirate betrothal, did not want to consummate the levirate marriage or perform ḥalitza. Therefore, the yevama stood in court so as to compel him to consummate the levirate marriage or perform ḥalitza, and it ruled that he must supply her sustenance. Because she is bound to him and cannot marry another, the court ruled that he was responsible for her livelihood.

¹¹³ And this is in accordance with the statement that Rav Pineḥas said in the name of Rava, as Rav Pineḥas said in the name of Rava: Any woman who makes a vow, makes her vow with the consent of her husband. Because she is dependent upon her husband for her livelihood, she does not act without his consent. In this case, because the yavam is responsible to supply the yevama with sustenance, it is assumed that her vows are also made with his consent. It is for this reason that he can nullify her vows without her father. Consequently, no conclusive proof can be derived from here with regard to the strength of acquisition through levirate betrothal.

¹¹⁴ MISHNA: In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: The husband of one of the sisters died childless, and the brother who was married to the unrelated woman married, i.e., performed levirate marriage with, the deceased brother's wife and later died himself, childless. In this situation, both women happen for levirate marriage before the other, remaining, brother. The first woman is dismissed due to the prohibition proscribing the sister of one's wife, as she is the sister of this brother's wife, and the second woman is dismissed due to her status as the first woman's rival wife. Following the first levirate marriage, this second woman became the rival wife of the sister, and is therefore exempt from levirate marriage as well. If, however, the brother married to the unrelated woman performed only levirate betrothal, but had not yet consummated the levirate marriage with the sister, and he died, the unrelated woman, whose halakhic status with regard to yibbum is similar to that of a sister's rival wife, must perform ḥalitza and may not enter into levirate marriage.

¹¹⁵ GEMARA: The Gemara deduces the following halakha from the second clause of the mishna: The reason that the mishna requires ḥalitza is specifically because he, the brother who was married to the unrelated woman, performed levirate betrothal with the sister. Consequently, had he not performed levirate betrothal with her, the unrelated woman would be permitted to enter into levirate marriage as well. This is true despite the fact that the levirate bond could potentially render her the rival wife of his wife's sister. Rav Naḥman said: That is to say, the levirate bond is not substantial; the woman requiring levirate marriage is not considered married to the yavam. And this is true even if the levirate bond was with a single brother, as this widowed sister happened for levirate marriage only before the brother who was married to the unrelated woman; her levirate bond was with him alone.

¹¹⁶ MISHNA: In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: He who was married to the unrelated woman died, and one of the husbands of the sisters married his wife, and then died childless as well.

The first woman, i.e., the sister who was originally married to the brother who performed levirate marriage, is dismissed and is exempt from levirate marriage due to her status as the sister of his wife. And the second woman, i.e., the unrelated woman who had entered into levirate marriage, is dismissed as her rival wife. If, however, he performed levirate betrothal with the unrelated woman, and then died, then this unrelated woman must perform *halitza* and may not enter into levirate marriage, as levirate betrothal rendered her status with regard to *yibbum* as similar to the rival wife of his wife's sister.

¹¹⁷ GEMARA: The Gemara asks: Why do I need this mishna as well? This principle is identical to the principle behind the ruling in the previous mishna, and therefore this ruling can easily be deduced from the previous ruling. Now, just as there, when his wife's sister became rival wife of the unrelated woman who was already the brother's wife, you say that the unrelated woman is forbidden despite the fact that the forbidden relative joined later, here, where the unrelated woman became the rival wife of his wife's sister afterward, is it not all the more so clear that she is exempt as a rival wife?

¹¹⁸ The Gemara answers: This mishna was unnecessary, and this is how the duplication occurred: The tanna taught this mishna at first, and with regard to that previous case saw it fitting to render her permitted, and he permitted her to the brother, for he held that if the forbidden relative joined the man's household later, then she would not render the first wife prohibited as the rival wife of a forbidden relative. And then the tanna subsequently retracted and saw it fitting to render the woman forbidden. He decided that this woman should be considered the rival wife of a forbidden relative as well, and therefore rendered her forbidden to the brother.

¹¹⁹ And since that case was novel, it was beloved to him and he taught it earlier. In truth, it would have now been possible to eliminate the present mishna, for there was no longer any novelty in it; its ruling could be derived by an *a fortiori* argument from the previous ruling. However, a mishna does not move from its place. Since this version of the mishna had already been fixed, it was deemed inappropriate to remove it completely, and it remained in place despite the fact that it was no longer necessary.

¹²⁰ MISHNA: In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: One of the husbands of the sisters died, and he who was married to the unrelated woman married the deceased husband's wife, and then the wife of the second brother, the other one of the sisters, died. Afterward, the brother who was married to the unrelated woman died, leaving two women for levirate marriage before the remaining brother: The unrelated woman and the woman who was previously prohibited as the sister of his deceased wife. In this case, the sister is forbidden to him forever. She is not forbidden due to her status as his wife's sister, as his wife already died and one's wife's sister is permitted after the wife's death. However, since she was already forbidden to him at one time, she is forbidden to him forever. When she first happened before the brothers for levirate marriage, before the third brother married her, she was forbidden to the second brother as his wife's sister. Therefore, she is forbidden to him forever. In addition, she exempts her rival wife, the unrelated woman, from levirate marriage.

¹²¹ GEMARA: Rav Yehuda said that Rav said a principle on this matter: Any *yevama* to whom the verse "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5) cannot be applied at the time that she happens before him for levirate marriage because she was forbidden to him at that moment, is then forever considered to be like the wife of a brother with whom she has children, and

she is forbidden to him. The Gemara asks: What is Rav teaching us with this statement? We already learned this in the mishna: She is forbidden to him forever, since she was forbidden to him at one time.

¹²² The Gemara answers: This was necessary lest you say that this ruling applies only in cases where she was not eligible at all during the first time that she happened before the brothers for levirate marriage. Such is the case in the mishna, when she was forbidden to the yavam as his wife's sister the entire time that she was eligible for levirate marriage. Even though his wife died after the other yavam married this woman, because she was forbidden to him that entire time, she is forbidden to him forever. But in cases where she was eligible at some point during the first time she happened before the brothers for levirate marriage, such as in the scenario where the brother's wife died prior to the time when his other brother married her, one could say that she would be permitted. In that case, since the prohibition had in the meantime been canceled and she was indeed rendered eligible for levirate marriage with him during the period of the first time she happened before him, one might think that she would now be permitted. It is for this reason that Rav teaches us that even in this scenario she would be forbidden to him forever.

¹²³ The Gemara raises an objection: We learned this as well, as a later mishna (32a) states: In the case of two brothers who were married to two sisters, if one of them, i.e., one of the brothers, died and afterward the wife of the second brother died, then she, the surviving wife, is forbidden to him, the surviving brother, forever, since she was forbidden to him during the period she happened before him at one time.

¹²⁴ The Gemara answers: One cannot learn the halakhic principle from that case. Lest you say that there she is forbidden forever because of the following argument: When she was forbidden to the brother, she was precluded from entering this household completely, i.e., from the entire obligation of levirate marriage. She received total exemption from the mitzva of levirate marriage because this obligation applied only to the one remaining brother, and she was forbidden to him at the time that she happened before him for levirate marriage. But here, however, in the case Rav is referring to, where she was not completely precluded from entering this household because she still required levirate marriage with another brother, one could say: Since she is eligible and permitted to this brother, who was married to the unrelated woman, she is eligible for this second brother following the death of his wife as well, in other words, she was not rendered completely exempt from the obligation of levirate marriage. Lest one make this argument, Rav teaches us that under any circumstances she who was forbidden at one time is forbidden forever.

¹²⁵ MISHNA: In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: Shimon, the husband of one of the sisters, divorced his wife, and then Levi, who was married to the unrelated woman, died, and Shimon, the man who divorced his wife, married, i.e., performed levirate marriage with, her, i.e., this unrelated woman. And then Shimon himself later died, so that the unrelated woman happened for levirate marriage before Reuven, the third brother, who is married to the second sister. In this scenario, Reuven is allowed to consummate the levirate marriage with the unrelated woman. This is the case that was referred to when they said: And with regard to all those fifteen forbidden relatives who died or were divorced, their rival wives are permitted to enter into levirate marriage. This is

because at the time that they happened before the yavam for levirate marriage they were no longer the rival wives of a forbidden relative.

¹²⁶ GEMARA: The Gemara deduces from here that the reason for this halakha is specifically that Shimon divorced his wife and after that Levi died and Shimon married the unrelated woman. But if Levi had died first, and later Shimon divorced his wife, then the unrelated woman would be forbidden to Reuven due to the levirate bond that existed between her and Shimon prior to the latter's divorce. She would be considered the rival wife of the divorced woman who is the sister of Reuven's wife. Rav Ashi said: That is to say, the levirate bond is substantial, even with two brothers. Although the unrelated woman required levirate marriage with two brothers, the levirate bond is substantial enough to create a relationship between the unrelated woman and Shimon such that the unrelated woman is considered the rival wife of the divorced woman, i.e., the sister of Reuven's wife.

¹²⁷ The Gemara asks: And according to Rav Ashi, that which Rav Nahman said is difficult, as Rav Nahman deduced from the earlier mishna that the levirate bond is not substantial even in the case of a single brother. The Gemara answers: Rav Ashi could have said to you: Rav Nahman's deduction in the first mishna was not logically necessary. With regard to that mishna, one could have said that when the mishna requires ḥalitza in the case of levirate betrothal, the same is true even in the case where he who was married to the unrelated woman did not perform levirate betrothal with her. In that case as well, the unrelated woman must perform ḥalitza and may not enter into levirate marriage since she was the rival wife of his wife's sister by levirate bond. And the reason that it teaches the ruling in the case of levirate betrothal was not in order to inform us that she was forbidden due to levirate betrothal, but rather to exclude the statement of Beit Shammai, who say that through the act of levirate betrothal one acquires the yevama

¹²⁸ as a full-fledged acquisition. According to that opinion, the unrelated woman does not even require ḥalitza, since she is considered to be a rival wife of a forbidden relative. This mishna teaches us that the halakha is not in accordance with the opinion of Beit Shammai.

¹²⁹ The Gemara raises a question from the opposite perspective: And according to Rav Nahman, who deduced from the earlier mishna that the levirate bond is not substantial, the deduction of Rav Ashi that the levirate bond is substantial is difficult. And if you would try to resolve this in a similar manner and say: With regard to the ruling in the present mishna, which states that the sister's rival wife, i.e., the unrelated woman, is permitted, the same is true even if Levi had died and then afterward the brother married to the other sister divorced his wife, there is a difficulty. If that is the case, then what does the phrase this is, cited at the end of the mishna, come to exclude? If we follow this explanation then the same ruling would hold true in all cases. The Gemara responds: It excludes the case where Shimon first married the unrelated woman and only afterward divorced the sister, as in such circumstances the unrelated woman is most certainly a rival wife of Reuven's wife's sister and is therefore not permitted.

¹³⁰ The Gemara states: This works out well if he holds in accordance with the opinion of Rabbi Yirmeya, who said with regard to a seeming contradiction between this mishna and an earlier mishna (13a): The mishnayot are disjointed; he who taught this mishna did not teach that mishna. The earlier mishna established the principle that if a man was married to two women, one of whom was a forbidden relative, and he divorced the forbidden relative before he died, then the rival wife is no longer prohibited to the brothers.

¹³¹ This dispute is based upon the following: This tanna from the earlier mishna holds that death determines her status when she happens before the brothers, i.e., the crucial moment for determining whether the prohibition relating to rival wives applies is the moment at which the brother dies. In other words, whether the yevama is permitted to the yavam is determined by the status of the yevama at that given moment. Therefore, in the case where he had married a forbidden relative and later divorced her, the rival wife would be permitted. And this tanna of our present mishna holds that the original marriage determines her status when she happens before the brothers. If, at the time the woman was married to the deceased brother she was forbidden as a close relative, and her rival wife was likewise forbidden as the rival wife of a forbidden relative, then even though the status of the relative had changed at the time of the death of the brother, both she and her rival wife remain forbidden.

¹³² According to this opinion, it is indeed possible to state that the phrase *this is* comes to exclude the case where he married one woman and ultimately divorced the other. According to this mishna, in that case, the rival wives would be prohibited. However, if he holds in accordance with the opinion of Rava, who said: Actually, understand this to be the opinion of a single tanna, and he teaches the mishna employing the style: *This*, and it is unnecessary to say that, a difficulty remains. According to Rava, both mishnayot maintain the position that in the case where the yavam married one woman and ultimately divorced the other, the rival wife would be permitted. If that is the case, what does the phrase *this is* come to exclude? In what case would the rival wife be prohibited to the yavam? The Gemara responds: Perforce Rav Nahman holds in accordance with the opinion of Rabbi Yirmeya with regard to his interpretation of the mishnayot.

¹³³ The Gemara raises a question from a different perspective: And according to Rava, who maintains that in both cases the rival wife is permitted, this works out well if he holds in accordance with the opinion of Rav Ashi that the levirate bond is substantial. In that case the phrase *this is* comes to exclude the case where he died without divorcing his wife. In this case the rival wife is forbidden because the entire time she was the rival wife of a forbidden relative by levirate bond. If, however, he holds in accordance with the opinion of Rav Nahman in this matter, what does the phrase *this is* come to exclude? The Gemara answers: Perforce Rava holds in accordance with the opinion of Rav Ashi. Accordingly, with regard to this halakha there is a connection between the various opinions as to how to interpret the mishnayot and the dispute.

¹³⁴ MISHNA: And if any of these fifteen women who are prohibited as forbidden relatives had undergone a betrothal or divorce whose status is uncertain with the deceased brother, then those women who were their rival wives must perform *ḥalitza* and may not enter into levirate marriage since they are possibly the rival wives of forbidden relatives. The mishna elaborates: How could there be a situation of uncertainty with regard to betrothal? If in the public domain he threw her an item for the purpose of betrothal and there were eight cubits between them, and the item was possibly closer to him and did not enter into her domain, and possibly closer to her, i.e., within four cubits of her, whereby she could acquire the object, this is a case of uncertainty with regard to betrothal.

¹³⁵ Uncertainty with regard to divorce occurs when, for instance, he wrote a bill of divorce in his handwriting but there are no signatures of witnesses on the document, or there are the signatures of witnesses on the document but there is no date written in it, or the date is written in it but there is only the signature of a single witness. Since there is doubt as to whether these three kinds of bills of

divorce are valid, a woman who was divorced through them is only possibly divorced, and so this case is called uncertainty with regard to divorce.

¹³⁶ GEMARA: The Gemara remarks: But yet when discussing divorce, it does not teach the case where it is uncertain if the bill of divorce is closer to him, and uncertain if it is closer to her. It would have been appropriate to describe this case, as it parallels the case involving the object of betrothal. He could have tossed it in such a way that it was not clear to whom the bill was closer.

¹³⁷ The Gemara asks: What is the reason the mishna did not present this situation as well? Rabba said: When this type of uncertainty exists, the performance of ḥalitza is not mandatory, as this woman, the rival wife, has the presumptive status of being permitted to marry a man from the general public. At the time of her marriage she was rendered a rival wife of a forbidden relative. And due to an uncertainty alone would you render her forbidden to the general public until she performs ḥalitza, simply because it is unclear to us whether or not the forbidden relative had indeed been divorced? Do not render her forbidden due to an uncertainty. This is not, however, the case with the various bills of divorce mentioned in the mishna, for they are all certainly considered effective bills of divorce, even if the circumstances involved raise some questions or doubts.

¹³⁸ Abaye said to him: If that is so, let us say in the case of betrothal as well that this woman, the rival wife, has the presumptive status of being permitted to the yavam before he betrothed the forbidden relative, and due to the uncertainty whether she is the rival wife of a forbidden relative would you come and render her forbidden? Do not render her forbidden due to an uncertainty. Consequently, you should permit her to enter into levirate marriage.

¹³⁹ The Gemara explains: There, with regard to betrothal, the halakha follows the stringent ruling, because the rival wife is certainly his wife and requires levirate marriage. As there is uncertainty with regard to the betrothal with the forbidden relative, the ruling is stringent; she may not enter into levirate marriage and must only perform ḥalitza.

¹⁴⁰ The Gemara objects: Yet this is a stringency that might bring about a leniency in another scenario. How so? Sometimes that same man who betrothed the forbidden relative might go and betroth her sister with a betrothal whose status is certain. If one says that due to a stringency the rival wife may not enter into levirate marriage due to her possible status as the rival wife of a forbidden relative, people might come to assume that the betrothal with the forbidden relative was a valid betrothal, and that the subsequent betrothal with her sister was not valid, since she is his wife's sister. This would be assumed because they would not know that the status of the first betrothal was itself uncertain and that only due to a stringent ruling is the rival wife not allowed to enter into levirate marriage. In fact, the status of the betrothal with the sister of the forbidden relative is also uncertain. As a result of this ruling, however, people might be led to think that a man's wife, i.e., the sister of the forbidden relative, is in fact permitted.

¹⁴¹ Alternatively, sometimes another man might come and betroth the forbidden relative herself with a betrothal whose status is certain, and since the Master rendered it prohibited for the rival wife to enter into levirate marriage, people would say that the betrothal of the first man, i.e., the deceased brother, was a fully effective betrothal, and that the betrothal of the latter man was not a valid betrothal. If she was married to the first man, then she is forbidden to the second as the man's wife, and betrothal cannot take effect with her. However, since the status of her betrothal to the first man was uncertain, then she is also considered possibly betrothed to the second man and would require a

divorce from him as well. As a result, one can find a situation that would lead people to think that a man's wife is in fact permitted.

¹⁴² Rabba answered: Since you require ḥalitza and you do not exempt her completely, all will know that this is merely a stringency and that the Sages did not decide with certitude that the first betrothal was fully valid. Consequently, they would not come to disregard the other betrothal. Abaye raised a challenge: If so, let the mishna teach the case where it is uncertain whether the item is closer to him or closer to her with regard to divorce, and stipulate that she requires ḥalitza. And they would know that this is merely a stringency and not make a mistake.

¹⁴³ He answered him: A mistake could in fact be made here, as, if you say that she must perform ḥalitza then she may also enter into levirate marriage. People might mistakenly think that if she is suitable for ḥalitza then she is also suitable for levirate marriage, and as a result the woman might enter into levirate marriage, despite the fact that it is forbidden for her to do so. Abaye objected: Here too, in the case of uncertain betrothal, the concern exists that if you say that she performs ḥalitza then she might also enter into levirate marriage. Rabba answered: So let her enter into levirate marriage, and there is no problem with that. In this instance she remains with her presumptive status as permitted because she was originally assumed to be permitted and was rendered forbidden only due to our concern. However, there would be no actual transgression involved even if she were to enter into levirate marriage.

¹⁴⁴ Abaye raised an objection to Rabba by citing a case where even in places of doubt, the woman requires ḥalitza. As we learned in a mishna (67b): A house fell on him, on a certain man, and on his brother's daughter to whom this man was married, and he was childless, and it is unknown which of them died first. If the deceased wife had a rival wife, then her rival wife must perform ḥalitza but may not enter into levirate marriage. If the man had died first, then at the time of his death the rival wife was forbidden to the yavam as the rival wife of his daughter and exempt from levirate marriage. If, however, the daughter had died first, then at the time of the husband's death the second wife was not the rival wife of a forbidden relative, and requires levirate marriage. It is due to this doubt that she must perform ḥalitza and may not enter into levirate marriage.

¹⁴⁵ And according to Rabba's opinion, why is that so? Here too, let us say: This woman, the rival wife, has the presumptive status of being permitted to marry a man from the general public. This is because she was exempt from levirate marriage for the entire period of her marriage as the rival wife of a forbidden relative. And due to the uncertainty whether her rival wife was the first to die you come to render her forbidden and require that she perform ḥalitza. Do not render her forbidden due to an uncertainty.

¹⁴⁶ And if you would say: Here too, we rule more stringently due to the uncertainty. Nevertheless, this would be a stringency that brings about a leniency, for if you say that she must perform ḥalitza, she may also enter into levirate marriage. However, it is forbidden for her to enter into levirate marriage, because she is possibly forbidden to the yavam as the rival wife of his daughter and therefore forbidden just like the daughter herself. Rabba replied: In cases of divorce, which are common, the Sages issued a rabbinic decree preventing her from performing ḥalitza due to a concern that if she were required to perform ḥalitza then she may enter into levirate marriage as well. In cases of collapse, which are not common, the Sages did not issue a rabbinic decree, because they did not introduce decrees with regard to uncommon matters.

¹⁴⁷ Alternatively, there is another reason to differentiate between the cases. In the case of divorce where there is a forbidden relative who indicates that the rival wife is forbidden due to her status as the rival wife of a forbidden relative, and you require that her rival wife perform ḥalitza, people will say: The Sages determined that this bill of divorce is a full-fledged bill of divorce. Consequently, they required her rival wife to perform ḥalitza, and people may come to consummate the levirate marriage with the rival wife based on this mistaken assumption. In cases of collapse, however, could the Sages have determined who died first in the collapse? As it is known to all that there was a doubt that could not be clarified, it is clear that the Sages required the rival wife to perform ḥalitza only due to this uncertainty. Therefore, there is no concern that she would come to enter into levirate marriage because of this ḥalitza.

¹⁴⁸ The Gemara asks: But did we not learn in a mishna about the case where it is uncertain whether the bill of divorce is closer to him or closer to her with regard to situations of divorce whose status is uncertain? And didn't we learn in a mishna: In a case where his wife was standing in the public domain and he threw her the bill of divorce, if the bill landed closer to her, she is divorced. If it was closer to him, she is not divorced. If it was half and half, i.e., if the bill of divorce landed midway between the man and the woman, there is uncertainty whether she is divorced or whether she is not divorced.

¹⁴⁹ And we say: With regard to what halakha was the ruling said that she is both divorced and not divorced? The Gemara explains that this affects two areas of halakha. The first is that if the man divorcing his wife is a priest, then his wife is forbidden to him due to the uncertainty that she may in fact be divorced through that bill of divorce. Consequently, he would then be unable to remarry her. The second ramification is that if the woman being divorced was a forbidden relative to her husband's brother, and her husband died childless, then her rival wife would require ḥalitza. The mishna indicates that in this type of divorce whose status is uncertain as well, the Sages require the rival wife to perform ḥalitza, and we do not say that if you say that she must perform ḥalitza, she may enter into levirate marriage. Here there is no such concern.

¹⁵⁰ The Gemara responds: But wasn't it stated with regard to that mishna that this is referring to a very specific set of circumstances? It is Rabba and Rav Yosef who both say: The doubt here does not result from the facts of the case themselves, but from conflicting testimonies and an inability to decide between them. Here, we are dealing with two sets of witnesses, one of which says that the bill fell closer to her, and one of which says that it fell closer to him. This, then, is an uncertainty in matters of Torah law, for in this case there are two testimonies, each one complete by itself, yet they contradict one another. Such instances are deemed to have the status of an uncertainty with regard to Torah law, and therefore the ruling is stringent. But the mishna here is referring to one set of witnesses who were divided in their testimony or who could not clarify exactly what had occurred. This is considered to be an uncertainty in matters of rabbinic law alone, as there is only a single uncorroborated testimony, and in cases of uncertainty in matters of rabbinic law the ruling is lenient.

¹⁵¹ The Gemara asks: And from where is it known that the mishna here is referring to a case of uncertainty with one set of witnesses? The Gemara responds: It is similar to that of betrothal. Just as with regard to betrothal it is referring to a case of uncertainty with one set of witnesses, so too, with regard to divorce it is referring to a case of one set of witnesses. The Gemara wonders: And with regard to betrothal itself, from where is it known that the mishna is referring to a case of uncertainty

that involves one set of witnesses? Perhaps it is referring to a case of two sets of witnesses? The Gemara answers: If the mishna is referring to a case of two sets of witnesses who contradict one another, then let her enter into levirate marriage, and there is no problem with that, as there are two witnesses testifying that there was never a betrothal. Therefore, both the cases of betrothal and divorce must be referring to a situation where there is one set of witnesses.

¹⁵² The Gemara challenges: How can one say that? After all, there are witnesses who are standing before us and saying that the object of betrothal fell closer to her. Accordingly, she was betrothed and her rival wife is the rival wife of a forbidden relative. And yet you say to let her enter into levirate marriage and there is no problem with that? And furthermore, with regard to the fundamental difference between two pairs of witnesses and a single pair, the case of two pairs of witnesses is also considered an uncertainty in matters of rabbinic law. This is not considered to be uncertainty with regard to the reality of what actually happened, which would be a case of uncertainty in matters of Torah law, but rather a contradiction between two opposing testimonies. In these cases we say: Place two witnesses against two witnesses, and let the two testimonies cancel each other out. Therefore, the halakha would be to let the woman remain in her original presumptive status. Accordingly, this type of uncertainty stems only from rabbinic law and not from Torah law.

¹⁵³ The Gemara cites a proof for this: This is just as it is in the case concerning the property of a man named Bar Shatya, who was referred to by this name because he would occasionally go insane. The case is as follows: Bar Shatya sold property. Two witnesses came forward and said that he sold it when he was healthy and therefore the sale was valid. And two others came forward and said that he sold it when he was insane, and so the sale was void. Rav Ashi said with regard to this matter: Place two witnesses against two witnesses and let the testimonies cancel each other out. As there is no valid testimony to rely on,

¹⁵⁴ let the land remain in the possession of Bar Shatya. Since no substantiated proof was brought forth, the land remains in the hands of its current possessor. As such, the same should be true with regard to cases of betrothal and divorce whose status is uncertain; the woman should remain in her former presumptive status.

¹⁵⁵ Rather, Rabba's understanding of the mishna must be rejected, and Abaye said: The mishna should be understood according to that which is written: "His fellow speaks of him" (Job 36:33). This principle teaches that a related case can be inferred from the single case cited. The mishna teaches the case where it is uncertain whether the item is closer to him or closer to her with regard to betrothal, and the same is true with regard to divorce if it is uncertain whether the bill of divorce fell closer to him or closer to her. Similarly, the mishna teaches the case of bills that were written in a questionable manner with regard to divorce, and the same is true with regard to betrothal.

¹⁵⁶ Rava said to him: If you understand that the legal ruling in all of these cases is the same, and the mishna was written in the style of: His fellow speaks of him, then what is the meaning of the term: This is, that the mishna teaches? The mishna in fact emphasizes that this is a betrothal whose status is uncertain and this is a divorce whose status is uncertain, which indicates this case alone and no other.

¹⁵⁷ Rather, Rava said: All of the cases that exist with regard to betrothal whose status is uncertain exist in cases of divorce as well. However, there are some cases of uncertainty with regard to divorce that do not exist with regard to betrothal, as betrothal performed with a questionable bill is not disqualified. Accordingly, the term: This is, utilized in the mishna with regard to divorce, is not

specific and does not imply exclusion of the case where it is possibly closer to him and possibly closer to her. Rather, because the mishna teaches the ruling of: This is, with regard to betrothal, where it is specific it teaches the phrase: This is, with regard to divorce as well. The Gemara asks: And what does the phrase: This is, mentioned with regard to betrothal, come to exclude? The Gemara answers: It comes to exclude the matter of the date, which is not essential with regard to betrothal, as when one betroths a woman by means of a document the date need not be written.

¹⁵⁸ The Gemara asks about this matter itself: And for what reason did they not institute that the date must be included in the betrothal document? This policy works out well according to the one who says that the reason the Sages instituted that the date must be written on a bill of divorce is due to the profits. As the husband receives the profits from the wife's properties during the period of their marriage, it was necessary to write a date on the bill of divorce in order to know at what point his right to receive or sell these items was terminated. However, it was not necessary to include a date on a deed of betrothal, as this document serves only to create a bond of betrothal, and there are no profits from a betrothed woman. A husband does not have the right to receive profits from his betrothed's property until she is his full-fledged wife.

¹⁵⁹ However, according to the one who says that the Sages instituted the requirement of including the date in the bill of divorce due to a case where a man is married to the daughter of his sister, then they should institute that he must include the date in a deed of betrothal as well. Occasionally a man might marry the daughter of his sister, whom he loves all the more because she is his close relative in addition to being his wife. If he knows that she acted licentiously while she was married to him, he might grant her a bill of divorce without a date so as to save her from the death penalty. Were witnesses to come forth and testify to her behavior, she could claim that at the time of her licentious act she was already a divorced woman. If this was indeed the reason for the Sages' instituting the requirement of including the date in a bill of divorce, then the date should be included in a deed of betrothal as well, for an undated document of betrothal could be utilized equally well to prove the innocence of the daughter of his sister. If she acted licentiously in the period prior to her betrothal, she would not be penalized. Therefore, the date should be written on this document as well.

¹⁶⁰ The Gemara answers: Because there are those who betroth by means of money and those who betroth by means of a deed, the Sages did not institute that the date must be written in the document. As the date of the betrothal has no place in the act of betrothal by means of money, the Sages did not distinguish between the various modes of betrothal.

¹⁶¹ Rav Aḥa, son of Rav Yosef, said to Rav Ashi: But with regard to a slave, where there are those who acquire them with money and there are those who acquire them with a deed, the Sages nevertheless instituted that the date must be written in a slave's deed of purchase. He responded: There, with regard to slaves, the majority of people purchase them by means of a deed. Here, with regard to betrothal, the majority of people perform betrothal by means of money.

¹⁶² If you wish, say a different reason why the Sages did not institute that the date must be included in a deed of betrothal. This is due to the fact that it is not possible to institute this in a manner that will ensure that no problems will result. How would we do this? If we leave the deed of betrothal with her, she will erase the date, and so it would remain impossible to prove the juncture at which her licentious behavior took place. If we leave the deed with him, then there are times when she is his sister's daughter and he might cover for her by erasing the date himself.

¹⁶³ If we leave it with the witnesses who signed the document, if they remember themselves the date when the deed was given to the woman, the date need not be written in the document itself, for let them come forth and testify from their memory. And if they do not remember by themselves, then there are times when they see the date that is written and come forth to testify on that basis. And the Merciful One states: “By the mouth of two witnesses, or at the mouth of three witnesses, shall a matter be established” (Deuteronomy 19:15). From this verse it is derived: From their mouths, and not from their writings, indicating that testimony is proper only if the individual stated it of himself, and not on the basis of what is written.

¹⁶⁴ The Gemara asks: If that is so, let us say that with regard to divorce as well. In cases of divorce there should also be a concern lest the woman erase the date on the bill of divorce in her possession. The Gemara responds: There, in the case of a bill of divorce, the date comes to save her, since the bill of divorce removes her status as a man’s wife. She therefore would fear erasing anything lest she disqualify the bill altogether, thereby possibly rendering herself a married woman again (Ramban). Here, however, when dealing with a deed of betrothal, the date comes to her disadvantage, since until now she was presumed to be a single woman, and if there is no date on the document then she clearly cannot be punished.

¹⁶⁵ MISHNA: In the case of three brothers who were married to three unrelated women, and one of the brothers died, the following occurred: The second brother performed levirate betrothal with the wife of the deceased brother and before he was able to consummate the levirate marriage he died as well, leaving behind two women who happen before the third brother for levirate marriage. Then those two women must perform ḥalitza and may not enter into levirate marriage.

¹⁶⁶ As it is stated: “If brothers dwell together and one of them dies and he has no child, 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” (Deuteronomy 25:5). This teaches that a woman eligible for levirate marriage is one who has one levirate relationship and not one who has a double levirate relationship. In this case, the wife of the first deceased brother requires levirate marriage due to both the marriage with her first husband as well as the levirate betrothal with the second brother. Rabbi Shimon says: He may consummate the levirate marriage with whichever woman he wishes and then perform ḥalitza with the second.

¹⁶⁷ GEMARA: The Gemara asks: If the halakha that a woman who has a double levirate relationship is exempt from levirate marriage is by Torah law, as indicated by the proof offered in the mishna, she should not require ḥalitza as well, but be completely exempt. Rather, it is by rabbinic law. The restriction on levirate marriage in this case is not by Torah law, as by Torah law the brother is allowed to consummate the levirate marriage with both of these women since each was the wife of a different brother. The requirement for ḥalitza in this case was instituted as a rabbinic decree lest people say that two yevamot who come from a single household can enter into levirate marriage. Since the second brother had performed levirate betrothal, people might come to think that both were actually married to him. If the third brother consummates the levirate marriage with both women, it would lead people to think that it is permitted to take two of a brother’s wives in levirate marriage, when in fact the Torah allows the yavam to marry only a single wife of the deceased.

¹⁶⁸ The Gemara asks: So let him consummate the levirate marriage with one woman and perform ḥalitza with the other one, and this would eliminate our concern. The Gemara responds: We do not do

this due to a rabbinic decree lest they say: When there are two women from a single household, part of it must be built

¹⁶⁹ and part of it must be released by ḥalitza. That is, if two women were married to a single man, one of these women must enter into levirate marriage and the other must perform ḥalitza.

¹⁷⁰ The Gemara wonders: So let them say it. Why would it be problematic if people thought that? Even were they to act upon this mistaken assumption it would cause no harm, as there is no transgression involved in performing ḥalitza. The Gemara answers: If he were to consummate the levirate marriage with one and then later proceed to perform ḥalitza with the other, then indeed there would be no reason for concern.

¹⁷¹ Rather, the requirement to perform ḥalitza with both women is a rabbinic decree that was instituted lest he first perform ḥalitza with one of his brother's wives and subsequently consummate the levirate marriage with the other. Under such circumstances, he would in fact be violating a prohibition. Once he performs ḥalitza with the first woman he is subject to the prohibition indicated by the verse "So shall it be done to the man who does not build his brother's house" (Deuteronomy 25:9). In this verse the Merciful One states that once he did not build his brother's house but rather opted to perform ḥalitza with one of his brother's wives, he may not proceed to build it by consummating the levirate marriage with a different wife.

¹⁷² Rava said: If the brother who performed levirate betrothal in the case described in the mishna subsequently gave a bill of divorce to that wife in order to nullify his levirate betrothal before he died, her rival wife is rendered permitted to the third brother. The third brother is allowed to consummate the levirate marriage with the wife of the second brother because this wife is no longer considered to be the rival wife of a woman with a double levirate relationship. The bill of divorce serves to nullify the act of levirate betrothal completely. However, the woman with whom the brother performed levirate betrothal and then received the bill of divorce is forbidden to the third brother. Why is this? She might be confused with a woman who receives a bill of divorce. In general cases where levirate betrothal was not performed, if a man gives a yevama a bill of divorce, he is no longer allowed to consummate the levirate marriage with her. If it were permitted to consummate the levirate marriage in this case, people might mistakenly do so in other cases of divorce as well.

¹⁷³ There are those who say an alternative formulation of Rava's statement. Rava said: If the second brother gave a bill of divorce to the wife of the first deceased brother in order to nullify his levirate betrothal to her, then even she herself is permitted to enter into levirate marriage with the third brother. What is the reason for this? That which he performed with her, he removed. The levirate betrothal was completely nullified by the bill of divorce, and it is as though he had done nothing at all. Therefore, as far as the third brother is concerned, she remains with her original, single levirate bond, as though her status had never been changed by the second brother.

¹⁷⁴ MISHNA: In the case where two brothers were married to two sisters, and one of the brothers died, the widow at this point would be exempt from levirate marriage as the sister of his wife. And afterward the wife of the second brother died. Although the yevama is no longer the sister of his wife, this woman is nevertheless forbidden to him forever, since she had already been forbidden to him at one time.

¹⁷⁵ GEMARA: The Gemara asks: Isn't this obvious? Now, just as there, in the earlier mishnayot, where there was a third brother and so the woman was not disassociated from this household

completely, as the levirate obligation existed between her and the third brother to whom she was permitted, you said that she may not enter into levirate marriage because she was forbidden at one time, here, in the case of only two brothers, where she is disassociated from this household completely, is it not all the more so clear that it should be prohibited for her to enter into levirate marriage? The Gemara answers: The tanna taught this mishna at first, at which time he saw it fitting to rule that those other cases are permitted, and therefore he permitted them. And then he subsequently saw it fitting to rule that they are forbidden. And since that case was novel, it was beloved to him, he taught it earlier. But despite the fact that this mishna was no longer necessary, the mishna does not move from its place.

¹⁷⁶ § The Sages taught: If he engaged in sexual intercourse with this woman who was forbidden to him, he is liable to receive punishment for violating the prohibition against marrying a brother's wife, because she was never rendered permitted by the levirate mitzva, and he is liable to receive punishment for violating the prohibition against marrying a wife's sister; this is the statement of Rabbi Yosei. Rabbi Shimon says: He is liable to receive punishment only for violating the prohibition proscribing a brother's wife. Rabbi Shimon holds that one prohibition does not take effect where another prohibition is already in place, and since she was already forbidden as his brother's wife, the additional prohibition cannot take effect. The Gemara asks: But isn't it taught in a baraita, Rabbi Shimon says: He is liable only due to the prohibition against marrying a wife's sister?

¹⁷⁷ The Gemara answers: This is not difficult. Here, in the second baraita, it is referring to a case where the living brother married his wife first and afterward the brother who is now deceased married her sister. In that case, the first prohibition to take effect on the yevama was that of a wife's sister, and only later, when she was married to his now-deceased brother, did the additional prohibition proscribing a brother's wife take effect. There, in the first baraita, it is referring to a case where the brother who is now deceased married his wife first, whereby she became forbidden to the brother as a brother's wife, and afterward the living brother married her sister, rendering her forbidden as his wife's sister as well.

¹⁷⁸ The Gemara asks: And according to the opinion of Rabbi Shimon, in a case where the deceased brother married one of the sisters first, in which case she was forbidden to his brother as a brother's wife, and afterward the living brother married her sister, the only prohibition in place is that of a brother's wife. Therefore, since the prohibition with regard to a wife's sister never took effect, then after her husband died she should now enter into levirate marriage. As the prohibition proscribing a brother's wife is canceled in the face of the levirate mitzva, she should indeed enter into levirate marriage.

¹⁷⁹ Rav Ashi said: The prohibition with regard to a wife's sister remains suspended. If the prohibition proscribing a brother's wife is terminated, the prohibition proscribing a wife's sister comes and takes effect. Therefore, it is clear that the prohibition proscribing a wife's sister is not completely terminated. Accordingly, when a man dies and the prohibition proscribing a brother's wife is overridden by the levirate mitzva, the prohibition proscribing a wife's sister takes effect and she is forbidden to him due to that. The moment the first prohibition ceases to exist, the second immediately takes effect.

¹⁸⁰ The baraita indicates that Rabbi Yosei holds that if the brother consummated the levirate marriage with this woman he violated two prohibitions. The Gemara asks: And does Rabbi Yosei hold that a

prohibition takes effect where another prohibition already exists? But isn't it taught in a baraita: One who committed a transgression deserving of two death penalties is sentenced to the harsher of the two deaths? One would be guilty of such a transgression if he engaged in intercourse with a forbidden relative who was also a married woman, as he would incur one death penalty due to her being a forbidden relative and one death penalty due to her being a married woman. Rabbi Yosei says: He is sentenced according to the first relationship that applied to him with regard to this woman.

¹⁸¹ And it is taught in a baraita: In what case did Rabbi Yosei say that he is sentenced according to the first relationship that applied to him? If this woman was his mother-in-law who was widowed or divorced, and therefore forbidden to him only due to her status as his mother-in-law, and later she married and became forbidden as a married woman and he engaged in sexual relations with her, then he is sentenced for violating the prohibition proscribing his mother-in-law, since this was the first prohibition to apply. Alternatively, if she was a married woman and then he married her daughter so that she then became his mother-in-law, and then had sexual relations with her, he is sentenced for violating the prohibition proscribing a married woman.

¹⁸² Rabbi Abbahu said: Rabbi Yosei concedes that a prohibition takes effect where another prohibition already exists when it is an expanded prohibition. An expanded prohibition is a prohibition that has a greater scope than the original prohibition, either because it applies with greater severity or because it applies to additional individuals. Rabbi Yosei holds that if the second prohibition incorporates additional individuals into the list of those for whom the original item is prohibited, then it takes effect in addition to the previous prohibition that had a more limited range.

¹⁸³ The Gemara asks: This works out well in cases where the living brother married his wife first, and her sister became forbidden to him as a wife's sister, and then afterward the brother who was subsequently deceased married his wife's sister. In that case it is possible to say: Since a prohibition was added for all the brothers, a prohibition was added for the living brother as well, and he is liable due to both prohibitions, as this prohibition is more wide-ranging than the previous one. In other words, at first this sister was permitted to the other brothers, and when the second brother married her she was rendered a brother's wife and so she was additionally forbidden to the other brothers.

¹⁸⁴ However, where the deceased brother married first and afterward the living brother married her sister, in what way is there a prohibition that adds? No additional individuals were incorporated into the prohibition as a result of the marriage of the living brother with the sister, since the prohibition here proscribing a wife's sister applies to him alone.

¹⁸⁵ And if you would say: Since he himself now married a sister he became prohibited to all of the other sisters, as opposed to the prior state of affairs where only his brother was married to one of the sisters and all of the other sisters were permitted to him, and therefore an additional prohibition now applies to him, this is difficult. In this case the new prohibition is not considered an expanded prohibition, but rather it is considered a more inclusive prohibition. It is more inclusive and more comprehensive in that it adds additional aspects to the prohibition for the same individual. This is not called an expanded prohibition, as it does not add prohibitions to additional individuals.

¹⁸⁶ Rather, Rava said that when Rabbi Yosei stated in the baraita that the man is liable due to both prohibitions, for a brother's wife and for a wife's sister, he meant to say: I ascribe to him liability as though he transgressed twice, since indeed he violated two prohibitions, yet he is liable to receive

punishment in human courts on only one count. And likewise, when Ravin came from Eretz Yisrael to Babylonia, he said that Rabbi Yoḥanan said: I ascribe to him liability as though he transgressed twice, yet he is liable to receive punishment on only one count. The Gemara asks: What difference does it make if we consider it as though he transgressed twice? The Gemara answers: It affects the decision whether or not to bury him among the completely wicked. Just as a righteous individual is not buried among the wicked, so too, a wicked individual is not buried among those more wicked than himself. He who violated this prohibition is considered as though he committed two transgressions and not one, and so he would be buried accordingly.

¹⁸⁷ § The Gemara comments that the issue of a prohibition taking effect where another prohibition already exists is taught in the dispute found in a baraita, where it was stated: With regard to a non-priest who served in some capacity in one of the Temple services, such as the burning of a burnt-offering on the altar on Shabbat, Rabbi Ḥiyya says: He is liable to receive punishment on two counts, both because he was a non-priest serving in the Temple and because he desecrated Shabbat. Bar Kappara says: He is liable on only one count. Rabbi Ḥiyya jumped up and swore: I swear by the Temple service that this I heard from Rabbi Yehuda HaNasi: He is liable on two counts. Bar Kappara jumped up and swore: I swear by the Temple service that this I heard from Rabbi Yehuda HaNasi: He is liable on one count.

¹⁸⁸ Since the matter could not be decided by tradition, Rabbi Ḥiyya began to deliberate and analyze the question logically. Prohibited labor on Shabbat was prohibited to all. When prohibited labor was permitted in the Temple for the purposes of the Temple service, it was permitted only for priests. This indicates that it was permitted for priests and not for non-priests. Therefore, when a non-priest serves in the Temple on Shabbat, there is a transgression here due to his serving as a non-priest and there is a transgression here due to his desecrating Shabbat. Bar Kappara began to deliberate in a different manner: Shabbat was prohibited to all. When it was permitted it was permitted in the Temple, so that if it was permitted for one to serve in the Temple, it was permitted for him to serve on Shabbat. Therefore, there is a transgression here only for his serving as a non-priest, since if this man were a priest his service would have been permitted. Therefore, he is not liable to receive punishment for desecrating Shabbat.

¹⁸⁹ They disagreed over a similar issue as well, the case of a priest with a blemish who served in the Temple by sacrificing a public offering, which overrides ritual impurity, while he was ritually impure. Rabbi Ḥiyya says: He is liable on two counts, both for serving with a blemish and for being ritually impure. Bar Kappara says: He is liable on only one count, for serving with a blemish. Rabbi Ḥiyya jumped up and swore: I swear by the Temple service that this I heard from Rabbi Yehuda HaNasi: He is liable on two counts. Bar Kappara jumped up and swore: I swear by the Temple service that this I heard from Rabbi Yehuda HaNasi: He is liable on one count.

¹⁹⁰ Rabbi Ḥiyya began to deliberate. Ritual impurity was prohibited to all, as it was prohibited for all individuals who are ritually impure to enter into the Temple. When it was permitted in the Temple in circumstances where the entire public was impure, it was permitted for unblemished priests. Therefore, it was permitted only for unblemished priests and not for priests with blemishes. Consequently, if that priest with a blemish served while impure, there is a transgression here due to his status as a blemished priest and there is a transgression here due to ritual impurity. Bar Kappara began to deliberate in a different manner: Ritual impurity was prohibited to all. When it was

permitted in the Temple, it was permitted for all. Therefore, the only problem was that this priest was blemished, and so there is a transgression here only due to his status as a blemished priest.

¹⁹¹ They disagreed over a similar issue as well. This dispute is with regard to a non-priest who ate a bird sin-offering that was killed by pinching the back of its neck. It is permitted for priests to consume such an offering, but it is prohibited to consume any other bird killed in such a manner, since it was not ritually slaughtered. Rabbi Ḥiyya says: He is liable to receive punishment on two counts, both for being a non-priest who ate a priestly offering and for eating something that was not properly slaughtered. Bar Kappara says: He is liable on only one count. Rabbi Ḥiyya jumped up and swore: I swear by the Temple service that this I heard from Rabbi Yehuda HaNasi: He is liable on two counts. Bar Kappara jumped up and swore: I swear by the Temple service that this I heard from Rabbi Yehuda HaNasi: He is liable on one count.

¹⁹² Rabbi Ḥiyya began to deliberate. An unslaughtered animal carcass was prohibited to all. When it was permitted in the Temple, it was permitted to priests alone. Since it was permitted to priests and not to non-priests, there is a transgression here due to his status as a non-priest who ate of the sin-offering and there is a transgression here due to eating an animal killed by pinching. Bar Kappara began to deliberate: An unslaughtered animal carcass was prohibited to all. When it was permitted in the Temple, it was permitted to all. Therefore there is a transgression here only for being a non-priest, since if he were a priest there would be no prohibition at all.

¹⁹³ The Gemara asks: With regard to what principle do they disagree? The Gemara suggests that they disagree with regard to the issue of a more inclusive prohibition, and this dispute pertains to the status of a more inclusive prohibition specifically according to the opinion of Rabbi Yosei. Rabbi Ḥiyya holds that Rabbi Yosei is of the opinion that in the case of a more inclusive prohibition, one is liable on two counts. Bar Kappara holds that Rabbi Yosei is of the opinion that one is liable only on one count.

¹⁹⁴ The Gemara asks: And what more inclusive prohibition is there here in these cases? Granted, in the case of a non-priest who served in the Temple on Shabbat, initially he was permitted to perform labor every day and was prohibited from engaging in the Temple service. When Shabbat came, since he is now prohibited from engaging in prohibited labor in all contexts due to Shabbat, he is also prohibited from engaging in labors related to the Temple service due to Shabbat. Indeed, the additional prohibition of Shabbat was added to the previously existing prohibition against performing service in the Temple. This is a more inclusive prohibition since it also includes prohibited labor outside of the Temple.

¹⁹⁵ The same is true with regard to a blemished priest who served in the Temple while ritually impure: Initially, prior to his becoming ritually impure, he was allowed to eat from the consecrated animals but was prohibited from performing the Temple service, like all blemished priests. When he was rendered ritually impure, since he is now prohibited from eating of the consecrated items, he is also prohibited from performing the Temple service due to that same ritual impurity. There is, then, a more inclusive prohibition here. However, with regard to the case of a bird that was killed by pinching, you find that the prohibition against the eating of consecrated items by a non-priest and the prohibition against eating an unslaughtered animal carcass take effect simultaneously. You do not, however, find a more inclusive prohibition here as there was no original prohibition that took effect beforehand. Instead, this is a case of two prohibitions that take effect simultaneously.

¹⁹⁶ Rather, the previous explanation is rejected and the Gemara suggests instead that they disagree with regard to an additional prohibition that takes effect simultaneously, and this dispute pertains to the status of these prohibitions specifically according to the opinion of Rabbi Yosei. Rabbi Ḥiyya holds that Rabbi Yosei is of the opinion that one is liable on two counts in cases of prohibitions that take effect simultaneously. And bar Kappara holds that Rabbi Yosei is of the opinion that one is liable only on a single count.

¹⁹⁷ The Gemara challenges this explanation: But here, in the first two instances, what case of simultaneous prohibitions is there here? In the two previous cases the prohibitions took effect one after the other, and not simultaneously. The Gemara answers that these cases can also be interpreted as occurring simultaneously as follows: With regard to the non-priest who served on Shabbat, this would be in a case where a minor grew two pubic hairs, signaling adulthood on Shabbat. Before that point he was considered a minor and therefore not liable for his actions. Therefore, this is a case where the prohibition against serving as a non-priest and the prohibition against violating Shabbat took effect together.

¹⁹⁸ With regard to the case of one who was blemished, this can be explained as well: This is referring to a case where a minor grew two pubic hairs and was immediately rendered ritually impure. This is a case where the prohibition with regard to a blemished priest and the prohibition with regard to ritual impurity took effect together. Alternatively, it could be a case where he cut off his finger with a ritually impure knife. Here, the cut and removal of his finger rendered him simultaneously blemished and ritually impure.

¹⁹⁹ Following this clarification of the dispute, the matter is now considered from a different angle: Granted, according to the opinion of Rabbi Ḥiyya, the dispute between his version of Rabbi Yehuda HaNasi's ruling and that of bar Kappara can be explained as follows: When Rabbi Yehuda HaNasi taught Rabbi Ḥiyya, he taught him according to the opinion of Rabbi Yosei, and Rabbi Yosei holds that there are cases where two prohibitions can both take effect. And when Rabbi Yehuda HaNasi taught bar Kappara, he did so according to the opinion of Rabbi Shimon who holds that a new prohibition can never take effect where another prohibition already exists. Therefore, Rabbi Ḥiyya could understand why bar Kappara insisted on his opinion. Rabbi Ḥiyya thought that bar Kappara was in fact relating an accurate statement of Rabbi Yehuda HaNasi, as Rabbi Yehuda HaNasi was relating to the opinion of Rabbi Shimon. Rabbi Ḥiyya assumed that bar Kappara did not understand that Rabbi Yehuda HaNasi's statement was not in accordance with Rabbi Yosei's opinion. According to bar Kappara, however, was Rabbi Ḥiyya then telling a falsehood? How would bar Kappara relate to Rabbi Ḥiyya's oath? Did he think that Rabbi Ḥiyya would swear that he heard words from Rabbi Yehuda HaNasi that were never said?

²⁰⁰ Rather, this must be explained differently: Rabbi Ḥiyya and bar Kappara disagree with regard to cases where two prohibitions take effect simultaneously, and this dispute pertains to the status of these prohibition specifically according to the opinion of Rabbi Shimon. It could be suggested that when the two prohibitions take effect simultaneously, Rabbi Shimon would concede that they both take effect. However, this explanation raises a difficulty as well: Granted, according to Rabbi Ḥiyya it is clear why he was swearing. He did so in order to exclude the understanding of Rabbi Shimon's opinion that was based on his presumed opinion. As it was known that Rabbi Shimon holds that a new prohibition cannot take effect where another prohibition exists; this is the default understanding

of his opinion. Therefore, it was incumbent upon Rabbi Ḥiyya to take an oath in order to emphasize that despite Rabbi Shimon's general opinion, in cases where the prohibitions take effect simultaneously, he would concede that both prohibitions can take effect. However, according to bar Kappara, why was it necessary to swear? It would have sufficed for him simply to make his statement, as it concurs with the default understanding of Rabbi Shimon's opinion. The Gemara comments: Indeed, this is difficult.

²⁰¹ One can raise a difficulty with this explanation from a different angle as well: Granted, according to bar Kappara, when Rabbi Yehuda HaNasi taught him, he taught him according to the opinion of Rabbi Shimon, who holds that two prohibitions cannot take effect even in cases when they occur simultaneously, and when he taught the ruling to Rabbi Ḥiyya it was according to the opinion of Rabbi Yosei. Accordingly, Rabbi Ḥiyya did in fact swear that he heard that one is liable only on one count, but he wrongly understood that this was Rabbi Shimon's opinion. However, according to Rabbi Ḥiyya, who holds that Rabbi Shimon concedes that in cases where the prohibitions take effect simultaneously one is liable for both, was bar Kappara lying? His statement would accord neither with Rabbi Shimon nor with Rabbi Yosei.

²⁰² The Gemara answers: Rabbi Ḥiyya could have said to you that this is what transpired: When Rabbi Yehuda HaNasi taught him, bar Kappara, he taught him two cases involving exemptions, i.e., the cases of a non-priest who served in the Temple on Shabbat and that of the blemished priest who served while ritually impure. Both of these are cases of more inclusive prohibitions, and he was informing bar Kappara that Rabbi Shimon holds them liable on only one count, because Rabbi Shimon holds that a prohibition takes effect where another prohibition already exists only if the prohibitions take effect simultaneously, but not in cases of more inclusive prohibitions.

²⁰³ And he taught him the ruling with regard to a more inclusive prohibition, that in such cases there is an exemption, and this ruling is in accordance with the opinion of Rabbi Shimon. And bar Kappara then saw the case of a non-priest who ate a bird killed by pinching, and since it was similar to the previous cases, he mixed them together. Then, sometime later, it seemed to him as though he had in truth heard all of these cases together from Rabbi Yehuda HaNasi, but when he examined this last case, he found that it could exist only if the events occurred simultaneously.

²⁰⁴ And he concluded that since the case of a non-priest eating a bird killed by pinching can occur only in a scenario where the prohibitions take effect simultaneously, the other cases are instances of simultaneous prohibitions as well. And similarly, since he was taught to exempt one individual from a second prohibition in those cases, these cases were taught to exempt one individual from a second prohibition as well. Therefore, according to Rabbi Ḥiyya, bar Kappara did not knowingly speak falsely. Rather, he heard certain matters from Rabbi Yehuda HaNasi and then mistakenly merged with them other matters. As a result, he confused the issue.

²⁰⁵ The Gemara raises an objection to the statement of bar Kappara from a baraita: In the case of a non-priest who served on Shabbat and the case of a blemished priest who served while ritually impure, there is liability here, due to the prohibition against serving as a non-priest; and due to the prohibition against desecrating Shabbat; and due to the prohibition against serving as a blemished priest; and due to the prohibition against serving after contracting ritual impurity. This is the statement of Rabbi Yosei. Rabbi Shimon says: There is liability here only due to the prohibition against serving as a non-priest and due to the prohibition against serving as a blemished priest. The

Gemara notes: And yet the case of a non-priest who ate a bird killed by pinching was left out and not mentioned among the cases subject to this dispute.

²⁰⁶ The Gemara asks: According to whom was this left out? That is, according to the opinion of which tanna would this question arise? If we say that this was left out according to the opinion of Rabbi Yosei, it is difficult. Now that Rabbi Yosei holds, even in cases of a more inclusive prohibition, that one is liable on two counts, as was stated with regard to a non-priest who served on Shabbat, is it necessary to state that in the case where the additional prohibition takes effect simultaneously one would be liable on two counts? Rather, is it not according to the opinion of Rabbi Shimon that this case was left out, as Rabbi Shimon would concede that in this case one is liable on two counts? Therefore, Rabbi Shimon exempts one from liability for the second prohibition in cases of more inclusive prohibitions, but in cases of simultaneous prohibitions he would deem one liable on two counts. The Gemara summarizes: The refutation of the opinion of bar Kappara is indeed a conclusive refutation, and his statements are rejected.

²⁰⁷ The Gemara raises a question with regard to one of the laws mentioned above. The baraita mentioned the case of a non-priest who served on Shabbat. The Gemara wonders: In what form of service did he perform in the Temple? If this is referring to a case where a non-priest performed the slaughtering of the sacrificial animal, there would be no prohibition, as the slaughtering by a non-priest is valid. And if it is referring to receiving the blood and carrying the blood to the altar, while this is a case where he would be liable as a non-priest performing the service of a priest, insofar as Shabbat is concerned this is a case only of moving, and it does not entail a violation of any prohibited labor.

²⁰⁸ If he served by burning the sacrificial portions on the altar, then this discussion follows the opinion of Rabbi Yosei, but didn't Rabbi Yosei say that the prohibition against kindling on Shabbat was singled out to teach that one who lights a fire on Shabbat merely violates a prohibition? This is as opposed to the other prohibited labors, which incur death penalties when violated willfully and entail the bringing of a sin-offering when violated unintentionally. Why, then, would Rabbi Yosei deem one liable for two sin-offerings?

²⁰⁹ Rav Aḥa bar Yaakov said: The service referred to in this case is the slaughtering of the High Priest's bull on Yom Kippur, and this is in accordance with the statement of the one who says that the slaughtering of the High Priest's bull is disqualified if performed by a non-priest, for this service is designated specifically for the High Priest alone. The Gemara asks: If so, that this is referring to the slaughtering of the High Priest's bull, then why specifically state a non-priest? The same would hold true even for a common priest as well. The Gemara answers: This is referring to one who is as a non-priest in relation to the High Priest and not to an actual non-priest. The Hebrew word *zar* literally means foreigner, and this type of service is considered foreign to a common priest as well as a non-priest.

²¹⁰ Rav Ashi strongly objects to this: The previous rejection that was based on the idea that the act of burning was not a full-fledged prohibited labor is in fact groundless. Is the tanna teaching how many sin-offerings would be incurred, or is he teaching how many negative mitzvot are being violated? Rather, he merely enumerates the prohibitions violated by a certain action, without detailing their severities, and therefore the desecration of Shabbat involved in the Temple service can be any Shabbat violation. The Gemara asks: What practical difference does it make how many prohibitions

are involved? The Gemara answers: It affects the decision whether or not to bury him among the completely wicked. If he violated two prohibitions, he is considered wicked on two counts and consequently must be buried accordingly.

²¹¹ MISHNA: In the case of two men who betrothed two women, and at the time that they entered the wedding canopy, after the betrothal, the men switched this wife with that wife and that one with this one, then these two men are liable for engaging in forbidden sexual relations with a married woman, since each of them had intercourse with his fellow's wife. The act of betrothal is sufficient to prohibit a woman to all other men as a married woman. Therefore, when the women were switched, both men transgressed this violation. And if they were brothers, then they are also liable for forbidden sexual relations with a brother's wife. And if these women were sisters, then they are liable for taking a wife and her sister as well. And if they were menstruating women, they would be liable for intercourse with a menstruating woman as well.

²¹² And following these forbidden sexual relations, we separate these women from their husbands for three months, lest they were impregnated by that forbidden act of intercourse. Doing so makes it possible to distinguish a child born of these relations, so that he could be rendered a mamzer. And if they were female minors and unable to bear children, then we immediately return them to their original husbands. And if they were daughters of priests, they are thereby disqualified from eating of teruma. By engaging in illicit sexual acts, they were rendered forbidden to priests and disqualified from eating teruma.

²¹³ GEMARA: In the mishna it states: They switched this one with that one. Are we dealing with such wicked individuals that they would intentionally switch their wives? And furthermore, consider that which Rabbi Ḥiyya taught on this subject: There are sixteen sin-offerings here, four sin-offerings for each of the men and four for each of the women. Yet, if they had acted intentionally would there be an offering? Sacrifices are brought only for unintentional acts. Rav Yehuda said: Teach instead they were switched, which indicates that the switching was not done intentionally; rather, the women were accidentally mixed up.

²¹⁴ The Gemara comments: This, too, stands to reason from the fact that the latter clause teaches: If they were female minors and unable to bear children, then we immediately return them. And if this had been done intentionally, would it be permitted to return a woman who had engaged in illicit sexual acts to her husband? The Gemara comments: This is not difficult and does not disprove the notion that the act was intentional. Even if the act was intentional, these women would be permitted to return to their husbands. This is because the seduction of a minor girl is considered rape, and after rape a woman is permitted to return to an Israelite husband.

²¹⁵ However, this can be derived from a different point that the mishna teaches: We separate these women from their husbands for three months, as perhaps they became pregnant. From here it can be deduced: Were it to become clear after three months that they are not pregnant, they are permitted to return to their husbands. And if they had acted intentionally, would this be permitted? Rather, must one not conclude from here that the mishna is referring to a case where they were switched inadvertently? The Gemara summarizes: Indeed, conclude from here that this is the case.

²¹⁶ The Gemara asks: According to Rabbi Ḥiyya, who teaches that this case incurs sixteen sin-offerings, who is this tanna who holds that a prohibition takes effect where another prohibition already exists for a more inclusive prohibition, an expanded prohibition, and a simultaneous

prohibition? If these men are brothers, the moment that one betrothed a woman, that woman was immediately rendered forbidden to the second brother both as a married woman and as his brother's wife. When the second brother betrothed her sister, this added the prohibition pertaining to his wife's sister. This is a more inclusive prohibition because, as a result of this betrothal, the second brother is prohibited from engaging in sexual intercourse not only with his wife's sister, who is his brother's wife, but also with all of her other sisters. When this woman becomes a menstruating woman, she is forbidden to her husband as well, which is an expanded prohibition. Consequently, the mishna includes examples of all three types of prohibitions and asserts that they all take effect in this case. Therefore, the Gemara wonders which tanna holds that in each of these cases the prohibition takes effect even where another prohibition exists.

²¹⁷ Rav Yehuda said that Rav said: This is the opinion of Rabbi Meir, as it is taught in a baraita: There is one who performs a single act of eating an olive-bulk of food, and he is liable to bring four sin-offerings and one guilt-offering.

²¹⁸ How so? This halakha applies to one who is ritually impure who ate forbidden fat that was notar from a consecrated offering, i.e., it remained after the time when it was permitted to eat it, and this occurred on Yom Kippur. One who did this is liable to bring one sin offering for eating consecrated food while impure, one for eating forbidden fat, one for eating notar, and one for eating on Yom Kippur. He is also liable to bring a guilt-offering for misuse of consecrated items. In this case, it was prohibited to eat the fat from the moment the animal was born. When the animal was consecrated, the prohibition against deriving benefit from it took effect on the entire animal, rendering this an expanded prohibition. When the priest became ritually impure and thereby prohibited from partaking of all sanctified foods, a more inclusive prohibition took effect. The moment the fat was rendered notar, it became prohibited to offer it on the altar as well, so that that is another instance of an expanded prohibition. Lastly, on Yom Kippur, an additional, more inclusive prohibition took effect because on Yom Kippur it is prohibited to eat all food, even that which is not consecrated.

²¹⁹ Rabbi Meir says: There is one more sin-offering for which he may be liable. If it was Shabbat and he carried this olive-bulk of food from one domain to another in his mouth, he is liable for carrying out on Shabbat. The Rabbis said to Rabbi Meir: Liability for the sin-offering that you added is not incurred from violation of the same type of prohibition. He is liable for carrying out the food, not for eating it. In this example, the prohibitions of Shabbat and Yom Kippur take effect at the same moment, and therefore this last case would be an instance of simultaneous prohibitions, and Rabbi Meir holds that they take effect as well. Therefore, this baraita demonstrates that Rabbi Meir holds that prohibitions take effect where other prohibitions already exist in all of these instances: More inclusive prohibitions, expanded prohibitions, and simultaneous prohibitions.

²²⁰ The Gemara continues to clarify the opinion of Rabbi Meir: And in accordance with whose opinion is the statement of Rabbi Meir? If you say that it is in accordance with the opinion of Rabbi Yehoshua, this is difficult. Didn't Rabbi Yehoshua say that one who erred with regard to a mitzva is exempt from bringing a sin-offering, i.e., one who unwittingly performed a transgression while intending to perform a mitzva is exempt from punishment? In the case in the mishna as well, the men intended to perform the mitzva of marriage but unwittingly violated a transgression because the wives were switched. Therefore, according to the opinion of Rabbi Yehoshua, they should be exempt from a sin-offering. Rather, this must be in accordance with the opinion of Rabbi Eliezer, who holds

that even if one mistakenly transgressed while attempting to perform a mitzva, he is still obligated to bring a sin-offering.

²²¹ If you wish, resolve this differently and say: Actually, this can be explained even according to the opinion of Rabbi Yehoshua. When Rabbi Yehoshua says that one who erred with regard to a mitzva is exempt, this applies only to the case of babies who were mixed up in such a way that on Shabbat the mohel mistakenly circumcised a baby whose time had not yet come for circumcision. Since the mohel did not fulfill the mitzva of circumcision, he should be liable for performing prohibited labor on Shabbat. However, Rabbi Yehoshua exempts him from a sin-offering since he is pressed for time. Because circumcision must be performed only on the day specified, he was rushed and anxious to perform the circumcision, and due to this sense of urgency he erred and thought that the proper time was on Shabbat. In this case in the mishna, however, where the mistake involved marriage, since the brothers were not pressed for time Rabbi Yehoshua does not deem the brothers exempt.

²²² The Gemara objects: And yet in the case of eating teruma, where one is not pressed for time and nevertheless Rabbi Yehoshua exempts him if the act involved a mitzva, as we learned in a mishna (Pesahim 72b): If a priest was partaking of teruma and it became known that he was the son of a divorced woman or the son of a ḥalutza and thereby disqualified from the priesthood and prohibited from eating teruma, Rabbi Eliezer deems him liable to pay the value of the principal and an additional fifth, like any non-priest who unwittingly ate teruma. However, Rabbi Yehoshua exempts him because at the time of consumption he intended to perform a mitzva, for he thought that he was a priest eating of the teruma.

²²³ The Gemara responds: But wasn't it stated with regard to that mishna: Rav Beivai bar Abaye said: Here we are dealing with leavened teruma that was being eaten by the priest on the eve of Passover, for he is pressed for time. In this case, he would rush to eat it so that it would not have to be burned.

²²⁴ The Gemara offers a different attribution of the mishna: And if you wish, say a different explanation: The mishna is not according to the opinion of Rabbi Meir, who deems one liable in cases of more inclusive prohibitions and expanded prohibitions. Rather, the mishna is referring only to cases of simultaneous prohibitions, and in accordance with the opinion of Rabbi Shimon.

²²⁵ The Gemara asks: Granted, with regard to all of the prohibitions in the mishna, you can find that they take effect simultaneously in the case where the men appointed a single agent to betroth the women for them, and the women appointed an agent to accept the betrothals for them, and one agent encounters the other agent. In this scenario, all the men become betrothed to all the women the moment that the agents meet, and the prohibitions all take effect simultaneously. However, with regard to the prohibition pertaining to menstruating women, how can you find the case where both women become menstruating women at the exact time of betrothal?

²²⁶ Rav Amram said that Rav said: This is referring to a situation where the women continuously discharge menstrual blood from within the thirteenth year of the brothers until after they reached the age of thirteen, in order to deem the men liable for the prohibition pertaining to a menstruating woman. At the moment that the boys reached maturity and the betrothals went into effect, the sisters were forbidden as menstruating women. And the women were continuously discharging blood from within the twelfth year of the women until after the age of twelve, in order to deem the women liable for engaging in relations as a menstruating woman. Therefore, if this took place in such a way that on

the exact day when the men reached maturity, i.e., their thirteenth birthday, the women reached maturity, i.e., their twelfth birthday, and at that moment they were menstruating, then all of the prohibitions would take effect simultaneously and they would be liable on all counts, according to Rabbi Shimon as well.

²²⁷ § The mishna taught that we separate these women from their husbands for three months, as perhaps they became pregnant. The Gemara asks: But isn't it known that a virgin woman does not become pregnant from her first sexual act? Rav Naḥman said that Rabba bar Avuh said: This is referring to a situation where they engaged in intercourse and then repeated the act, so that it is possible that the women were impregnated during the second act of intercourse. The Gemara asks: But if this is so, how can one explain that which Rabbi Ḥiyya teaches: Here, then, are sixteen sin-offerings? If there were indeed two acts of intercourse, then there should be thirty-two sin-offerings, since each prohibition was violated twice.

²²⁸ The Gemara answers: And according to your reasoning, that Rabbi Ḥiyya's enumeration of sin-offerings applies to all acts of intercourse, then according to the opinion of Rabbi Eliezer, who deems one liable to bring a sin-offering for each and every thrusting movement during a single act of intercourse, there would be many prohibitions that were violated. This would greatly multiply the number of sin-offerings required. Rather, it must be that Rabbi Ḥiyya, with regard to Rabbi Eliezer's opinion, is enumerating only the first thrusting movement in the intercourse. And so too, with regard to the Rabbis' opinion, he is enumerating only the first act of intercourse. If there were two acts of intercourse, however, the number of sin-offerings would be doubled.

²²⁹ Rava said to Rav Naḥman:

²³⁰ But didn't Tamar become pregnant from the first act of intercourse, despite the fact that she was a virgin at the time of her sexual act with Judah? Rav Naḥman said: Tamar broke her hymen with her finger prior to intercourse, and it is due to this that she became pregnant from the first act of intercourse, as Rabbi Yitzḥak said: All of those women from the household of Rabbi Yehuda HaNasi who break their hymens are named Tamar by nickname. And why are they named Tamar? They are called this on account of Tamar, who broke her hymen with her finger. The Gemara wonders about the proof from Tamar itself: But weren't there Er and Onan, her previous husbands, who presumably engaged in sexual intercourse with her? The Gemara responds: Er and Onan engaged in sexual intercourse in an atypical manner, i.e., anal intercourse, and therefore she was still a virgin.

²³¹ The Gemara raises an objection from a baraita: After a woman gives birth, her husband penetrates inside and spills his semen outside for the entire twenty-four months during which the baby is breastfeeding, so that his wife not become pregnant, as that would terminate her milk production and the child might die. This is the statement of Rabbi Eliezer. They said to him: These acts are nothing other than acts similar to those of Er and Onan, which are prohibited. Regardless, it can be deduced from here that Er and Onan engaged in normative sexual intercourse with Tamar, only they did not fully complete the sexual act.

²³² The Gemara answers: The Tosefta actually means that what they did was similar to the act of Er and Onan in some ways, but not similar to the act of Er and Onan in other ways. The Gemara elaborates: It was similar to the act of Er and Onan in that there was a spilling of semen, as it is written: "And it came to pass when he had intercourse with his brother's wife, that he spilled it on the ground" (Genesis 38:9). Yet it was not similar to the act of Er and Onan, as there Er and Onan

engaged in sexual intercourse in an atypical manner, i.e., anal intercourse, while here the Tosefta is referring to sexual intercourse in a typical manner.

²³³ The Gemara continues to clarify what took place: Granted, Onan engaged in unnatural sexual intercourse with her, as it is written with regard to his act: “That he spilled it on the ground” (Genesis 38:9). However, from where do we derive that Er engaged in unnatural sexual intercourse with her? Rav Naḥman bar Yitzḥak said: As it is written with regard to Onan: “And He slew him also” (Genesis 38:10). This indicates that he, too, died the same death for performing the same transgression as his brother. The Gemara asks: Granted, Onan engaged in anal intercourse because he did not want Tamar to give birth as “he knew that the seed would not be his” (Genesis 38:9). However, with regard to Er, what is the reason he acted in this way? The Gemara responds: He did so in order that she not become pregnant and become less beautiful as a result of her pregnancy.

²³⁴ The Sages taught: The verse states: “And the woman, with whom a man shall lie giving seed, they shall both bathe themselves in water, and be unclean until the evening” (Leviticus 15:18). The extra term “with whom” comes to exclude a bride who does not become ritually impure; this is the statement of Rabbi Yehuda. And the Rabbis say: It excludes the case of sexual intercourse performed in an atypical manner. Hon, son of Rav Naḥman, said to Rav Naḥman: Shall we say that Rabbi Yehuda holds: The Torah spared a bride’s adornments, including her make-up, and therefore exempted her from submersion in water, as that might cause them ruin? Rav Naḥman said to him: That is not the reason. Rather, it is because a woman does not become pregnant from the first act of intercourse. Therefore, that act of intercourse would not cause ritual impurity, as it is not considered intercourse that can result in the implanting of seed.

²³⁵ The Gemara asks: With regard to what do Rabbi Yehuda and the Rabbis disagree? The Rabbis hold that the phrase “giving seed” excludes the initial stage of intercourse, during which there is no emission of semen. And the extra phrase “with whom” excludes intercourse that is performed in an atypical way. Rabbi Yehuda, on the other hand, holds that the exclusion of both atypical sexual intercourse and the initial stage of intercourse were derived from the phrase “giving seed,” as neither of these are sexual acts that might bring about the birth of a seed, i.e., a child. The phrase “with whom” then excludes a bride.

²³⁶ On the topic of intercourse that cannot result in conception, the Gemara relates the following: When Ravin came from Eretz Yisrael to Babylonia, he said that Rabbi Yoḥanan said: Any woman who waits after her husband has died or divorced her for ten years without intercourse and is then married can no longer bear children. Rav Naḥman said: They taught this principle only with regard to cases where she did not intend to get married at a later time, but if she intended to get married at some point, she can become pregnant later on. Rava said to his wife, the daughter of Rav Ḥisda: The Sages are gossiping about you. From the time she was widowed from her first husband until the time that she was married to Rava, more than ten years passed, yet she bore him children. It seemed as though she had engaged in intercourse in the meantime. She said to him: My mind was on you. Indeed, it is told that already as a young girl she prophesized that she would marry Rava.

²³⁷ The Gemara relates: A certain woman who came before Rav Yosef said to him: My teacher, I waited after my husband’s death for ten years, and nevertheless I gave birth. He said to her: My daughter, do not cast aspersions on the statement of the Sages. She said to him in confession: I had sexual intercourse with a gentile during those ten years.

²³⁸ § Shmuel said: And all of those women who had sexual intercourse, and there is therefore a concern that they might be pregnant, must wait three months before marrying so as to differentiate between a child born from the previous intercourse and a child born from this marriage, except for a female convert who is a minor and a female released slave who is a minor. Although it is possible that they had sexual intercourse, they cannot become pregnant in any case. However, a female Israelite who was a minor and had intercourse must wait three months like all other women.

²³⁹ The Gemara asks: And with regard to what situation is this statement referring? If it is referring to a minor who was released from her marriage by refusal, as a minor girl who was married to a man by her mother or brothers may refuse to remain married to her husband until reaching majority, but didn't Shmuel say that she is not required to wait three months? And if it is referring to a woman who received a bill of divorce as a minor, didn't Shmuel already state this halakha one time? Why would he repeat this ruling, as Shmuel said: A female minor who refused her husband need not wait three months before her second marriage, but if he gave her a bill of divorce, she must wait three months, so as not to make a distinction between an adult divorcée and a minor divorcée. Rather, it must be that this is referring to a female minor who was involved in licentious sexual intercourse.

²⁴⁰ And, although there is no possibility for her to become pregnant, the Sages issued a rabbinic decree requiring the three month waiting period for a female minor due to this requirement for a female adult who engaged in promiscuous sexual acts.

²⁴¹ The Gemara asks: And do we issue a decree with regard to a female minor due to the ruling for a female adult? But didn't we learn in the mishna: If they were female minors who could not bear children, we return them immediately to their husbands? This indicates that there is no concern for pregnancy, and the Sages did not issue a decree in this case. Rav Giddel said that Rav said: This was a provisional edict issued in exigent circumstances, and therefore one cannot extrapolate from the case in the mishna to other situations. The Gemara wonders: Can one assume by inference that there was such an occurrence? It would seem from the mishna that this was merely a possibility and not an actual occurrence, for if it actually happened it would have been appropriate for the mishna to relate the actual case. Rather, the ruling in the mishna is like a provisional edict in that switching of wives, such as described in the mishna, is uncommon, and in cases that are not common, the Sages do not issue a decree. Therefore, in the case of the mishna, the female minors were not required to wait.

²⁴² Some say another version of what was taught: Shmuel said: All women must wait three months, except for a female convert who is an adult and a freed maidservant who is an adult; these women need not wait. However, an Israelite female minor need not wait three months in any case. The Gemara clarifies: With regard to what situation is this statement referring? If it is referring to a female minor released from her marriage by refusal, it would be superfluous, as didn't Shmuel already state this halakha one time? If it is referring to a woman released by a bill of divorce, but didn't Shmuel say that in that case she is required to wait, as Shmuel said: If she refused him she need not wait three months, but if he gave her a bill of divorce, she must wait three months? Rather, this is referring to cases of promiscuous sexual intercourse, and an occurrence of promiscuous sexual intercourse with female minors is uncommon, and the Sages did not issue rabbinic decrees in uncommon instances.

²⁴³ The Gemara suggests: Let the Sages issue a decree requiring a female convert and a released maidservant to wait three months, as at the time that one was a gentile and the other a maidservant,

promiscuous sexual intercourse was common for them. The Gemara responds: Shmuel stated his halakhic ruling in accordance with the opinion of Rabbi Yosei, as it is taught in a baraita: In the case of the female convert; and the captured woman, who is suspected of having been raped during her imprisonment; and the maidservant, who were redeemed or who were converted or who were released, must wait three months prior to marriage. This is the statement of Rabbi Yehuda. Rabbi Yosei allows them to be betrothed and married immediately. Rabba said: What is the reasoning of Rabbi Yosei? He holds that a woman who engages in promiscuous sexual intercourse uses a contraceptive resorbent that she places at the opening of her womb so as not to become impregnated. Therefore, there is no concern that she might be pregnant.

²⁴⁴ Abaye said to him: Granted, a female convert does this. Since she is determined to convert, she guards herself so as not to be impregnated while still a gentile in order to distinguish between children conceived in sanctity, i.e., after her conversion, and children conceived out of sanctity. A captured woman and a maidservant would also be cautious because they hear from their masters that they are about to be redeemed or that they are about to be released, and they guard themselves so as not to be impregnated. However, with regard to a maidservant who is released due to damage caused her by her masters, i.e., loss of one of her extremities such as a tooth or an eye, how can you find a case where there is no concern for her becoming impregnated? Since she could not have known in advance that she would be released, she would have had no reason to be careful not to become pregnant.

²⁴⁵ And if you would say that in any case where the situation occurs by itself, as in the case where a woman was unaware of her pending release, Rabbi Yosei concedes that she must indeed wait, this is difficult. But didn't we learn in a mishna: A woman who was raped and a woman who was seduced must wait three months as perhaps she became pregnant; this is the statement of Rabbi Yehuda. Rabbi Yosei permits her to be betrothed and to be married immediately. Clearly, a woman who was raped could not have prepared herself ahead of time so as not to become pregnant.

²⁴⁶ Rather, Abaye said: A woman who engages in promiscuous sexual intercourse turns over following intercourse, trying to prevent the absorption of the semen, so as not to become pregnant. Maidservants act in a similar manner. The Gemara asks: If indeed she tries not to become pregnant, how then would the other opinion, that of Rabbi Yehuda, explain why she must wait three months? The Gemara responds: We are concerned that perhaps she did not turn over well enough and therefore became pregnant.

²⁴⁷ § With regard to the case of two betrothed women who were switched at the time they entered the wedding canopy, the mishna states: And if they were daughters of priests, they are disqualified from partaking in teruma. The Gemara asks: Does this indicate that with regard to the daughters of priests, yes, they are disqualified from partaking in teruma, but with regard to the daughter of an Israelite, no, she would not be disqualified? It would seem that an Israelite woman married to a priest should most certainly be disqualified from eating of her husband's teruma. The Gemara answers: Rather, say: If they were the wives of priests then they are disqualified. The Gemara questions this formulation: Does this indicate that with regard to the wives of priests, yes, they are disqualified, but with regard to the wives of Israelites, no, they are not disqualified, and if their husbands died, they would be suitable for marriage to the priests?

²⁴⁸ The Gemara objects to this: But didn't Rav Amram say: Rav Sheshet said this matter to us, and he lit our eyes by showing us that this ruling is indicated from what was stated in the mishna (Yevamot 53b). He said: The wife of an Israelite who was raped, even though she is permitted to return to her husband, she is nevertheless disqualified from the priesthood. If her husband later dies, she may not marry a priest, for although she is permitted to her husband the rape disqualified her for matters of priesthood.

²⁴⁹ Rava resolved this and said: This is what the tanna is saying in the mishna: If they were daughters of priests who were married to an Israelite, they are disqualified from the teruma that is from the household of their fathers, so that if their husbands die while they are childless, they may not go back to eat of the teruma in the house of their fathers. While other childless daughters of priests are again qualified to eat of the teruma the moment they leave their Israelite husbands, these women were disqualified by their act of forbidden sexual intercourse.

Chapter 4

¹ MISHNA: When a man who has a brother dies childless, his widow [yevama] and one of his brothers [yavam] may perform a ritual through which she is freed of her levirate bonds [ḥalitza]. It is then considered, with regard to forbidden relationships, as though they had been married and divorced. Therefore, he is forbidden to her relatives, and she to his. However, with regard to one who performs ḥalitza with his yevama and then she is found to have been pregnant at the time of the ḥalitza and she gave birth, in the event that the offspring is viable, the deceased husband has been survived by offspring and so there was never any levirate bond; consequently, the ḥalitza that was performed was entirely unnecessary and a meaningless act. As such, he remains permitted to her relatives and she remains permitted to his relatives. Furthermore, since the ḥalitza was meaningless, she is not afforded the status of a ḥalutza, i.e., a yevama who performed ḥalitza, a status akin to that of a divorcée. Therefore, the ḥalitza does not disqualify her from marrying into the priesthood.

² If the offspring is not viable, then it emerges that the ḥalitza was indeed necessary. Therefore, he is forbidden to engage in relations with her relatives and she is forbidden to engage in relations with his relatives, as though they had been married and divorced, and the ḥalitza disqualifies her from marrying into the priesthood, as she is afforded the status of a ḥalutza.

³ With regard to one who consummates the levirate marriage with his yevama, i.e., he had intercourse with her under the assumption that there is a levirate bond and so there is a mitzva to do so, and then she is found to have been pregnant at the time of the intercourse and she gave birth, in the event that the offspring is viable the deceased brother has been survived by offspring and it is evident that there was never any levirate bond. In that case, the relations they had, rather than being a mitzva, were a violation of the prohibition against engaging in relations with one's brother's wife. Therefore, the yavam must send her out, i.e., they must separate, as she is forbidden to him as his brother's wife, and to atone for the forbidden relations that they had, they are each obligated to bring a sin-offering, as is the halakha for all who inadvertently transgress a prohibition that, when performed intentionally, is punishable by karet.

⁴ And if the offspring is not viable, and therefore there was in fact a levirate bond, he may maintain her as his wife since his intercourse with her was a valid consummation of levirate marriage.

⁵ If they consummated the levirate marriage and seven months later she gave birth, there is uncertainty whether the child is nine months old, i.e., counting from conception, and is the offspring of the first husband, and as such there was no levirate bond, or whether the child is only seven months old and is the offspring of the latter husband, i.e., the yavam, and not of the deceased, in which case there was a levirate bond. In that case, due to the possibility that she is forbidden to him as his brother's wife, he must send her out. However, the lineage of the child is unflawed, since regardless of whether it was born of the first or second husband, there was no transgression involved in its conception. Furthermore, to atone for the possibility that they had forbidden relations they are both obligated to bring a guilt-offering for uncertainty, as is the halakha for anyone who is uncertain whether they inadvertently transgressed a prohibition that would require one to bring a sin-offering.

⁶ GEMARA: An amoraic dispute was stated with regard to one who performs ḥalitza with a pregnant woman and she later miscarried. Since she miscarried, she was certainly bound to the yavam by a levirate bond and may not marry anyone else; rather, she is obligated to consummate the levirate marriage or perform ḥalitza. The question is whether the ḥalitza that was performed while she was still pregnant is effective in releasing her from the levirate bond. Rabbi Yoḥanan said: She does not require another ḥalitza from the brothers. Reish Lakish said: She requires another ḥalitza from the brothers.

⁷ The Gemara elaborates: Rabbi Yoḥanan said that she does not require another ḥalitza from the brothers because he holds: Ḥalitza performed with a pregnant woman who later miscarries is considered effective ḥalitza in order to release her from the levirate bond. And similarly, intercourse with a pregnant woman who later miscarries is considered a valid consummation of levirate marriage through intercourse, such that she and the yavam are considered to be married. And Reish Lakish said she requires another ḥalitza from the brothers because he holds: Ḥalitza performed with a pregnant woman is not considered effective ḥalitza, and intercourse with a pregnant woman is not considered a valid consummation of levirate marriage through intercourse. Therefore, after she miscarries, another ḥalitza must be performed in order to release her from the levirate bond.

⁸ With regard to what principle do they disagree? If you wish, say that they disagree over the interpretation of a verse. And if you wish, say that they disagree on a point of logical reasoning.

⁹ If you wish, say that they disagree over a point of logical reasoning in that Rabbi Yoḥanan holds: If Elijah the prophet were to come at the moment of the ḥalitza and say that this woman who is pregnant will miscarry, is she not eligible for ḥalitza or levirate marriage, even though she is currently pregnant, since her husband died and will not be survived by offspring? Now, too, even though when the ḥalitza or levirate marriage is performed it is not known whether or not she will miscarry, the matter will be revealed retroactively, i.e., if she ultimately miscarries then it is apparent the ḥalitza or levirate marriage was always necessary and is therefore valid.

¹⁰ And Reish Lakish said: We do not say that the matter will be revealed retroactively in order to validate the levirate marriage or ḥalitza. Since at the time of the levirate marriage or ḥalitza it was still unknown whether she would miscarry, the act is considered premature and ineffective.

¹¹ And if you wish, say that they disagree over the interpretation of a verse in that Rabbi Yoḥanan holds: The Merciful One states in the Torah: "If brothers dwell together, and one of them dies, and he

has no child” (Deuteronomy 25:5), i.e., the obligation to consummate a levirate marriage or perform ḥalitza applies whenever a husband dies and is not survived by offspring. And this man, whose wife is currently pregnant, does not have any children who will survive him. Therefore, there is an obligation to consummate a levirate marriage or perform ḥalitza, and if done, they will be effective. And Reish Lakish holds: The phrase “and he has no [ein] child” is expounded by the Sages to teach that one should inspect [ayein] him carefully to determine if he is survived by offspring of any form, and currently he is in fact survived by the fetus. Therefore, there is currently no obligation to consummate a levirate marriage or perform ḥalitza, and consequently, even if done, they are ineffective.

¹² Rabbi Yoḥanan raised an objection to the opinion of Reish Lakish from the mishna: If ḥalitza was performed with a pregnant woman, and the offspring is not viable, then he is forbidden to her relatives and she is forbidden to his relatives, and the ḥalitza disqualifies her from the priesthood. Rabbi Yoḥanan explains the challenge: Granted, according to my opinion, as I say that ḥalitza performed with a pregnant woman who later miscarries is considered effective ḥalitza, it is due to that reason that the ḥalitza disqualifies her from the priesthood. However, according to your opinion, as you say that ḥalitza performed with a pregnant woman is not considered effective ḥalitza, why should the ḥalitza disqualify her from the priesthood? According to your opinion, shouldn't the ḥalitza be entirely disregarded?

¹³ Reish Lakish said to Rabbi Yoḥanan: Indeed, by Torah law the ḥalitza is to be entirely disregarded. The mishna's ruling that she is disqualified from the priesthood is by rabbinic decree and is merely a stringency lest people not realize that she was pregnant and think that a ḥalitza is permitted to marry a priest.

¹⁴ There are those who say an alternate version of the dispute: Reish Lakish raised an objection to the opinion of Rabbi Yoḥanan from the mishna: If ḥalitza was performed with a pregnant woman and the offspring is not viable, then he is forbidden to her relatives and she is forbidden to his relatives, and the ḥalitza disqualifies her from the priesthood. Reish Lakish explains the challenge: Granted, according to my opinion, as I say that ḥalitza performed with a pregnant woman is not considered effective ḥalitza, this is consistent with that which is taught in the mishna: The ḥalitza disqualifies her from the priesthood, which should be understood as a rabbinic stringency, and it is understandable that the mishna does not teach: She does not require another ḥalitza from the brothers, because according to my opinion, once she miscarries, she does indeed require another ḥalitza from the brothers.

¹⁵ However, according to your opinion that ḥalitza performed with a pregnant woman is an effective ḥalitza, the mishna should have taught the full extent of her permissible status, i.e., that she does not even require another ḥalitza from the brothers after she miscarries because the original ḥalitza was effective. Rabbi Yoḥanan said to Reish Lakish: Yes, it is indeed so that she does not require another ḥalitza from the brothers, but since the first clause taught: The ḥalitza does not disqualify her from the priesthood, therefore the latter clause taught: The ḥalitza disqualifies her from the priesthood, in order to directly contrast with the first clause rather than teach the greater novelty.

¹⁶ Rabbi Yoḥanan raised an objection to the opinion of Reish Lakish from the mishna: If a yavam had intercourse with his yevama, who was pregnant, and the offspring is not viable, and therefore she was bound by a levirate bond, he may maintain her as his wife. Rabbi Yoḥanan explains the

challenge: Granted, according to my opinion, as I say ḥalitza performed with a pregnant woman is considered effective ḥalitza, and similarly, intercourse with a pregnant woman is considered a valid consummation of levirate marriage through intercourse, it is due to that reason that the mishna teaches: He may maintain her as his wife, because the levirate marriage was indeed valid.

¹⁷ However, according to your opinion, as you said that ḥalitza performed with a pregnant woman is not considered effective ḥalitza, and intercourse with a pregnant woman is not considered a valid consummation of levirate marriage through intercourse, the mishna should have taught that he should proceed to engage in intercourse with her again in order to consummate the levirate marriage and only then may he maintain her as his wife. Reish Lakish responded: What is the intention of the mishna when it teaches: He may maintain her as his wife? Perforce it means that he should proceed to engage in intercourse again with her and then he may maintain her as his wife, as any other way is insufficient to release her from the levirate bond. Therefore, it is unnecessary for the mishna to teach this explicitly.

¹⁸ There are those who say an alternate version of the dispute: Reish Lakish raised an objection to the opinion of Rabbi Yoḥanan from the mishna: If a yavam had intercourse with his yevama, who was pregnant, and the offspring is not viable, and therefore she was bound by a levirate bond, he may maintain her as his wife. Reish Lakish explains how the mishna poses a challenge to Rabbi Yoḥanan's opinion: Granted, according to my opinion, as I say that ḥalitza performed with a pregnant woman is not considered effective ḥalitza, and intercourse with a pregnant woman is not considered a valid consummation of levirate marriage through intercourse, this is consistent with that which is taught in the mishna: He may maintain her as a wife, which perforce means he should proceed to engage in intercourse with her again and then he may maintain her as his wife, as any other way is insufficient to release her from the levirate bond without this additional intercourse.

¹⁹ However, according to your opinion that intercourse with a pregnant woman is considered a valid consummation of levirate marriage and therefore she is certainly considered to be his wife, the mishna should have taught: If he wishes he may send her out, through divorce, or if he wishes he may maintain her as a wife. Rabbi Yoḥanan replied: Yes, it is indeed so, but since the first clause taught: He should send her out, therefore the latter clause taught: He may maintain her as a wife, in order to directly contrast the first clause, rather than teach the full halakha with all its details.

²⁰ The Gemara raises an objection to the opinion of Rabbi Yoḥanan from a baraita: In the case of one who consummates the levirate marriage with his yevama, and he does so under the assumption that there is a levirate bond and he is obligated to consummate a levirate marriage with her, and then she is found to have been pregnant at the time of the intercourse, a rival wife of this yevama may not marry, lest the offspring be viable. Before explaining the challenge, the Gemara notes that the reasoning of the baraita appears flawed: On the contrary, when the offspring is viable, that is a reason for her rival wife to be released from the levirate bond, and she should be able to marry any man. Rather, emend the baraita and say: Lest the offspring not be viable.

²¹ The Gemara now explains how the baraita poses a challenge to Rabbi Yoḥanan's opinion: And if it enters your mind to say that intercourse with a pregnant woman is considered a valid consummation of levirate marriage through intercourse, why should her rival wife not be permitted to marry? Indeed, her rival wife should be released from the levirate bond by virtue of the intercourse of her fellow wife. If the deceased had several rival wives, all of them become bound by the levirate bond.

However, it is sufficient for one of them to either consummate a levirate marriage or perform ḥalitza in order to release the rest of them from their bond and thereby permit them to marry any man.

²² The Gemara defends Rabbi Yoḥanan's opinion: Abaye said that the opinion ascribed to Rabbi Yoḥanan above is not an accurate portrayal of his opinion. Rather, with regard to intercourse with a yevama who is pregnant at the time, everyone agrees that it does not release her and her rival wives from the levirate bond; when they disagree it is only with regard to whether ḥalitza performed with a yevama who is pregnant at the time is effective in releasing her and her rival wives from the levirate bond.

²³ Abaye continues to explain his opinion: Rabbi Yoḥanan holds that ḥalitza with a pregnant woman is considered effective ḥalitza, but intercourse with a pregnant woman is not considered a valid consummation of levirate marriage through intercourse and therefore does not release her and her rival wives from the levirate bond. And Reish Lakish holds that intercourse with a pregnant woman is not considered a valid consummation of levirate marriage through intercourse, and ḥalitza with a pregnant woman is not considered effective ḥalitza. Therefore, the baraita cited above does not pose a challenge, since all agree that intercourse with a pregnant woman will not free her or her rival wives from the levirate bond.

²⁴ Rava said to him: Whichever way you look at it, one cannot differentiate between the validity of consummating the levirate marriage through intercourse and the validity of ḥalitza. If intercourse with a pregnant woman is considered a valid consummation of levirate marriage through intercourse because if she miscarries it is apparent that there was always an obligation to perform levirate marriage or ḥalitza, then perforce ḥalitza with a pregnant woman should also be considered effective ḥalitza. And if intercourse with a pregnant woman is not considered a valid consummation of levirate marriage through intercourse because in her currently pregnant state there is no obligation to perform levirate marriage or ḥalitza, then perforce ḥalitza with a pregnant woman should also not be considered effective ḥalitza. As we maintain

²⁵ that anyone who is eligible for levirate marriage is eligible for ḥalitza and anyone who is not eligible for levirate marriage is not eligible for ḥalitza. Therefore, the original understanding of Rabbi Yoḥanan's opinion, that both the intercourse and the ḥalitza of a pregnant woman are valid, was accurate.

²⁶ Rava therefore provides a different defense of Rabbi Yoḥanan's opinion: Rather, Rava said that this is what the baraita is saying: In the case of one who consummates the levirate marriage with his yevama under the assumption that there is a mitzva to do so, and then she is found to have been pregnant at the time of the intercourse, a rival wife of this yevama may not marry lest the offspring be viable, and intercourse with a woman pregnant with viable offspring is not considered a valid consummation of levirate marriage through intercourse, and ḥalitza of a woman pregnant with viable offspring is not considered effective ḥalitza. And furthermore, even if the offspring is viable, it does not release her and her rival wives from the levirate bond until it comes into the air of the world, i.e., until it is actually born.

²⁷ It is taught in a baraita in accordance with the opinion of Rava: In the case of one who consummates a levirate marriage with his yevama, and then she is found to have been pregnant at the time of the intercourse, a rival wife of this yevama may not marry lest the offspring be viable. This is because intercourse or ḥalitza with a woman pregnant with viable offspring does not release a

yevama from the levirate bond; rather, the offspring releases her. And furthermore, even if the offspring is viable, it does not release her and her rival wives from the levirate marriage bond until it comes into the air of the world.

²⁸ The Gemara explains that the baraita appears to contradict Reish Lakish's opinion: According to the baraita, the only reason that levirate marriage with the pregnant yevama does not permit the rival wife to marry is as the baraita stated: Lest the offspring be viable. By inference, were the offspring not viable, her rival wife would be released from the levirate bond. If so, let us say that this baraita is a conclusive refutation of the opinion of Reish Lakish.

²⁹ The Gemara defends Reish Lakish's opinion: Reish Lakish could have said to you: This is what the baraita is teaching: In the case of one who consummates a levirate marriage with his yevama, and then she was found to have been pregnant at the time of the intercourse, a rival wife of this yevama may not marry lest the offspring not be viable, which would mean that all the rival wives are bound by the levirate bond. And even if one of those wives has intercourse or performs *ḥalitza* with the yavam, it would be ineffective in releasing them from the levirate bond because *ḥalitza* with a pregnant woman is not considered effective *ḥalitza*, and intercourse with a pregnant woman is not considered a valid consummation of levirate marriage through intercourse.

³⁰ Reish Lakish explains the need for the final clause of the baraita: And even if you say: Let the wives marry without the need for any levirate marriage or *ḥalitza* because one should follow the majority of women, and the majority of women give birth to a full-fledged, i.e., viable, offspring, and therefore one should presume no levirate bond exists, to counter this claim the baraita concludes: Even if the offspring will be viable, an offspring does not release a yevama and her rival wives from the levirate bond until it comes into the air of the world.

³¹ Rabbi Elazar said: Is it possible that there is halakhic acceptance of this opinion of Reish Lakish and it was not hinted to by something taught in the Mishna? He went out of the study hall, carefully checked the mishnayot, and found one that supported Reish Lakish's opinion, as we learned in a mishna: In the case of a woman whose husband and rival wife went overseas, and then witnesses came and said to her: Your husband died, and her husband had a brother, this woman may neither marry someone other than his brother, nor may she enter into levirate marriage with that brother, until she knows whether perhaps her rival wife is pregnant. If she discovers that her rival wife is not pregnant, she would then be able to perform levirate marriage or *ḥalitza*. If she discovers her rival wife is pregnant, she would have to wait to see if the pregnancy is viable. If it is found to be viable, only at that point would she be permitted to marry someone else.

³² Rabbi Elazar explains how this mishna supports Reish Lakish's opinion: Granted, she may not enter levirate marriage as perhaps her rival wife is pregnant and the offspring will be viable, and therefore by consummating the levirate marriage the yavam would encounter the Torah prohibition against engaging in relations with one's brother's wife. But why may she not perform *ḥalitza*? Granted, she may not perform *ḥalitza* during the first nine months following her husband's death and then proceed to also marry during those nine months; this is prohibited due to the fact that there is the uncertainty whether her rival wife is pregnant with viable offspring, in which case she would be released from the levirate bond.

³³ But let her perform *ḥalitza* during the first nine months following her husband's death and then wait to marry until after those nine months. By that point in time, even if the rival wife was pregnant

she would have already given birth. If the offspring was viable, then it emerges that there was never a levirate bond, and if it is not viable, then she was released from her levirate bond through the ḥalitza she performed. Either way, she would now be permitted to remarry. Why, then, does the mishna not consider this possibility? Rabbi Elazar claims that the only explanation for this is if the mishna assumes that ḥalitza performed while one of the wives of the deceased is pregnant is not effective. As such, the mishna is a proof for Reish Lakish's opinion.

³⁴ The Gemara rejects Rabbi Elazar's proof: But even according to your reasoning that ḥalitza with a pregnant woman is not effective, the mishna should have considered an additional possibility: Let her perform ḥalitza and marry, doing both after nine months have passed since the death of her husband. Doing so should be effective according to both Reish Lakish and Rabbi Yoḥanan.

³⁵ Rather, the discussion of this topic should be held apart from that mishna, as the true reason for that mishna's ruling is as it is Abaye bar Abba and Rav Ḥinnana bar Abaye who both say that she is prohibited from performing ḥalitza while one of the wives of the deceased is pregnant because perhaps the offspring will be viable, in which case any ḥalitza performed would be entirely unnecessary and therefore meaningless, and she would remain permitted to marry into the priesthood, as the opening mishna of the chapter rules. However, in this situation people might not realize that the ḥalitza she performed was meaningless, and they would think she is a ḥalutza, who is prohibited from marrying a priest. And it would therefore emerge that if she were allowed to perform ḥalitza while pregnant, it is possible that you will ultimately require a public announcement to be made for her to attest to the fact that she is in fact still permitted to marry into the priesthood.

³⁶ The Gemara wonders why this poses a problem: But why not let her perform ḥalitza while still pregnant, and then if it becomes necessary, require a public announcement to be made for her? The Gemara explains why one should avoid having to rely on a public announcement: Perhaps there were some people who were present at the ḥalitza and were not present at the public announcement, and when the courts permit her to marry a priest they might come to say that they are permitting a ḥalutza to marry a priest.

³⁷ Abaye suggests another rejection of Rabbi Elazar's proof from that mishna: Abaye said to Rabbi Elazar: The very formulation of the mishna refutes Reish Lakish's opinion, as does the mishna teach that she may neither perform ḥalitza nor enter into levirate marriage? No, the mishna teaches only that she may neither be married nor enter into levirate marriage, which implies only that she may not marry without first performing ḥalitza, but if the yavam performs ḥalitza with her, she would indeed be permitted to marry after nine months have passed since her husband's death. This understanding of the mishna undermines the basis of Rabbi Elazar's proof from the mishna.

³⁸ Even if that mishna does not support Reish Lakish's opinion, nevertheless it is taught in a baraita in accordance with the opinion of Reish Lakish: In the case of one who performs ḥalitza with a pregnant woman and she miscarries, she requires another ḥalitza with the brothers in order to release her from the levirate bond. The baraita assumes that the original ḥalitza is ineffective because it was done while she was still pregnant, which is in accordance with the opinion of Reish Lakish.

³⁹ Rava said: The halakha is in accordance with the opinion of Reish Lakish in these three disputes: One, this dispute that we already stated with regard to the ḥalitza of a pregnant woman. The other dispute concerns that which we learned in a mishna: In the case of one who verbally divides up his possessions among his descendants, stating how he wishes his estate to be divided after his death, if

he increases the proportion of his estate that should go to one of his children or decreases the proportion of his estate that should go to another one of his children, or if he equally distributes between them the double portion of the firstborn, then his words are binding.

⁴⁰ But if he said explicitly that the receipt of those portions should be considered as an inheritance, then it is as though the verbal division of his property that he said is nothing, i.e., it is non-binding, since his words directly contradict the halakhot of inheritance as they are written in the Torah. However, if he wrote a will and somewhere therein he wrote, whether at the beginning, whether at the end, or whether in the middle, that the receipt of the portions should be considered as a gift, as opposed to an inheritance, then his words are binding.

⁴¹ Reish Lakish and Rabbi Yoḥanan dispute whether one must state that the receipt of the portions should be considered as a gift with regard to each recipient, or whether stating it with regard to one of them is enough to indicate that it is true for all. And Reish Lakish said: The inheritors will only ever acquire the portions as defined by the owner of the possessions once he says: So-and-so and so-and-so shall inherit such and such a field and such and such a field that I have given to them as a gift, and they shall inherit them, i.e., he must state explicitly for each recipient that their receipt of the portions should be considered a gift. Rava ruled that in this dispute as well, the halakha is in accordance with Reish Lakish.

⁴² And the other dispute concerns that which we learned in a mishna: In the case of one who writes a bill transferring ownership of all of his possessions to his son stating that the transfer should take effect immediately so that the son should gain the rights to use the possessions after his death, then although the father retained for himself the right to use the possessions until his death, he is unable to sell the possessions due to the fact that he gave them to the son, and the son is unable to sell the possessions due to the fact that they are still in the father's possession. If the father sold the possessions, then they are sold to the extent that the purchaser may use them until the father dies. If the son sold the possessions during his father's lifetime, the purchaser does not receive any rights to use the possessions until the father dies.

⁴³ And an amoraic dispute was stated in the case in which the son sold the possessions during the father's lifetime, and then the son died during the father's lifetime, following which the father died as well. Rabbi Yoḥanan said: The purchaser does not acquire anything, and Reish Lakish said: The purchaser does acquire the possessions.

⁴⁴ The Gemara explains their reasoning: Rabbi Yoḥanan said that the purchaser does not acquire anything, because he holds that the ownership of the rights to an item and its produce is tantamount to the ownership of the item itself, i.e., the actual title to it. Since the father retained the rights to use the possessions until his death, as long as he lives he is considered to hold the title to them. Therefore, the son's sale can be effective only after the father's death, at which point the son becomes the title owner. However, if the son dies first, then since he never gained the title to the items, his sale can never come to fruition.

⁴⁵ And Reish Lakish said: The purchaser does acquire the possessions, as Reish Lakish holds that the ownership of the rights to an item and its produce is not tantamount to the ownership of the item itself, i.e., the actual title to it. Therefore, although the father is still alive, the son immediately gains the full title to the possessions, which he may sell to someone else. Nevertheless, since the father

retains the rights to use the possessions, the purchaser may use the possessions he acquired only when the father dies.

⁴⁶ § The mishna states that if a yavam consummates a levirate marriage with his yevama while she is pregnant, if it emerges that the offspring is not viable then he may maintain her as his wife because his intercourse with her was a valid consummation of levirate marriage. An opposing opinion is taught in a baraita: In the name of Rabbi Eliezer they said: He must send her out with a bill of divorce. Although it emerged that the levirate marriage took effect, since at the time he consummated the levirate marriage it was prohibited to do so because the yevama was pregnant, he is therefore penalized and required to separate from her.

⁴⁷ Rava said: Rabbi Meir and Rabbi Eliezer said the same thing, i.e., they both expressed the same opinion that if one marries a woman whom he is prohibited from marrying, he is penalized and required to divorce her, even if the reason for the prohibition no longer applies. Rabbi Eliezer's opinion was expressed in this ruling we have just stated.

⁴⁸ Where was Rabbi Meir's opinion expressed? As it is taught in a baraita: A man may not marry a woman who is pregnant with the child of another man, nor a woman who is nursing the child of another man. And if he transgressed and married her, he is penalized for violating the prohibition, and he must divorce her with a bill of divorce, and he may never take her back; this is the statement of Rabbi Meir. And the Rabbis say: He must send her out, and when the time comes in which it is permitted to marry her, i.e., after the child is weaned, he may then marry her again.

⁴⁹ Abaye said to him: From where do you deduce that they are of one opinion? Perhaps that is not so, as it is possible that Rabbi Eliezer states his ruling only here, in the case of a yavam who consummated a levirate marriage with his yevama while she was still pregnant, due to the fact that by doing so he risks the possibility that the offspring will be viable, in which case he encounters the Torah prohibition against engaging in relations with one's brother's wife. However, there, in the case where one married a woman who is pregnant with the child of another man, which is a rabbinic prohibition, it is possible that he holds in accordance with the opinion of the Rabbis who argue with Rabbi Meir.

⁵⁰ Alternatively, it is also possible that Rabbi Meir states his ruling only there, in the case where one married a woman who is pregnant with the child of another man, due to the fact that doing so is a violation of a rabbinic prohibition, and therefore it is possible that this is one of the cases in which the Sages reinforced their pronouncements with greater severity than prohibitions of Torah law so that people would not treat them lightly. However, here, in the case of a yavam who consummated a levirate marriage with his yevama while she was still pregnant, where there was a risk of transgressing a prohibition written in the Torah, since people are generally careful to distance themselves from a Torah prohibition, there is no need to further penalize someone who nevertheless transgressed.

⁵¹ Rava said: According to the statement of the Rabbis who dispute Rabbi Meir and require one who married a pregnant woman to send her out, the intention is that he must send her out with a bill of divorce and not merely separate from her. Mar Zutra said: The language the Rabbis used is also precise, as they teach: He must send her out, and they do not teach: He must separate himself from her. Conclude from here that Rava's claim is correct.

⁵² Rav Ashi said to Rav Hoshaya, son of Rav Idi: We learned in a baraita there that Rabban Shimon ben Gamliel says: Any human baby that survives for thirty days after its birth is not to be considered a stillbirth. Rather, the baby is considered to be viable, and so the wife of the baby's father is never subject to any obligation of levirate marriage. But, by inference, were it not to survive for thirty days, there would be uncertainty whether the baby was viable or not.

⁵³ And an amoraic dispute was stated in the case in which the only offspring of a man died during the first thirty days of its life, and the widow, under the misconception that she was exempt from any obligation of levirate marriage, arose and was betrothed.

⁵⁴ Ravina said in the name of Rava: If she became the wife of an Israelite, i.e., the man who betrothed her was not a priest, then she performs ḥalitza with the yavam due to the uncertainty whether or not the offspring was viable, and then they may remain married. But if she became the wife of a priest, she does not perform ḥalitza with him because if she were to do so, she would become a ḥalutza and would therefore be prohibited from remaining married to her husband, who is a priest. Therefore, in this case, in order to allow her to remain married to her husband, the Sages did not require her to be concerned for the possibility that the offspring was not viable.

⁵⁵ The Gemara cites a different version of Rav's opinion: Rav Mesharshiyya said in the name of Rava: Both this woman and that woman perform ḥalitza, even though by doing so, if she was betrothed to a priest, she would become forbidden to him.

⁵⁶ Ravina said to Rav Mesharshiyya:

⁵⁷ In the evening Rava stated this ruling in accordance with the way you cited him, but in the morning he retracted his opinion and ruled as I cited him. Rav Mesharshiyya said to him: Do you really permit her to marry without ḥalitza? He added sarcastically: May it be God's will that you will even permit forbidden fats [tarba] as well. In Rav Mesharshiyya's opinion, the prohibition against the widow remarrying without ḥalitza was as obvious as the prohibition of forbidden fats.

⁵⁸ After citing this dispute, Rav Ashi said to Rav Hoshaya, son of Rav Idi: According to Rava's citation of Rav, when a woman is married to a priest, the Sages were more lenient in order to allow the couple to remain married. Here, with regard to a woman who is pregnant with the child of another man or a woman who is nursing the child of another man, who is married to a priest, what is the halakha? Did the Sages enact an ordinance for the benefit of a priest and say that it is sufficient for him to separate from his wife and he does not need to divorce her, or not?

⁵⁹ He said to him: How can these cases be compared? Granted, there, in the case where the offspring died during its first thirty days of life, since there are the Rabbis who disagree with Rabban Shimon ben Gamliel concerning it, as they say that although the offspring did not survive for thirty days it is nevertheless considered a full-fledged, i.e., viable, offspring, therefore, with regard to the wife of a priest, since it is not possible for her to perform ḥalitza and remain permitted to her husband, we will be lenient and act in accordance with the opinion of the Rabbis.

⁶⁰ However, here, in the case of a woman who is pregnant with or nursing the child of another man, in accordance with whose opinion should we act? If we act in accordance with the opinion of Rabbi Meir, it will be of no benefit to the priest because Rabbi Meir said even with regard to the wife of an Israelite that he must divorce her and may never take her back. And if we act in accordance with the opinion of the Rabbis, it will also be of no benefit to the priest because they say he must send her out

with a bill of divorce and only remarry her at a later point. Since there is no opinion that does not require a bill of divorce to be given, there is no possibility to be lenient in this case by not requiring a bill of divorce to be given.

⁶¹ A pregnancy is generally noticeable only after three months have passed. Therefore, during the first three months after a woman is divorced or widowed, she may not remarry due to the possibility that she is pregnant. The Sages decreed that even betrothing her during that time is prohibited, lest one also marry her (see 41a). Concerning this, an amoraic dispute was stated: In a case in which a man betrothed a woman during the three months following her divorce or her husband's death, and then he fled, Rav Aḥa and Rafram disagree over what should be done. One said: We excommunicate him for violating the prohibition. And the other one said: His flight is sufficient for him, since it proves that he does not intend to marry her until it is determined that she is not pregnant. Therefore, there is no need to penalize him further. The Gemara relates: There was an incident like that, and Rafram said to those who asked what to do: His flight is sufficient for him.

⁶² § The mishna states that if a yevama consummated the levirate marriage and gave birth seven months later, there is an uncertainty whether the child is nine months old, counting from conception, and is the offspring of the first husband, i.e., the deceased brother, or whether the child is only seven months old and is the offspring of the second husband. If it is the child of the first husband, then there was never any obligation of levirate marriage, and the supposed consummation was in fact forbidden by penalty of karet. Due to that possibility, both the man and the woman are obligated to bring a guilt-offering for uncertainty. Rava said to Rav Naḥman: How can they bring a guilt-offering for uncertainty? Let us say: Follow the majority of women, and since the majority of women give birth after nine months, it should be presumed that the child is the offspring of the deceased brother. Accordingly, the couple would be obligated to bring a certain sin-offering, not a guilt-offering for uncertainty.

⁶³ Rav Naḥman said to him: The women of our family regularly give birth after seven months. Therefore, how can you presume that this woman gave birth after nine months? Rava said to him: Do the women of your family constitute the majority of the women of the world? Ultimately, the majority of women give birth after nine months, and one should therefore presume accordingly in a case of uncertainty.

⁶⁴ Rav Naḥman said to him: This is what I am saying: Although it is true that the majority of women give birth after nine months and only a minority give birth after seven, still, in the case of every woman who gives birth after nine months, her fetus is already recognizable after a third of her days, i.e., in the third month of her pregnancy. Accordingly, in the case of this woman, since her fetus was not recognizable after a third of her days, as were it already recognizable at that point then it would be obvious that the child was the offspring of the first husband, therefore, the ability to presume she is like the majority of women is compromised, and the uncertainty as to who the father of the child is remains. Consequently, the yavam and yevama should each bring a guilt-offering for uncertainty.

⁶⁵ The Gemara asks: If it is true that in the case of every woman who gives birth after nine months, her fetus is already recognizable after a third of her days, then with regard to this woman, from the fact that her fetus was not recognized after a third of her days, it follows that her fetus was certainly only seven months old and is the offspring of the latter husband, i.e., the yavam. If so, it is clear the yavam is the father of the child and there should be no need to bring an offering at all. Rather, one

must emend Rav Nahman's words and say: In the majority of cases, with regard to a woman who gives birth after nine months, her fetus is already recognizable after a third of her days, and with regard to this woman, from the fact that her fetus was not recognized after a third of her days, the ability to presume she is like the majority of women is compromised.

⁶⁶ § The mishna states that the child of the yevama has unflawed lineage since regardless of whether it is the offspring of the deceased husband or the yavam, there was no transgression involved in its conception. With regard to this case, the Sages taught in a baraita: The first child is even fit to become a High Priest. However, since it is possible that the child is the offspring of the deceased husband, in which case the widow remains forbidden to the yavam as his brother's wife, if she has a second child with her yavam then that child is a mamzer due to an uncertainty with regard to his status. Rabbi Eliezer ben Ya'akov says: One is not rendered a mamzer due to uncertainty.

⁶⁷ The meaning of Rabbi Eliezer ben Ya'akov's statement and how he differs from the first tanna is unclear. The Gemara clarifies: What is the baraita saying? Abaye said: This is what it is saying: The first child is even fit to become a High Priest. And if she has a second child, his status as a mamzer is uncertain and therefore he is both prohibited from marrying an Israelite woman of unflawed lineage, since he might actually be a mamzer, and he is also prohibited from marrying a mamzeret, since he might not be a mamzer. Rabbi Eliezer ben Ya'akov says: He is not treated like one whose status as a mamzer is uncertain; rather, due to the uncertainty concerning his status he is treated like one who is definitely a mamzer, and he is permitted to marry a mamzeret. In other words, Rabbi Eliezer ben Ya'akov holds that even one whose status as a mamzer is uncertain is permitted to marry one who is definitely a mamzeret.

⁶⁸ Rava said: This is what the baraita is saying: The first child is even fit to become a High Priest. And if she has a second child, he is treated as though he is definitely a mamzer due to the uncertainty concerning his status, and therefore he is permitted to marry a mamzeret, i.e., this tanna holds that even one whose status as a mamzer is uncertain is permitted to marry one who is definitely a mamzeret. And Rabbi Eliezer ben Ya'akov says: He is not treated as though he is definitely a mamzer due to an uncertainty concerning his status; rather, his status as a mamzer is uncertain and he is treated accordingly, and therefore he is both prohibited from marrying an Israelite woman of unflawed lineage since he might be a mamzer, and he is also prohibited from marrying a mamzeret since he might not be a mamzer.

⁶⁹ The Gemara explains: And Abaye and Rava disagree with regard to whether the halakha is decided in accordance with the opinion of Rabbi Elazar. As we learned in a mishna (Kiddushin 74a): With regard to the prohibition against marrying people with certain types of flawed lineage, Rabbi Elazar said: The marriage of those people whose flawed lineage status is certain to those whose status is certain is permitted, but the marriage of those whose status is certain to those whose status is uncertain, and the marriage of those whose status is uncertain to those whose status is certain, and even the marriage of those whose status is uncertain to those whose status is uncertain, is prohibited.

⁷⁰ The mishna concludes: And these are those who are considered to have an uncertain status: A child of unknown paternity [shetuki], although his mother's identity is known; and a foundling who was found abandoned in the streets; and a Samaritan [Kuti], who is possibly a mamzer since the Samaritans do not accept and abide by the halakhot of marriage.

⁷¹ And with regard to this mishna Rav Yehuda said that Rav said: The halakha is in accordance with the opinion of Rabbi Elazar. But when I said this halakha of Rav's in the presence of Shmuel, he said to me: Hillel taught in a baraita that ten categories of lineage came up from Babylon to Eretz Yisrael: Priests; Levites; and Israelites; priests disqualified due to flawed lineage [ḥalallim]; converts; freed slaves; mamzerim; Gibeonites; shetukei; and foundlings. And it is permitted for all men and women in these categories to marry one another, i.e., the list is arranged such that the marriage between people in any two categories that are adjacent to one another is permitted. This is possible only if one assumes that it is permitted for one whose flawed lineage status is uncertain to marry one whose flawed lineage status is certain.

⁷² After citing the baraita taught by Hillel, which assumes that it is permitted for one whose flawed lineage status is uncertain to marry one whose flawed lineage status is certain, Shmuel concluded: The halakha is certainly decided in accordance with the opinion of Hillel, and yet you, Rabbi Yehuda, said the halakha is in accordance with the opinion of Rabbi Elazar, which states that a marriage between two people whose flawed lineage status is uncertain is prohibited; your ruling is incorrect.

⁷³ The Gemara proceeds to explain the dispute between Abaye and Rava: Abaye holds in accordance with the opinion of Shmuel, who said that the halakha is decided in accordance with the opinion of Hillel that it is permitted for one whose flawed lineage status is uncertain to marry one whose flawed lineage status is certain. Therefore, Abaye establishes that opinion of Rabbi Eliezer ben Ya'akov to be in accordance with this halakha, in order that there should not be a contradiction between one halakha, i.e., that the halakha is always decided in accordance with the opinion of Hillel, and another halakha, i.e., that the halakha is always decided in accordance with the opinion of Rabbi Eliezer ben Ya'akov.

⁷⁴ Rava, however, holds in accordance with the opinion of Rav, who said: The halakha is decided in accordance with the opinion of Rabbi Elazar that the marriage of those whose status is certain to those whose status is uncertain is prohibited. Therefore, Rava establishes that opinion of Rabbi Eliezer ben Ya'akov to be in accordance with this halakha, so that there should not be a contradiction between

⁷⁵ one halakha, i.e., that the halakha in this case is in accordance with the opinion of Rav, and another halakha, i.e., that the halakha is always decided in accordance with the opinion of Rabbi Eliezer ben Ya'akov.

⁷⁶ Abaye said: From where do I say that concerning anyone whose status as a mamzer is uncertain, according to the opinion of Rabbi Eliezer ben Ya'akov they are treated equivalently to one who is definitely a mamzer?

⁷⁷ As it is taught in a baraita that Rabbi Eliezer ben Ya'akov says: With regard to one who engaged in intercourse with and impregnated many women, but he does not know with which women he had intercourse, and similarly, with regard to a woman, if many men had intercourse with her and she became pregnant, but she does not know from which man she received the seed that caused her to become pregnant, since the identities of the parents of those children are not known, it could emerge that a father marries his daughter, and a brother marries his sister. And in this way, the entire world could become filled with mamzerim. And concerning this, it is stated: "And lest the land become full of lewdness" (Leviticus 19:29). Abaye demonstrates his claim from the fact that even though it is not

certain that the children in this situation are mamzerim, nevertheless, Rabbi Eliezer ben Ya'akov labels them as mamzerim and not as those whose status as a mamzer is uncertain.

⁷⁸ And Rava could have said to you: This is what the verse is saying: The word “lewdness [zima]” can be understood as an acronym of the words: Zo ma hi, meaning: What is this. It is plausible to say that Rabbi Eliezer ben Ya'akov's citation of this verse indicates that he regards their status to be uncertain.

⁷⁹ The Gemara cites the continuation of the baraita: Furthermore, Rabbi Eliezer ben Ya'akov said that even in marriage, one should be careful not to create a situation that could lead to the birth of mamzerim. Therefore, a man should not marry a woman in this country and then go and marry another woman in a different country, lest a son from one marriage and a daughter from the other, unaware that they are both children of the same father, unite with one another, and it could emerge that a brother marries his sister, the children of whom would be mamzerim.

⁸⁰ The Gemara asks: Is that so; is there really such a prohibition? But didn't Rav, when he happened to come to Dardeshir, make a public announcement saying: Which woman will be my wife for the day, i.e., for the duration of his visit? Since his wife did not accompany him to Dardeshir, he wished to be married to another woman while he was there, in order to avoid a situation that could lead him to having forbidden thoughts. And also Rav Nahman, when he happened to come to Shakhnetziv, made a public announcement saying: Which woman will be my wife for the day? It would appear, from the fact that both Sages married wives in two different places, that there is no prohibition in doing so.

⁸¹ The Gemara rejects the proof: Sages are different, as their names are renowned, and therefore their children are always identified by their connection to their father. Therefore, Rabbi Eliezer ben Ya'akov's concern does not apply to them.

⁸² The Gemara examines Rav and Rav Nahman's actions: But didn't Rava say: With regard to a woman who had an offer of marriage and accepted, the emotional excitement may have caused her to have a flow of menstrual blood, which would make her ritually impure and prohibit her from engaging in intercourse. Even if she was unaware of any flow, she must consider the possibility that it occurred. To purify herself, she needs to wait seven consecutive days that are clean from any flow of menstrual blood and then immerse in a ritual bath. Only then may she marry. If so, how could Rav and Rav Nahman marry women on the day they arrived?

⁸³ The Gemara explains: These Sages would send messengers seven days ahead of their arrival and they would inform the women of the Sage's arrival. In this way, the woman who agreed to marry the Sage would have time to count the seven clean days. And if you wish, say that the Sages' intentions were merely to be in seclusion [meyahadi] with the woman but not to engage in intercourse with her. Therefore, it was permitted to marry her even if she became ritually impure. Being in seclusion with a woman was sufficient to help the Sages avoid any forbidden thoughts, as the Master said: One who has bread in his basket is incomparable to one who does not have bread in his basket, i.e., just as the knowledge that food is readily available is sufficient to psychologically alleviate one's feelings of hunger, so too, the knowledge that one's sexual desires could be met lessens the strength of the desire itself.

⁸⁴ The Gemara cites an additional statement of Rabbi Eliezer ben Ya'akov: It is taught in a baraita that Rabbi Eliezer ben Ya'akov says: A man should not marry his wife when at the same time his

intention is to divorce her, because it is stated: “Do not devise evil against your neighbor, as he dwells securely with you” (Proverbs 3:29). It is wrong for one to intend to undermine the feelings of security that another has with him.

⁸⁵ § The mishna raises a case in which a yavam consummated the levirate marriage with his yevama and seven months later she gave birth. With respect to that child, there is an uncertainty whether he is the child of the deceased brother or whether he is the child of the yavam. The Gemara discusses the ramifications of this uncertainty in a dispute concerning inheritance. The case concerns one whose identity as the son of the deceased is uncertain, and a yavam who consummated the levirate marriage with the yevama, who both came to divide up the possessions of the deceased brother and each one claims to be the sole heir.

⁸⁶ The one of uncertain descent said: I am the son of the deceased, and therefore, as the only heir, his possessions are mine. And the yavam said to him: You are my son, and you have absolutely no rights to the possessions; rather, by virtue of the fact that I consummated the levirate marriage with the widow of the deceased, I should inherit him. The Gemara rules on this case: This is a case of property of uncertain ownership, as there is no way to determine who is the rightful heir, and the halakha is that property of uncertain ownership the claimants divide up between them.

⁸⁷ The Gemara brings another case, that of one concerning whom there is uncertainty whether he is the son of the deceased or of the yavam and the sons of the yavam, who consummated the levirate marriage with the yevama and has since died, who came to divide up the possessions of the deceased, and each one makes claim to the inheritance. The one of uncertain descent said: That man, referring to himself, is the son of the deceased, and therefore, as his sole heir, his possessions are mine. And the sons of the yavam said to him: You are our brother, and our uncle, the deceased, was not survived by any offspring and so by virtue of our father’s levirate marriage he inherited our uncle’s possessions, and now that our father has died and we are dividing up his possessions you have a right to inherit only a portion of the inheritance together with us.

⁸⁸ The Rabbis who studied before Rav Mesharshiyya thought to say: This case is analogous to a case in a mishna, as we learned a similar case in a mishna (100a) in which a woman gave birth shortly after remarrying and there is uncertainty whether the child’s father is the first or second husband. The mishna considers a case in which the husbands died and were each survived by a set of sons: If a son from either set died, the other sons of that set will inherit from him because as brothers they have an uncontested claim to the inheritance. However, he, the son of uncertain descent, does not inherit from them because his claim as a brother is uncertain and is therefore not powerful enough to allow him to take part of the inheritance from the other sons. However, if the son of uncertain descent died, they, the sons of both husbands, will jointly inherit from him. The claims of each set of sons to be his brothers are equally uncertain; therefore, since there is no one who has a definite claim to his inheritance, his possessions are split between them.

⁸⁹ The Rabbis qualify their comparison of the cases: But here, the positions are in reverse, as follows: There, in the case of the mishna, when one of the sons dies, they, the other sons of that set, can say to him, the son of uncertain descent: Bring proof that you are actually a son of our father and only then can you take a portion. Since he cannot prove this, he will not receive any of the inheritance.

⁹⁰ However, here, in the case where the son of uncertain descent is in dispute with the sons of the yavam, he, the son of uncertain descent, can say to them: Bring proof that I am not the son of the deceased, and only then can you take a portion together with me. The Rabbis claim that the principle in both cases is identical: When one party has an uncontested claim to the inheritance, and another party advances a claim to receive part of the inheritance that is based on an uncertainty, the uncertain claim is not accepted. In the mishna's case, it is the son of uncertain descent who has an uncertain claim. The Rabbis suggest that the reverse is true in the Gemara's case: The son of uncertain descent has an uncontested claim to the inheritance because whether he is the son of the first or second husband, he certainly has a right to some inheritance. It is the sons of the yavam who have an uncertain claim because they have a right to the inheritance only if the son of uncertain descent is actually their brother.

⁹¹ Rav Mesharshiyya said to them: Is the case in the mishna really comparable? There, in the mishna's case, when one of the sons dies, they, the other sons in that set, have a definite claim to the inheritance, since their claim is based on the fact that they are the dead son's brothers, which is certainly true, and he, the son of uncertain descent, only has an uncertain claim. However, here, each party has only an uncertain claim. Although the son of uncertain descent claims that ultimately, whatever the nature of his relationship with the deceased is, he should have the right to inherit, nevertheless, since it is not actually known what that relationship is, his claim in reality is merely a composite of uncertain claims.

⁹² Having rejected the analogy offered by the Rabbis, Rav Mesharshiyya offers his own analogy to the case in the mishna that the Rabbis cited: Rather, if there is a case that is analogous to the case in the mishna, then it is to this following case that it is analogous: It is comparable to a case in which following the levirate marriage a son was born, and there is uncertainty whether he is the son of the deceased or of the yavam, and that son of uncertain descent and the sons of the yavam come to divide up the possessions of the yavam himself. As there, those who are unquestionably the sons of the yavam have a definite claim; therefore, they can say to him, the son of uncertain descent: Bring proof that you are actually our brother and only then can you take a portion. Since he cannot prove this, he will not receive any of the inheritance.

⁹³ The Gemara brings yet another case, that of one concerning whom there is an uncertainty whether he is the son of the deceased or of the yavam and the sons of the yavam, i.e., the sons of the man who consummated the levirate marriage with the yevama and has since died, who came to divide up the possessions of the yavam after the yavam had already divided up the possessions of the deceased brother between himself and the son of uncertain descent, as per the Gemara's ruling in the first case above.

⁹⁴ The yavam then died and his sons and the son of uncertain descent each made a claim to the inheritance: The sons of the yavam say to the son of uncertain descent: Bring proof that you are our brother, and only then can you take a portion. The son of uncertain descent said to them: Whichever way you look at it, I should receive a portion of the inheritance. If you assume that I am your brother, then give me a portion of the inheritance together with all of you, and if you assume that I am the son of the deceased, then give me the half of the possessions that your father took when he divided up the possessions with me upon the deceased's death, because if you assume I am his son, then I am his sole heir and your father never had any rights to his possessions.

⁹⁵ The son of uncertain descent's claim assumes that the original verdict to divide up the possessions of the deceased between the two sides may be reexamined in light of later developments. This assumption, however, is subject to a dispute: Rabbi Abba said that Rav said: The original verdict stands, i.e., the original division of the deceased's possessions is considered a closed matter, and the new dispute concerning the possessions of the yavam is considered independently of it. Accordingly, the son of uncertain descent's claim cannot succeed, and so he receives no portion of the inheritance of the yavam. Rabbi Yirmeya said: The original verdict is reconsidered in light of the new circumstances, and therefore in this case the son of uncertain descent can put forward his undeniable claim to some of the possessions of the yavam based on the original uncertainties that existed with regard to the division of the deceased's possessions.

⁹⁶ Let us say that Rabbi Abba and Rabbi Yirmeya disagree over the dispute between Admon and the Rabbis. As we learned in a mishna (Ketubot 109b): With regard to one who owns a field and has the rights to a path that passes through land belonging to another, and he traveled to a country overseas, and when he returned the path to his field was lost, i.e., he forgot where the path was located, Admon says: He may go only on the shortest path to his field, as although it is not known where the path is, he definitely did have a path, and therefore at the very least he has a right to the shortest path. The Rabbis say: He must either purchase for himself a new path for whatever price is asked, even if it is one hundred dinars, or he will have to fly through the air to reach his field, i.e., as long as he cannot prove where the original path was, he has no rights to any other path.

⁹⁷ And we discussed the mishna and thereby established the parameters of the dispute as follows: It is difficult for the Rabbis because Admon is saying well, i.e., the logic of his opinion would seem to be compelling. And in defense of the Rabbis' opinion, Rav Yehuda said that Rav said: With what are we dealing here? It is with a case where his field was surrounded by four individuals who owned the land on each of its four sides. Therefore, he cannot demand a path from any one of the surrounding owners, since each one can deflect his claim by suggesting that the path might have passed through one of the other owners' land.

⁹⁸ However, this creates a further difficulty: If so, that the surrounding land is owned by different people, what is Admon's rationale for ruling that the owner of the field has a claim to the shortest path? And in order to justify Admon's opinion, Rava said: With regard to a case in which there are four current owners who came to own their land on the basis of purchase from four previous owners, i.e., each of the current owners acquired their land from a different previous owner, and also in a case in which there are four current owners who came to own their land on the basis of purchase from one previous owner who originally owned all four pieces of land, everyone agrees that the current owners are able to deflect him and his claim to a path.

⁹⁹ When they disagree, it is in a case in which there is only one current owner of all four pieces of land, who came to own his land on the basis of purchase from four previous owners. Admon holds that the owner of the field can say to the current owner of the surrounding land: Whichever way you construe the case, my path to my field is somewhere with you in the surrounding land. And the Rabbis hold that the owner of the surrounding land can deflect this claim because he can say to him: If you do not press your claim and are silent, then be silent, and I will sell you a path at a reasonable price. But if not, and you insist on pressing your claim, then I will return the bills of purchase of the land to their previous owners, and then you will not be able to successfully engage in a legal dispute

with them, as each one could claim that the path went through one of the other pieces of land not owned by them.

¹⁰⁰ Having established the parameters of the dispute, the Gemara suggests: Let us say that the statement of Rabbi Abba, who said that the original verdict stands, is in accordance with the opinion of the Rabbis. When the owner of the field forgot where his path was located, the surrounding land was owned by four different owners, and therefore at that time the verdict was that he had no ability to successfully claim his path. The Rabbis apparently assume that that verdict stands, and therefore the field owner is considered to have lost any rights to the path. Consequently, even if the surrounding pieces of land are later purchased by a single person, the owner of the field cannot make a claim for his path.

¹⁰¹ The Gemara continues: And the statement of Rabbi Yirmeya, who said that the original verdict is repealed, is in accordance with the opinion of Admon. Admon apparently assumes that although the original verdict was that the field owner has no ability to successfully claim his path, nevertheless, that does not mean he loses his rights to the path. Rather, once the situation changes and the surrounding pieces of land are purchased by a single person, the original uncertainty is revived to allow him to make a claim for at least the shortest path to his field.

¹⁰² The Gemara rejects the comparison: Rabbi Abba could have said to you: When I stated my ruling, it was even in accordance with the opinion of Admon. Admon states his ruling only there, in the case of the lost path, because the field owner said to the owner of the surrounding land: Whichever way you look at it,

¹⁰³ my one path is with you in one of your pieces of land. Since his claim is based on facts that are clear and certain, his claim is successful. However, here, in the dispute over the inheritance, is the son of uncertain descent able to state a claim like this? Although the son of uncertain descent claims that ultimately, whatever the nature of his relationship with the deceased is, he should have the right to inherit, nevertheless, since it is not actually known what that relationship is, his claim in reality is merely a composite of uncertain claims.

¹⁰⁴ And Rabbi Yirmeya could have said to you: I stated my ruling even in accordance with the opinion of the Rabbis, since perhaps the Rabbis state their ruling only there, in the case of the lost path, because the owner of the surrounding land said to the field owner: If you do not press your claim and are silent, then be silent and I will sell you the path at a reasonable price; but if not, then I will return the bills of purchase of the pieces of land to their previous owners and then you will not be able to successfully engage in a legal dispute with them. He is successful with this claim because it is within his power to return the fields and thereby recreate the original circumstances in which the owner of the field would forfeit the path. However, here, are the sons of the yavam able to state a claim like this? The original circumstance, in which the inheritance of the deceased had still not been divided, cannot be recreated. Therefore, a claim based on that circumstance will be unsuccessful.

¹⁰⁵ The Gemara brings another case, that of one of uncertain descent, who is either the son of the deceased or the son of the yavam, and the yavam who came to divide up the possessions of the grandfather, i.e., the father of the yavam and the deceased, and each one made a claim to the inheritance. The son of uncertain descent said: That man, referring to himself, is the son of the deceased, and therefore half of the possessions are mine because the inheritance should be split between the two sons, i.e., the deceased and the yavam, and since I am the sole heir of the deceased, I

should receive his portion. The yavam said to him: You are my son, and therefore you have absolutely no rights to the possessions; rather, I should receive all the inheritance. One half is mine because I am the grandfather's son, and the other half, which would have gone to my deceased brother, I should receive by virtue of the fact that I consummated the levirate marriage with his widow.

¹⁰⁶ The Gemara rules on this case: This is a case in which the yavam has a definite claim because he is the grandfather's son, and the son of uncertain descent has only an uncertain claim, and the halakha is that one with an uncertain claim cannot extract property from one who has a definite claim to it. Therefore, the yavam receives all the inheritance.

¹⁰⁷ The Gemara raises yet another case, that of one of uncertain descent, who is either the son of the deceased or the son of the yavam, and the sons of the yavam who came to divide up the possessions of the grandfather, and each one made a claim to the inheritance. The son of uncertain descent said: That man, referring to himself, is the son of the deceased, and therefore half of the possessions are mine because the inheritance should be split between the two sons, i.e., the deceased and the yavam, and since I am the lone heir of the deceased I should receive his portion. And the sons of the yavam said: You are our brother, and therefore you should receive only a portion together with us.

¹⁰⁸ The Gemara rules on this case: The half of the grandfather's possessions that the son of uncertain descent concedes belongs to them, the sons of the yavam, they take for themselves. By claiming to be the son of the brother who died first, he forfeits any rights to the other brother's portion. The third of the grandfather's possessions that the sons of the yavam concede belong to him, the son of uncertain descent, he takes for himself. By claiming he is their brother, they admit that he should at least receive an equal portion to them, which would mean one-third if they are three. This leaves them with one-sixth [danka] of the possessions that is property of uncertain ownership, and so they should divide it up between them.

¹⁰⁹ The Gemara presents two additional cases. One is a case where a son of uncertain descent, who is either the son of the deceased or the son of the yavam, died, and the grandfather and the yavam come to divide up the possessions of the son of uncertain descent. In the absence of any children, a father inherits from his son. The grandfather claims that the son of uncertain descent was actually the son of the deceased, and since the deceased has already died, the grandfather should be next in line to inherit from him. The yavam claims that the son of uncertain descent was his own son, and therefore he should inherit from him. Or, the second case is one in which the yavam died and the grandfather and the son of uncertain descent come to divide up the possessions of the yavam. The son of uncertain descent claims to be the lone son of the yavam and therefore he should inherit, whereas the grandfather claims that the son of uncertain descent was the son of the deceased and that the yavam died childless, and therefore the grandfather, who is the father of the yavam, should inherit from him.

¹¹⁰ The Gemara rules in these cases: This is a case of property of uncertain ownership, and so they should divide up the possessions between them.

¹¹¹ MISHNA: With regard to a widow waiting for her yavam to either consummate a levirate marriage or perform ḥalitza with her, i.e., a yevama, to whom property was bequeathed: Beit Shammai and Beit Hillel both agree that she may sell or give away that property ab initio, and that if she did, the transfer is valid. Since she has only a levirate bond with the yavam, she retains total

control of the property. This is in contrast to a betrothed woman, concerning whom Beit Hillel rule that she may not sell such property because her betrothed also has rights to it (Ketubot 78a).

¹¹² If she died, what should be done with the money assured to her in her marriage contract by her deceased husband and with her property that enters and leaves the marriage with her, in which a husband only ever has a usufructuary interest? Beit Shammai say: The husband's heirs, i.e., the yavam, who stands to inherit from the husband when he consummates the levirate marriage, should divide up the property together with her father's heirs, i.e., the woman's family. And Beit Hillel say: The property retains its previous ownership status. Therefore, money assured to her in her marriage contract remains in the possession of the husband's heirs. Since it was to be paid from the husband's own property, the money is retained by his estate and passes to his heirs. And her property that enters and leaves the marriage with her remains in the possession of the father's heirs. Since those properties belonged to her, upon her death they are inherited by her father or his heirs.

¹¹³ If the yavam consummated the levirate marriage with her, then her legal status is that of his wife in every sense, and therefore the yavam has the same rights to her property as in a regular marriage. And the only exception to this is that her marriage contract will still be payable from the property of her first husband and not from the property of the yavam.

¹¹⁴ GEMARA: The Gemara asks: What is different about the first clause, concerning a yevama who is still alive, that Beit Shammai do not disagree with Beit Hillel that the woman has full possession of the property since there is only a levirate bond but no marriage, and what is different about the latter clause that Beit Shammai disagree with Beit Hillel and rule that the yavam does take a share of the property, which would imply that the levirate bond alone is sufficient to afford the yavam rights over her property?

¹¹⁵ Ulla said: The two clauses concern different cases: The first clause concerns a case where she happened before her yavam for levirate marriage at a time when she was a betrothed woman and only then did she come into the possession of property. Since when she was betrothed her husband did not have any rights to the property, neither does the yavam. And the latter clause concerns a case where she happened before her yavam at a time when she was a married woman. In such a case, were her husband still alive, he would have full rights to the property; therefore, so does the yavam.

¹¹⁶ The Gemara explains: And Ulla holds that a levirate bond formed with a betrothed woman affords her a status equivalent to a woman about whom there is an uncertainty whether she is betrothed,

¹¹⁷ and a levirate bond formed with a married woman affords her a status equivalent to that of a woman for whom there is an uncertainty whether she is married, i.e., when her husband dies, the same level of relationship that existed with the first husband is created with the yavam. However, since the new relationship exists only by virtue of a levirate bond, it exists to a lower degree, and so the rights afforded to the yavam are more limited than those the first husband would have enjoyed; the rights granted to the yavam are equivalent to the rights of husband in a case where there is uncertainty whether that level of relationship exists at all.

¹¹⁸ The Gemara proceeds to demonstrate this: It must be that a levirate bond formed with a betrothed woman affords her a status equivalent to that of a woman for whom there is an uncertainty whether she is betrothed, because if it enters your mind to suggest that her status is equivalent to that of a

definitely betrothed woman, would Beit Hillel concede that she may sell or give away her property ab initio, and that if she does the transfer is valid?

¹¹⁹ But didn't we learn in a mishna (Ketubot 78a): If property was bequeathed to a woman after she was betrothed, Beit Shammai say: She may sell that property, and Beit Hillel say: She may not sell that property. However, both agree that if she sold it or gave it away, the transfer is valid. The mishna clearly states that according to Beit Hillel, a woman who is definitely betrothed may not sell the property ab initio. Rather, conclude from here, from the fact that here Beit Hillel permit the yevama to sell her property ab initio, that a levirate bond formed with a betrothed woman affords her a status equivalent to that of a woman for whom there is an uncertainty whether she is betrothed.

¹²⁰ Similarly, it must be that a levirate bond formed with a married woman affords her a status equivalent to that of a woman for whom there is an uncertainty whether she is married, because if it enters your mind to suggest that her status is equivalent to that of a definitely married woman, would Beit Shammai say that the husband's heirs should divide up the property together with the father's heirs?

¹²¹ But didn't we learn in a mishna (Ketubot 78a): If property was bequeathed to a woman after she was married, both Beit Hillel and Beit Shammai agree that if she sold the property or gave it away, then the husband repossesses it from the purchasers. Rather, conclude from here, from the fact that here Beit Shammai assume the rights of the yavam are limited, that a levirate bond formed with a married woman affords her a status equivalent to a woman for whom there is an uncertainty whether she is married.

¹²² Rabba challenges Ulla's understanding of the mishna: Rabba said to him: If your explanation is correct, then in the latter clause, instead of disagreeing with regard to who has the rights to the property itself, which necessitates considering the case after her death, let Beit Hillel and Beit Shammai disagree with regard to the more immediate case when she is still alive and dispute who has the rights to the use and produce of the property.

¹²³ Rather, Rabba said a different resolution to the apparent inconsistency in Beit Shammai's rulings: Both this first clause and that latter clause of the mishna concern a case in which she happened before her yavam for levirate marriage once she was already a married woman, and a levirate bond formed with a married woman affords her a status equivalent to that of a woman about whom there is an uncertainty whether she is married. The distinction between the two clauses is as follows: In the first clause, where she is alive, she has a certain claim to the property, while they, i.e., the yavam, are considered to have only an uncertain claim to the property, as she has the status of a woman for whom there is an uncertainty whether she is married. And since one who has an uncertain claim cannot extract property from one who has a definite claim to it, she therefore retains full possession of the property.

¹²⁴ In the latter clause, however, where she died, neither party has a definite claim; rather, these heirs of the father come to inherit, and those heirs of the husband come to inherit, and therefore they should divide up the property.

¹²⁵ Abaye raised an objection to Rabba's opinion: But is it true that according to Beit Shammai, one with an uncertain claim cannot extract property from one who has a definite claim to it? Didn't we learn in a mishna (Bava Batra 157a): In a case where a house collapsed upon a person and upon his father, or upon him and upon those from whom he stood to inherit, and there were outstanding debts

against that person from his wife's marriage contract and to a creditor, but he had no money with which to pay those debts, and it is not known who died first, the following situation arises: If the father died first, then before the son died he had already inherited the father's property and therefore the son's creditors gained a lien over that property and have the rights to collect their debts from that property even after the son's death.

¹²⁶ Accordingly, the father's heirs and the creditor offer opposing claims: The father's heirs say: The son died first and only afterward the father died. Therefore, the creditor never gained any rights to collect from the property. And the creditor says: The father died first and only afterward the son died. Therefore, the father's property was lienied to the son's debts, and the creditor has a right to collect.

¹²⁷ The mishna continues: Beit Shammai say: They should divide up the property between them. And Beit Hillel say: The property retains its previous ownership status, which in this case means that since the last known possessor was the father, so the father's heirs gain full rights to it.

¹²⁸ Abaye explains his proof: Isn't it the case here that the father's heirs have a definite claim and the creditor has only an uncertain claim? Therefore, since Beit Shammai rule that the property should be divided up, it is apparent that they hold that one with an uncertain claim can extract property from one who has a definite claim to it.

¹²⁹ Rabba rejects the proof: Beit Shammai's ruling in this case cannot be adduced as a proof because Beit Shammai hold: A debt recorded in a bill of debt that is awaiting collection is as though it was already collected to the extent that the creditor is considered to be in possession of the debt. Therefore, the creditor is considered to be in possession of the property to the same extent as the father's heirs; consequently, the property is divided between them.

¹³⁰ And from where do you say that Beit Shammai hold this opinion? As we learned in a mishna (Sota 24a): A married woman who secluded herself with another man after her husband had warned her not to do so is suspected of having committed adultery. To establish her guilt or innocence she is brought to the Temple, where she drinks the bitter waters. With regard to such women, if their husbands died before they drank the bitter waters, Beit Shammai say: They collect the money assured to them in their marriage contracts and do not drink the waters. And Beit Hillel say: Either they drink, and if they survive they collect their marriage contracts, or they do not drink and they cannot collect their marriage contracts, and all the husband's property passes to his heirs.

¹³¹ The Gemara clarifies the statement of Beit Hillel: Did Beit Hillel really mean: Either they drink, which implies they may actually choose to drink? But doesn't the Merciful One state: "And the man shall bring his wife" (Numbers 5:15), which indicates that the ritual of drinking the bitter waters applies only when the husband is still alive, and in this case there is no husband to do so; consequently, she should not be able to drink. Rather, Beit Hillel's intent is as follows: The only means by which a suspected adulteress is able to collect her marriage contract is by drinking the bitter waters and proving her innocence. Therefore, where this is not possible due to the death of the husband, since the wives do not drink, they cannot collect their marriage contracts.

¹³² Rabba explains his proof from this mishna: Isn't it the case here that the wife's claim to her marriage contract is uncertain because there is uncertainty whether she was unfaithful or whether she was not unfaithful, and so it would appear that one with an uncertain claim is coming and undermining the definite claim of the husband's heirs? This is untenable, as even were one to hold that someone with an uncertain claim can extract property from someone who has a definite claim to

it, that would only allow for the money to be divided between the two sides, whereas in this case Beit Shammai rule that the creditor collects the entire debt. Rather, conclude from that mishna that Beit Shammai hold that a debt recorded in a bill of debt that is awaiting collection is considered as though it were already collected to the extent that the one who is owed the money is considered to be in possession of the debt. It is due to this reason that she is empowered to be able to collect her marriage contract.

¹³³ The Gemara asks: And why did Abaye object to Rabba's opinion based on the mishna in tractate Bava Batra? Let him object to Rabba's opinion based on this mishna in tractate Sota since based on Abaye's assumption that a bill of debt is not considered as though it were already collected, this mishna perforce demonstrates that Beit Shammai hold that one with an uncertain claim can extract property from one who has a definite claim to it. The Gemara answers: Abaye did not object based on this mishna because he reasoned that perhaps a woman's marriage contract is different from a regular bill of debt in that the Sages uniquely reinforced a woman's hold over the debt in her marriage contract due to the increased desirability that this would bring her when trying to remarry. This would ensure that she would bring some money with her into a new marriage.

¹³⁴ The Gemara asks again concerning Abaye's decision to object to Rabba's opinion based on the mishna in Bava Batra: Let him object to Rabba's opinion based on the case of the marriage contract in the mishna here (38a). In its latter clause, the mishna states that if a widow waiting for her yavam dies, Beit Shammai rule that her marriage contract and other property are divided between her father's heirs and the yavam. In that case, the yavam has certain possession of that property, and the father's heirs come with an uncertain claim to collect the value of the marriage contract. The fact that Beit Shammai rule that they should divide up the value of the marriage contract between them demonstrates that they hold that one with an uncertain claim can extract property from one who has a definite claim to it.

¹³⁵ The Gemara responds: In truth, Beit Shammai do not disagree on that point. The Gemara challenges this claim: Do they not disagree? But it is explicitly taught in the mishna that they disagree in that case: If the widow waiting for her yavam died, what should be done with the money assured to her in her marriage contract, and with her property that enters and leaves the marriage with her? Beit Shammai say: The husband's heirs should divide up the property together with the father's heirs. And Beit Hillel say: The property retains its previous ownership status.

¹³⁶ The Gemara answers: This is what that mishna is saying: If she died, what should be done with the money assured to her in her marriage contract? And the tanna then left this question unanswered, and addressed an additional case: What should be done with her property that enters and leaves the marriage with her? Beit Shammai say: The husband's heirs should divide up the property together with the father's heirs. And Beit Hillel say: The property retains its previous ownership status.

¹³⁷ Rav Ashi said: The language of the mishna is also precise according to this interpretation, as it teaches: Beit Shammai say that the husband's heirs should divide up the property together with the father's heirs, which implies that the father's heirs had de facto possession of the property and the husband's heirs then came and divided that property with them. This is true with regard to her property that enters and leaves the marriage with her. And the mishna does not teach using the reverse formulation: Beit Shammai say that the father's heirs should divide up the property together with the husband's heirs, which would imply that the husband's heirs had de facto possession of the

property; this is true with regard to the payment of the marriage contract. Conclude from here that Beit Shammai did not rule what should be done with the payment of the marriage contract, as the Gemara claimed.

¹³⁸ The Gemara presents a third resolution to the apparent inconsistency in Beit Shammai's rulings in the mishna: Abaye said: The first clause concerns a case in which property was bequeathed to her when she was still a widow waiting for her yavam to perform levirate marriage or ḥalitza, and the latter clause concerns a case in which property was bequeathed to her when she was still under, i.e., married to, her first husband, before he died.

¹³⁹ And Abaye holds that according to Beit Hillel, with regard to the husband's rights to his wife's property, his hand is like her hand, but not any stronger. Accordingly, the yavam has a weaker hand in her property than she does, because the rights of a yavam are always weaker than those of the husband himself. Therefore, she is considered to be in possession of the property, and when she dies, her heirs, i.e., her father and his heirs, inherit it. However, Beit Shammai assume that the husband's hand is stronger than his wife's hand. Therefore, the hand of the yavam, which is weaker than the husband's hand, is nevertheless equally as strong as the hand of the yevama, and therefore they rule that if she dies, the yavam and her heirs divide up the property.

¹⁴⁰ Rava said to him: I hold that if the property was bequeathed to her when she was still under the first husband, everyone, i.e., both Beit Hillel and Beit Shammai, agrees that his hand is stronger than her hand, and therefore the hand of the yavam will be equally as strong as that of the yevama, and if she dies the property will be divided between the two sides.

¹⁴¹ Therefore, Rava presents his own resolution to the apparent inconsistency in Beit Shammai's rulings in the mishna: Rather, both this first clause and that latter clause concern cases in which property was bequeathed to her when she was a widow waiting for her yavam. The first clause concerns a case in which the yavam had not performed a levirate betrothal with her, and the latter clause concerns a case in which he had performed a levirate betrothal with her.

¹⁴² The Gemara explains the rationale behind Rava's explanation: And Rava holds that according to Beit Shammai a levirate betrothal with a yevama affords her a status equivalent in some aspects to a woman who is definitely betrothed and in other aspects to a woman about whom there is uncertainty whether she is married. The Gemara elucidates: She is similar to a woman who is definitely betrothed with regard to nullifying the levirate bond of her rival wife, so that the rival wife need not perform levirate marriage or ḥalitza. And she is similar to a woman about whom there is uncertainty whether she is married with regard to empowering the yavam to divide up the property that she attained while she was waiting for her yavam.

¹⁴³ The Gemara notes: An interpretation of the mishna was stated in the name of Rabbi Elazar that is in accordance with the opinion of Rava. And an interpretation of the mishna was stated in the name of Rabbi Yosei, son of Rabbi Ḥanina that is in accordance with the opinion of Abaye.

¹⁴⁴ The Gemara objects: And did Rabbi Elazar actually state this interpretation that is in accordance with the opinion of Rava? But didn't Rabbi Elazar say: According to Beit Shammai a levirate betrothal acquires the yevama only with regard to nullifying the levirate bond of a rival wife so that she need not perform levirate marriage or ḥalitza? This implies that it does not acquire her with regard to enabling the yavam to inherit from her. This, then, stands in contrast to Rava's interpretation.

¹⁴⁵ The Gemara offers two possible solutions: Reverse the opinions, so that Rabbi Elazar is in accordance with Abaye, and Rabbi Yosei, son of Rabbi Ḥanina, is in accordance with Rava. And if you wish, say instead: Actually, do not reverse the opinions, since Rabbi Elazar can be understood to be in accordance with the opinion of Rava, as Rabbi Elazar could have said to you: When I said the statement that implies that a levirate betrothal acquires in a very limited sense, the intention was only that its acquisition is limited in that giving her a bill of divorce is still insufficient for her in order to release her from the levirate bond; rather, she also needs to perform ḥalitza. But to suggest that he does not acquire her with regard to dividing up the property she attained, did I say that? Certainly not, as in fact a levirate betrothal acquires her to that extent as well, as Rava assumes.

¹⁴⁶ Rav Pappa said: The precise formulation of the mishna is in accordance with the opinion of Abaye, even though according to his opinion it is difficult that the mishna discusses the case in which she died.

¹⁴⁷ The Gemara explains Rav Pappa's statement: The precise formulation of the mishna is in accordance with the opinion of Abaye, as it teaches: Her property that enters and leaves the marriage with her. What is the meaning of: That enters, and what is the meaning of: That leaves? Is it not: That enters into the domain of the husband and leaves the domain of the husband when she dies, and then enters into the domain of the father? Interpreted in this way, the mishna explicitly considers the period in which she was still married to her first husband, and likewise, the case in which she came into the possession of property should be understood as referring to a case in which she did so while still married. This is consonant with Abaye's interpretation, but not with Rava's.

¹⁴⁸ And when Rav Pappa said: Even though according to his opinion it is difficult that the mishna discusses the case in which she died, he meant as follows: Instead of disputing who has the rights to the property itself, which necessitates considering the case after her death, let Beit Hillel and Beit Shammai dispute the more immediate case when she is still alive and dispute who has the rights to the use and produce of the property.

¹⁴⁹ The Gemara concludes: And there is nothing more to say concerning this matter, i.e., as Rav Pappa noted, while it is undeniable that the mishna's formulation supports Abaye's interpretation, it is equally true that the case discussed by the mishna would appear to challenge his interpretation.

¹⁵⁰ § The mishna states: If the yavam consummated the levirate marriage with her, then her legal status is that of his wife in every sense. The Gemara asks: With regard to what halakha is this said? Rabbi Yosei bar Ḥanina said: It is to say that once they have consummated the levirate marriage, the only way to legally dissolve the marriage is if he divorces her with a bill of divorce, but ḥalitza is of no avail, and after divorcing her, he is permitted to take her back to be his wife, as the prohibition against engaging in relations with one's brother's wife does not apply to her.

¹⁵¹ The Gemara examines the first clause of Rabbi Yosei bar Ḥanina's statement: Isn't it obvious that to sever his relationship with her, he divorces her with a bill of divorce? The Gemara explains: It is necessary to teach this because it could enter your mind to say that since it is written: "And take her to him to be his wife and consummate the levirate marriage with her" (Deuteronomy 25:5), continuing to refer to the marriage as a levirate marriage even after the verse has stated that he took her as a wife, one might claim the Merciful One is saying that the original levirate bond continues to be upon her, and therefore, with ḥalitza, yes, they can sever the relationship, but with a bill of divorce, no, the relationship would not be severed. Therefore, the mishna teaches us that she is

considered to be his wife to the extent that the relationship can be severed with a bill of divorce alone.

¹⁵² The Gemara examines the second clause: Isn't it obvious that after divorcing her, he is permitted to take her back to be his wife? The Gemara explains: It is necessary to teach this because it could enter your mind to say that the mitzva that the Merciful One imposes upon him, he has performed, and therefore now that there is no longer any mitzva to marry her, she should once again be established as forbidden to him by the prohibition against engaging in relations with one's brother's wife. To dispel this notion, the mishna teaches us that she is considered to be his wife to the extent that there is no longer any prohibition against remarrying her.

¹⁵³ The Gemara challenges this ruling: But why not say that this is indeed so, that she should be forbidden to him? The Gemara explains: The verse states: "And take her to him to be his wife" (Deuteronomy 25:5), indicating that once he has taken her, her legal status is that of his wife in every sense.

¹⁵⁴ § The mishna states: The only exception to this is that her marriage contract will still be payable from the property of her first husband and not from the property of the yavam. The Gemara asks: What is the reason for this? The Gemara explains: A wife was acquired to him by Heaven, and since he did not choose her as a wife, he did not obligate himself to pay her marriage contract.

¹⁵⁵ The Gemara qualifies the mishna's ruling: And if she has no ability to collect her marriage contract from the first husband, since he died without leaving any property with which to pay it, the Sages instituted an ordinance for her benefit that she must receive a new marriage contract from her second husband, i.e., the yavam. This was instituted so that she will not be demeaned in his eyes such that he will easily divorce her, since doing so would incur a financial burden on his part.

¹⁵⁶ MISHNA: The mitzva of levirate marriage is for the eldest of the brothers to consummate the levirate marriage. If the eldest does not want to do so, the court goes to each of the other brothers and requires them to do so. If they do not want to do so, the court returns to the eldest brother and says to him: The mitzva is incumbent upon you; either perform ḥalitza or consummate the levirate marriage.

¹⁵⁷ If a brother made his decision dependent upon the possibility that one of his other brothers will eventually consummate the levirate marriage, saying that he will do so only if they do not, then whether he makes it dependent upon a brother who is currently a minor, meaning that the yevama should wait until he matures, or upon his eldest brother, who is not currently present, meaning the yevama should wait until he comes from overseas, or upon a brother who is a deaf-mute or an imbecile, as perhaps they will recover from their disability, the court does not listen to him; rather, the judges of the court say to him: The mitzva is incumbent upon you; either perform ḥalitza or consummate the levirate marriage.

¹⁵⁸ GEMARA: An amoraic dispute was stated: Rabbi Yoḥanan and Rabbi Yehoshua ben Levi disagree with regard to a case in which there is the choice between consummation of the levirate marriage by a younger brother [katan] or ḥalitza performed by the eldest brother. One said: The consummation of the levirate marriage by a younger brother is preferable, and the other one said: Ḥalitza performed by the eldest brother is preferable.

¹⁵⁹ The Gemara explains: With regard to the one who said that consummation of the levirate marriage by a younger brother is preferable, this is due to the fact that the mitzva of levirate marriage

is through the actual consummation of the levirate marriage, and therefore preference is always given to consummation over the performance of ḥalitza. And the one who said ḥalitza performed by the eldest brother is preferable, this is because in the presence of the eldest brother, the consummation of the levirate marriage by a younger brother is considered nothing.

¹⁶⁰ The Gemara suggests proof for the first opinion: We learned in the mishna: If the eldest does not want to consummate the levirate marriage, the court goes to each of the other brothers and requires them to do so. The Gemara suggests: What, is it not that he does not want to consummate the levirate marriage but is willing to perform ḥalitza? And yet the mishna teaches: The court goes to each of the other brothers and requires them to consummate the levirate marriage. If so, conclude from here that the consummation of the levirate marriage by a younger brother is preferable.

¹⁶¹ The Gemara rejects the proof: No, the mishna might concern a case where the eldest does not want either to perform ḥalitza or to consummate the levirate marriage, and it is only because he is unwilling to do either that the other brothers are considered. The Gemara asks: If this is so, then in the corresponding situation in the mishna in which the brothers do not want to do so, the case must be that they do not want either to perform ḥalitza or to consummate the levirate marriage. But if so, why should the court invest the extra effort to return to the eldest brother to force him to fulfill his duty? Let the court force the other brothers to fulfill their duty. The Gemara responds: Since the mitzva is incumbent upon the eldest brother *ab initio*, it is he who is forced.

¹⁶² The Gemara suggests another proof: We learned in the mishna: If a brother makes his decision dependent upon a brother who is currently a minor, the court does not listen to him. The Gemara suggests: And if the consummation of the levirate marriage by a minor is preferable, why shouldn't the court listen to him? Let the court wait, as perhaps he will mature and consummate the levirate marriage. Rather, it would appear that the mishna assumes that consummation by a younger brother is not preferable.

¹⁶³ The Gemara responds: But even according to your reasoning that ḥalitza performed by an elder brother is preferable, what about the next case in the mishna, where a brother asks to wait until the eldest brother comes from overseas? In that case, as well, the mishna rules: They do not listen to him; but why shouldn't they listen to him? Let the court wait, as perhaps he will come and at the very least perform ḥalitza. Rather, it is clear that the reason for the mishna's ruling is that we do not delay the performance of any mitzva; therefore, if one of the brothers is currently unable to perform the mitzva, he is not considered at all. Consequently, no proof can be derived from the mishna.

¹⁶⁴ There are those who say that the dispute is more limited: When there is the possibility of consummating the levirate marriage, everyone agrees that the consummation of the levirate marriage by a younger brother is preferable to the ḥalitza of the eldest brother. When they disagree it is with regard to the significance of the ḥalitza of a younger brother.

¹⁶⁵ And this is how the dispute was stated: Rabbi Yoḥanan and Rabbi Yehoshua ben Levi disagree with regard to a case in which there is choice between the ḥalitza of a younger brother or the ḥalitza of the eldest brother. One said: The ḥalitza of the eldest brother is preferable. And the other one said: The two options are equivalent.

¹⁶⁶ The Gemara explains: With regard to the one who said that the ḥalitza of the eldest brother is preferable, this is due to the fact that the mitzva of levirate marriage and ḥalitza is incumbent upon the eldest brother. And the other Sage would respond to this claim by saying that when we say that

the mitzva is incumbent upon the eldest brother, that is only with regard to the consummation of the levirate marriage; however, with regard to performing ḥalitza, all the brothers are equivalent.

¹⁶⁷ The Gemara suggests a proof for the first opinion: We learned in the mishna: If the younger brothers do not want to consummate the levirate marriage, the court returns to the eldest brother and demands that he at least perform ḥalitza. The Gemara suggests: What, is it not that the other brothers did not want to consummate the levirate marriage but are willing to perform ḥalitza? And yet the mishna teaches: The court returns to the eldest brother so that he can perform ḥalitza. If so, conclude from here that the ḥalitza of the eldest brother is preferable.

¹⁶⁸ The Gemara rejects the proof: No, the mishna might concern a case where the other brothers did not want either to perform ḥalitza or to consummate the levirate marriage, and it is only because they are unwilling to do either that the court returns to the eldest brother. The Gemara asks: If this is so, then in the corresponding situation in which the mishna states: The eldest brother does not want to do so, the case must be that he does not want either to perform ḥalitza or to consummate the levirate marriage. But if so, when the younger brothers also refuse, why should the court invest the extra effort to return to the eldest brother to force him to fulfill his duty? Let the court force them, i.e., the younger brothers, to fulfill their duty. The Gemara responds: Since the mitzva is incumbent upon the eldest brother *ab initio*, it is he who is forced.

¹⁶⁹ Come and hear another proof from the mishna: If a younger brother makes his decision dependent upon the eldest brother, who is currently unavailable, suggesting that the yevama wait until he comes from overseas, the court does not listen to him. And if it enters your mind to suggest that the ḥalitza of the eldest brother is preferable, why doesn't the court listen to him? Let the court wait, as perhaps he will come and perform ḥalitza. Rather, it would appear that the mishna assumes that with regard to performing ḥalitza, all the brothers are equivalent.

¹⁷⁰ The Gemara challenges this: But even according to your reasoning, you certainly agree that the possibility of consummating the levirate marriage is always preferable. If so, what about the previous case in the mishna, where the eldest brother asks to wait until his brother who is a minor will mature? In that case as well the mishna rules: The court does not listen to him; but why shouldn't the court listen to him? Let the court wait, as perhaps he will come and consummate the levirate marriage. Alternatively, in the case where the eldest brother is overseas, let the court wait, as perhaps he will come and consummate the levirate marriage with her. Rather, it is clear that the reason for the mishna's ruling is that we do not delay the performance of a mitzva. Therefore, if one of the brothers is currently unable to perform the mitzva, he is not considered at all. Consequently, no proof can be derived from the mishna.

¹⁷¹ § We learned in a mishna there (Bekhorot 13a): The mitzva of consummating the levirate marriage takes precedence over the mitzva of performing ḥalitza; this applied initially, when yevamin would have intent for the sake of fulfilling the mitzva. Now, that they do not have intent for the sake of fulfilling the mitzva, the Sages say: The mitzva of performing ḥalitza takes precedence over the mitzva of consummating the levirate marriage.

¹⁷² Rav said: Nevertheless, the court does not force a yavam to perform ḥalitza, and if he wishes it is still permitted to consummate the levirate marriage. The Gemara relates: When a yavam and a yevama would come before Rav, he would say to them: If you want, perform ḥalitza, and if you want, consummate the levirate marriage, as the Merciful One makes the matter dependent upon your

will, as it is stated: “And if the man does not wish to take his yevama” (Deuteronomy 25:7) then he should perform ḥalitza. This implies that the Torah requires him to perform ḥalitza only if he does not wish to consummate the levirate marriage, but if he wishes to do so, then the matter is dependent upon him, and if he wants, he performs ḥalitza, or if he wants, he consummates the levirate marriage.

¹⁷³ The Gemara notes: And even Rav Yehuda holds that the court does not force a yavam to perform ḥalitza if he wishes to consummate the levirate marriage. This is apparent from the fact that Rav Yehuda enacted in his court that the following formulation should be used in the bill of ḥalitza: That so-and-so, daughter of so-and-so, brought so-and-so, her yavam, before the court; and we identified him, that he was indeed the paternal brother of the deceased, and we said to him: If you desire to consummate the levirate marriage, then consummate the levirate marriage, and if not, extend your right foot toward your yevama so that she may perform ḥalitza by removing your shoe.

¹⁷⁴ The bill of ḥalitza would continue with the account of what transpired: And he extended [itla] his right foot toward her and she removed his shoe from upon his foot and she spat toward his face spittle, which was visible to the court, and which landed upon the ground.

¹⁷⁵ And Rabbi Ḥiyya bar Ayya in the name of Rav Yehuda would conclude the formulation of the bill of ḥalitza with an additional sentence: And we dictated to the yavam that which is written in the book of the Torah of Moses, i.e., those declarations that the yavam and the yevama are required to make.

¹⁷⁶ The Gemara clarifies the intention of the phrase: And we identified him as the brother of the deceased. Rav Aḥa and Ravina disagree concerning this phrase: One said that this identification must be made through legally valid witnesses, and the other one said that even the testimony of a relative and even the testimony a woman is accepted in this case. The Gemara concludes: And the halakha is that the identification of the brother is considered to be merely revealing the facts of the matter, and therefore, even a relative and even a woman may tender this information.

¹⁷⁷ The Gemara paraphrases the mishna from tractate Bekhorot: Initially, when yevamin would have intent for the sake of fulfilling the mitzva of consummating the levirate marriage, the mitzva of consummating the levirate marriage took precedence over the mitzva of performing ḥalitza. And now that they do not have intent for the sake of fulfilling the mitzva, the Sages say: The mitzva of performing ḥalitza takes precedence over the mitzva of consummating the levirate marriage.

¹⁷⁸ Rami bar Ḥama said that Rabbi Yitzḥak said: In later generations they went back to once again saying that the mitzva of consummating the levirate marriage takes precedence over the mitzva of performing ḥalitza. Rav Naḥman bar Yitzḥak said to him in wonderment: Could it be that the later generations improved their spiritual level and now intend to consummate the levirate marriage solely for sake of fulfilling the mitzva?

¹⁷⁹ The Gemara explains that this does not mean that the later generations improved themselves; rather, initially they held in accordance with the opinion of Abba Shaul, and so the mitzva of performing ḥalitza took precedence, and in the end they held in accordance with the opinion of the Rabbis, and so the mitzva of consummating the levirate marriage took precedence.

¹⁸⁰ As it is taught in a baraita: Abba Shaul says that one who consummates a levirate marriage with his yevama for the sake of her beauty, or for the sake of marital relations, or for the sake of another matter, e.g., he wishes to inherit her husband's estate, it is considered as though he encountered a forbidden relation, and I am inclined to view the offspring born from such a union as a mamzer.

Since the prohibition against engaging in relations with one's brother's wife is overridden only for the sake of fulfilling the mitzva of consummating the levirate marriage, when one does not have the intention to fulfill that mitzva, the baseline prohibition applies, and so any offspring from the union will be mamzerim. The Rabbis say: The Torah states: "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5), which indicates that he should do so in any case, even if his intentions are not solely for the sake of fulfilling the mitzva.

¹⁸¹ The Gemara asks: Who is the tanna who taught the following baraita that the Sages taught: The Torah states: "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5); this is to be considered a mitzva, as initially, before she was married to his brother, she was among all other women who are permitted to him, and then when she married his brother she became forbidden to him, and when his brother died without offspring she reverted from her forbidden status and became permitted to him. One might have thought that she would revert to her original permitted status; therefore, the verse states: "Her brother-in-law will have intercourse with her" to teach that it is in fact a mitzva to do so.

¹⁸² Who is the tanna who taught this baraita? Rav Yitzḥak bar Avdimi said: It is Abba Shaul, and this is what the baraita is saying: "Her brother-in-law will have intercourse with her" teaches that it is permitted to engage in intercourse with her only when his intention is to fulfill a mitzva, as initially, before she was married to his brother, she was among all other women who are permitted to him, and so, if he wished, then even for the sake of her beauty he was permitted to marry her, or similarly, if he wished, then even for the sake of marital relations he was permitted to marry her.

¹⁸³ When she married his brother she became forbidden to him, and when his brother died without offspring she reverted from her forbidden status and became permitted to him. One might have thought that she would fully revert to her original permitted status; therefore, the verse states: "Her brother-in-law will have intercourse with her" to teach that he is permitted to marry her only when his intention is for the mitzva.

¹⁸⁴ Rava said: You can even say that the baraita is in accordance with the Rabbis, and this is what the baraita is saying: "Her brother-in-law will have intercourse with her" indicates that it is a mitzva to consummate the levirate marriage, as initially, before she was married to his brother, she was among all other women who are permitted to him, and so if he wished, he was permitted to marry her, or if he wished, he was permitted to choose not to marry her.

¹⁸⁵ When she married his brother she became forbidden to him, and when his brother died without offspring she reverted from her forbidden status and became permitted to him. One might have thought that she would fully revert to her original permitted status, so that if he wishes, he may marry her, or if he wishes, he may choose not to marry her.

¹⁸⁶ The Gemara interjects that the logic of this last statement seems implausible: Does he really have the option to do as he wishes? Isn't she bound to him with a levirate bond? Could it be that she will be released from that bond without doing anything? Rather, emend the previous argument and instead say: One might think that if he wishes, he may marry her, or if he wishes not to do so, he performs ḥalitza with her. Therefore, the verse states: "Her brother-in-law will have intercourse with her," to teach that it is now a mitzva to consummate the marriage, and doing so is preferable to performing ḥalitza.

¹⁸⁷ The baraita under discussion also presents another case that follows a similar model of initially being permitted, then prohibited, and then once again permitted. The Gemara analyzes the explanations of Rav Yitzḥak and Rava based on that clause of the baraita: Say the first clause and try to explain it in a way consistent with the various explanations of the latter clause: The Torah states concerning the meal-offerings eaten by the priests: “It shall be eaten unleavened in a sacred place” (Leviticus 6:9); this indicates that doing so is a mitzva,

¹⁸⁸ as initially, before the flour was consecrated, it was among all other foods that are permitted to him, and then when the flour was consecrated as a meal-offering, it became forbidden to him, and then once a handful of the offering was brought on the altar, it reverted from its forbidden status and became permitted to him. One might have thought that it would revert to its original permitted status; therefore, the verse states: “It shall be eaten unleavened in a sacred place” (Leviticus 6:9), which indicates that it is a mitzva to eat it.

¹⁸⁹ The Gemara asks: Granted, according to Rava, who said: In accordance with whose opinion is this baraita? It is in accordance with the opinion of the Rabbis; according to him, here, in the first clause, this is what the baraita is saying: “It shall be eaten unleavened in a sacred place” indicates that it is a mitzva for the priest who prepares the offering to eat it himself. As, initially, before the flour was consecrated, it was among all other foods that are permitted to him: If he wishes, he may eat it, and if he wishes, he may choose not to eat it. When the flour was consecrated, it became forbidden to him, and then once a handful was brought on the altar, it reverted from its forbidden status and became permitted to him. One might have thought that it would revert to its original permitted status, so that if he wishes, he may eat it, and if he wishes, he may choose not to eat it.

¹⁹⁰ The Gemara interjects that the logic of this last statement seems implausible: Could it be that if he wishes, he may choose not to eat it? But isn’t it written: “And they shall eat those things through which atonement is attained” (Exodus 29:33), which teaches that the priests eat portions of the offering and by their doing so the owners who brought the offering attain atonement? Clearly, then, the eating of the offerings is not volitional.

¹⁹¹ Rather, the baraita should be understood as saying: One might have thought that if he wishes, he may eat it, and if he wishes, another priest may eat it; therefore, the verse states: “It shall be eaten unleavened in a sacred place” (Leviticus 6:9), to teach that it is a mitzva for the priest who prepares the offering to eat it himself. This explanation of the first clause of the baraita is entirely consistent with Rava’s explanation of the latter clause concerning the mitzvot of levirate marriage. In his opinion, both clauses demonstrate that there is a mitzva to perform an action in a case where one might have thought there was none.

¹⁹² However, according to Rav Yitzḥak bar Avdimi, who said that the baraita is in accordance with the opinion of Abba Shaul and explained the baraita accordingly as teaching the correct manner in which the mitzva is to be performed, here, in the first clause concerning the meal-offering, what two manners of eating are there of which one would be prohibited?

¹⁹³ And if you would say that the baraita might refer to two types of eating and is saying: One might have thought that if he wishes he may eat it with an appetite, and if he wishes he may eat it though an act of excessive eating, forcing himself to eat despite already being fully satiated; perforce this is not correct, as does excessive eating have the legal status of an act of eating? Didn’t Reish Lakish say: One who eats through an act of excessive eating on Yom Kippur is exempt from the punishment of

karet indicated in the verse: “For whatever soul it be that shall not be afflicted in that same day shall be cut off from his people” (Leviticus 23:29)? From this it is apparent that excessive eating does not have the legal status of an act of eating.

¹⁹⁴ The Gemara therefore suggests a different interpretation of the baraita that is consistent with Rav Yitzḥak’s opinion: Rather, say the baraita is referring to two different manners in which the meal-offering was prepared: If he wishes he may eat it unleavened, and if he wishes he may eat it leavened.

¹⁹⁵ The Gemara interjects that the logic of this last statement seems implausible: Could it be that if he wishes, the offering could be leavened? But isn’t it written: “Their portion shall not be baked leavened” (Leviticus 6:10), and Reish Lakish said that both the handful brought on the altar and even the priest’s portion shall not be baked leavened? Rather, the baraita should be understood as saying: One might have thought that if he wishes he may eat it unleavened, and if he wishes he may eat it even if it was prepared by being boiled. Therefore, the verse taught that one must eat it unleavened. Understood in this way, this clause of the baraita is also consistent with Rav Yitzḥak’s opinion.

¹⁹⁶ The Gemara asks: With regard to this possibility of eating the meal-offering boiled, what are the circumstances, i.e., how is it classified? If it is considered to be unleavened because it is presumed that the flour never managed to rise before it was cooked, then it is unleavened and there is no reason to prohibit its use; and if it is not considered to be unleavened because it is presumed that the flour managed to rise before it was cooked, then it is certainly disqualified from use because the Merciful One states that the offering must be “unleavened” (Leviticus 10:12). How, then, could one ever have questioned whether it is permitted to eat the meal-offering if it was boiled?

¹⁹⁷ The Gemara explains: No; actually, I could say to you that the boiled meal-offering is considered to be unleavened, and nevertheless it is disqualified because it is for this very reason that the verse repeated the requirement that it be unleavened, in order to invalidate a meal-offering that was boiled.

¹⁹⁸ The Gemara asks: But if boiled flour is invalid as a meal offering, then with regard to this statement that we said that boiled flour is unleavened, for what halakha is it relevant? The Gemara answers: It is to say that a person fulfills his obligation with it on Passover. This is because even though he initially boiled it, since he subsequently baked it in an oven, it is called “bread of affliction” (Deuteronomy 16:3), and therefore a person fulfills his obligation with it on Passover.

¹⁹⁹ MISHNA: One who performs ḥalitza with his yevama is like any one of the other brothers with respect to the inheritance of the deceased brother’s estate, i.e., each of the brothers takes an equal share of the inheritance. And if there is a father of the deceased, who is still alive, the property of the deceased belongs to the father. One who consummates levirate marriage with his yevama thereby acquires his deceased brother’s property solely for himself. Rabbi Yehuda says: In either case, whether he consummated the levirate marriage or performed ḥalitza, if there is a father who is still alive, the property belongs to the father.

²⁰⁰ GEMARA: The Gemara asks with regard to the opening clause of the mishna: The fact that one who performs ḥalitza does not gain any special rights to the inheritance of the deceased brother is obvious; why did the mishna teach it? The Gemara answers: It could enter your mind to say that the ḥalitza takes the place of the levirate marriage and therefore the brother who performs ḥalitza should take all the property in the same way as one who consummates the levirate marriage. Therefore, the mishna teaches us that this is not the case.

²⁰¹ The Gemara asks: If so, that the mishna's point is to teach that by performing ḥalitza one is not afforded any additional rights to the inheritance, why is the mishna formulated as: He is like any one of the other brothers, placing the emphasis on what he gains? It should have instead taught: He is still only like one of the other brothers, which would emphasize the mishna's point that by performing ḥalitza he does not gain any additional rights.

²⁰² Rather, the mishna needs to teach the opening clause in this manner because it could enter your mind to say that since by performing ḥalitza with his yevama he caused her to forfeit the possibility of consummating the levirate marriage, he should be penalized and should forfeit any entitlement to his brother's property. Therefore the mishna teaches us that this is not so.

²⁰³ § The mishna states: If there is a father of the deceased, who is still alive, the property of the deceased belongs to the father. The Gemara explains: As the Master said with regard to the laws of inheritance (Bava Batra 115a): A father of the deceased takes precedence over all the father's descendants. Therefore, since the father is still alive, the brothers do not inherit at all.

²⁰⁴ The mishna states: One who consummates levirate marriage with his yevama thereby acquires his deceased brother's property. The Gemara asks: What is the reason for this? The Merciful One states in the Torah: "He shall succeed in the name of his dead brother" (Deuteronomy 25:6), and he has succeeded him by marrying his wife; consequently, he succeeds him by acquiring his property as well.

²⁰⁵ § The mishna continues by citing an opposing opinion. Rabbi Yehuda says: In either case, whether he consummated levirate marriage or performed ḥalitza, if there is a father who is still alive, the property belongs to the father. The Gemara cites a ruling on this dispute: Ulla said: The halakha is in accordance with the opinion of Rabbi Yehuda. And similarly, Rabbi Yitzḥak Nappaḥa said: The halakha is in accordance with the opinion of Rabbi Yehuda.

²⁰⁶ And Ulla said, and some say that it was Rabbi Yitzḥak Nappaḥa who said: What is the reason for the opinion of Rabbi Yehuda? As it is written: "And it shall be that the firstborn that she bears shall succeed in the name of his dead brother" (Deuteronomy 25:6). The term "firstborn" is understood to be a reference to the yavam. By referring to him in this way the Torah indicates that his rights to his brother's estate are like those of a firstborn child's rights to his father's estate: Just as a firstborn has no rights to any of his father's estate during the lifetime of the father, and he may take his double portion only upon the father's death, so too, this yavam as well has no rights to any of his brother's estate during the lifetime of the father.

²⁰⁷ The Gemara asks: If there is truly a comparison between the yavam who consummated the levirate marriage and a firstborn, then one should also say that just as the firstborn takes a double portion of his father's estate after the death of the father, so too, this yavam should become entitled to take a double portion of the father's estate after the father's death, i.e., the portion due to him as a son, and that portion that would have been awarded to his brother. However, this is not the case; if the yavam is not actually the father's firstborn then he receives only an equal portion of the inheritance together with the other brothers.

²⁰⁸ The Gemara explains: Is it written in the Torah: He shall succeed in the name of his father? No, it is written: "He shall succeed in the name of his dead brother," which indicates that he succeeds his brother but not in the name of his father, i.e., the Torah never granted him any special entitlement to his father's estate, and so he should not receive a double portion of it.

²⁰⁹ The Gemara asks: Since Rabbi Yehuda holds that the halakha that the yavam inherits from his brother, which is stated in the verses describing levirate marriage, applies only when the father is no longer alive, perhaps the other halakhot in those verses also apply only when the father is no longer alive, and accordingly one should say: When there is no father who is still alive, which means that the yavam takes the inheritance, only then should the mitzva of levirate marriage apply, but when there is a father who is still alive, which means that the yavam does not take the inheritance, in that case the mitzva of levirate marriage should not apply.

²¹⁰ The Gemara rejects the possibility of saying this: Does the Merciful One make the mitzva of levirate marriage dependent upon inheritance? Certainly not; rather, in all cases the yavam should consummate the levirate marriage, and then if there is an inheritance to which he is entitled, he takes it, and if not, he does not take it.

²¹¹ Rabbi Ḥanina Kara, the Bible expert, was sitting before Rabbi Yannai, and he was sitting and saying: The halakha is in accordance with the opinion of Rabbi Yehuda. Rabbi Yannai said to him: Leave the study hall and recite your verses outside, as you are incorrect in your ruling; in fact, the halakha is not in accordance with the opinion of Rabbi Yehuda.

²¹² In another incident, a tanna who would recite baraitot in the study hall taught a baraita before Rav Naḥman: The halakha is not in accordance with the opinion of Rabbi Yehuda. Rav Naḥman said to him: But then it follows that in accordance with whose opinion is the halakha? It is the opinion of the Rabbis. The Gemara asks: But this fact is obvious, as in a dispute between one individual Sage and many other Sages, the halakha is always decided in accordance with the opinion of the many.

²¹³ The tanna said to him: Are you saying that this statement in the baraita is unnecessary and so I should remove that ruling from the baraita when I recite it in the future? Rav Naḥman said to him: No, do not remove it, as although the statement is unnecessary, it is correct. Rav Naḥman explained further: It must be that originally the baraita that you were taught stated: The halakha is in accordance with the opinion of Rabbi Yehuda, and that ruling was difficult for you because you knew that the halakha is always decided in accordance with many, and so you reversed the statement of the baraita to say, as you presently recited it, that the halakha is not in accordance with the opinion of Rabbi Yehuda. And with regard to the manner in which you reversed it, you reversed it well, and therefore you should leave it in its current form.

²¹⁴ MISHNA: In the case of one who performs ḥalitza with his yevama, by rabbinic decree it is as though she had been married to him and then he divorced her. Consequently, he is forbidden to engage in relations with her relatives and she is forbidden to engage in relations with his relatives.

²¹⁵ Accordingly, he is forbidden to engage in relations with her mother, and with her mother's mother, and with her father's mother, and with her daughter, and with her daughter's daughter, and with her son's daughter, and with her sister while his yevama is still alive. However, the other brothers who did not perform ḥalitza are permitted to her relatives.

²¹⁶ And she is forbidden to engage in relations with his father, and with his father's father, and with his son, and with his son's son, and with his brother, and with his brother's son.

²¹⁷ The mishna states an additional principle: A man is permitted to engage in relations with a relative of a rival wife of his ḥalutza, i.e., his yevama with whom he performed ḥalitza. Since he did not perform ḥalitza with her, she is not regarded as though she had actually been married to him.

However, he is forbidden to engage in relations with a rival wife of a relative of his ḥalutza, i.e., in addition to being forbidden to the relatives of his ḥalutza, he is also forbidden to their rival wives.

²¹⁸ GEMARA: A dilemma was raised before the Sages: In addition to the Torah prohibition against engaging in relations with one's wife's close relatives, the Sages decreed that it is also prohibited to engage in relations with one's wife's secondary relatives, i.e., those who are less closely related and so are permitted by Torah law. Since the Sages decreed that a ḥalutza is to be regarded as though she had actually been married to the one who performed ḥalitza, such that her close relatives are forbidden to him, did they also decree that the prohibition of secondary forbidden relationships should also apply in the case of a ḥalutza, or not?

²¹⁹ The Gemara presents the sides of the dilemma: Did the Sages decree that the prohibition of secondary forbidden relationships applies only in a case where there is a relative with whom relations are forbidden by Torah law, but in the case of a ḥalutza, whose relatives are forbidden only by rabbinic decree, they did not decree that there should be a prohibition of secondary forbidden relationships? Or perhaps the case of a ḥalutza is no different, and since the basis of the rabbinic prohibition applying to her relatives is that it is considered as though she had actually been married to her yavam, the prohibition should extend to her secondary relatives as well?

²²⁰ The Gemara suggests: Come and hear a proof from the mishna: A yavam is prohibited from engaging in relations with the mother of his ḥalutza and with her mother's mother. However, the mishna does not teach that it is prohibited to engage in relations with her mother's mother's mother, which is one of the secondary relationships. This would suggest that the prohibition of secondary relationships does not apply in this case.

²²¹ The Gemara rejects the proof: Perhaps this is the reason that the mishna does not teach that case, because it needs to teach in the latter clause: However, the other brothers who did not perform ḥalitza are permitted to her relatives. And if it had taught the prohibition of her mother's mother's mother in the first clause, I would mistakenly say that the brothers are permitted specifically to her mother's mother's mother, but not to her mother's mother. Therefore, no proof can be adduced from that case of the mishna.

²²² The Gemara objects: But if he is forbidden to the great-grandmother, then let it teach: Her mother's mother's mother in the first clause, and then let it teach: The brothers are permitted to all of them, in the latter clause. This would avoid the concern stated above. The fact that the mishna did not do so would suggest that he is not forbidden to the great-grandmother, or any other secondary relatives. The Gemara concludes: Indeed, this is difficult, but still inconclusive.

²²³ The Gemara suggests: Come and hear another proof from the mishna: She is prohibited from engaging in relations with his father, and with his father's father. The Gemara explains the proof: In any case, the mishna teaches that she is forbidden to his father's father. What, is it not that she is forbidden to him due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and therefore she is forbidden to the grandfather because she is considered to be the grandfather's son's daughter-in-law, i.e., the wife of one of the grandfather's grandsons, which is a secondary relationship? If so, the mishna explicitly demonstrates that the prohibition of secondary relationships also applies in the case of a ḥalutza.

²²⁴ The Gemara rejects the proof: No, she is forbidden to his grandfather due to her previous marriage with the deceased, whose relatives are forbidden to her by Torah law, and it is due to that

relationship that she is considered the grandfather's son's daughter-in-law. Therefore, no proof can be adduced from that case of the mishna.

²²⁵ The Gemara suggests: Come and hear another proof from the mishna: And she is prohibited from engaging in relations with his son's son. The Gemara explains the proof: What, is it not that she is forbidden to him due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and she is therefore forbidden to his grandson because she is considered to be the wife of that grandson's father's father, which is a secondary relationship? If so, the mishna explicitly demonstrates that the prohibition of secondary relationships also applies in the case of a ḥalutza.

²²⁶ The Gemara rejects the proof: No, she is forbidden to his grandson due to her previous marriage with the deceased, whose relatives are forbidden to her by Torah law, and it is due to that relationship that she is considered to be the wife of a brother of that grandson's father's father, which is also a forbidden secondary relationship. Therefore, no proof can be adduced from that case of the mishna.

²²⁷ The Gemara asks: But Ameimar rules permissible the marriage of a man to the wife of a brother of that man's father's father. Accordingly, the prohibition in the mishna cannot be due to that relationship.

²²⁸ The Gemara explains: Ameimar would establish the mishna's case of: His son's son, as referring to engaging in relations with a son of a son of the grandfather. The mishna states that she is forbidden to his father, to his father's father, to his son, and to his son's son. The Gemara assumed that antecedent of the pronoun: His, in the phrase: To his son and to his son's son, is the one who performed ḥalitza. As such, the mishna teaches that she is forbidden to the son and grandson of the one who performed ḥalitza with her, which are secondary relationships. Ameimar, however, would claim the antecedent of this pronoun is the father's father, which immediately precedes it in the mishna. As such, the mishna is teaching that she is forbidden to the grandfather of the one who performed ḥalitza with her, to that grandfather's sons, i.e., the brothers of the deceased, and to the grandfather's sons' sons, i.e., the nephews of the deceased. The yevama is forbidden to these relatives by Torah law. Therefore, no proof can be derived from that case of the mishna.

²²⁹ The Gemara challenges this understanding of: His son and his son's son: But if so, these relatives are none other than his brother and the son of his brother, who are already explicitly mentioned in the mishna. The Gemara explains: This is not a case of unnecessary repetition because the mishna first teaches that she is forbidden to his paternal half brother and then teaches that she is forbidden to his maternal half brother as well.

²³⁰ The Gemara suggests: Come and hear a proof from a baraita that Rabbi Ḥiyya taught: Of the relatives who are forbidden to a ḥalutza, four are forbidden by Torah law and four by rabbinic law, as follows: The father of the deceased husband, and his son, his brother, and his brother's son are forbidden by Torah law; his father's father, and his mother's father, his son's son, and his daughter's son are forbidden by rabbinic law.

²³¹ In any case, the baraita teaches that she is forbidden to his father's father. What, is it not that she is forbidden to him due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and therefore she is forbidden to the grandfather because she is considered to be the grandfather's son's daughter-in-law, which is a secondary

forbidden relationship? This would prove that the prohibition of secondary relationships applies in the case of a ḥalutza.

²³² The Gemara rejects the proof: No, she is forbidden due to her previous marriage with the deceased, whose relatives are forbidden to her by Torah law, and it is due to that relationship that she is considered the grandfather's son's daughter-in-law. Therefore, no proof can be adduced from that case of the baraita.

²³³ The Gemara proceeds to consider whether proof may be adduced from each of the other secondary relationships listed in the baraita: Come and hear a proof from that which the baraita teaches: She is forbidden to his mother's father. The Gemara explains the proof: What, is it not that she is forbidden to him due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and therefore she is forbidden to the grandfather because she is considered to be the grandfather's daughter's daughter-in-law, which is a secondary relationship? This would prove that the prohibition of secondary relationships applies in the case of a ḥalutza.

²³⁴ The Gemara rejects the proof: No, she is forbidden due to her previous marriage with the deceased, whose relatives are forbidden to her by Torah law, and it is due to that relationship that she is considered the grandfather's daughter's daughter-in-law. Therefore, no proof can be adduced from that case of the baraita.

²³⁵ Come and hear a proof from that which the baraita teaches: And she is forbidden to his son's son. The Gemara explains the proof: What, is it not that she is forbidden to him due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and so she is forbidden to his grandson because she is considered to be the wife of that grandson's father's father, which is a secondary relationship? If so, the baraita explicitly demonstrates that the prohibition of secondary relationships applies in the case of a ḥalutza.

²³⁶ The Gemara rejects the proof: No, she is forbidden to his grandson due to her previous marriage with the deceased, whose relatives are forbidden to her by Torah law, and due to that relationship she is considered to be the wife of a brother of that grandson's father's father, which is also a forbidden secondary relationship. Therefore, no proof can be adduced from that case of the baraita.

²³⁷ The Gemara asks: But didn't Ameimar rule permissible the marriage of a man with the wife of a brother of his father's father? Accordingly, the prohibition in the mishna cannot be due to that relationship. The Gemara concedes: Ameimar would establish the mishna's case of: His son's son, as being due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and as such it is evident that he holds that the Sages decreed that the prohibition of secondary forbidden relationships should apply in the case of a ḥalutza.

²³⁸ The Gemara continues to seek proof for those who disagree with Ameimar: Come and hear a proof from that which the baraita teaches: And she is forbidden to his daughter's son. The Gemara explains the proof: What, is it not that she is forbidden to him due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and so she is forbidden to his grandson because she is considered to be the wife of that grandson's mother's father, which is a secondary relationship? If so, the baraita explicitly demonstrates that the prohibition of secondary relationships applies in the case of a ḥalutza.

²³⁹ The Gemara rejects the proof: No, she is forbidden to his grandson due to her previous marriage with the deceased, whose relatives are forbidden to her by Torah law, and due to that relationship she is considered to be the wife of a brother of the grandson's mother's father. The Gemara challenges this: But the Sages did not decree that such a person is included among those relatives who are forbidden as secondary forbidden relationships.

²⁴⁰ Rather, is it not, as the Gemara initially assumed, that she is forbidden to him due to the rabbinic decree that it is considered as though she had actually been married to the one who performed ḥalitza with her, and therefore must one not conclude from this case that the Sages decreed that the prohibition of secondary forbidden relationships should apply in the case of a ḥalutza? The Gemara confirms: One should indeed conclude from it that this is so.

²⁴¹ § The mishna states: A man is permitted to engage in relations with a relative of a rival wife of his ḥalutza; however, he is prohibited from engaging in relations with a rival wife of a relative of his ḥalutza. The Gemara cites a ruling: Rav Tovi bar Kisna said that Shmuel said: With regard to one who engages in intercourse with a rival wife of his ḥalutza, the offspring of that union is a mamzer. What is the reason for this ruling? It is that she remains in her original prohibition. Normally, it is prohibited to engage in relations with one's brother's wife. However, when there is a mitzva to consummate levirate marriage, that prohibition does not apply, due to the levirate bond between the yavam and yevama. Although following ḥalitza the levirate bond is dissolved, the woman's status as a ḥalutza means that only the lesser prohibition against marrying a ḥalutza applies to her, and she does not return to her original forbidden status. Shmuel claims that the rival wives of the ḥalutza are not considered to be represented in her act of ḥalitza; consequently, they are not afforded a status similar to that of the ḥalutza herself. Therefore, he assumes that following ḥalitza the rival wives once again become subject to the original prohibition against marrying a brother's wife. Since that prohibition entails karet, any offspring born from such a union is a mamzer.

²⁴² Rav Yosef said: We, too, learned this through an inference from the mishna: A man is permitted to engage in relations with a relative of a rival wife of his ḥalutza. Rav Yosef explains the inference: Granted, if you say that a rival wife is outside, i.e., she is not represented in the ḥalitza of the ḥalutza and so she is not afforded a status similar to that of the ḥalutza herself, then it is due to that reason that he is permitted to engage in relations with her sister and other relatives, because since they are not the relatives of his ḥalutza, there is no reason for them to be forbidden.

²⁴³ However, if you say that a rival wife is afforded a status similar to that of the ḥalutza herself, why is he permitted to her relatives? Rather, from the fact that the relatives of the rival wives are permitted, it is apparent that the rival wives are not represented in the ḥalitza. As such, it follows that they should return to their original forbidden status of a brother's wives, as Shmuel claims.

²⁴⁴ The Gemara suggests: Shall we say, then, that this mishna is a conclusive refutation of the opinion of Rabbi Yoḥanan? As Rabbi Yoḥanan said: Neither he who performed the ḥalitza nor his brothers are liable to receive karet; they are neither liable to receive karet on account of engaging in relations with the ḥalutza, nor are they liable to receive karet on account of engaging in relations with her rival wife.

²⁴⁵ The Gemara responds: Rabbi Yoḥanan could have said to you: But how can you understand it that way? Why do you assume that if the rival wives are considered to be represented in the ḥalitza that perforce means that their relatives should be forbidden to the yavam? Is a sister of one's ḥalutza

forbidden by Torah law? Didn't Reish Lakish say with regard to another mishna (41a): Here, Rabbi Yehuda HaNasi taught: Engaging in relations with a sister of one's divorcée is forbidden by Torah law, whereas engaging in relations with a sister of one's ḥalutza is forbidden by rabbinic law. Since the prohibition with regard to the relatives of one's ḥalutza is rabbinic, it is reasonable to assume that it was applied to only the wife who actually performed ḥalitza and not extended to her rival wives, even if they are considered to be represented in her ḥalitza to the extent that they do not return to their original forbidden status.

²⁴⁶ § The Gemara questions the distinction indicated by the mishna: What is different about this woman, the relative of a rival wife of one's ḥalutza, that she is permitted, and what is different about that woman, the rival wife of a relative of one's ḥalutza, that she is forbidden?

²⁴⁷ The Gemara explains: With regard to that woman, the relative of the ḥalutza, who often goes together with the ḥalutza to court, since she is present in the court during the ḥalitza, people might mistakenly assume that it was she who actually performed ḥalitza. Were the yavam permitted to marry her rival wife, people might incorrectly conclude that it is permitted to marry the rival wife of one's ḥalutza. To preclude this possibility, the Sages decreed with regard to her that her rival wife should be forbidden. However, with regard to this woman, the rival wife of the ḥalutza, who does not go together with the ḥalutza to court, since she is never present in the court during the ḥalitza, there is no concern that people will mistake her for the ḥalutza herself. Consequently, the Sages did not see any reason to decree with regard to her that her relatives should be forbidden.

²⁴⁸ MISHNA: In the case of a yavam who performed ḥalitza with his yevama and then his brother married her sister and died, the sister performs ḥalitza with the yavam, but she may not enter into levirate marriage with him, since as a sister of his ḥalutza she is forbidden to him. And similarly, in the case of one who divorced his wife and his brother married her sister and died, then that woman is exempt both from ḥalitza and from consummating levirate marriage, since as the sister of his former wife she is forbidden to him.

²⁴⁹ In the case of a widow waiting for her yavam to consummate levirate marriage or perform ḥalitza with her, and the brother of the yavam betrothed her sister, they said in the name of Rabbi Yehuda ben Beteira: They say to the brother: Wait and do not marry the woman you betrothed until your brother performs an act, either of ḥalitza or of consummating the levirate marriage, as until he does there remains a levirate bond between the yevama and each of the brothers, and it is prohibited to marry the sister of a woman to whom one is bound by a levirate bond.

²⁵⁰ If a brother of the one who betrothed the sister of the yevama performed ḥalitza with the yevama or consummated a levirate marriage with her, since by doing so the levirate bond between the yevama and the one who betrothed her sister is dissolved, he may then enter into marriage with his wife, who until that point was only betrothed to him, as she is no longer the sister of a woman to whom he is bound by a levirate bond. Similarly, if the yevama died, since his levirate bond to her is dissolved upon her death, he may proceed to enter into marriage with his betrothed wife. However, if the yavam died without performing an act that would have dissolved the levirate bond, he must divorce his wife with a bill of divorce, as she is forbidden to him as the sister of a woman to whom he is bound by a levirate bond, and his brother's wife he must send out with ḥalitza, as she is forbidden to him as the sister of his divorcée.

²⁵¹ GEMARA: The mishna considers two cases in which there is no possibility of consummating levirate marriage with a yevama. In the first case the reason is that she is the sister of one's ḥalutza, and in the second it is that she is the sister of one's divorcée. The mishna appears to compare the two cases by introducing the second case with: And similarly. The Gemara questions this: What is the meaning of: And similarly? The two cases are not similar; in the first case the yevama must perform ḥalitza, and in the second she is entirely exempt from the need to do anything. The Gemara answers: Emend the mishna and say: However, one who divorces.

²⁵² The Gemara explains the reason for the difference between the two cases: Reish Lakish said: Here, through this mishna, Rabbi Yehuda HaNasi taught that a sister of one's divorcée is forbidden to him by Torah law, and that is why she is entirely exempt, whereas a sister of a ḥalutza is forbidden to him only by rabbinic law, and therefore, since there is still a levirate bond between her and the yavam, she requires ḥalitza to release her from it.

²⁵³ § The mishna states that in the case of a widow waiting for her yavam where the brother of the yavam betrothed her sister, Rabbi Yehuda ben Beteira said that the brother may not proceed to marry his betrothed. The Gemara cites a ruling on this matter: Shmuel said: The halakha is in accordance with the statement of Rabbi Yehuda ben Beteira.

²⁵⁴ A dilemma was raised before the Sages: If a yavam is betrothed to the sister of his yevama, then since the yevama is his betrothed wife's sister, it is forbidden for him to consummate a levirate marriage with her. However, if his betrothed wife died, what is the halakha with regard to his yevama; is he then permitted to consummate a levirate marriage with her? It is Rav and Rabbi Ḥanina who both say: If his wife died, he is permitted to consummate a levirate marriage with his yevama. Their opinion is disputed by Shmuel and Rav Asi, who both say: If his wife died, he is forbidden to his yevama.

²⁵⁵ Rava said: What is Rav's reasoning? She is permitted due to the fact that she is a yevama who, when her husband died, was permitted to the yavam, and then when the yavam betrothed her sister she became forbidden to him as his wife's sister, and then when his wife died the yevama reverted to her original status and was permitted to him. As such, she should also revert to her original permitted status with regard to levirate marriage and be permitted to consummate a levirate marriage with the yavam.

²⁵⁶ Rav Hamnuna raised an objection from that which was taught in a baraita: With regard to a case of three brothers, two of whom are married to two sisters and one of whom is a bachelor, if one of the sisters' husbands died and the bachelor performed levirate betrothal with that sister, and afterward the second brother who was married to the other sister died, and so his wife also happened before the bachelor for levirate marriage, the bachelor is then bound to each of the sisters through a levirate bond. In such a case it is prohibited for the bachelor to consummate a levirate marriage with either one, as it is prohibited to marry the sister of a woman to whom one is bound through a levirate bond.

²⁵⁷ And if afterward the wife of the second brother died after him, i.e., after her husband had already died, which restored the original situation in which the bachelor was bound by a levirate bond only to the widow of the first brother, then in such a case that yevama, the widow of the first brother, performs ḥalitza but may not enter into levirate marriage.

²⁵⁸ Rav Hamnuna explains the challenge from the baraita: But why may she not consummate the levirate marriage? She should be like a yevama who was initially permitted to her yavam, and then

became forbidden to him, and then reverted to her original status and was permitted, and so in this case she should also revert to her original permitted status with regard to levirate marriage and be permitted to consummate a levirate marriage with him. The fact that the baraita rules that she is prohibited from consummating the marriage demonstrates that she does not revert to her original permitted status.

²⁵⁹ Rava was silent, as he had no immediate answer. After Rav Hamnuna left the study hall, Rava said to himself: Why did you not say to him that the baraita does not pose a challenge because it is in accordance with the opinion of Rabbi Elazar, who said in a mishna (108b) with regard to the case of a man who divorced his wife, remarried her, and then died childless, that the yevama may not consummate levirate marriage with her yavam because once a yevama has stood before her yavam in a forbidden state, even for a single moment, she remains forbidden to him forever, and in that case, during the period she was divorced from her husband she was forbidden to her yavam? The Rabbis, however, disagree with his opinion, and the halakha is ruled in accordance with their opinion.

²⁶⁰ He then said to himself: It is not certain that the baraita is in accordance with the opinion of Rabbi Elazar because one could say that Rabbi Elazar said his opinion only where she was not suitable for the yavam, i.e., she was forbidden to him, already from the time of her happening before her yavam for levirate marriage at the moment of her husband's death. However, where she was suitable for her yavam at the time of her happening before him and became forbidden to him only at some later point, as in the case of a yavam who betrothed the sister of his yevama, did he actually say that if the reason for the prohibition is removed then she does not return to her permissible state? If the baraita does not represent the opinion of Rabbi Elazar, then it must be unanimously agreed upon, and therefore it indeed poses a challenge.

²⁶¹ He then said: Yes, actually, Rabbi Elazar did state his opinion even in such a case, and so it is taught in a baraita: With regard to a yavam who betrothed the sister of his yevama, Rabbi Elazar says: If his yevama dies, he is permitted to his wife. If his wife dies, that yevama performs ḥalitza but may not enter into levirate marriage with him. Therefore, the challenge from the baraita can be dismissed since it represents only Rabbi Elazar's opinion.

²⁶² The Gemara suggests: Shall we say that Shmuel and Rav Asi, who say that she may not consummate the levirate marriage, hold in accordance with the opinion of Rabbi Elazar?

²⁶³ The Gemara rejects this: You can even say that they hold in accordance with the opinion of the Rabbis, as perhaps the Rabbis disagree with Rabbi Elazar in the case of a man who divorced and remarried his wife and then died childless only due to the fact that in that case, from the time of her happening for levirate marriage and onward she was not forbidden to them, i.e., her yevamin. The fact that the prohibition between her and her yevamin ended before she ever happened before them for levirate marriage means it has no bearing on her current eligibility for levirate marriage. However, here, in the case where the yavam betrothed the sister of his yevama, since she became forbidden after she had already happened before him for levirate marriage, even the Rabbis would agree that she remains permanently ineligible to consummate levirate marriage with him.

²⁶⁴ MISHNA: A yevama may neither perform ḥalitza nor enter into levirate marriage until she has waited three months from the time of her husband's death. And similarly, all other women may not be betrothed and may not marry until they have waited three months since their previous marriage ended. This waiting period is necessary so that, should a woman give birth shortly after remarrying,

it will be obvious who the father of the child is. This applies both to virgins and non-virgins, both to divorcées and widows, and both to women who were married to their previous husbands and women who were only betrothed. All of these women must wait three months before remarrying even though for some of them the reason for doing so does not apply.

²⁶⁵ Rabbi Yehuda says: The women who were married to their previous husbands may be betrothed, and the women who were only betrothed to their previous husbands may marry without waiting three months. This is true except for the betrothed women that are in the area of Judea, due to the fact that the groom is familiar with her. The custom in Judea was for the couple to be secluded together before the marriage so that they would become familiar with each other. This led to the possibility that they might cohabit even during their betrothal period. Rabbi Yehuda holds that one does not need to wait three months whenever the reason for doing so does not apply.

²⁶⁶ Rabbi Yosei says: All of the women may be betrothed within three months even if they were previously married, except for a widow,

²⁶⁷ due to the mourning period she must observe for her deceased husband.

²⁶⁸ GEMARA: The Gemara questions the mishna's opening clause: Granted, she should not enter into levirate marriage, as she might already be pregnant, which would still not be noticeable during the first three months, and perhaps the baby will be viable. In that case it would emerge that she was never subject to the mitzva of levirate marriage, and therefore, if the yavam consummates a levirate marriage he will have encountered the Torah prohibition against engaging in relations with one's brother's wife. However, why should she not perform ḥalitza?

²⁶⁹ The Gemara suggests: Let us say that this mishna, which states that a pregnant woman should not perform ḥalitza, is a conclusive refutation of the opinion of Rabbi Yoḥanan, who said that a ḥalitza performed with a pregnant woman who later miscarries is considered a valid ḥalitza. The Gemara asks: But didn't they already conclusively refute the opinion of Rabbi Yoḥanan one time previously from other sources? The Gemara rephrases the suggestion: Let us say that from this mishna as well there is a conclusive refutation of the opinion of Rabbi Yoḥanan.

²⁷⁰ The Gemara deflects this suggestion: No, it is possible that in the mishna here, this is the reason that she may not perform ḥalitza: Perhaps the offspring will be viable, in which case although she performed the act of ḥalitza, it is entirely meaningless since it was completely unnecessary, and she would remain permitted to marry into the priesthood. However, this could lead to a problem: People might not realize that the ḥalitza she performed was meaningless, and they would think she is a ḥalitza who is prohibited from marrying a priest. It would therefore emerge that if you permit her to perform ḥalitza even though it is possible that she is pregnant, it could be that you will ultimately require a public announcement to be made for her to attest to the fact that the ḥalitza she performed was meaningless and she is in fact still permitted to marry into the priesthood.

²⁷¹ The Gemara wonders why this poses a problem: But why not let her perform ḥalitza even though it is possible she is pregnant, and then, if it becomes necessary, require a public announcement to be made for her? The Gemara explains why one should avoid having to rely on a public announcement: Perhaps there will be some people who are present at the ḥalitza but were not present at the public announcement, and those people will incorrectly disqualify her from marrying into the priesthood. To avoid this situation, the mishna rules that she should wait three months before performing ḥalitza.

²⁷² The Gemara asks: This answer works out well with regard to a widow because as a widow she is currently still permitted to marry into the priesthood, but with regard to a divorcée, who is already prohibited from marrying into the priesthood, what is there to say; why shouldn't she perform ḥalitza immediately? The Gemara provides an alternative reason to delay the ḥalitza: The reason is because by performing ḥalitza immediately she will forfeit the sustenance payments from her deceased husband's estate, which she otherwise would have been entitled to for the first three months. Since she is not permitted to remarry during those three months, she will have no means of support. Therefore, she should wait until after three months have passed before performing ḥalitza.

²⁷³ The Gemara asks: This answer works out well with regard to a woman who was married to her previous husband and who is therefore entitled to sustenance payments, but with regard to a divorcée who was only betrothed to her previous husband, what is there to say? She is neither entitled to receive sustenance payments nor is she permitted to marry into the priesthood. Why, then, shouldn't she perform ḥalitza immediately?

²⁷⁴ The Gemara therefore provides an alternative reason to delay the ḥalitza: Rather, it is due to that which Rabbi Yosei stated, as it is taught in a baraita: There was an incident involving a certain man who came before Rabbi Yosei. The man said to him: What is the halakha with regard to performing ḥalitza within three months of the husband's death? He said to him: She may not perform ḥalitza. He asked him: Let her perform ḥalitza; what would be the problem with that? Even if she is pregnant, no prohibition will have been transgressed.

²⁷⁵ To explain his ruling, Rabbi Yosei recited this verse about him: "And if the man does not wish to take his yevama" (Deuteronomy 25:7) in levirate marriage, then he must perform ḥalitza. By inference, the possibility of performing ḥalitza exists only in a case in which if he wishes he may consummate the levirate marriage. This teaches the principle that one who is eligible for levirate marriage is eligible for ḥalitza, and one who is ineligible for levirate marriage is ineligible for ḥalitza. This includes even a woman who is temporarily prohibited from marrying, e.g., a woman in the first three months following a previous marriage.

²⁷⁶ Rav Ḥinnana raised an objection from the following baraita: Those women whose status as a yevama is uncertain perform ḥalitza but may not enter into levirate marriage. According to this baraita, there are in fact cases in which a woman is eligible for ḥalitza but may not enter into levirate marriage.

²⁷⁷ The Gemara clarifies the case: What is the case of women whose status as a yevama is uncertain? If we say it is referring to a woman whose betrothal to her previous husband is uncertain, then why does she not enter into levirate marriage? Let her enter into levirate marriage, and there is no problem with that, because if the betrothal was never valid, then she is permitted to the yavam as she is not his brother's wife; and if it was valid, then she is now obligated to enter into levirate marriage with him.

²⁷⁸ Rather, is it not referring to a case of uncertainty in which a man betrothed one of two sisters and he does not know which one of them he betrothed? If that man then died childless, the yavam may not consummate the levirate marriage with either sister because it is possible that he will do so with the sister who was not betrothed to his brother, who is therefore forbidden to him as the sister of a woman who is bound to him by a levirate bond. This is in fact the case of the baraita, and the baraita teaches that she performs ḥalitza, even though she is not permitted to enter into levirate marriage.

²⁷⁹ The Gemara rejects the proof: How can these cases be compared? There, in the case of uncertainty, if Elijah were to come and say that the man betrothed this one of the sisters, then she would be eligible for *ḥalitza* and levirate marriage. It is clear, then, that fundamentally the sister who was betrothed is actually eligible for levirate marriage, and it is merely a lack of knowledge that prevents her from entering into it.

²⁸⁰ However, here, with regard to a woman during the first three months following her previous marriage, if Elijah were to come and say that this woman is not pregnant, would one pay heed to him and would we allow the yavam to consummate levirate marriage? Certainly not, as is evident from the fact that a minor girl, who cannot become pregnant, must also wait three months. Evidently, the requirement to wait three months applies in all situations, even those in which the reason for the requirement is irrelevant. Therefore, by virtue of that decree the yevama is considered to be fundamentally ineligible for levirate marriage and similarly is ineligible for *ḥalitza*.

²⁸¹ § The Gemara mentioned that a yevama is supported from her deceased husband's estate. It now proceeds to cite a baraita that teaches this halakha: The Sages taught: A yevama during the first three months following her husband's death receives sustenance payments from the husband's estate. This is because her previous marriage to him is the cause of her current unmarried state, since it is due to that marriage that she must first wait three months before remarrying. From this point forward, she does not receive sustenance payments, neither from the husband's estate nor from the yavam, as he has not yet consummated a levirate marriage with her.

²⁸² The baraita continues: If the yavam was brought to judgment and it was decided that he was obligated to either consummate the levirate marriage with her or perform *ḥalitza*, and he ran away to avoid doing so, she receives sustenance payments from the estate of the yavam, which is his penalty for neglecting his duty.

²⁸³ The Gemara asks: If she happened before her yavam who is a minor for levirate marriage, what is the halakha? From the yavam she does not have any right to sustenance payments because, as a minor, he is unable to consummate a levirate marriage, but as to payments from her husband's estate, what is the halakha? Since his death placed her in a situation that forces her to remain in an unmarried state, does his estate have to take the responsibility of supporting her?

²⁸⁴ Rav Aḥa and Ravina disagree with regard to this matter: One said she does have rights to sustenance payments, and the other one said she does not have any rights. And the halakha is that she does not have any rights to sustenance payments. This is because the husband is not considered to be responsible for her situation; rather, it is thought that she was penalized by Heaven.

²⁸⁵ § The Sages taught: In the case of a yevama with whom the brothers of her deceased husband performed *ḥalitza* within three months of her husband's death, she still needs to wait three months before remarrying.

²⁸⁶ If they performed the *ḥalitza* after three months, she does not need to wait three months and may marry immediately.

²⁸⁷ The Gemara infers from the latter clause of the baraita: It must be that the three months that are stated throughout the baraita are counted from the time of the husband's death and not from the time of the *ḥalitza* of the yavam.

²⁸⁸ The Gemara asks: In what way is this case different from the case of a bill of divorce, where Rav said that the three months are counted from the time of the giving of the bill of divorce, and Shmuel said that the count is from the time of the writing of the bill. If a couple is secluded together after the bill of divorce is written, the bill of divorce is invalid. Therefore, there is no concern that they were secluded from that time. This is why Shmuel holds that the three months are counted from the writing. Rav apparently assumes that even so, the count always begins from the formal end of the marriage and not from the point from which there was no possibility of her becoming pregnant. Why, then, does the baraita not rule also in the case when a woman happens for levirate marriage, that the count should begin from the point of ḥalitza, since the marriage is only fully severed at that point?

²⁸⁹ Rava said: With regard to a yevama, all agree that the count begins from the time of her husband's death. This can be derived through an a fortiori inference, as follows: If a prohibition that entails karet, i.e., the prohibition against engaging in relations with one's brother's wife in the event she is pregnant and not subject to levirate marriage, you have permitted after three months from the husband's death, then in the case of a standard negative prohibition, such as the prohibition against engaging in relations with a woman within three months of the death of her previous husband, is it not all the more so clear that she should be permitted to remarry after three months from her husband's death? Therefore, even Rav agrees that in this case, the count begins from the husband's death.

²⁹⁰ § The mishna states: And similarly, all other women may not be betrothed or marry until they have waited three months. The Gemara asks: Granted, a yevama has to wait, in accordance with the reason that we said, that if she is pregnant with viable offspring, consummating the levirate marriage would violate the prohibition against engaging in relations with one's brother's wife. But with regard to all other women, why shouldn't they remarry immediately even if they are pregnant?

²⁹¹ Rav Naḥman said that Shmuel said: It is due to the fact that the verse states with regard to Abraham: "To be a God to you and your seed after you" (Genesis 17:7), which indicates that the Divine Presence rests with someone only when his seed can be identified as being descended from him, i.e., there are no uncertainties with regard to their lineage. Therefore, to prevent any uncertainties concerning the lineage of her child, the woman must wait so that it will be possible to distinguish between the seed of the first husband and the seed of the second husband. After three months, if she has conceived from her previous husband, the pregnancy will already be noticeable.

²⁹² Rava raised an objection from a baraita: Therefore, on account of the requirement to wait three months, a male convert and a female convert who were originally married to each other and converted need to wait three months before they may remarry following their conversion. Rava asks: Here, in this case, what reason is there to distinguish? Even if they do not wait and she is found to be pregnant, it is clear who the child's parents are.

²⁹³ The Gemara explains: Here, too, there is a need to distinguish between seed that was sown in sanctity, i.e., a child conceived by a Jewish parents, and seed that was not sown in sanctity, i.e., a child conceived by gentile parents.

²⁹⁴ Rava stated a different reason for the need to wait: It is a rabbinic decree lest a child be born and be incorrectly identified as the son of his mother's second husband when he is fact the son of her first husband. This could result in him marrying his paternal sister, unaware of the true relationship between them, or consummating a levirate marriage with the wife of his maternal brother under the

misconception that his maternal brother was also his paternal brother. This would be prohibited because the prohibition to engage in relations with one's brother's wife is waived only in the case where there is a mitzva of levirate marriage, which applies only to paternal brothers.

²⁹⁵ Or in the event that his mother's second husband died and he was assumed to be his only offspring, he would cause his mother to go out and be permitted to the general public because, under the misconception that he was the offspring of the deceased, he assumed that there was no mitzva of levirate marriage. Or, in the event that his maternal brother died childless and the brother's widow became subject to levirate marriage, under the misconception that he was the paternal brother of the deceased he might perform ḥalitza and permit his supposed yevama to marry a man from the general public. To avoid these problems, the Sages decreed that a woman must wait before remarrying.

²⁹⁶ Rav Ḥananya raised an objection from a baraita: In all of those cases where the Sages prohibit a woman from marrying or consummating a levirate marriage, I identify that the prohibition is due to an ordinance instituted to prevent a violation of forbidden relations, and here, with regard to the prohibition against marrying within three months, it is due to an ordinance for the benefit of the offspring. Rav Ḥananya explains the challenge: And if it is so that Rava's understanding of the prohibition against marrying within three months is correct, then all of the cases of forbidden marriages are due to an ordinance to prevent violation of forbidden relations. However, the baraita indicates otherwise.

²⁹⁷ The Gemara defends Rava's opinion and explains that the baraita can be interpreted in a way that is consistent with his understanding: When the baraita says that this prohibition is due to an ordinance for the benefit of the offspring, it means that due to the prohibition the offspring will not encounter a prohibition of forbidden relations.

²⁹⁸ § The Gemara analyzes the prohibition against marrying before three months have passed: Granted, she should not wait for only two months and then marry, as this is still a case that could give rise to an uncertainty whether the child born to her seven months after remarrying is nine months old, i.e., counting from conception, and it is the offspring of the first husband, or whether the child is only seven months old and is the offspring of the latter husband.

²⁹⁹ However, let her wait only one month and then marry, and then, since it is presumed that a baby born during its eighth month since conception is not viable but a baby born during its seventh or ninth month is viable, if after seven months since remarrying she gives birth, then the child is clearly seven months old and is the offspring of the latter husband, and if after eight months since remarrying she gives birth, then this child is clearly nine months old and is the offspring of the first husband. Why, then, is there a need to wait three months?

³⁰⁰ The Gemara explains: Even if she gave birth after eight months since remarrying one could say that the child is the offspring of the latter husband, as perhaps she waited one month after remarrying and conceived only then. As such, the baby would be only seven months old, and that would explain its viability.

³⁰¹ The Gemara asks further: But let her wait for two and a half months and then marry, as, if after seven months since remarrying she gives birth, then this child is clearly seven months old and is the offspring of the latter husband. And if after six and a half months since remarrying she gives birth, then this child is clearly nine months old and is the offspring of the first husband, because if one

would suggest it is the offspring of the latter husband, in that case it would be six and a half months old, at which age it cannot survive.

³⁰² The Gemara objects: Even if after six and a half months since remarrying she gave birth, one could say that the child is the offspring of the latter husband, as Mar Zutra said: Even according to the one who says that a woman who gives birth after nine months does not give birth after an incomplete number of months, i.e., she carries for a full nine months, nevertheless, a woman who gives birth after seven months can give birth after an incomplete number of months, and therefore it is possible that the baby was actually born after six and a half months.

³⁰³ This fact is derived from the verse concerning the birth of Samuel the prophet, as it is stated: “And it came to pass, when the seasons of the days had come, that Hannah conceived, and bore a son” (I Samuel 1:20). How much time is indicated by the phrase “the seasons of the days”? The minimal sense of the word “seasons” is two, and since each season of the year is three months, that indicates six months. The minimal sense of the word “days” is two. Accordingly, one may conclude that Samuel the prophet was born after six months and two days.

³⁰⁴ The Gemara suggests further: But let her wait any minimal amount of time, less than a month, and then marry, and then when three months after the end of her first marriage are complete, examine her body to see if she is noticeably pregnant. If she is, then perforce the baby is the offspring of her previous husband because a pregnancy is not noticeable until three months.

³⁰⁵ Rav Safra said: This solution is not possible because one does not examine the bodies of married women so as not to shame them before their husbands. The Gemara suggests: But let her be examined through the way she walks, since after three months a pregnant woman walks differently than a woman who is not pregnant.

³⁰⁶ Rami bar Hama said: A woman who conceived from her previous husband would mask herself by purposefully walking in a manner in which her pregnancy will not be discerned, so that her child will be identified as the son of her new husband in order that her child will ultimately inherit her new husband’s property. Therefore, it is impossible to rely upon a test of this kind. In summary, the Gemara has demonstrated that it would be ineffective to wait any less than three months.

³⁰⁷ § The Gemara asks: In cases where we are convinced that she is pregnant, let her marry immediately, as the reason to wait three months does not apply. Why, then, is it taught in a baraita: A man may not marry a woman who is pregnant with the child of another man, nor a woman who is nursing the child of another man; and if he transgressed and married her, he is penalized for violating the prohibition, and he must divorce her and may never take her back?

³⁰⁸ The Gemara explains: This prohibition is a rabbinic decree lest she become pregnant a second time and her original fetus will be deformed into the shape of a sandal fish. The Gemara asks: If so, even if his wife is pregnant with his own child, the same concern applies.

³⁰⁹ The Gemara responds: She is permitted to engage in relations, both if one holds in accordance with the one who said that a young girl, for whom it is dangerous to become pregnant, is permitted to engage in relations using a contraceptive resorbent placed at the entrance to her womb, then also a woman pregnant with her husband’s child may engage in relations using a resorbent, and similarly if one holds in accordance with the one who said a young girl is permitted to engage in relations in her

usual manner and Heaven will have mercy upon her and prevent any mishap, then in this case as well a pregnant woman should continue to engage in relations and Heaven will have mercy upon her.

³¹⁰ The Gemara objects: But here, too, in the case of a woman who is pregnant with the child of another man, these solutions could be employed: Both if one holds in accordance with the one who says that a young girl may engage in relations using a resorbent, in this case as well she may do so using a resorbent, and similarly if one holds in accordance with the one who says that Heaven will have mercy upon her, in this case as well Heaven will have mercy upon her.

³¹¹ The Gemara suggests a different reason for the prohibition against marrying a woman who is pregnant with the child of another man: Rather, it is due to the damage that could be caused to the fetus by the pressure applied to it at the time of intercourse. The Gemara asks: If so, even if his wife is pregnant with his own child, the same concern applies. The Gemara explains: When it is his own child, he has mercy upon it and tries not to apply too much pressure. The Gemara asks: But here, too, when it is the child of another man, he will have mercy upon it, as certainly one is careful not to cause harm to any human life and will be careful not to press down too hard.

³¹² The Gemara suggests a different reason: Rather, the reason for the prohibition is that a typical pregnant woman is poised to nurse her child once it is born;

³¹³ therefore, one should be concerned that perhaps she will become pregnant and her milk will dry up during pregnancy, and the lack of milk will kill her newborn child. The Gemara asks: If so, even if his wife is pregnant with his own child, the same concern applies. The Gemara explains: For his own child, she will feed [memasmesa] him with eggs and milk as a substitute for the mother's milk. The Gemara asks: Even if the child is not his, it is still the mother's child, and for her child she will also feed him with eggs and milk. The Gemara answers: The husband will not give her money to procure food for a child that is not his. The Gemara asks: But she could sue her first husband's heirs to provide subsistence for the child. Abaye said: A woman is embarrassed to come to court, and therefore she will not obtain enough sustenance for him. Consequently, she effectively kills her son as a result.

³¹⁴ § The mishna states: The requirement to wait three months before remarrying applies both to virgins and non-virgins, both to divorcées and to widows, and both to women who were married to their previous husbands and to women who were only betrothed. The Gemara asks: Which women are referred to as virgins and which are referred to as those who were betrothed? Although the two terms appear to be synonymous, since a virgin will be subject to levirate marriage only if she was betrothed, they must certainly refer to two different categories of women. Similarly, which women are referred to as non-virgins and which are referred to as married, as a married woman is always considered to be a non-virgin?

³¹⁵ Rabbi Yehuda said this is what the mishna is saying: The requirement to wait applies to both virgins and non-virgins who were widowed or divorced, whether from betrothal or from marriage, i.e., the mishna does not list different categories of women but instead establishes a general principle.

³¹⁶ The Gemara relates: Rabbi Elazar did not enter the study hall one day. He found Rabbi Asi and said to him: What was said by the Sages in the study hall today? He said to him: This is what Rabbi Yoḥanan said: The halakha is in accordance with the opinion of Rabbi Yosei that a woman is permitted to be betrothed even before three months have passed, since the reason for waiting does not apply in that case.

³¹⁷ Rabbi Elazar said: From the fact that Rabbi Yoḥanan needed to state this, it would seem that there is an individual opinion that disagrees with him, even though no such opinion is mentioned in the mishna. Rabbi Asi answered: Yes, that is correct, and so it is taught in a baraita in the Tosefta (Yevamot 6:6): With regard to a woman who is certainly not pregnant, for example, a woman who, at the time of her husband's death, had not lived with her husband for some time because she always eagerly hurried, like one pursued, to go to her father's house, or because she had been subject to anger in her husband's house, or because her husband had been incarcerated in prison, or because her husband was elderly or infirm, or because she was infirm.

³¹⁸ Or a woman who could not be pregnant because she miscarried after her husband's death, or because she was barren, or elderly, or a minor, or a sexually underdeveloped woman [aylonit], or if for some other reason she was unsuited to give birth; even though the reason for the decree to wait three months does not apply to such a woman, nevertheless, she must wait three months. This is the statement of Rabbi Meir. Rabbi Yehuda permits such women to be betrothed or to marry immediately. It is apparent from the baraita that the question of whether a woman is required to wait the three months when the reason to do so does not apply is subject to a dispute.

³¹⁹ Rabbi Ḥiyya bar Abba said: Rabbi Yoḥanan retracted his statement that the halakha is in accordance with the opinion of Rabbi Yosei. Rav Yosef said: Even if he wanted to retract his statement, would he retract from the baraita that records the opinions of the Sages of the vineyard of Yavne? As it is taught in a baraita: Rabbi Yishmael, son of Rabbi Yoḥanan ben Beroka, said: I heard from the mouth of the Sages in the vineyard of Yavne that all those women enumerated in the baraita above need to wait three months. If the great Sages of Yavne held in accordance with the opinion of Rabbi Yosei, then the halakha is certainly in accordance with his opinion.

³²⁰ Rabbi Yirmeya said to Rabbi Zerika: When you come before Rabbi Abbahu, raise the following contradiction: Did Rabbi Yoḥanan actually say that the halakha is in accordance with the opinion of Rabbi Yosei? Didn't Rabbi Yoḥanan say that the halakha is always established in accordance with the ruling of an unattributed mishna? And we learned in the mishna an unattributed ruling: All women may not marry and may not be betrothed until they have waited three months since their previous marriage ended; this applies to both virgins and non-virgins.

³²¹ When Rabbi Zerika went and asked, Rabbi Abbahu said to him: The one who raised this contradiction to you is clearly not concerned for his flour; this is a case of an unattributed ruling followed by a dispute on that ruling, and in such cases the halakha is not necessarily in accordance with the unattributed opinion. As Rav Pappa said, and some say it was Rabbi Yoḥanan who said the following principle: When the Mishna first records a dispute, and afterward it records only one side of that dispute as an unattributed opinion, then the halakha is in accordance with the unattributed opinion. However, when the Mishna first records an unattributed opinion and afterward records that the ruling is subject to a dispute, the halakha is not necessarily in accordance with the unattributed opinion. In each case, the later reference is considered to be a summary of the matter.

³²² § The Gemara relates: Rabbi Abbahu would walk while leaning upon the shoulder of Rabbi Naḥum, his attendant, and along the way Rabbi Naḥum would walk and gather halakhic rulings from him. Once, Rabbi Naḥum asked him: When the Mishna first records a dispute, and afterward it records only one side of that dispute as an unattributed opinion, what is the halakha? Rabbi Abbahu said to him: The halakha is in accordance with the unattributed opinion. Rabbi Naḥum then asked:

When the Mishna first records an unattributed opinion and afterward records that the ruling is subject to a dispute, what is the halakha? Rabbi Abbahu said to him: The halakha is not necessarily in accordance with the unattributed opinion.

³²³ Rabbi Naḥum asked: When a ruling is recorded in the Mishna as unattributed and it is subject to a dispute in a baraita, what is the halakha? Rabbi Abbahu said to him: The halakha is in accordance with the unattributed opinion in the Mishna. Rabbi Naḥum then asked: When the Mishna records that a matter is subject to a dispute, and only one side is recorded as an unattributed opinion in a baraita, what is the halakha? Rabbi Abbahu said to him:

³²⁴ If Rabbi Yehuda HaNasi had not taught that ruling in the Mishna, from where would Rabbi Ḥiyya, his disciple and redactor of the baraitot, have known it? Since the source of the unattributed ruling in the baraita is certainly the dispute recorded in the mishna, its lack of attribution in the baraita only reflects the fact that Rabbi Ḥiyya ruled in accordance with that opinion, but that cannot be used to indicate that it is the accepted halakha.

³²⁵ Rabbi Naḥum questioned the principle that the halakha is always in accordance with an unattributed ruling in a mishna and said to Rabbi Ḥiyya: Didn't we learn in a mishna (Kelim 13:8): A comb made for combing beaten flax in preparation for spinning, from which its teeth were removed and only two of its teeth remained in it, is still suitable for combing. It is therefore considered a utensil and will become ritually impure if it comes in contact with ritual impurity. However, if only one tooth remained, so that the comb was no longer suitable for combing, it is no longer considered a utensil and so will remain ritually pure even if it comes in contact with ritual impurity. And with regard to any of the teeth that were individually removed on their own, since they do serve a purpose, e.g., they may be embedded and used as hooks, they are considered utensils and can become ritually impure.

³²⁶ A comb made for combing wool from which every other one of its teeth were removed, so that no two consecutive teeth remained in place, is no longer suitable for combing and so will remain ritually pure. If three teeth remained in it in a single place so that it could still be used for combing, then it could become ritually impure. However, if one of those teeth was the external frame of the comb itself, then it could not function as a comb, and so it will remain ritually pure. If two of the teeth were removed and made into small pincers, then they could become ritually impure. Alternatively, if one of the teeth was removed, and it was prepared in a manner that made it suitable for use in cleaning an oil lamp or for stretching ropes, then it would be considered a utensil and could become ritually impure.

³²⁷ Rabbi Naḥum posed his question: But we maintain that the halakha is not in accordance with that mishna. This would seem to contradict the principle that the halakha is always in accordance with an unattributed opinion. Rabbi Ḥiyya said to Rabbi Naḥum that the principle applies to all cases apart from this mishna, as with regard to this particular mishna there are Rabbi Yoḥanan and Reish Lakish who both say: This is not an authoritative mishna, and so it cannot be relied upon for a halakhic ruling.

³²⁸ The Gemara asks: What is the reason to say that the mishna is not authoritative? Rav Huna bar Manaḥ said in the name of Rav Idi, son of Rav Ika: It is because the first clause of that mishna contradicts the latter clause, as it teaches: A comb used for wool from which every other one of its teeth were removed is no longer considered a utensil, and so it will remain ritually pure. This implies

that were two teeth to remain in it in one place, it could become ritually impure. And then the mishna continues and teaches: If three teeth remained in it in a single place it is still considered a utensil and so it could become ritually impure. This indicates that if there are three, yes, it could become ritually impure, but if there are two, no, it would not become ritually impure.

³²⁹ The Gemara asks: But what is the difficulty? Perhaps this ruling that if two teeth remain it is considered a utensil is referring to the internal teeth, found in the middle of the frame, while that ruling that it is not considered a utensil is referring to the outer teeth, which are adjacent to the frame of the comb, which makes them unsuitable for use.

³³⁰ Rather, the difficulty with the mishna is from here, as it teaches: And any of the teeth that were individually removed on their own, since they can serve a useful purpose they are considered utensils and can become ritually impure. And the implication is that this is true even though the tooth was not prepared for that purpose. But say the latter clause as follows: If one of the teeth was removed, and it was prepared in a manner that rendered it suitable for use in cleaning an oil lamp or for stretching ropes, then it would be considered a utensil and could become ritually impure. The implication is that if it was prepared for use, then yes, it would be considered a utensil, but if it was not prepared for use, then no, it would not be considered a utensil.

³³¹ Abaye said: But what is the difficulty? Perhaps this ruling, that further preparation is not required before it is considered a utensil, is referring to a case where the teeth were removed with their base, which allows them to be used immediately for various functions, whereas that ruling, that it is considered a utensil only once it is prepared for use, is referring to a case where the teeth were removed without their base and therefore require further preparation before they can be used.

³³² Rav Pappa stated an alternative resolution: But what is the difficulty? Perhaps this ruling that further preparation is not required is referring to a case where the teeth were narrow, whereas that ruling that it is considered a utensil only once it is prepared for use is referring to a case where the teeth were thick.

³³³ Rather, the reason that the mishna is not accepted as authoritative is not due to some difficulty in the formulation of the mishna, but because those who are exact in their rendition of the tradition conclude this mishna with: This is the statement of Rabbi Shimon. In other words, this mishna is not unattributed but presents the minority opinion of a single Sage, and it is for this reason that it is not accepted as authoritative.

³³⁴ § Rabbi Ḥiyya bar Avin sent a message from Eretz Yisrael with regard to the halakha cited in the mishna: One may betroth a woman, but not marry her, within three months of her previous marriage; and so one acts in practice.

³³⁵ And so Rabbi Elazar would teach us in the name of Rabbi Ḥanina the Great that the three months are counted as follows: One counts the majority of the days of the first month, and the majority of the third month, and the entire middle month.

³³⁶ Ameimar permitted one to betroth a woman on the ninetieth day itself. Rav Ashi said to Ameimar: Didn't Rav and Shmuel both say that she needs to wait three full months, excluding the day on which the husband died and excluding the day on which she is betrothed? It is apparent that it is still prohibited to betroth a woman on the ninetieth day itself. Ameimar said to him: That which you heard, that the days of the husband's death and of the betrothal are not included, was stated only

with regard to a nursing woman, as it was Rav and Shmuel who both said: A nursing woman needs to wait twenty-four months before being betrothed, excluding the day on which the baby was born and excluding the day on which she is betrothed.

³³⁷ The Gemara asks: Wasn't there an incident concerning a certain person who prepared a betrothal feast on the ninetieth day following the death of the woman's first husband, and Rava caused him to forfeit his feast by prohibiting the betrothal on that day? The Gemara answers: That feast was actually a marriage feast, but had it been a betrothal feast it would have been permitted.

³³⁸ The Gemara summarizes: The halakha is that a nursing mother needs to wait twenty-four months, excluding the day on which the baby was born and excluding the day on which she is betrothed. And if she was widowed but was not nursing, then she needs to wait only three months, excluding the day on which her previous husband died and excluding the day on which she is betrothed.

³³⁹ § The mishna states that Rabbi Yosei says: All women may be betrothed within three months except for a widow, due to the mourning period she must observe for her deceased husband. Rav Ḥisda questioned the mishna's ruling and said: Based on an a fortiori inference, it should be permitted for a woman to be betrothed during the thirty-day mourning period for her husband: If during another period of mourning, which the Gemara will specify, when it is prohibited to launder clothes, it is permitted to be betrothed, then during the thirty-day mourning period for a husband, when it is permitted to launder clothes, isn't it logical that it should also be permitted to be betrothed?

³⁴⁰ The Gemara explains the cases involved: What is the period of mourning to which Rav Ḥisda is referring? As we learned in a mishna (Ta'anit 26b): During the week in which the Ninth of Av occurs, it is prohibited to cut hair and to launder clothes, but on Thursday it is permitted in deference to Shabbat. And it is taught in a baraita: Prior to this time the public reduce their activities, refraining from business transactions, from building and planting, and they may betroth women but may not marry them, and they may not make a betrothal feast. The Gemara assumes that the baraita is referring to the days immediately preceding the Ninth of Av. Accordingly, during the days prior to the Ninth of Av it is prohibited to launder clothes, but it is permitted to be betrothed. It was upon this period of time that Rav Ḥisda based his a fortiori inference.

³⁴¹ To defend Rav Yosei's ruling in the mishna, the Gemara explains: When that baraita is taught, it is taught with regard to the period prior to the period that is prior to the Ninth of Av, i.e., the days prior to the week in which the Ninth of Av occurs. It is only then that it is permitted to be betrothed, but during the week in which the Ninth of Av occurs it is prohibited. Therefore, the basis of Rav Ḥisda's a fortiori inference is undermined.

³⁴² Rava said: From the period prior to the period that is prior to the Ninth of Av, a challenge to Rabbi Yosei's ruling can also be advanced based on an a fortiori inference, as follows: If in a period of mourning when it is prohibited to conduct business transactions, it is permitted to be betrothed, then during the thirty-day mourning period for a husband, when it is permitted to conduct business transactions, isn't it logical that it should also be permitted to be betrothed?

³⁴³ The Gemara accepts the conclusion of this a fortiori inference and therefore concludes: Do not say that Rabbi Yosei says: All women may be betrothed within three months; rather, emend his statement to say: All women may be married within three months except for a widow. However, even Rabbi Yosei agrees that it is permitted for a widow to be betrothed during this period.

³⁴⁴ The Gemara asks: But does Rabbi Yosei not accept that there is a decree to wait three months in order to distinguish between the seed of the first and second husbands? According to the Gemara's emendation of his statement, it would appear there is no case in which Rabbi Yosei applies the decree.

³⁴⁵ The Gemara answers: Indeed, he does not accept the decree. And if you wish, say that actually, he does accept the decree and applies it in the case of a married woman who was divorced. And with regard to the challenge to his opinion from the a fortiori inference, emend the mishna and say: Rabbi Yosei says that all women who were only betrothed to their previous husbands and then divorced may be married within three months, since the reason to wait does not apply in this case.

³⁴⁶ The Gemara asks: If so, then this opinion of Rabbi Yosei is identical to the opinion of Rabbi Yehuda. What difference is there between them? The Gemara answers: There is a practical difference between them in the case of a woman who was married to her previous husband and seeks to be betrothed. Rabbi Yehuda holds that it is permitted to betroth a woman who was married to her previous husband without first waiting three months. And Rabbi Yosei holds that it is prohibited to betroth a woman who was married to her previous husband without first waiting three months.

³⁴⁷ The Gemara asks: But does Rabbi Yosei really hold that it is prohibited to betroth a woman who was married to her previous husband without first waiting three months? Isn't it taught in a baraita: Rabbi Yosei says that all women may be betrothed without waiting except for a widow, due to the mourning period she must observe for her deceased husband; and how long is her mourning period? It is thirty days. And none of them may be married until they have waited three months.

³⁴⁸ The Gemara clarifies the question: What difficulty does this baraita pose? If we say that the baraita teaches: Rabbi Yosei says that all women may be betrothed without waiting, is the baraita stronger than the mishna that was established as teaching that women who were only betrothed to their previous husbands and then divorced may be married within three months? Here, too, the baraita could be established as teaching that all women who were only betrothed to their previous husbands and then divorced may be married within three months.

³⁴⁹ Rather, the difficulty arises from the latter clause that teaches: And none of them may marry until they have waited three months. This implies that Rabbi Yosei holds that it is specifically marrying that is not permitted, but betrothing seems well and is permitted. This challenges the Gemara's original claim that Rabbi Yosei disagrees with Rabbi Yehuda on this point.

³⁵⁰ Rava said: Resolve the difficulty and emend Rabbi Yosei's statement to say this: Rabbi Yosei says that all women who were only betrothed to their previous husbands and then divorced may marry within three months except for a widow, due to the mourning period she must observe for her deceased husband. And how long is her mourning period? It is thirty days. And women who were married to their previous husbands may not be betrothed until they have waited three months.

³⁵¹ The Gemara asks: But does a woman who became a widow from betrothal have to observe a mourning period for her husband? Didn't Rabbi Ḥiyya bar Ami teach in a baraita: If one's wife to whom he was betrothed died, he does not observe a period of acute mourning for her, and if he is a priest he is not permitted to become ritually impure for her. And similarly, if he dies, she does not observe a period of acute mourning for him and she does not become ritually impure for him. If she dies, he does not inherit from her. If he dies, she collects payment of her marriage contract. The baraita demonstrates that a widow is required to mourn her husband only if she was married to him

and not merely betrothed. If so, clearly Rabbi Yosei's ruling in the mishna is referring to married women. Accordingly, all of the Gemara's emendations of Rabbi Yosei's statement, in order to defend his statement from Rav H̥isda's a fortiori inference, are refuted.

³⁵² Rather, it must be that the question of whether it is permitted to betroth a woman during the period prior to the week of the Ninth of Av is subject to a dispute between tanna'im. As it is taught in a baraita: From the New Moon of Av and until the fast on the ninth, the public reduces its activities, refraining from business transactions, from building and planting, and from betrothing and marrying. During the week in which the Ninth of Av occurs, it is prohibited to cut hair and to launder clothes, and it is prohibited to be betrothed. And some say: It is prohibited for the entire month. The Gemara's challenge to Rabbi Yosei's opinion that it is prohibited for a widow to be betrothed during her mourning period was based on an a fortiori inference that assumes that it is permitted to be betrothed during the mourning period preceding the week of the Ninth of Av. However, since this ruling is subject to a dispute, Rabbi Yosei could reject the a fortiori inference by stating that he holds in accordance with the opinion that it is in fact prohibited to be betrothed during that period.

³⁵³ Rav Ashi strongly objects to this: From where is it known that when the baraita prohibits one to be betrothed, it is referring to actually betrothing? Perhaps it is only to make a betrothal feast that is prohibited, but merely to be betrothed seems well and is permitted.

³⁵⁴ The Gemara questions Rav Ashi's objection: If so, then with regard to the prohibition against marrying as well one could make the same claim: With regard to the prohibition to marry, too, it is only to make a marriage feast that is prohibited, but merely to marry seems well and is permitted. The Gemara rejects its question: How can these cases be compared? Granted, from a marriage, even without a feast, there is joy, but from a betrothal without a feast, is there any joy? It is merely a legal ceremony.

³⁵⁵ Rather, Rav Ashi stated a different resolution of Rav Yosei's opinion: New mourning, i.e., the mourning for a relative who has just passed away, is different from old mourning, i.e., the mourning over historic events such as the destruction of the Temple, and it is appropriate to be more lenient in the latter. And the mourning of the public is different from the private mourning of the individual, and it is appropriate to be more stringent in the latter. As such, it is not possible to form an a fortiori inference from the halakhot of mourning for the Temple to those of a wife mourning for her husband.

³⁵⁶ MISHNA: In a case of four brothers married to four women and some of the brothers died childless, their wives thereby become yevamot. If the eldest of the brothers who survived wished to consummate the levirate marriage with all of his yevamot, he has permission to do so.

³⁵⁷ In the case of one who was married to two women and died childless, the intercourse or ḥalitza of either one of the wives with the yavam releases her rival wife from the levirate bond, and the rival wife need not enter into levirate marriage or perform ḥalitza.

³⁵⁸ If one of these women was fit to marry into the priesthood and one was unfit, then if he performs ḥalitza, he should perform ḥalitza with the unfit woman rather than with the one who is fit for the priesthood, since doing so with the woman who is fit would needlessly disqualify her from marrying into the priesthood. But if he consummates the levirate marriage, he may consummate the levirate marriage with the one who is fit.

³⁵⁹ GEMARA: The simple reading of the mishna's first clause implies that all four brothers died. The Gemara questions this: Can it enter your mind to say that all four brothers died? If they all died, then who remains to consummate the levirate marriage? Rather, emend the mishna and say instead: Four married men of a set of more than four brothers died.

³⁶⁰ The mishna continues: If the eldest of them wished to consummate the levirate marriage with all of his yevamot, he has permission to do so. The Gemara asks: Do they actually leave him to do so? Isn't it taught in a baraita: The verse states: "And the Elders of his city shall call him" (Deuteronomy 25:8), which indicates that they, the Elders, and not their agent, should call him. The verse continues: "And they speak to him"; this phrase teaches that they offer him advice that is appropriate for him.

³⁶¹ The baraita explains: Appropriate advice means that if he was a young man and she an elderly woman or if he was an elderly man and she a young woman, they say to him: What do you want with a young woman when you are elderly? Or: What do you want with an elderly woman when you are young? Go after your own kind, i.e., a woman of a similar age, and do not place discord in your household that could be caused by marrying a woman of a significantly different age. From the baraita it is apparent that if consummating the levirate marriage will ultimately lead to contention between the couple, it is preferable to perform *ḥalitza*. Similarly, in the case of the mishna, marrying four women will likely lead to contention since it is difficult to support so many people, and poverty will lead to strife. Therefore, the yavam should not be allowed to consummate levirate marriages with all of them.

³⁶² The Gemara qualifies the mishna's case: No, it is necessary to teach that he has permission to consummate the levirate marriage with all of his yevamot in the case where it is possible for him to provide for all four women. The Gemara asks: If so, then the same should be true even if there are many more women as well; why does the mishna specifically discuss a case of four women? The Gemara explains: The mishna teaches us good advice; in a case of up to four women, yes, if he can provide for them then it is acceptable to marry all of them. But if there are any more than that, no, he should not, in order that he will be able to meet the conjugal rights of each woman at least once in each month. A Torah scholar is expected to provide conjugal relations once a week. If he marries no more than four women, then that will ensure that each of his wives will receive their conjugal rights at least once a month.

³⁶³ § The mishna states: In the case of one who was married to two women and died childless, the intercourse or *ḥalitza* of either one of them with the yavam releases her rival wife from the levirate bond. The Gemara questions why the mishna considers only the possibility that he would do so with only one of the women: But let him instead consummate levirate marriages with both of them. Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: The verse states that a yavam who performs *ḥalitza* is referred to as: "The man who does not build his brother's house" (Deuteronomy 25:9). The fact that the word "house" appears in the singular indicates that even had he instead chosen to consummate a levirate marriage, only one house may he build, by consummating a levirate marriage with one of his brother's wives, but he may not build two houses.

³⁶⁴ The Gemara suggests: But let him perform *ḥalitza* with both of them; why does the mishna state that he does so with only one woman? Mar Zutra bar Toviya said: The verse states that following the *ḥalitza* the man is called: "The house of him who had his shoe removed" (Deuteronomy 25:10). The

fact that the word “house” appears in the singular indicates that he performs ḥalitza with only one house, i.e., only one of his brother’s wives, and he does not perform ḥalitza with two houses.

³⁶⁵ The Gemara suggests: But let him consummate the levirate marriage with one and perform ḥalitza with the other. The Gemara explains that the verse states: “If the man does not wish to take his yevama” (Deuteronomy 25:7), which implies that with regard to anyone who performs ḥalitza, were he to wish to, he could consummate the levirate marriage. This teaches the principle that only one who is eligible for levirate marriage is eligible for ḥalitza, but one who is ineligible for levirate marriage is ineligible for ḥalitza. And since, in the case of the mishna, if the yavam consummated the levirate marriage with one of his brother’s wives he may not do so with the second, consequently he may not perform ḥalitza with her either.

³⁶⁶ And furthermore, an additional reason that one may not do so is so that people should not say that the brother’s house was partially built through levirate marriage and partially released through ḥalitza. The Gemara asks: And even if they will say that, what of it? The Gemara explains: If he first consummated the levirate marriage with one wife and subsequently performed ḥalitza with the other, indeed, there is no reason not to do this. However, perhaps he might first perform ḥalitza with one wife and subsequently consummate levirate marriage with the other, and by doing so he is liable for a violation of the prohibition of: “He does not build his brother’s house” (Deuteronomy 25:9). The verse indicates that one who performs ḥalitza has not built his brother’s house and is therefore subsequently prohibited from attempting to do so by consummating a levirate marriage with either the ḥalitza or any of her rival wives.

³⁶⁷ The Gemara asks. But since the Torah’s description of levirate marriage mentions only a case in which the deceased brother had only one wife, say: When there is only one wife, the mitzva of levirate marriage exists, but when there are two wives, the mitzva of levirate marriage does not exist.

³⁶⁸ The Gemara suggests a proof: If that were so, why do I need the halakha concerning a rival wife of a forbidden relation, which is forbidden by the Merciful One in the Torah? Now that even in the case of two women in general, where neither woman is a forbidden relation, you say that they are not eligible for ḥalitza and levirate marriage, is it necessary to say a rival wife of a forbidden relation is also forbidden? The fact that the Torah does prohibit a rival wife of a forbidden relation indicates that the mitzva of levirate marriage does exist in a general case of two wives in which neither is a forbidden relation.

³⁶⁹ The Gemara objects: Why not? Even if one assumes that there is no mitzva of levirate marriage when the deceased brother had two wives, it is still necessary to teach the halakha concerning a rival wife of a forbidden relation because it could enter your mind to say that since there is no possibility of consummating the levirate marriage with her, the forbidden relation stands outside the calculation such that her presence is disregarded, and her rival wife should enter into levirate marriage as though she were the only wife. Therefore, the verse needs to teach us that the rival wife is forbidden.

³⁷⁰ Rather, the repeated use of the phrase “his yevama,” “his yevama” in the verses concerning levirate marriage amplifies the mitzva of levirate marriage so that it applies even when the deceased brother had more than one wife.

³⁷¹ § The mishna states: If one of these wives of the deceased brother was fit for the priesthood and one was unfit, ḥalitza should not be performed with the fit woman since doing so would needlessly disqualify her from the priesthood. Rav Yosef said that here, through this mishna, Rabbi Yehuda

HaNasi taught the principle that one should not perform an action that will needlessly disadvantage others, and so a person should not spill out water collected in his pit that he does not need when others are in need of it.

³⁷² MISHNA: With regard to one who remarries his divorcée after she had been married to another man from whom she was then widowed or divorced, or one who marries the woman with whom he performed ḥalitza [ḥalutza], or one who marries a relative of his ḥalutza, since all such marriages are forbidden he must divorce her, and the offspring born from such unions is a mamzer; this is the statement of Rabbi Akiva. He holds that even the offspring from relations forbidden by a prohibition punishable by lashes is a mamzer.

³⁷³ The Rabbis say: The offspring in those cases is not a mamzer, but they concede with regard to one who marries a relative of his divorcée, a union forbidden by a prohibition entailing karet, that the offspring is a mamzer. They hold that only the offspring from relations forbidden by a prohibition entailing karet is a mamzer.

³⁷⁴ GEMARA: The Gemara asks: But does Rabbi Akiva actually hold that with regard to one who marries a relative of his ḥalutza, the offspring is a mamzer? Didn't Reish Lakish say that through the mishna here, Rabbi Yehuda HaNasi taught that a sister of one's divorcée is forbidden by Torah law whereas a sister of one's ḥalutza is forbidden by rabbinic law? If a relative of one's ḥalutza is forbidden by rabbinic law, how can the offspring of that union be a mamzer? The Gemara concedes: Emend the mishna and teach instead: A relative of his divorcée.

³⁷⁵ The Gemara notes: So, too, it is reasonable that this is the correct version of the mishna, as the latter clause teaches: But they concede in the case of one who marries a relative of his divorcée that the offspring is a mamzer. Granted, if you say that Rabbi Akiva was talking about that case, this is consistent with that which the mishna teaches: They concede, which implies that they agree to a case already mentioned. However, if you say that he was not talking about that case, what could the phrase: They concede, possibly be referring to?

³⁷⁶ The Gemara objects: But perhaps this phrase teaches us that the Rabbis concede that the offspring from forbidden relations for which one is liable to receive karet is a mamzer. The Gemara rejects this option: This is already taught later on in a mishna (49a): Which offspring of forbidden relations has the status of a mamzer? It is the offspring of a union with any next of kin that is subject to a Torah prohibition that one should not engage in sexual relations with them; this is the statement of Rabbi Akiva. Rabbi Shimon HaTimni says: It is the offspring of a union with any forbidden relative for which one is liable to receive karet at the hand of Heaven. And the halakha is in accordance with his statement. Since the mishna explicitly rules in accordance with Rabbi Shimon HaTimni, it would be unnecessary for the mishna here to teach that fact.

³⁷⁷ The Gemara persists: But perhaps the tanna taught us as unattributed a mishna that is in accordance with the opinion of Rabbi Shimon HaTimni to indicate that this is indeed the accepted halakha. The Gemara rejects this: If so, then let him teach other cases of forbidden relations for which one is liable to receive karet; why do I need the mishna to specifically consider the case of a relative of one's divorcée? Rather, conclude from this that Rabbi Akiva indeed was talking about that case.

³⁷⁸ The Gemara persists: But perhaps he was not actually talking about that case, but since Rabbi Akiva taught the cases of one who remarries his divorcée, or one who marries his ḥalutza or a

relative of his ḥalutza, the mishna also taught in the name of the Rabbis the case of one who marries a relative of his divorcée because it is a similar case. The Gemara concedes that this would be an acceptable reading of the mishna.

³⁷⁹ Rather, the mishna should not be emended, and with regard to the Gemara's original question as to how Rabbi Akiva could claim that the offspring from one's union with a relative of his ḥalutza is a mamzer if that union is forbidden only by rabbinic law, one must conclude that a relative of one's ḥalutza is forbidden by Torah law according to Rabbi Akiva and therefore the offspring is a mamzer. Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said that this is Rabbi Akiva's reasoning: As the verse states: "The house of he who had his shoe removed" (Deuteronomy 25:10). The verse called his relationship with the ḥalutza his house, indicating that the ḥalutza is considered as though she had been married to the yavam, and therefore her relative is forbidden to him by Torah law.

³⁸⁰ Rav Yosef said that Rabbi Shimon bar Rabbi Yehuda HaNasi said: All agree in the case of one who remarries his divorcée

³⁸¹ that the offspring, even if not a mamzer, has flawed lineage and, if the offspring is a girl, is unfit to marry into the priesthood. The Gemara clarifies: Who is included by saying: All agree? It is Shimon HaTimni, as although Shimon HaTimni said that the offspring of relations for which one is liable for violating a prohibition is not a mamzer, nevertheless, granted that Shimon HaTimni holds that he is not a mamzer; he would agree, however, that he is of flawed lineage.

³⁸² This is derived through an a fortiori inference from the halakha pertaining to a widow, as follows: Just as in the case of a widow who is married to a High Priest, where the prohibition that pertains to her is not equally applicable to all, i.e., only a High Priest is prohibited from marrying a widow, and nevertheless her child from that union will have flawed lineage, then so too with regard to this divorcée, who married another man and is therefore prohibited from marrying her original husband, where the prohibition that pertains to her is equally applicable to all Jews, as the prohibition to remarry one's divorcée after she was married to another man applies to all Jews, isn't it logical that her child from that union will have flawed lineage?

³⁸³ The Gemara raises a number of objections: The logic of this a fortiori inference can be refuted: What is true with regard to a widow, where her union with a High Priest is what makes her herself disqualified from subsequently marrying any priest and, if she is the daughter of a priest, from eating teruma, is not true with regard to a remarried divorcée, where her remarriage to another man is permitted and is not the cause of any further disqualification. Therefore, one case cannot be deduced from the other.

³⁸⁴ And furthermore, "She is an abomination" (Deuteronomy 24:4) is written with regard to remarrying with one's divorcée, and the emphasis on the word "she" teaches that only she is considered so, but her children are not abominations and they have unflawed lineage.

³⁸⁵ And furthermore, it is taught in a baraita: With regard to one who remarries his divorcée, and one who marries his ḥalutza, and one who marries a relative of his ḥalutza, Rabbi Akiva says that one's betrothal of such women is not effective. And therefore, even if he attempts to do so, it is meaningless and she does not require a bill of divorce from him in order to separate from him. And if she has relations with him she is rendered unfit and her child is unfit, and we force him to send her away. The Rabbis say that one's betrothal of such women is effective, and therefore if he betrothed

her she requires a bill of divorce from him, and if she has relations with him she remains fit and her child is fit.

³⁸⁶ The Gemara clarifies: When the baraita states she and her child are rendered unfit, to whom are they unfit to be married? Is it not to the priesthood? No, it is to the congregation of Israel. If so, when the baraita states she is fit, to whom is she fit to be married? If we say it is to the congregation of Israel, this is obvious; could it be that because she engaged in forbidden sexual relations that she is rendered unfit from marrying into the congregation of Israel? Although by doing so she is rendered a zona, that can disqualify her only from marrying a priest. Rather, is it not that the intention is that she is fit to marry into the priesthood?

³⁸⁷ The Gemara suggests: And since in reference to her the word fit in the baraita means fit for the priesthood, it follows that for the child as well, the word fit means fit for the priesthood. The Gemara objects: Are these cases comparable? This case is as it is, and that case is as it is, and although the two cases are juxtaposed in the baraita they need not be relating to the same issue. Rather, when referring to the mother the baraita mentions fitness for the priesthood, and when referring to the child it mentions fitness for the congregation of Israel.

³⁸⁸ The Gemara notes: So, too, it is reasonable to assume that the two clauses concern different issues, as the first clause teaches in the name of Rabbi Akiva: She is unfit and her child is unfit. When that first clause states: She is unfit, to whom is she unfit to be married? If we say it is to the congregation of Israel, could it be that because she engaged in forbidden sexual relations she is rendered unfit to marry into the congregation of Israel? Rather, is it not that the intention is that she is rendered unfit to marry into the priesthood?

³⁸⁹ And then when the first clause continues and states: And her child is unfit, to whom is she unfit to be married? If we say that it is to the priesthood, that would imply that the child is fit to marry into the congregation of Israel. However, this is untenable because didn't Rabbi Akiva himself say in the mishna here that the offspring is a mamzer and is unfit from entering the congregation of Israel? Rather, it is obvious that the intention of the baraita is that the child is unfit even to marry into the congregation of Israel.

³⁹⁰ And since in the first clause of the baraita it is apparent that, although two cases are juxtaposed, this case is as it is and that case is as it is, in the latter clause as well one should assume that this case is as it is and that case is as it is.

³⁹¹ Having resolved the objection raised from the baraita, the Gemara returns to its preceding objection: And the objection raised from the verse: "She is an abomination," in which the Gemara suggested that the emphasis on "she" teaches that only she is an abomination but her children are not, can also be resolved, as the emphasis on "she" could be interpreted differently to teach: "She is an abomination" but her rival wife is not an abomination, and if they both fell together for levirate marriage, the yavam may consummate the levirate marriage with her rival wife. However, it is possible that her children are in fact abominations and are unfit to marry into the priesthood.

³⁹² The Gemara concludes: However, although two of the objections were resolved, the objection to the logic of the a fortiori inference from the case of a widow remains difficult, as the Gemara noted earlier: What is true with regard to a widow, where her union with a High Priest is what makes her herself disqualified from subsequently marrying any priest and, if she is the daughter of a priest, from eating teruma, is not true with regard to a remarried divorcée, where her remarriage to another man is

permitted and is not the cause of any further disqualification. Therefore, there is no basis for assuming that the child of one who remarries his divorcée after she had been married to another man will have flawed lineage.

³⁹³ Rather, if this was stated, it was stated as follows: Rav Yosef said that Rabbi Shimon, son of Rabbi Yehuda HaNasi, said: All agree with regard to one who engages in intercourse with a forbidden relation for which one is liable to receive karet that the offspring has flawed lineage. The Gemara clarifies: Who is included by saying: All agree? It is Rabbi Yehoshua, as although Rabbi Yehoshua said in the mishna (49b) that the offspring born from a union for which one is liable to receive karet is not a mamzer, nevertheless, granted that Rabbi Yehoshua holds that he is not a mamzer; he would agree, however, that he is of flawed lineage.

³⁹⁴ This is derived through an a fortiori inference from the halakha of a widow, as follows: Just as in the case of a widow who is married to High Priest, where the prohibition that pertains to her is not equally applicable to all, i.e., only a High Priest is prohibited from marrying a widow, and nevertheless her child from that union will have flawed lineage, then so too with regard to this woman, where the prohibition that pertains to her is equally applicable to all Jews, isn't it logical that her child from that union should have flawed lineage?

³⁹⁵ And if you would say that the logic of this a fortiori inference could be refuted in a manner similar to the suggestion above that what is true with regard to a widow, who is herself disqualified from marrying a priest, is not true with regard to a woman who is forbidden by a prohibition for which one is liable to karet, that is not correct because here, too, once he has engaged in intercourse with her he renders her a zona, and as such she is disqualified from marrying into the priesthood.

³⁹⁶ § The Gemara considers the status of other children born from forbidden unions: Rabba bar bar Hana said that Rabbi Yoḥanan said: All agree with regard to a slave or a gentile who engaged in intercourse with a Jewish woman that the offspring born from such a union is a mamzer.

³⁹⁷ The Gemara clarifies: Who is included by saying: All agree? It is Shimon HaTimni, as although Shimon HaTimni said that the offspring of relations for which one is liable for violating a prohibition is not a mamzer, this applies only

³⁹⁸ to forbidden relations for which one is liable for violation of a prohibition concerning which a betrothal between the couple would take effect. However, here, with regard to a gentile and a slave, since their betrothal of a Jewish woman would not take effect, a union with them is comparable to forbidden relations for which one is liable to receive karet, and therefore the offspring of such a union will be a mamzer.

³⁹⁹ The Gemara raises an objection from a baraita: In the case of a gentile or a slave who engaged in intercourse with a Jewish woman, the offspring born from such a union is a mamzer. Rabbi Shimon ben Yehuda says: The offspring is a mamzer only if born from relations with one who is forbidden by a prohibition of forbidden relations that are punishable by karet. It is apparent from the baraita that one who holds, as does Shimon HaTimni, that only the offspring from forbidden relations for which one is liable to receive karet is a mamzer, nevertheless holds that the offspring of a slave or gentile and a Jewish woman is not a mamzer.

⁴⁰⁰ Rather, Rav Yosef said: Who is included by saying: All agree? It is Rabbi Yehuda HaNasi, as although Rabbi Yehuda HaNasi says in a baraita (52b) concerning the mishna (50a–51b) that states

that a levirate betrothal between a yavam and a yevama with whom he had already performed ḥalitza is ineffective: This statement was said only according to the statement of Rabbi Akiva, as he would consider a ḥalitza like a forbidden relative such that if the yavam betrothed her it would not take effect. And although Rabbi Yehuda HaNasi himself does not hold accordingly with regard to that issue, with regard to the offspring of a union with a gentile or a slave he concedes that the offspring is a mamzer. As, when Rav Dimi came from Eretz Yisrael, he said that Rav Yitzḥak bar Avudimi said in the name of our Master, i.e., Rabbi Yehuda HaNasi: With regard to a gentile or a slave who engaged in intercourse with a Jewish woman, the offspring is a mamzer.

⁴⁰¹ The Gemara cites a related incident: Rabbi Aḥa, lord of the capital, and Rabbi Tanḥum, son of Rabbi Ḥiyya, the man of Akko village, redeemed those captives who came from Armon to Tiberias. One of them had been impregnated by a gentile, and they came before Rabbi Ami to ask what the offspring's status would be when born. He said to them that Rabbi Yoḥanan and Rabbi Elazar and Rabbi Ḥanina all say: With regard to a gentile or a slave who engaged in intercourse with a Jewish woman, the offspring is a mamzer.

⁴⁰² Upon hearing this, Rav Yosef said: Is it so great to enumerate men? The fact that several great Sages held this opinion does not prove that their opinion is the accepted halakha. But there are Rav and Shmuel in Babylonia, and Rabbi Yehoshua ben Levi and bar Kappara in Eretz Yisrael, and some say to remove bar Kappara from this list and insert instead the Elders of the South, who all say: With regard to a gentile or a slave who engaged in intercourse with a Jewish woman, the lineage of the offspring is unflawed, and he or she may marry into the congregation of Israel.

⁴⁰³ Rather, Rav Yosef said the halakha is in fact that the offspring is a mamzer because this is Rabbi Yehuda HaNasi's opinion, as when Rav Dimi came from Eretz Yisrael he said that Rav Yitzḥak bar Avudimi said in the name of our Master, i.e., Rabbi Yehuda HaNasi, that they say: With regard to a gentile or a slave who engaged in intercourse with a Jewish woman, the offspring is a mamzer.

⁴⁰⁴ Rabbi Yehoshua ben Levi says: The lineage of the offspring is sullied, and if the child is a girl she is restricted in whom she may marry. The Gemara asks: To whom is she prohibited from marrying? If we say it is to the congregation of Israel, but didn't Rabbi Yehoshua himself say that the lineage of the offspring is unflawed and he or she may marry into the congregation of Israel? Rather, the offspring is prohibited to marry into the priesthood, as all of the amora'im who render the offspring fit to enter the congregation of Israel agree that the offspring has flawed lineage and is forbidden to marry into the priesthood.

⁴⁰⁵ This is derived from an a fortiori inference from the halakha of a widow, as follows: Just as in the case of a widow who is married to a High Priest, where the prohibition that pertains to her is not equally applicable to all Jews, i.e., only a High Priest is prohibited from marrying a widow, and nevertheless her child from that union will have flawed lineage, then so too with regard to this woman who engaged in relations with a gentile or slave, where the prohibition that pertains to her is equally applicable to all Jews, isn't it logical that her child from that union will have flawed lineage?

⁴⁰⁶ And if one would say that the logic of this a fortiori inference could be refuted by claiming that what is true with regard to a widow who is married to a High Priest, where her union with him is what makes her herself disqualified from subsequently marrying any priest and, if she is the daughter of a priest, from eating teruma, is not true with regard to the prohibition against a Jewish woman

engaging in relations with a gentile or a slave. This is not correct, because here, too, once he has engaged in intercourse with her, he thereby renders her unfit to marry into the priesthood.

⁴⁰⁷ As Rabbi Yoḥanan said in the name of Rabbi Shimon: From where is it derived with regard to a gentile or a slave who engaged in intercourse with a daughter of a priest or with a female Levite or with a female Israelite that they thereby render her unfit to marry into the priesthood? As it is stated: “But a priest’s daughter when she will become a widow, or a divorcée, and have no child, she returns to her father’s house as in her youth” (Leviticus 22:13). The verse indicates that she returns to her father’s house and enjoys the rights of the priesthood only in a case where she engaged in intercourse with one to whom widowhood and divorce can apply, i.e., one with whom her marriage would be valid and would be broken only through death or divorce. Excluded from this is a union with a gentile or a slave, to whom neither widowhood nor divorce can apply, as no marriage bond can be formed with them.

⁴⁰⁸ Abaye said to Rav Yosef: What did you see that you rely upon Rav Dimi and his tradition that Rabbi Yehuda HaNasi holds that the offspring of a gentile or a slave and a Jewish woman is a mamzer? Rely instead upon Ravin, as when Ravin came from Eretz Yisrael he said that Rabbi Natan and Rabbi Yehuda HaNasi both rule that the offspring is permitted to marry into the congregation of Israel. And who is the Rabbi Yehuda HaNasi referred to in Ravin’s report? It is the one who is simply referred to as Rabbi, the redactor of the Mishna, whose opinion is accepted as the halakha.

⁴⁰⁹ The Gemara notes: And even Rav rules that the offspring is permitted, as is evident from an incident involving a certain individual who came before Rav and said to him: With regard to the offspring of a gentile or a slave who engaged in intercourse with a Jewish woman, what is its halakhic status?

⁴¹⁰ Rav said to him: The lineage of the offspring is unflawed. The individual who asked the question was himself such a child, and he said to Rav: If so, give me your daughter in marriage. He said to him: I will not give her to you.

⁴¹¹ Shimi bar Ḥiyya, Rav’s grandson, said to Rav: People often say that a camel in Medes can dance upon a small space that holds only a single kav of produce. However, clearly that is an exaggeration, since if one would go to Medes one could demonstrate that this is a space that holds a kav, and this is a camel, and this is Medes, and yet the camel is not dancing, i.e., the truth of a statement becomes apparent when it is put to the test. So too, it would appear that you do not truly believe in your ruling because when put to the test, you are unwilling to rely on it.

⁴¹² He said to him: Even if he were as great as Joshua, son of Nun, I would not give him my daughter in marriage. My refusal to give her to him in marriage is not that I do not stand by my ruling; it is for other reasons. He said to him: If he were as great as Joshua, son of Nun, then even if the Master would not give him his daughter, others would still give him their daughters. However, with regard to this man, if the Master does not give him his daughter, others will not give him their daughters either out of fear of damaging the family lineage. Nevertheless, Rav remained unwilling to give his daughter to that individual.

⁴¹³ That individual would not go from standing before Rav and continued to plead with him. Rav placed his eyes upon him and he died.

⁴¹⁴ The Gemara adds: And even Rav Mattana rules that the offspring is permitted, and even Rav Yehuda rules that the offspring is permitted, as is evident from the fact that when a child of a gentile or slave and a Jewish woman came before Rav Yehuda, he said to him: Go and conceal your paternal lineage so that people will not refrain from giving you their daughters in marriage, as it is permitted for you to marry into the congregation of Israel, or otherwise, marry a woman of your own kind, i.e., a woman of similar lineage. And similarly, when such a person came before Rava, he said to him: Either go into exile to a place where your lineage is unknown, so that others will give you their daughters in marriage, or marry a woman of your own kind.

⁴¹⁵ The residents of Bei Mikhsei sent the following question to Rabba: With regard to the offspring of one who is a half-slave half-freeman, who engaged in intercourse with a Jewish woman, what is its halakhic status? He said to them: Now that with regard to the offspring of a full slave we say that his lineage is unflawed, is it necessary to ask about a half-slave?

⁴¹⁶ Rav Yosef said: The Master who is responsible for dissemination of this halakha that the offspring of a slave and a Jewish woman is not a mamzer,

⁴¹⁷ who is he? He is Rav Yehuda, as the Gemara cited above. But didn't Rav Yehuda himself say: With regard to one who is a half-slave half-freeman who engaged in intercourse with a Jewish woman, that offspring of that union has no recourse to be able to marry? It is apparent, then, that even one who permits the offspring of a slave to marry into the congregation of Israel does not permit the offspring of a half-slave to do so, contrary to Rava's assertion.

⁴¹⁸ The Gemara resolves the difficulty: When this ruling of Rav Yehuda was stated, it was referring to a case where the half-slave betrothed a Jewish woman. Since a slave's betrothal does not take effect, the result of that betrothal is that the woman is married to only the free half of the half-slave half-freeman, such that it emerges that when he has relations with her, the slave side of him is engaging in relations with a married woman to whom that side of him is not married, and so the offspring of that union is a mamzer.

⁴¹⁹ The Gemara raises an objection: But didn't the Sages of Neharde'a say in the name of Rabbi Ya'akov: According to the statement of the one who renders the child of a gentile or slave and a Jewish woman unfit to marry into the congregation of Israel, he renders the child unfit even when the mother is an unmarried woman. And according to the statement of the one who renders the child fit, he renders the child fit even when the mother is a married woman.

⁴²⁰ And both of them derived their opinions only from the halakha of one's father's wife, as follows: The one who renders the child unfit holds that just as with regard to one's father's wife, one's betrothal of her does not take effect even after she is widowed or divorced, and so the offspring of such a union is a mamzer, so too, with regard to any one for whom betrothal of her does not take effect, including a gentile or a slave, the offspring is a mamzer.

⁴²¹ And the one who renders the child fit holds that the derivation from the halakha of one's father's wife is more limited, and it is derived that the offspring is a mamzer only in a case just like one's father's wife, in that although his betrothal of her does not take effect, with someone else his betrothal of her does take effect. This is to the exclusion of a gentile and a slave, for whom betrothal of any Jewish woman does not take effect at all, and so the offspring of such a union will not be a mamzer. It is apparent from this statement of the Sages of Neharde'a that according to the lenient

opinion, the offspring of a slave is never a mamzer, irrespective of the marital status of the Jewish woman. Therefore, the Gemara's resolution is undermined.

⁴²² The Gemara offers a different resolution: Rather, when this statement of Rav Yehuda was stated, it was referring to a case where the half-slave half-freeman engaged in intercourse with a married woman who was married to someone else, and it therefore emerges that although the woman's union with the slave side of him will not render the offspring a mamzer, the free side of him is engaging in relations with a married woman to whom he is not married, and due to that side of him the offspring is a mamzer.

⁴²³ Ravina said: Rav Gazza said to me that Rabbi Yosei bar Avin once happened to come to our place, and there was an incident involving an unmarried woman who had engaged in intercourse with a slave, and Rabbi Yosei bar Avin rendered her offspring fit to marry into the congregation of Israel. And there was another incident involving a married woman who had engaged in intercourse with a slave, and he rendered her offspring unfit to marry into the congregation of Israel by ruling the offspring was a mamzeret. Rav Sheshet said: Rav Gazza told me that it was not Rabbi Yosei bar Avin; rather, it was Rabbi Yosei, son of Rabbi Zevida, and he rendered the offspring fit both in the case of an unmarried woman and in the case of a married woman. Rav Aḥa, son of Rabba, said to Ravina: Ameimar once happened to come to our place and rendered the offspring fit both in the case of an unmarried woman and in the case of a married woman.

⁴²⁴ The Gemara concludes: And the halakha is that with regard to a gentile or slave who engaged in intercourse with a Jewish woman, the lineage of the offspring is unflawed, whether she was an unmarried or a married woman.

⁴²⁵ The Gemara cites a related halakha: Rava ruled that Rav Mari bar Raḥel, who was the son of a gentile father and a Jewish mother, was fit to marry into the congregation of Israel, and furthermore he appointed him as one of the officials [pursei] of Babylonia. And although the Master said that from the verse, "You shall place a king over you whom the Lord your God shall chose; from among your brethren shall you place a king over you" (Deuteronomy 17:15) it is derived that not only with regard to the kingship but also with regard to all positions of authority that you appoint, the incumbents may be selected only from among your brethren who share your Jewish lineage. Nevertheless, with regard to this one, i.e., Rav Mari bar Raḥel, since his mother is of Jewish lineage, we call him "from among your brethren," and so he is eligible.

⁴²⁶ § A gentile slave purchased by a Jew must be circumcised and then immersed in a ritual bath. By being immersed for the sake of slavery, he takes on the status of a full slave, which, among other things, obligates him to keep certain mitzvot. However, if the slave, or any gentile, is immersed for the sake of conversion, he then becomes a full Jew and fully obligated in mitzvot like any other Jew. The Gemara considers the result of different intentions accompanying an immersion: Rabbi Ḥiyya bar Ami's slave immersed a certain gentile woman for the sake of having intimate relations, i.e., to purify her from her menstrual impurity. Rav Yosef said: I am able to render both her and her daughter fit to marry into the congregation of Israel.

⁴²⁷ With regard to her, I can render her fit in accordance with the opinion of Rav Asi, as Rav Asi said concerning a woman whose status as a convert was unclear but who lived as a part of the Jewish people and acted like all other Jewish women: Didn't she immerse for the sake of purifying herself from her menstruation? Therefore, even if the original immersion was invalid, her intention in

subsequent immersions was sufficient to be considered for the sake of conversion, since ultimately she immersed as an expression of her commitment to Judaism. She is therefore fully Jewish.

⁴²⁸ And with regard to her daughter, she is the daughter of a gentile or slave who engaged in intercourse with a Jewish woman, and the halakha is that the lineage of the offspring is unflawed.

⁴²⁹ The Gemara details the circumstances of Rav Asi's ruling: There was a certain man whom people would call: Son of the Aramean woman, as they cast aspersions on the validity of his mother's conversion. With regard to that case, Rav Asi said: Didn't she immerse for the sake of purifying herself from her menstruation? A similar incident is recounted: There was a certain man whom people would call: Son of an Aramean man, as they cast aspersions on the validity of his father's conversion. Rabbi Yehoshua ben Levi said: Didn't he immerse for the sake of purifying himself from his seminal emission? That intention is sufficient to consider the immersion an immersion for the sake of conversion.

⁴³⁰ Rav Ḥama bar Gurya said that Rav said: In the case of a Jew who purchased a slave from a gentile, and before he managed to immerse him for the sake of slavery the slave preempted him and immersed for the sake of conversion to render himself a freeman, he thereby acquired himself and becomes a freeman, i.e., his immersion effects a full conversion and he is no longer a slave. What is the reason for this halakha?

⁴³¹ His previous gentile owner did not have ownership of the slave's body, since a gentile is unable to have ownership of another's body; rather, he had rights to only the slave's labor. And only that which he owned in him was he able to sell to the Jew. Therefore, before immersion, the Jew had rights to only the slave's labor, but not ownership of his body, and therefore, once the slave preempted his owner and immersed for the sake of conversion to make him a freeman, he abrogates his master's lien upon him.

⁴³² The Gemara notes: This explanation is in accordance with the opinion of Rava, as Rava said: Consecration of an item to the Temple, the prohibition of leavened bread taking effect upon a leavened food, and the emancipation of a slave abrogate any lien that exists upon them.

⁴³³ Rav Ḥisda raised an objection from a baraita: There was an incident involving Beloreya the female convert in which her slaves preempted her and immersed before her own immersion for her own conversion. And the details of the incident came before the Sages, and they said: The slaves acquired themselves and became freemen. Rav Ḥisda explains how the baraita poses a challenge: The baraita implies that only because the slaves immersed before her, while she was still a gentile, that yes, they became freemen; however, had they immersed after her, i.e., after she had already converted, then no, they would not have become freemen. The reason for this is presumably that upon her conversion she attains the rights to her slaves' bodies, and therefore their immersion for the sake of becoming freemen would be ineffective. However, this contradicts the Gemara's explanation above that when a Jew gains ownership of a slave from a gentile, he has a right to only the slave's labor.

⁴³⁴ To resolve the challenge Rava said: When the baraita says that because they immersed before her they acquired themselves, that is whether they immersed without a specified intention or whether they immersed with explicit intention to convert and become freemen. However, had they immersed after her, if they did so with explicit intention to convert, then yes, the immersion would achieve that

end, but if they did so without a specified intention, then no, their immersion would, by default, be considered for the sake of slavery and they would not become free.

⁴³⁵ Rav Avya said: They taught that one acquires only the rights to the slave's labor only with regard to a Jew who purchased a slave from a gentile slave owner, but if a gentile sold his own body as a slave directly to a Jew, then the Jew acquires his body.

⁴³⁶ As it is written: "Moreover, of the children of the strangers that sojourn among you, of them you may acquire" (Leviticus 25:45). The verse states only that you, i.e., Jews, can acquire a slave from them, i.e., a gentile slave, but they cannot acquire a slave from you, i.e., a Jewish slave, and they cannot acquire a slave from one another.

⁴³⁷ When it is derived that: But they cannot acquire slaves from you, to what type of acquisition is it referring? If we say it is for his labor, is that to say that a gentile cannot acquire a Jew for his labor? Isn't it written: "And if a stranger who is a settler with you becomes rich, and your brother becomes poor beside him, and he sells himself to the stranger who is a settler with you, or to the offshoot of a stranger's family" (Leviticus 25:47), and the Master said in explanation of the phrase "a stranger's family" that this is referring to a gentile. If so, the verse explicitly states that a Jew can sell himself as a slave to a gentile. Rather, is it not that the reference is to selling his body, and the Merciful One states that you, i.e., Jews, can acquire a slave from them, which means even his body. Accordingly the verse indicates that a Jew can acquire a gentile slave's body, but a gentile is unable to acquire ownership of another's body, even that of another gentile.

⁴³⁸ Rav Aḥa refutes Rav Avya's explanation: Say that the verse is referring to acquiring a gentile slave by both purchasing him with money and then by immersing him for the purpose of slavery, and only in that case does it teach that a Jew acquires the gentile slave's body. However, until he has been immersed the acquisition is not fully complete, and therefore if the slave immerses himself with the intention to become free, then his immersion would achieve that end. The Gemara concedes: This is difficult.

⁴³⁹ Shmuel said: And if one wishes to ensure that one's slave does not declare the immersion to be for the sake of conversion, then one needs to hold him tightly in the water in a way that demonstrates the owner's dominance over the slave at that time, thereby defining the immersion as one for the sake of slavery.

⁴⁴⁰ That is as demonstrated in this incident involving Minyamin, Rav Ashi's slave: When he wished to immerse him, he passed him to Ravina and Rav Aḥa, son of Rava, to perform the immersion on his behalf, and he said to them: Be aware that I will claim compensation for him from you if you do not prevent my slave from immersing for the sake of conversion. They placed a bridle [arvisa] upon his neck, and at the moment of immersion they loosened it and then immediately tightened it again while he was still immersed.

⁴⁴¹ The Gemara explains their actions: They initially loosened it in order that there should not be any interposition between the slave and the water during the immersion, which would invalidate it. They immediately tightened it again in order that the slave should not preempt them and say to them: I am immersing for the sake of becoming a freeman. When he lifted his head from the water they placed a bucket of clay upon his head and said to him: Go and bring this to the house of your master. They did this in order to demonstrate that the immersion had been successful and that he was still a slave.

⁴⁴² Rav Pappa said to Rava: Has the Master seen those of the house of Pappa bar Abba who give money to the tax-collectors on behalf of poor people to pay for their poll tax [karga], and as a result they would enslave them. Anyone who did not pay the tax would be taken as a slave for the king. By paying for such people's taxes, the members of the house of Pappa bar Abba essentially purchased those people, who had become the king's slaves, for themselves. Rav Pappa asked: When those slaves go free, do they require a bill of emancipation, because the members of the house of Pappa bar Abba actually attained ownership of the slaves' bodies, or not, as they were owned only for the sake of their labor?

⁴⁴³ He said to him: Were I dead I could not say this matter to you, so it is good that you have asked me while I am still alive, as I know that this is what Rav Sheshet said with regard to the matter: The writ of slavery [moharkayehu] of these residents of the kingdom rests in the treasury [tafsa] of the king, and in fact all the residents of the kingdom are considered to be full slaves of the king, i.e., he owns their bodies, irrespective of whether they pay their taxes. And so when the king says: One who does not give the poll tax is to be enslaved to the one who does give the poll tax on his behalf, the king's decree is fully effective in making those residents full slaves of those who paid for them. As such, they will require a bill of emancipation when they are freed.

⁴⁴⁴ § The Gemara relates: Rabbi Ḥiyya bar Abba once happened to come to Gavla. He saw Jewish women there who had become pregnant from converts who were circumcised but had still not immersed to complete their conversion process; and he saw wine of Jews that gentiles were pouring, and Jews were drinking it; and he saw lupines [turmusin] that gentiles were cooking, and Jews were eating them; but he did not say anything to them.

⁴⁴⁵ Later, he came before Rabbi Yoḥanan and told him what he had witnessed. Rabbi Yoḥanan said to him: Go and make a public declaration concerning their children that they are mamzerim, and concerning their wine that it is forbidden because it is like wine poured as an idolatrous libation, and concerning their lupines that they are forbidden because they are food cooked by gentiles. One should be stringent and make such a declaration because they are not well-versed in Torah, and if they are left to be lax in this regard they will eventually transgress Torah prohibitions.

⁴⁴⁶ The Gemara explains: With regard to the declaration concerning their children that they are mamzerim, Rabbi Yoḥanan conforms to his standard line of reasoning in two halakhot: The first is as Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: One is never considered to be a convert until he has been circumcised and has immersed. And since the convert in the case in Gavla had not immersed, he is still considered a gentile. And the second halakha is as Rabba bar bar Ḥana said that Rabbi Yoḥanan said: With regard to a gentile or a slave who engaged in intercourse with a Jewish woman, the offspring of that union is a mamzer.

⁴⁴⁷ And the reason to declare concerning their wine that it is forbidden because it is like wine poured as an idolatrous libation is that although their wine was not actually poured as an idolatrous libation, it was prohibited by rabbinic decree due to the maxim that: Go, go, we say to a nazirite, go around and go around, but do not come near to the vineyard. Although a nazirite is prohibited only from eating produce of the vine, he is warned not even to come into close proximity of a vineyard as a protective measure to ensure that he will not transgress this prohibition. So too, in many cases, the Sages decreed certain items and actions to be prohibited because they understood that if people would partake of them, they would eventually transgress Torah prohibitions.

⁴⁴⁸ And the final declaration concerning their lupines that they are forbidden because they are food cooked by gentiles is issued because they are not well versed in Torah. The Gemara expresses astonishment: Does this imply that were they students of the Torah their lupines would be permitted? Didn't Rav Shmuel bar Rav Yitzhak say in the name of Rav: Any food item that is eaten as it is, raw, is not subject to the prohibition of food cooked by gentiles, even when cooked by them? But a lupine is not eaten as it is, raw, and therefore it is subject to the prohibition of food cooked by gentiles.

⁴⁴⁹ The Gemara explains that Rabbi Yoḥanan holds in this matter in accordance with the opinion of the other version of what Rav Shmuel bar Rav Yitzhak said in the name of Rav: Any food item that lacks sufficient importance such that it does not appear on the table of kings in order to eat bread with it is not subject to the prohibition of food cooked by gentiles. Lupines lack importance and are therefore permitted even if cooked by gentiles. And consequently, the only reason to make a declaration prohibiting the residents of Gavla from eating them is because they are not well versed in Torah, and if they are left to be lax in this regard they will eventually become lax in actual Torah prohibitions; by inference, to those well versed in Torah, it is permitted.

⁴⁵⁰ § During their sojourn in Egypt, the children of Israel had the halakhic status of gentiles. At the revelation at Sinai they entered into a national covenant with God in which they attained their status of the Jewish people. This transformation was essentially the mass conversion of the people, and so their preparation for the revelation provides a paradigm of the process required for conversion for all generations. The tanna'im disagree as to which aspects of that original conversion are to be derived for all generations. The Sages taught in a baraita: With regard to a convert who was circumcised but did not immerse, Rabbi Eliezer says that this is a convert, as so we found with our forefathers following the exodus from Egypt that they were circumcised but were not immersed. With regard to one who immersed but was not circumcised, Rabbi Yehoshua says that this is a convert, as so we found with our foremothers that they immersed but were not circumcised. And the Rabbis say: Whether he immersed but was not circumcised or whether he was circumcised but did not immerse, he is not a convert until he is circumcised and he immerses.

⁴⁵¹ The Gemara questions the opinions in the baraita: But let Rabbi Yehoshua also derive what is required for conversion from our forefathers; why didn't he do so? And let Rabbi Eliezer also derive the halakha from our foremothers; why didn't he do so? And if you would say that Rabbi Eliezer did not derive the halakha from our foremothers because he holds one cannot derive the possible from the impossible, i.e., one cannot derive that men do not require circumcision from the halakha that women do not require it, because for women it is a physical impossibility, that claim may be refuted.

⁴⁵² It would appear that Rabbi Eliezer does not accept that principle, as isn't it taught in a baraita that Rabbi Eliezer says: From where is it derived with regard to the Paschal lamb brought throughout the generations that it may be brought only from non-sacred animals? A Paschal lamb is stated in the Torah in reference to the lamb that the Jewish people brought prior to the exodus from Egypt, and a Paschal lamb is stated in reference to the yearly obligation throughout the generations. The association between them teaches that just as the Paschal lamb stated in reference to Egypt was only brought from non-sacred animals, since prior to the giving of the Torah there was no possibility to consecrate property, so too, with regard to the Paschal lamb stated in reference to the obligation throughout the generations, it may be brought only from non-sacred animals.

⁴⁵³ Rabbi Akiva said to him: But can one derive the possible, i.e., the halakha for the Paschal lamb throughout the generations, where a possibility exists to bring it from consecrated animals, from the impossible, i.e., from the Paschal lamb in Egypt, where it was not a possibility? Rabbi Eliezer said to him: Although it was impossible to bring the Paschal lamb in Egypt from consecrated animals, nevertheless, it is still a great proof, and we may learn from it. It is apparent, then, that Rabbi Eliezer holds that one can derive the possible from the impossible. Therefore the original question stands: Why didn't Rabbi Eliezer derive from the foremothers that circumcision is not essential for conversion?

⁴⁵⁴ The Gemara concedes: Rather, the baraita must be reinterpreted as follows:

⁴⁵⁵ With regard to one who immersed but was not circumcised, everyone, i.e., both Rabbi Yehoshua and Rabbi Eliezer, agrees that the halakha is derived from the foremothers that immersion alone is effective. Where they disagree is with regard to one who was circumcised but had not immersed; Rabbi Eliezer derives that it is effective from the forefathers, and Rabbi Yehoshua disagrees because he maintains that in the conversion of the forefathers there was also an immersion.

⁴⁵⁶ The Gemara asks: From where did he derive this? If we say that he derived it from the fact that it is written that in preparation for the revelation at Sinai, God commanded Moses: "Go unto the people and sanctify them today and tomorrow, and let them wash their garments" (Exodus 19:10), as Rabbi Yehoshua understands that the washing mentioned in this verse is the ritual immersion of clothes, this leads to the following a fortiori inference: Just as in a case where one became impure through contact with some source of impurity, washing, i.e., immersion, of clothes is not required but immersion of one's body is required, then in a case where washing of clothes is required, as in the preparation for the revelation at Sinai, isn't it logical that immersion of one's body should also be required?

⁴⁵⁷ The Gemara rejects the proof: But perhaps when the verse states that they had to wash their clothes, it was merely for cleanliness and not for the sake of ritual purity. If so, no a fortiori inference can be drawn from it to the case of immersion for ritual purity.

⁴⁵⁸ Rather, Rabbi Yehoshua derived it from here, where the verse states with regard to the formation of the covenant at Sinai: "And Moses took the blood and sprinkled it upon the people" (Exodus 24:8), and it is learned as a tradition that there is no ritual sprinkling without immersion. Therefore, our forefathers also must have immersed at Sinai, and consequently that is also an essential requirement for all conversions.

⁴⁵⁹ The Gemara asks: And with regard to the opinion of Rabbi Yehoshua, from where do we derive that also in the case of our foremothers there was immersion? The Gemara answers: It is based on logical reasoning, as, if so, that they did not immerse, then with what were they brought under the wings of the Divine Presence? Therefore, they also must have immersed.

⁴⁶⁰ Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: A man is never considered a convert until he is both circumcised and has immersed. The Gemara asks: Isn't this obvious? In all disputes between an individual Sage and many Sages the halakha is in accordance with the opinion of the many Sages; it is therefore obvious that the halakha is in accordance with the Rabbis.

⁴⁶¹ The Gemara explains: Who are the Rabbis referred to in the baraita? It is Rabbi Yosei. Since Rabbi Yosei is merely an individual Sage, it was necessarily for Rabbi Yoḥanan to state explicitly that the halakha is ruled in accordance with his opinion.

⁴⁶² Rabbi Yosei's opinion is as it is taught in a baraita: With regard to a convert who came and said: I was circumcised for the sake of conversion but I did not immerse, the court should immerse him, as what would be the problem with that; this is the statement of Rabbi Yehuda. Since in any case the court immerses him, Rabbi Yehuda does not require proof of the convert's claim that he was circumcised for the sake of conversion because he holds that it is sufficient to be either circumcised or immersed for the sake of conversion. Rabbi Yosei says: The court does not immerse him. He holds that both circumcision and immersion must be performed specifically for the sake of conversion and are indispensable parts of the conversion process. Therefore, since it is impossible to verify the convert's claim with regard to his circumcision, there is no benefit to having him immerse.

⁴⁶³ The baraita states a ramification of their dispute: Therefore, the court may immerse a convert who was already circumcised on Shabbat; this is the statement of Rabbi Yehuda. Since he holds that circumcision alone effected conversion, the immersion will not effect any further change in his status, and so it is permitted on Shabbat. And Rabbi Yosei says: The court may not immerse him. Since he holds that both circumcision and immersion are necessary to effect a conversion, the immersion will effect a change in his status by making him Jewish. Therefore it is prohibited to do so on Shabbat by rabbinic decree, because it appears similar to preparing a vessel for use.

⁴⁶⁴ The Gemara analyzes the latter clause: The Master said in the baraita: Therefore, the court may immerse a convert who was already circumcised on Shabbat. The Gemara asks: Isn't this an obvious extension of his opinion; since Rabbi Yehuda said that either one of circumcision or immersion is sufficient, where a convert was circumcised in our presence the court may certainly immerse him, even on Shabbat. What, then, is the need for the baraita to include the clause that begins with: Therefore?

⁴⁶⁵ The Gemara explains: It is necessary to explicitly teach this ramification lest you say that according to Rabbi Yehuda the immersion is in fact the principal act that effects conversion, and when he said in the first clause that a convert who claims to have been circumcised should be immersed since there is no problem with that, his reasoning was that he holds it is only immersion that effects the conversion. And therefore performing the immersion on Shabbat would not be permitted, as it establishes the person with a new status and so would be prohibited by a rabbinic decree because it appears similar to preparing a vessel for use. The latter clause is therefore necessary to teach us that Rabbi Yehuda requires either this or that, i.e., either immersion or circumcision alone is sufficient to effect a conversion.

⁴⁶⁶ The Gemara analyzes the next statement in the baraita: Rabbi Yosei says: The court may not immerse him. The Gemara asks: Isn't this an obvious extension of his opinion? As, since Rabbi Yosei requires two acts, both circumcision and immersion, to effect conversion, we may certainly not establish that person with a new status on Shabbat by completing his conversion by immersing him.

⁴⁶⁷ The Gemara explains: It is necessary to explicitly teach this ramification lest you say that according to Rabbi Yosei circumcision is in fact the principal act that effects conversion, and it is only there, in the first clause of the baraita, where the circumcision was not performed in our presence and so there is no way to verify whether it was done for the sake of conversion, that Rabbi

Yosei states that the court should not proceed to immerse him; however, where the circumcision was performed in our presence, one might say that the conversion was already effected by the circumcision, and therefore let us immerse this convert on Shabbat. The latter clause is therefore necessary to teach us that Rabbi Yosei requires two acts, both circumcision and immersion, to effect conversion.

⁴⁶⁸ Rabba said: There was an incident in the house of Rabbi Ḥiyya bar Rabbi, and as Rav Yosef teaches it, Rabbi Oshaya bar Rabbi was also present, and as Rav Safra teaches it, a third Sage, Rabbi Oshaya, son of Rabbi Ḥiyya, was also present, in which a convert came before him who was circumcised but had not immersed. He said to the convert: Remain here with us until tomorrow, and then we will immerse you.

⁴⁶⁹ Rabba said: Learn from this incident three principles: Learn from it that a convert requires a court of three people to preside over the conversion, as Rav Safra taught that the case involved three Sages. And learn from it that one is not considered to be a convert until he has been both circumcised and immersed. And learn from it that the court may not immerse a convert at night, as they instructed him to remain there until the following day. The Gemara suggests: And let us say that one should also learn from it that we require a court of experts to preside over the conversion, as Rav Safra identified that three expert Sages were present. The Gemara rejects this: Perhaps they simply happened to be there, but in fact three laymen would suffice.

⁴⁷⁰ Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: A convert requires a court of three to preside over conversion, because “judgment,” is written with regard to him, as the verse states: “And one judgment shall be both for you and for the convert that sojourns with you” (Numbers 15:16), and legal judgments require a court of three judges.

⁴⁷¹ The Sages taught in a baraita: With regard to someone who came and said: I am a convert, one might have thought that we should accept him; therefore, the verse states: “And if a convert sojourns with you in your land, you shall not oppress him” (Leviticus 19:33). The emphasis on “with you” suggests that only someone who was already presumed by you to be a valid convert should be accepted as a convert. If he came and brought witnesses to his conversion with him, from where is it derived that he is to be accepted? It is from the beginning of that verse, which states: “And if a convert sojourns with you in your land.”

⁴⁷² I have derived only that a convert is accepted in Eretz Yisrael; from where do I derive that also outside of Eretz Yisrael he is to be accepted? The verse states “with you,” which indicates that in any place that he is with you, you should accept him. If so, what is the meaning when the verse states: In the land? This indicates that in Eretz Yisrael he needs to bring evidence that he is a convert, but outside of Eretz Yisrael he does not need to bring evidence that he is a convert; rather, his claim is accepted. This is the statement of Rabbi Yehuda. And the Rabbis say: Whether he is in Eretz Yisrael or whether he is outside of Eretz Yisrael, he needs to bring evidence.

⁴⁷³ The Gemara analyzes the baraita: In the case when he came and brought witnesses to his conversion with him, why do I need a verse to teach that he is accepted? In all cases, the testimony of witnesses is fully relied upon. Rav Sheshet said: The case is where they say: We heard that he converted in the court of so-and-so, but they did not witness the actual conversion. And it is necessary to teach this because it could enter your mind to say that they should not be relied upon; therefore, the verse teaches us that they are relied upon.

⁴⁷⁴ As cited above, the latter clause of the baraita states: “With you in your land” (Leviticus 19:33). I have derived only that a convert is accepted in Eretz Yisrael; from where do I derive that also outside of Eretz Yisrael he is to be accepted? The verse states: “With you,” which indicates that in any place that he is with you, you should accept him. The Gemara asks: But didn’t you already expound that phrase in the first clause of the baraita to teach that one doesn’t accept the claims of an individual that he is a valid convert? The Gemara explains: One of these halakhot is derived from the phrase “with you” in the verse cited, and the other one is derived from the phrase “with you” in a subsequent verse (Leviticus 25:35).

⁴⁷⁵ The baraita states: And the Rabbis say: Whether he is in Eretz Yisrael or whether he is outside of Eretz Yisrael, he needs to bring evidence. The Gemara asks: But isn’t “in your land” written in the verse? How can the Rabbis deny any distinction between the halakha inside and outside of Eretz Yisrael?

⁴⁷⁶ The Gemara explains: That phrase is necessary to teach that even in Eretz Yisrael, the Jewish people should accept converts, as it could enter your mind to say that it is only for the sake of benefiting from the goodness of Eretz Yisrael, and not for the sake of Heaven, that they are converting, and therefore they should not be accepted. And it could also enter your mind to say that even nowadays, when God’s blessing has ceased and there is no longer the original goodness from which to benefit, one should still suspect their purity of motives because there are the gleanings, the forgotten sheaves, and the corners of fields, and the poor man’s tithe from which they would benefit by converting. Therefore, the verse teaches us that they are accepted even in Eretz Yisrael.

⁴⁷⁷ Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: The halakha is that whether a convert is in Eretz Yisrael or whether he is outside of Eretz Yisrael, he needs to bring evidence. The Gemara asks: Isn’t this obvious; in all disputes between an individual Sage and many Sages the halakha is in accordance with the opinion of the many Sages. The Gemara explains: It is necessary to state this lest you say that Rabbi Yehuda’s reason is more logical, being that the verse supports him when it states: “In your land.” Therefore, it is necessary for Rabbi Yoḥanan to teach us that the halakha is not in accordance with his opinion.

⁴⁷⁸ The Sages taught: The verse states that Moses charged the judges of a court: “And judge righteously between a man and his brother, and the convert with him” (Deuteronomy 1:16). From here, based on the mention of a convert in the context of judgment in a court, Rabbi Yehuda said: A potential convert who converts in a court is a valid convert. However, if he converts in private, he is not a convert.

⁴⁷⁹ The Gemara relates: There was an incident involving one who was presumed to be Jewish who came before Rabbi Yehuda and said to him: I converted in private, and therefore I am not actually Jewish. Rabbi Yehuda said to him: Do you have witnesses to support your claim? He said to him: No. Rabbi Yehuda asked: Do you have children? He said to him: Yes. Rabbi Yehuda said to him: You are deemed credible in order to render yourself unfit to marry a Jewish woman by claiming that you are a gentile, but you are not deemed credible in order to render your children unfit.

⁴⁸⁰ The Gemara asks: But did Rabbi Yehuda actually say that with regard to his children he is not deemed credible? But isn’t it taught in a baraita: The verse states: “He shall acknowledge [yakir] the firstborn, the son of the hated, by giving him a double portion of all that he has” (Deuteronomy 21:17). The phrase “he shall acknowledge” is apparently superfluous. It is therefore expounded to

teach that the father is deemed credible so that he can identify him [yakirenu] to others. From here Rabbi Yehuda said: A man 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, a priest is deemed credible to say: This son of mine is a son of a divorced woman and myself, or to say: He is a son of a ḥalutza and myself, and therefore he is disqualified due to flawed lineage [ḥalal]. And the Rabbis say: He is not deemed credible. If Rabbi Yehuda holds that a father is deemed credible to render his children unfit, why did he rule otherwise in the case of the convert?

⁴⁸¹ Rav Naḥman bar Yitzḥak said that this is what Rabbi Yehuda said to him: According to your statement you are a gentile, and there is no testimony for a gentile, as a gentile is a disqualified witness. Consequently, you cannot testify about the status of your children and render them unfit. Ravina said that this is what Rabbi Yehuda said to him: Do you have children? He said: Yes. He said to him: Do you have grandchildren? He said: Yes. He said to him: You are deemed credible in order to render your children unfit, based on the phrase “he shall acknowledge,” but you are not deemed credible in order to render your grandchildren unfit, as the verse affords a father credibility only with respect to his children.

⁴⁸² This opinion of Ravina is also taught in a baraita: Rabbi Yehuda says: A man is deemed credible to say about his minor son that he is unfit, but he is not deemed credible to say about his adult son that he is unfit. And in explanation of the baraita, Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: The reference to a minor son does not mean one who is literally a minor, who has not yet reached majority, and the reference to an adult son does not mean one who is literally an adult, who has reached majority; rather, a minor who has children, this is what the baraita is referring to as an adult, and an adult who does not have children, this is what the baraita is referring to as a minor.

⁴⁸³ The Gemara concludes: And the halakha is in accordance with the opinion of Rav Naḥman bar Yitzḥak. The Gemara asks: But isn’t it taught in the baraita in accordance with the opinion of Ravina? If there is a baraita that supports his opinion, the halakha should be in accordance with his opinion. The Gemara explains: That baraita was stated concerning the matter of “he shall acknowledge,” that a father is deemed credible to render his son unfit; however, if one claims he is a gentile, he is not deemed credible to say the same about his son.

⁴⁸⁴ § The Sages taught in a baraita: With regard to a potential convert who comes to a court in order to convert, at the present time, when the Jews are in exile, the judges of the court say to him: What did you see that motivated you to come to convert? Don’t you know that the Jewish people at the present time are anguished, suppressed, despised, and harassed, and hardships are frequently visited upon them? If he says: I know, and although I am unworthy of joining the Jewish people and sharing in their sorrow, I nevertheless desire to do so, then the court accepts him immediately to begin the conversion process.

⁴⁸⁵ And the judges of the court inform him of some of the lenient mitzvot and some of the stringent mitzvot, and they inform him of the sin of neglecting the mitzva to allow the poor to take gleanings, forgotten sheaves, and produce in the corner of one’s field, and about the poor man’s tithe. And they inform him of the punishment for transgressing the mitzvot, as follows: They say to him: Be aware that before you came to this status and converted, had you eaten forbidden fat, you would not be punished by karet, and had you profaned Shabbat, you would not be punished by stoning, since these

prohibitions do not apply to gentiles. But now, once converted, if you have eaten forbidden fat you are punished by karet, and if you have profaned Shabbat, you are punished by stoning.

⁴⁸⁶ And just as they inform him about the punishment for transgressing the mitzvot, so too, they inform him about the reward granted for fulfilling them. They say to him: Be aware that the World-to-Come is made only for the righteous, and if you observe the mitzvot you will merit it, and be aware that the Jewish people, at the present time, are unable to receive their full reward in this world;

⁴⁸⁷ they are not able to receive either an abundance of good nor an abundance of calamities, since the primary place for reward and punishment is in the World-to-Come. And they do not overwhelm him with threats, and they are not exacting with him about the details of the mitzvot.

⁴⁸⁸ If he accepts upon himself all of these ramifications, then they circumcise him immediately. If there still remain on him shreds of flesh from the foreskin that invalidate the circumcision, they circumcise him again a second time to remove them. When he is healed from the circumcision, they immerse him immediately, and two Torah scholars stand over him at the time of his immersion and inform him of some of the lenient mitzvot and some of the stringent mitzvot. Once he has immersed and emerged, he is like a born Jew in every sense.

⁴⁸⁹ For the immersion of a woman: Women appointed by the court seat her in the water of the ritual bath up to her neck, and two Torah scholars stand outside the bath house so as not to compromise her modesty, and from there they inform her of some of the lenient mitzvot and some of the stringent mitzvot.

⁴⁹⁰ The procedure applies for both a convert and an emancipated slave who, upon immersion at the time of his emancipation, becomes a Jew in every sense. And in the same place that a menstruating woman immerses, i.e., in a ritual bath of forty se'a of water, there a convert and an emancipated slave also immerse. And anything that interposes between one's body and the water of the ritual bath with regard to immersion of a ritually impure person, in a manner that would invalidate the immersion, also interposes and invalidates the immersion for a convert, and for an emancipated slave, and for a menstruating woman.

⁴⁹¹ The Gemara analyzes the baraita. The Master said in the baraita: With regard to a potential convert who comes to a court in order to convert, the judges of the court say to him: What did you see that motivated you to come to convert? And they inform him of some of the lenient mitzvot and some of the stringent mitzvot. The Gemara asks: What is the reason to say this to him? It is so that if he is going to withdraw from the conversion process, let him withdraw already at this stage. He should not be convinced to continue, as Rabbi Ḥelbo said: Converts are as harmful to the Jewish people as a leprous scab [sappahat] on the skin, as it is written: "And the convert shall join himself with them, and they shall cleave [venispehu] to the house of Jacob" (Isaiah 14:1). This alludes to the fact that the cleaving of the convert to the Jewish people is like a scab.

⁴⁹² The baraita continues: And they inform him of the sin of neglecting the mitzva to allow the poor to take gleanings, forgotten sheaves, and produce in the corner of one's field, and about the poor man's tithe. The Gemara asks: What is the reason to specifically mention these mitzvot? Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: Because a gentile is executed even on account of stealing less than the value of a peruta, since gentiles are particular about even such a small loss, and an item that a gentile steals is not subject to being returned, i.e., he is not obligated to return it to its owner. Since

gentiles are unwilling to separate even from items of little value, a potential convert must be made aware that if he converts, he will be required to relinquish some of his property to others.

⁴⁹³ The baraita continues: And they inform him of the sin of neglecting the mitzva to allow the poor to take gleanings, forgotten sheaves, and produce in the corner of one's field. And they do not overwhelm him with threats, and they are not exacting with him about the details of the mitzvot, i.e., the court should not overly dissuade the convert from converting. Rabbi Elazar said: What is the verse from which this ruling is derived? As it is written: "And when she saw that she was steadfastly minded to go with her, she left off speaking with her" (Ruth 1:18). When Naomi set out to return to Eretz Yisrael, Ruth insisted on joining her. The Gemara understands this to mean that Ruth wished to convert. Naomi attempted to dissuade her, but Ruth persisted. The verse states that once Naomi saw Ruth's resolve to convert, she desisted from her attempts to dissuade her. The Gemara infers from here that the same approach should be taken by a court in all cases of conversion.

⁴⁹⁴ The Gemara reconstructs the original dialogue in which Naomi attempted to dissuade Ruth from converting: Naomi said to her: On Shabbat, it is prohibited for us to go beyond the Shabbat limit. Ruth responded: "Where you go, I shall go" (Ruth 1:16), and no further. Naomi said to her: It is forbidden for us to be alone together with a man with whom it is forbidden to engage in relations. Ruth responded: "Where you lodge, I shall lodge" (Ruth 1:16), and in the same manner.

⁴⁹⁵ Naomi said to her: We are commanded to observe six hundred and thirteen mitzvot. Ruth responded: "Your people are my people" (Ruth 1:16). Naomi said to her: Idolatrous worship is forbidden to us. Ruth responded: "Your God is my God" (Ruth 1:16). Naomi said to her: Four types of capital punishment were handed over to a court with which to punish those who transgress the mitzvot. Ruth responded: "Where you die, I shall die" (Ruth 1:17). Naomi said to her: Two burial grounds were handed over to the court, one for those executed for more severe crimes and another for those executed for less severe crimes. Ruth responded: "And there I shall be buried" (Ruth 1:17).

⁴⁹⁶ Immediately following this dialogue, the verse states: "And when she saw that she was steadfastly minded she left off speaking with her" (Ruth 1:18). Once Naomi saw Ruth's resolve to convert, she desisted from her attempts to dissuade her.

⁴⁹⁷ The baraita continues: If he accepts upon himself all of these ramifications, then they circumcise him immediately. The Gemara asks: What is the reason to act immediately? It is that we do not delay the performance of a mitzva.

⁴⁹⁸ The baraita continues: If there still remain on him shreds of flesh from the foreskin that invalidate the circumcision, he is circumcised a second time to remove them. The Gemara explains: This is as we learned in a mishna (Shabbat 137a): These are the shreds of flesh that invalidate the circumcision if they are not cut: Any fragments of the flesh that cover the greater part of the corona. If such shreds remain, the child is considered uncircumcised, and he may not partake of teruma. And in explanation of this mishna, Rav Yirmeya bar Abba said that Rav said: This also includes the flesh that covers the greater part of the height of the corona.

⁴⁹⁹ The baraita continues: When he is healed from the circumcision, they immerse him immediately. The Gemara infers from the precise formulation of the baraita that when he has healed, then yes, he is immersed, but as long as he has not healed, then no, he is not. What is the reason for this? It is because water agitates a wound.

⁵⁰⁰ The baraita continues: And two Torah scholars stand over him at the time of his immersion. The Gemara asks: But didn't Rabbi Ḥiyya say that Rabbi Yoḥanan said that a convert requires a court of three to be present at his conversion? The Gemara answers: In fact, Rabbi Yoḥanan said to the tanna reciting the mishna: Do not teach that there are two Torah scholars; rather, teach that there are three.

⁵⁰¹ The baraita continues: Once he has immersed and emerged he is a Jew in every sense. The Gemara asks: With regard to what halakha is this said? It is that if he reverts back to behaving as a gentile, he nevertheless remains Jewish, and so if he betroths a Jewish woman, although he is considered to be an apostate Jew, his betrothal is a valid betrothal.

⁵⁰² The baraita continues: This applies both for a convert and for an emancipated slave. The Gemara considers the meaning of this clause: If it enters your mind to interpret the baraita to mean that a convert and an emancipated slave are the same with regard to accepting upon oneself the yoke of mitzvot, then one could raise a contradiction from that which is taught in another baraita: In what case is this statement that there is a need to accept the yoke of mitzvot said? It is with respect to a convert; however, an emancipated slave does not need to accept upon himself the yoke of mitzvot when he immerses for the sake of emancipation. Rather, the immersion alone is sufficient to emancipate him and thereby render him a Jew.

⁵⁰³ Rav Sheshet said: This is not difficult, as this baraita that states that an emancipated slave is not required to accept the yoke of mitzvot is in accordance with the opinion of Rabbi Shimon ben Elazar, whereas that baraita that implies he is required to do so is in accordance with the opinion of the Rabbis, the first tanna of the following baraita.

⁵⁰⁴ As it is taught in a baraita: The Torah permits a Jewish soldier to take a beautiful female prisoner of war out of her captivity in order to marry her. Before he may do so, she must first undergo the process that the Torah describes: "And she shall shave her head, and do her nails; and she shall remove the raiment of her captivity from upon her, and she shall remain in your house and bewail her father and her mother a month of days" (Deuteronomy 21:12–13). She may then be immersed for the sake of conversion, even though she does not accept upon herself the yoke of mitzvot. At that point it is permitted to marry her. The baraita asks: Under what circumstance are these matters stated? It is when she did not accept upon herself the yoke of mitzvot; however, if she willingly accepted upon herself the yoke of mitzvot, he may immerse her for the sake of conversion, and he is permitted to marry her immediately without the need for her to undergo the process described in the Torah.

⁵⁰⁵ Rabbi Shimon ben Elazar says: Even if she did not accept upon herself the yoke of mitzvot, the need for the process can still be circumvented if he forces her and immerses her for the sake of slavery, and then he again immerses her for the sake of emancipation and thereby emancipates her, rendering her a Jewess. Rabbi Shimon ben Elazar holds that the immersion of a slave for the sake of emancipation is effective even if the slave does not accept upon himself the yoke of mitzvot.

⁵⁰⁶ And he is permitted to marry her immediately afterward, without the need for her to undergo the process described in the Torah. The fact that the Rabbis do not suggest this course of action is evidently because they hold that even if she were to be rendered a slave and then immersed for the sake of emancipation, she would become Jewish only if she also accepted upon herself the yoke of mitzvot. Rav Sheshet assumes that the Rabbis would similarly rule that a regular slave who was immersed for the sake of emancipation becomes Jewish only if he also accepts upon himself the yoke of mitzvot.

⁵⁰⁷ Rava said: What is the rationale for Rabbi Shimon ben Elazar's opinion? As it is written with regard to the Paschal lamb: "Every slave of a man that is bought for money, when you have circumcised him, then he may eat of it" (Exodus 12:44). Could the use of the phrase "slave of a man," rather than just: Slave, possibly indicate that the verse applies only to a man's slave but not a woman's slave? Certainly not; rather, the phrase "slave of a man" means that the slave himself is a man, i.e., an adult, and teaches that a slave who is a man you may circumcise against his will, and there is no need for him to accept upon himself the yoke of mitzvot, but you may not circumcise a gentile's son who is a man, i.e., an adult who is not a slave, against his will.

⁵⁰⁸ The Gemara asks: And how would the Rabbis counter this argument? Ulla said that the Rabbis reason that just as you may not circumcise a son who is a man against his will, so too, you may not circumcise a slave who is a man against his will. The Gemara asks: But isn't it written: "Every slave of a man"? The Gemara explains: The Rabbis require that verse for that which Shmuel said.

⁵⁰⁹ As Shmuel said: With regard to one who renounces ownership of his slave, the slave is emancipated, and he does not even require a bill of emancipation, as it is stated: "But every slave of a man that is bought for money." Could the use of the phrase "slave of a man," rather than just: Slave, possibly indicate that the verse applies only to a man's slave but not a woman's slave? Certainly not; rather, the use of the phrase indicates that only a slave whose master has possession of him, and can rightfully be described as: a slave of a man, is called a slave, but a slave whose master does not have possession of him is not called a slave, and therefore he is considered a freeman and does not require a bill of emancipation.

⁵¹⁰ Rav Pappa strongly objects to Rav Sheshet's claim that the Rabbis of the baraita would hold that a regular slave who was immersed for the sake of emancipation becomes Jewish only if he also accepts upon himself the yoke of mitzvot: Say that you heard that the Rabbis insist on the acceptance of the yoke of mitzvot with regard to the case of a beautiful female prisoner of war, who was not involved in any mitzvot before being emancipated; however, with regard to a slave, who was initially involved in mitzvot before his emancipation, since as a slave he was obligated to observe certain mitzvot, perhaps even the Rabbis would agree that there is no need for the slave to accept upon himself the yoke of mitzvot.

⁵¹¹ As it is taught in a baraita: Both in the case of a convert and in the case of one who purchases a slave from a gentile whom he is now emancipating, the convert and the slave need to accept upon themselves the yoke of mitzvot in order to become Jewish. The Gemara infers: The baraita states the need to accept the yoke of mitzvot only in the case where one purchases a slave from a gentile, but if one purchases a slave from a Jew, then the slave does not need to accept upon himself the yoke of mitzvot, since he was involved in mitzvot before his emancipation.

⁵¹² In accordance with whose opinion is this taught? If one suggests that it is in accordance with the opinion of Rabbi Shimon ben Elazar, that is incorrect because didn't he say that also in the case of one who purchases a slave from a gentile, the slave does not need to accept upon himself the yoke of mitzvot? Rather, must it not be in accordance with the opinion of the Rabbis? And so, conclude from this baraita that in the case of one who purchases a slave from a gentile, the slave needs to accept upon himself the yoke of mitzvot, but in the case of one who purchases a slave from a Jew, the slave does not need to accept upon himself the yoke of mitzvot.

⁵¹³ The Gemara asks: But if so, it is difficult to understand the meaning of the baraita cited above: This applies both for a convert and for an emancipated slave. That phrase appears to refer to the need for both a convert and an emancipated slave to accept the yoke of mitzvot, which is mentioned in the baraita beforehand. The Gemara explains: When that clause is taught, it is taught only with regard to the matter of immersion, which is mentioned immediately beforehand, but not with regard to the need to accept the yoke of mitzvot that is mentioned prior to that.

⁵¹⁴ § Having cited it above, the Gemara focuses on the case of the beautiful female prisoner of war: The Sages taught: The verse states: “And she shall shave her head and do her nails” (Deuteronomy 21:12). The phrase “do her nails” is ambiguous. Rabbi Eliezer says: It means she cuts her nails. Rabbi Akiva says: It means she grows them.

⁵¹⁵ Each tanna explains the basis of his opinion: Rabbi Eliezer said: An act of doing is stated with regard to the head, that she should shave it, and an act of doing is stated with regard to the nails; just as there, with regard to the hair on her head, the Torah requires its removal, so too, here, with regard to her nails, the Torah requires their removal. Rabbi Akiva says: An act of doing is stated with regard to the head, that she should shave it, and an act of doing is stated with regard to the nails; just as there, with regard to the hair on her head, the Torah requires that she do something that makes her repulsive, so too, here, with regard to her nails, the Torah requires she do something that makes her repulsive, i.e., allowing them to grow.

⁵¹⁶ And a proof for the statement of Rabbi Eliezer may be adduced from the verse that states: “And Mephibosheth, the son of Saul, came down to meet the king; and he had neither done his feet nor done his mustache” (II Samuel 19:25). What is the meaning of doing in that context? Clearly it means the removal of his toenails and his mustache.

⁵¹⁷ The Sages taught in a baraita: The verse states: “And she shall bewail her father and her mother a month of days and after that you may come to her” (Deuteronomy 21:13).

⁵¹⁸ Rabbi Eliezer says: “Her father” means her actual father and “her mother” means her actual mother. Rabbi Akiva says: Her father and her mother; this is referring to the idolatrous deity that she had worshiped but will no longer be able to worship, and so it says: “They say to a tree: You are my father, and to a stone: You have given birth to us” (Jeremiah 2:27).

⁵¹⁹ The verses states: “A month of days and after that you may come to her” (Deuteronomy 21:13). This means a thirty-day month. Rabbi Shimon ben Elazar says: She must wait ninety days. This is derived as follows: The phrase “a month” connotes thirty days; the word “days” adds another thirty days; and the words “after that” indicate another period equal to one previously mentioned, i.e., a further thirty days.

⁵²⁰ Ravina strongly objects to this: If the words “after that” indicate another period equal to one previously mentioned, then one should say: The phrase “a month” connotes thirty days; the word “days” adds another thirty days; and then the words “after that” add another period which is equal to the total sum of all those days she has already waited, i.e., an additional sixty days. The Gemara concedes: Indeed, this is difficult.

⁵²¹ § The Sages taught in a baraita: One may maintain slaves that are not circumcised under one’s control; this is the statement of Rabbi Yishmael. Rabbi Akiva says: One may not maintain such slaves, even for a moment. Rabbi Yishmael said to him: But it says with regard to Shabbat: “And the

son of your maidservant will be refreshed” (Exodus 23:12). The verse prohibits a Jewish master from allowing his slave to perform labor on Shabbat. The Gemara will explain that this is referring to an uncircumcised slave. It is therefore apparent that it is permitted to keep such a slave. Rabbi Akiva said to him: The verse speaks of one who purchases a slave at twilight on the eve of Shabbat and therefore does not have the opportunity to circumcise him before the onset of Shabbat.

⁵²² The Gemara notes: In any event, in the opinion of everyone the verse: “And the son of your maidservant will be refreshed,” is written with regard to an uncircumcised slave. From where is this inferred? As it is taught in a baraita: “And the son of your maidservant will be refreshed”; the verse speaks of an uncircumcised slave. Do you say it speaks of an uncircumcised slave, or perhaps it is speaking only of a circumcised slave? When it says elsewhere: “And the seventh day is a Shabbat to the Lord your God, you shall not do any labor, you, and your son, and your daughter, and your slave, and your maidservant...so that your slave and your maidservant may rest like you” (Deuteronomy 5:13), a circumcised slave is already mentioned; how, then, do I uphold the verse “And the son of your maidservant will be refreshed”? It must refer to an uncircumcised slave.

⁵²³ The verse continues: “And the stranger [ger]” (Exodus 23:12). This is referring to a gentile who observes certain mitzvot [ger toshav]. Do you say that this is a ger toshav, or perhaps it is only a righteous convert [ger tzedek], who is a Jew in every sense? When it says elsewhere: “And your stranger [ger] that is within your gates” (Deuteronomy 5:13), a righteous convert is already mentioned. How, then, do I uphold the verse “And the stranger [ger]”? It must be that this is a ger toshav.

⁵²⁴ Rabbi Yehoshua ben Levi said: In the case of one who purchases a slave from a gentile and the slave does not wish to be circumcised, he abides with him up to twelve months. If, after this period, he will still not be circumcised, he then sells him on to gentiles.

⁵²⁵ The Sages said this halakha before Rav Pappa and asked: In accordance with whose opinion is it? It seems that it is not in accordance with the opinion of Rabbi Akiva, as, if it were in accordance with the opinion of Rabbi Akiva, didn’t he say: One may not maintain an uncircumcised slave even for a moment? Rav Pappa said to them: You can even say that it is in accordance with the opinion of Rabbi Akiva, since perhaps that halakha of Rabbi Yehoshua ben Levi applies only where the slave did not make his refusal to be circumcised explicit; however, where he did make his refusal to be circumcised explicit, since he has made it explicit, it is prohibited to maintain him, as Rabbi Akiva rules.

⁵²⁶ Rav Kahana said: I said this halakha before Rav Zevid from Neharde’a. He said to me: If so, that Rabbi Akiva agrees that one may temporarily maintain a slave who has not explicitly refused to be circumcised, then when Rabbi Akiva said to Rabbi Yishmael that the verse with regard to an uncircumcised slave is referring to one who purchases a slave at twilight on the eve of Shabbat, let him instead answer him that the verse is referring to this case of a slave who has not explicitly refused to be circumcised. The Gemara explains: Rabbi Akiva said only one out of two possible reasons why it would be permitted to be in possession of such a slave.

⁵²⁷ Ravin sent a message citing a halakha in the name of Rabbi Ilai: And all of my teachers said to me in his name: What is the case of an uncircumcised slave whom it is permitted to maintain? This is one whose master purchased him on condition not to circumcise him. The Sages said this halakha before Rav Pappa and asked: In accordance with whose opinion is it? It seems that it is not in

accordance with the opinion of Rabbi Akiva, as, if it were in accordance with the opinion of Rabbi Akiva, didn't he say: One may not maintain an uncircumcised slave even for a moment? Rav Pappa said to them: You can even say it is in accordance with the opinion of Rabbi Akiva, since perhaps that ruling of Rabbi Akiva applies only where the master did not make a condition with regard to the slave that he would not be circumcised; however, where he did make such a condition, since he made a condition, even Rabbi Akiva would concede it is permitted to maintain him.

⁵²⁸ Rav Kahana said: I said this halakha before Rav Zevid from Neharde'a and he said to me: If so, that Rabbi Akiva agrees that one may maintain a slave who was purchased on condition that he would not be circumcised, then when Rabbi Akiva said to Rabbi Yishmael that the verse with regard to an uncircumcised slave is referring to one who purchases a slave at twilight on the eve of Shabbat and therefore does not have the opportunity to circumcise him before the onset of Shabbat, let him instead answer him that the verse is referring to this case of a slave who was purchased on condition that he would not be circumcised.

⁵²⁹ The Gemara responds: But even according to your reasoning that Rabbi Akiva disagrees, since you do agree with Rav Pappa's resolution of Rabbi Akiva's opinion with the halakha of Rabbi Yehoshua ben Levi, let Rabbi Akiva answer him that the verse is referring to that case of a slave who has not explicitly refused to be circumcised. The Gemara answers: Rabbi Akiva said only one out of two or three possible reasons that it would be permitted to be in possession of such a slave.

⁵³⁰ Rabbi Ḥanina bar Pappi, and Rabbi Ami, and Rabbi Yitzḥak Nappaḥa were sitting in the courtyard of Rabbi Yitzḥak Nappaḥa. They were sitting and saying: There was one city in Eretz Yisrael whose slaves did not wish to be circumcised. Their masters abided with them until twelve months had passed and then sold them to gentiles. In accordance with whose opinion did they act?

⁵³¹ It is in accordance with the opinion of this tanna, as it is taught in a baraita: In the case of one who purchases a slave from a gentile and the slave does not wish to be circumcised, the master abides with him for up to twelve months. If, after this period, the slave will still not be circumcised, the master then sells him to gentiles. Rabbi Shimon ben Elazar says: One may not allow him to remain in Eretz Yisrael due to the loss of ritually pure items he could cause. As long as the slave remains uncircumcised, he is considered to be a gentile; therefore, by rabbinic decree, ritually pure items that he touches are considered to be impure. And in a city that is near to the border he may not be allowed to remain at all, lest he hear some secret matter concerning security and go and say it over to his fellow gentile in an enemy country. However, once he has been circumcised and accepted the yoke of mitzvot, this concern no longer exists.

⁵³² § It is taught in a baraita: Rabbi Ḥananya, son of Rabban Gamliel, says: For what reason are converts at the present time tormented and hardships come upon them? It is because when they were gentiles they did not observe the seven Noahide mitzvot. Rabbi Yosei says: They would not be punished for their deeds prior to their conversion because a convert who just converted is like a child just born in that he retains no connection to his past life. Rather, for what reason are they tormented? It is because they are not as well-versed in the intricacies of the mitzvot as a born Jew, and consequently they often inadvertently transgress mitzvot. Abba Ḥanan says in the name of Rabbi Elazar: It is because they observe mitzvot not out of love of God, but only out of fear of the punishments for failing to observe them.

⁵³³ Others say: It is because they waited before entering under the wings of the Divine Presence, i.e., they are punished for not converting sooner than they did. Rabbi Abbahu said, and some say it was Rabbi Ḥanina who said: What is the verse from which it is derived that one should convert at the earliest opportunity? Boaz said to Ruth: “The Lord shall recompense your work, and your reward shall be complete from the Lord, the God of Israel, under whose wings you have come to take refuge” (Ruth 2:12).

⁵³⁴ MISHNA: Which offspring of forbidden relations have the status of a mamzer? It is the offspring of a union with any next of kin that is subject to a Torah prohibition that he should not engage in sexual relations with them; this is the statement of Rabbi Akiva. Shimon HaTimni says: It is the offspring of a union with any forbidden relation 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: It is the offspring of a union with any forbidden relation for which one is liable to receive court-imposed capital punishment.

⁵³⁵ Rabbi Shimon ben Azzai said: I found a scroll recording people’s lineages in Jerusalem, and it was written in it that so-and-so is a mamzer from an adulterous union with a married woman, a sin punishable by court-imposed capital punishment. The only reason for the scroll to state the reason that this individual is a mamzer is in order to support the statement of Rabbi Yehoshua.

⁵³⁶ The mishna delineates the circumstances in which it is prohibited to engage in relations with the sister of one’s wife and the sister of one’s yevama: If a man’s wife died, he is permitted to her sister. If he divorced her and then she died, he is permitted to her sister. If he divorced his wife and then she was married to another and then died, he is permitted to her sister. If his yevama died, he is permitted to her sister. If he performed ḥalitza with her and then she died, he is permitted to her sister. If after ḥalitza she was married to another and then died, he is permitted to her sister. The principle underlying all these cases is that the prohibition against engaging in relations with her sister only applies while the wife or yevama remain alive, irrespective of their current relationship to the man.

⁵³⁷ GEMARA: What is Rabbi Akiva’s reasoning? As it is written: “A man shall not take his father’s wife, and he shall not uncover his father’s cloak” (Deuteronomy 23:1). This teaches that a cloak that his father saw, i.e., a woman with whom his father engaged in sexual relations, the son may not uncover.

⁵³⁸ And in this interpretation of the verse, Rabbi Akiva holds in accordance with the opinion of Rabbi Yehuda, who said: The verse states only that such relations are forbidden, but they would not render him liable to receive karet; perforce the verse speaks of a woman raped by one’s father, since she is one of the women with whom relations render one liable for violating a prohibition. The verse could not refer to one’s father’s wife since relations with her render one liable to receive karet.

⁵³⁹ The Gemara completes its explanation of Rabbi Akiva’s opinion: And in close proximity to that verse is the verse: “A mamzer shall not enter into the congregation of the Lord” (Deuteronomy 23:3). Apparently, even from these forbidden relations, which render one liable for the violation of a prohibition, the offspring is a mamzer.

⁵⁴⁰ The Gemara asks: But according to Rabbi Simai, who holds that Rabbi Akiva includes as a mamzer the offspring of all other forbidden relations for which one is liable for violation of a prohibition, even those that are not with his next of kin; and also according to Rabbi Yeshevav, who holds that Rabbi Akiva includes even the offspring of relations for which one is liable for the

violation of a positive mitzva; since according to them, Rabbi Akiva includes cases that are not similar to the case of a woman raped by his father, what is his source?

⁵⁴¹ The Gemara answers: They derive it from the verse that states: “And he shall not uncover his father’s cloak” (Deuteronomy 23:1). The word “and” is superfluous and serves to include additional cases.

⁵⁴² And Shimon HaTimni holds in accordance with the opinion of the Rabbis, who say: It is with regard to the widow waiting for his father to perform levirate marriage that the verse is speaking, and it indicates that she is one of the women with whom relations render one liable to receive karet. And in close proximity to that verse is the verse: “A mamzer shall not enter into the congregation of the Lord” (Deuteronomy 23:3). Apparently, only the offspring of a union for which one is liable to receive karet is a mamzer.

⁵⁴³ And how does Rabbi Yehoshua derive his opinion? If the verses should be derived as Rabbi Akiva and Shimon HaTimni suggest, let the Merciful One write only: “He shall not uncover his father’s cloak.” It is unnecessary for the verse to mention the prohibition with regard to one’s father’s wife, as the fact that the offspring of that union is a mamzer would be known through an a fortiori inference, since that prohibition is more stringent than the one derived from the verse: “And shall not uncover his father’s cloak.” Why do I need both the clause “a man shall not take his father’s wife” and the clause “and shall not uncover his father’s cloak”? Rather, is it not that this is what the Torah is saying: Only the offspring of relations with the woman mentioned in the verse after the words “a man shall not take” until the words “he shall not uncover,” i.e., his father’s wife, is a mamzer, but the offspring of relations with the woman mentioned beyond that point, i.e., the woman referred to as “his father’s cloak,” is not a mamzer.

⁵⁴⁴ § Abaye said: All tanna'im in the mishna agree with regard to one who engages in sexual relations with a menstruating woman,

⁵⁴⁵ or with a sota, that the offspring is not a mamzer.

⁵⁴⁶ With regard to a menstruating woman the offspring is not a mamzer because one’s betrothal of her takes effect, as it is stated: “And her impurity shall be upon him” (Leviticus 15:24). The phrase “shall be” alludes to the fact that a betrothal with her takes effect. The verse teaches that even at the time of her menstrual impurity, betrothal with her takes effect.

⁵⁴⁷ With regard to a sota, too, the offspring is not a mamzer because one’s betrothal of her takes effect.

⁵⁴⁸ The Gemara notes: This teaching of Abaye is also taught in a baraita: All agree with regard to one who engages in sexual relations with a menstruating woman, or with a sota, or with a widow waiting for her yavam to perform levirate marriage, that the offspring is not a mamzer.

⁵⁴⁹ The Gemara explains: And Abaye did not mention the case of a widow waiting for her yavam because he is uncertain whether, if someone other than the yavam betrothed her, the halakha is in accordance with the opinion of Rav that it does not take effect or in accordance with the opinion of Shmuel that it might take effect.

⁵⁵⁰ § The mishna states: Rabbi Shimon ben Azzai said: I found a scroll recording people’s lineages. The Gemara cites an expanded version of the contents of the scroll. It is taught in a baraita that Rabbi Shimon ben Azzai said: I found a scroll recording people’s lineages, in Jerusalem, and it was written

in it that so-and-so is a mamzer from an adulterous union with a married woman. And it was also written in it: The teachings of Rabbi Eliezer ben Ya'akov measure only a kav but are clean and accurate, and so the halakha is decided in accordance with his opinions. And it was written in it: Manasseh, king of Israel, killed Isaiah the prophet.

⁵⁵¹ The Gemara expands on the events surrounding Isaiah's death: Rava said: Manasseh judged him as a false witness for issuing statements contradicting the Torah and only then killed him. Manasseh said to Isaiah: Moses your master said in the Torah: "And He said: You cannot see My face, for man cannot see Me and live" (Exodus 33:20), and yet you said: "I saw the Lord sitting upon a high and lofty throne" (Isaiah 6:1). Moses your master said: "For which great nation is there, that has God so near to it, as the Lord our God is, whenever we call upon Him?" (Deuteronomy 4:7), and yet you said: "Seek the Lord while He may be found, call upon Him while He is near" (Isaiah 55:6), which implies that God is not always near. Moses your master said: "I will fulfill the number of your days" (Exodus 23:26), which implies that each individual has a preordained allotted lifespan that he cannot outlive, and yet you said in a prophecy to King Hezekiah: "And I will add to your days, fifteen years" (II Kings 20:6).

⁵⁵² Isaiah said to himself: I know him, i.e., Manasseh, that he will not accept whatever explanation that I will say to him to resolve my prophecies with the words of the Torah. And even if I say it to him, I will make him into an intentional transgressor since he will kill me anyway. Therefore, in order to escape, he uttered a divine name and was swallowed within a cedar tree. Manasseh's servants brought the cedar tree and sawed through it in order to kill him. When the saw reached to where his mouth was, Isaiah died. He died specifically at this point due to that which he said: "In the midst of a people of unclean lips, I dwell" (Isaiah 6:5). He was punished for referring to the Jewish people in a derogatory manner.

⁵⁵³ The Gemara asks: In any case, as Manasseh pointed out, these verses contradict each other; how are these contradictions to be resolved?

⁵⁵⁴ The Gemara resolves the first contradiction: "I saw the Lord" is to be understood as it is taught in a baraita: All of the prophets observed their prophecies through an obscure looking glass [aspaklaria], i.e., their prophecies were given as metaphoric visions but were not a direct perception of the matter. However, Moses our master observed his prophecies through a clear looking glass, i.e., he gained a direct and accurate perception of the matter.

⁵⁵⁵ The Gemara resolves the second contradiction: Isaiah's prophecy: "Seek the Lord while He may be found," does not contradict the verse in the Torah that God is near to His nation "whenever we call upon Him," because this prophecy of Isaiah was made with regard to the individual and this verse in the Torah is stated with regard to a community, as the prayer of the community is always accepted. The Gemara asks: And when is the time that God is to be found near the individual? Rav Nahman said Rabba bar Avuh said: These are the ten days between Rosh HaShana and Yom Kippur.

⁵⁵⁶ The resolution of the third contradiction from the verse: "I will fulfill the number of your days," is subject to a dispute between tanna'im, as it is taught in a baraita: The verse states: "I will fulfill the number of your days";

⁵⁵⁷ these are the years of the generations, i.e., the allotted lifespan that is preordained for each individual before birth. If he is deserving, God completes his allotted lifespan. If he is not deserving, God reduces his lifespan; this is the statement of Rabbi Akiva. Rabbi Akiva assumes one cannot

outlive one's preordained allotted lifespan. The Rabbis say: If he is deserving, God adds years to his lifespan. If he is not deserving, God reduces his lifespan. According to the Rabbis, Isaiah's prophecy is referring to one who deserved to have extra years added to his allotted lifespan, and the verse in the Torah is referring to one who deserved to merely complete his lifespan.

⁵⁵⁸ The Rabbis said to Rabbi Akiva: How can you claim that one cannot outlive one's allotted lifespan when there is a verse that states that Isaiah prophesied to Hezekiah as Hezekiah lay on his deathbed: "And I will add unto your days fifteen years"? Rabbi Akiva said to them: Those additional years that God added to his lifespan are from his own allotted lifespan. When Hezekiah sinned God decreed that his lifespan be shortened, but when he repented God allowed him to live out those years. Know that this is so, as a prophet during the reign of King Jeroboam stood and prophesied: "Behold, a son shall be born unto the House of David, Josiah is his name" (I Kings 13:2). Josiah was the grandson of Manasseh, Hezekiah's son, and at the time Hezekiah lay on his deathbed, Manasseh had not yet been born. Evidently, Hezekiah's preordained allotted lifespan had still not been completed.

⁵⁵⁹ And what would the Rabbis respond to Rabbi Akiva's proof? They could counter: Is it written that Josiah was to be born specifically from the descendants of Hezekiah? It is written only that he would be born "unto the House of David," so he could be born either from the descendants of Hezekiah or from a different person of the House of David. Accordingly, no proof concerning Hezekiah's allotted lifespan can be deduced from that verse.

⁵⁶⁰ § The mishna details the prohibition with regard to one's wife's sister in various cases: If a man's wife died, he is permitted to her sister; if his yevama died, he is permitted to her sister. Rav Yosef said: Here Rabbi Yehuda HaNasi taught an unnecessary mishna, since the prohibition with regard to one's wife's sister and the fact that the prohibition exists only in the lifetime of one's wife is stated explicitly in the Torah, and there is no additional novelty in this mishna's ruling.

Chapter 5

¹ MISHNA: Rabban Gamliel says: A bill of divorce [get] is not effective when given after a bill of divorce was previously given to a yevama. Once a yevama receives a bill of divorce from a yavam, no bill of divorce given by that yavam to her rival wife or a bill of divorce given to her by a different yavam is of any effect. And levirate betrothal is not effective after a previous levirate betrothal was performed, and intercourse with a second yevama is not effective after intercourse with the first one, and ḥalitza is not effective after ḥalitza was previously performed. But the Rabbis say: A bill of divorce is effective when given after a bill of divorce, and levirate betrothal is effective after levirate betrothal, but nothing is effective after intercourse or after ḥalitza. If a yavam has relations with the yevama or performs ḥalitza with her, no other action performed afterward is effective, whether performed by that yavam toward a different yevama or by any yavam with the original yevama.

² The mishna elaborates: How do these laws work in practice? If a yavam performed levirate betrothal with his yevama, and he later gave her a bill of divorce, she nevertheless requires ḥalitza from him. The bill of divorce does not fully exempt her from levirate marriage, as the levirate bond remains intact. If he performed levirate betrothal and then ḥalitza, she requires a bill of divorce from him in order to cancel the levirate betrothal. If the yavam performed levirate betrothal and then

engaged in intercourse with the yevama, this is the way to perform levirate marriage in accordance with its mitzva, as the Sages instituted this as the proper procedure for a yavam to perform levirate marriage.

³ If the yavam gave the yevama a bill of divorce and afterward performed levirate betrothal with her, she requires another bill of divorce to cancel the levirate betrothal, as well as ḥalitza to nullify the levirate bond. If he gave her a bill of divorce and then engaged in intercourse with her, she requires a bill of divorce to cancel the betrothal that took place via intercourse, and ḥalitza to nullify the levirate bond; the intercourse did not affect the levirate bond because once he gave her a bill of divorce she was forbidden to him. If he gave her a bill of divorce and performed ḥalitza, nothing is effective after ḥalitza, as the levirate bond was completely nullified.

⁴ Similarly, if he performed ḥalitza with her and then either performed levirate betrothal, or gave a bill of divorce, or engaged in intercourse with her; alternatively, if he engaged in intercourse with her and then either performed levirate betrothal, or gave a bill of divorce, or performed ḥalitza after they engaged in relations, nothing is effective after ḥalitza or intercourse. Any action performed afterward is unrelated to the levirate bond.

⁵ The above principles apply both in cases of one yevama to one yavam, as well as in cases of two yevamot to one yavam. How so? If he performed levirate betrothal with this yevama and levirate betrothal with that one, i.e., her rival wife, they require two bills of divorce, each for her own levirate betrothal, and ḥalitza with one of them, to release them both from the levirate bond. If he performed levirate betrothal with this one and gave a bill of divorce to that one, the first woman requires a bill of divorce to cancel the levirate betrothal, and one of them must receive ḥalitza. If he performed levirate betrothal with this one and engaged in intercourse with that one, they require two bills of divorce and he must perform ḥalitza with one of them. If the yavam performed levirate betrothal with this one and performed ḥalitza with that one, the first woman requires a bill of divorce.

⁶ If the yavam gave a bill of divorce to this yevama and a bill of divorce to that one, they require ḥalitza from him. If he gave a bill of divorce to this one and engaged in intercourse with that one, the latter requires a bill of divorce and ḥalitza. If he gave a bill of divorce to this one and performed levirate betrothal with that one, the latter requires a bill of divorce and he must perform ḥalitza with one of them. If the yavam gave a bill of divorce to this woman and performed ḥalitza with that one, nothing is effective after ḥalitza, and he cannot betroth the rival wife.

⁷ If he performed ḥalitza with one yevama and then performed ḥalitza with a second yevama, or he performed ḥalitza with one yevama and then proceeded to either perform levirate betrothal, give a bill of divorce, or engage in intercourse with a second; alternatively, he engaged in intercourse with one yevama and engaged in intercourse with the second yevama, or he engaged in intercourse with one yevama and proceeded to either perform levirate betrothal, give a bill of divorce, or perform ḥalitza with the second, nothing is effective after ḥalitza or intercourse. These halakhot apply both in cases of one yavam to two yevamot, as well as two yevamin to one yevama.

⁸ If he performed ḥalitza with one yevama and then proceeded to either perform levirate betrothal, give a bill of divorce, or engage in intercourse with a second yevama; alternatively, he engaged in intercourse with one yevama and then proceeded to perform levirate betrothal, or give a bill of divorce, or perform ḥalitza with a second yevama, nothing is effective after ḥalitza, whether the ḥalitza took place at the beginning, in the middle, or at the end. All of these halakhot accord with the

opinion of Rabbi Akiva, who maintains betrothal does not take effect on a woman who is forbidden due to the prohibition against betrothing a yevama after ḥalitza.

⁹ But with regard to intercourse, when it is at the beginning, i.e., the first act the yavam performed with his yevama, nothing is effective after it and any subsequent action is void. However, if it was performed in the middle, and similarly if it was performed at the end, i.e., after some other action that impairs the validity of his intercourse, something is effective after it. Rabbi Nehemya says: Both with regard to intercourse and ḥalitza, whether performed at the beginning, in the middle, or at the end, nothing is effective after it. If the yavam performed a valid action according to Torah law, any subsequent action is of no consequence according to halakha.

¹⁰ GEMARA: Rabban Gamliel and the Rabbis disagree only with regard to the efficacy of a bill of divorce performed after a bill of divorce and levirate betrothal performed after levirate betrothal, but one bill of divorce given to a single yevama, or one levirate betrothal performed with a single yevama, is effective. The bill of divorce prevents him from performing levirate marriage, and the levirate betrothal requires a bill of divorce to cancel it, in addition to ḥalitza.

¹¹ The Gemara elaborates: What is the reason that the Sages said that a bill of divorce is effective for a yevama, despite the fact that she is not his wife? This is because it is effective in general in cases of married women. For if you say that it is not effective in the case of a yevama, there are some who might mistakenly say the following: A bill of divorce is given to a woman in order to remove her from her husband, and ḥalitza likewise serves to remove her from the yavam; since a bill of divorce is ineffective for this yevama, ḥalitza is also ineffective and does not sever their relationship completely. And perhaps the yavam will come to engage in intercourse after ḥalitza, which is forbidden by the Torah prohibition derived from the verse: “So shall it be done to the man who does not build his brother’s house” (Deuteronomy 25:9).

¹² And what is the reason the Sages said that levirate betrothal is effective for a yevama? Because it is effective in general, as levirate betrothal is essentially an act of betrothal. For if you say that it is not effective, there are some who might mistakenly say: Levirate betrothal serves to acquire a woman and intercourse serves to acquire a woman in general, as women can be betrothed by intercourse; since levirate betrothal is ineffective in the case of a yevama, intercourse is also ineffective, i.e., it does not acquire a yevama completely. And he will therefore come to engage in intercourse with a rival wife after intercourse with the first yevama.

¹³ And what is the reason the Sages who disagree with Rabbi Nehemya said that invalid intercourse, i.e., intercourse that follows any disqualifying action with the rival wife of a yevama, does not fully acquire the yevama, such that something is effective after it? In this case the invalid intercourse does not cancel the levirate bond, and therefore further action with the yevama is effective.

¹⁴ The Sages say: If this is intercourse performed after a bill of divorce, then it is considered invalid due to a rabbinic decree with regard to intercourse after a bill of divorce because of its potential confusion with a case of intercourse after ḥalitza. The Sages established that invalid intercourse of this kind should not cancel the levirate bond completely, for if it did, then people might come to engage in intercourse after ḥalitza, which would violate a Torah prohibition. And if this is intercourse performed after levirate betrothal, then it is considered invalid due to a rabbinic decree with regard to intercourse after levirate betrothal because of its potential confusion with a case of intercourse with the second yevama after intercourse with the first. If intercourse after levirate betrothal is effective,

people might come to engage in intercourse with a second yevama after intercourse with a first, and this is forbidden as the woman is considered his brother's wife who is not eligible for levirate marriage.

¹⁵ And what is the reason the Sages said with regard to this invalid ḥalitza that nothing is effective after it? For they say: What is the reason that we should issue a decree in that case? Should we issue a decree with regard to ḥalitza performed after a bill of divorce due to a concern for ḥalitza performed after ḥalitza? In this case there is no concern, as there is no prohibition involved in repeating ḥalitza. In any situation like these, let her continue performing ḥalitza, for no harm is done if ḥalitza is performed unnecessarily.

¹⁶ Alternatively, should we issue a decree stating that other actions are effective after ḥalitza is performed after levirate betrothal due to the concern for confusion with the case of ḥalitza performed after intercourse? In this case there is a concern that people will assume that no bill of divorce is required after intercourse so long as the yavam performed ḥalitza. The Gemara challenges this concern: Is that to say that in the case of ḥalitza after levirate betrothal she does not require a bill of divorce for his levirate betrothal, such that one would conclude the same for ḥalitza after intercourse? In the case of ḥalitza after levirate betrothal, the woman requires a bill of divorce, and similarly in the case of ḥalitza after intercourse she likewise requires a bill of divorce for his intercourse. Thus, the same action performed following ḥalitza after levirate betrothal is also performed following ḥalitza after intercourse, and therefore there is no need to issue a further decree.

¹⁷ § Rava said:

¹⁸ What is the reason for the ruling of Rabban Gamliel that a bill of divorce is not effective after a bill of divorce? It is because he is uncertain with regard to a bill of divorce whether it effectively precludes levirate marriage or whether it does not preclude levirate marriage. Similarly, he is uncertain with regard to levirate betrothal, whether it effectively acquires the yevama or does not acquire her at all. The Gemara clarifies: With regard to a bill of divorce, he is uncertain as to whether it precludes levirate marriage or does not preclude it. If the first bill of divorce precludes levirate marriage, what did he do by giving the latter bill of divorce, as it has no substance? Alternatively, if the first bill of divorce does not preclude levirate marriage, neither does the latter preclude levirate marriage.

¹⁹ Likewise, with regard to levirate betrothal, he is uncertain as to whether it acquires the yevama or does not acquire her. If the first levirate betrothal effectively acquires the yevama, what does the last one accomplish? And if the first one does not acquire her, the last one also does not acquire her. For this reason Rabban Gamliel maintains that a bill of divorce is not effective after a bill of divorce was given, and similarly levirate betrothal is not effective after levirate betrothal was performed.

²⁰ Abaye raised an objection to his opinion from a baraita: And Rabban Gamliel concedes that a bill of divorce is effective after levirate betrothal and levirate betrothal is effective after a bill of divorce. If a yavam gave a bill of divorce to one yevama and then performed levirate betrothal with the other, or the reverse, both actions would be effective. And he also concedes that a bill of divorce is effective after intercourse and levirate betrothal such that if the yavam engaged in levirate betrothal with one yevama, engaged in intercourse with a second, and gave a bill of divorce to a third, the bill of divorce is effective and he is prohibited from marrying the relatives of the third yevama. And he concedes that levirate betrothal is effective after intercourse and a bill of divorce, such that if he gave a bill of

divorce to one woman, engaged in intercourse with a second, and performed levirate betrothal with a third, the levirate betrothal is effective and the third woman requires a bill of divorce.

²¹ And if Rabban Gamliel is uncertain with regard to the efficacy of levirate betrothal or a bill of divorce, then the third action should never be effective. Either the initial levirate betrothal or bill of divorce was completely effective, in which case any subsequent action is not effective, or these actions are not effective at all and the intercourse that followed them should be like intercourse performed at the beginning, and it should serve to acquire the yevama completely, and any actions performed afterward with the rival wife should be of no account. For we learned in the mishna: With regard to intercourse, when it is at the beginning, nothing is effective after it. Consequently, Rabban Gamliel's ruling is difficult.

²² Rather, Abaye said: Actually, it is obvious to Rabban Gamliel that a bill of divorce precludes levirate marriage, and that levirate betrothal acquires the yevama. Nevertheless, the Sages said that with regard to this yevama, in one respect a bill of divorce is effective for her, and in another respect levirate betrothal is effective for her, but they are not effective in the same manner. Therefore, a bill of divorce given after a bill of divorce does not preclude levirate marriage, as the first bill of divorce has already precluded it for him as much as he can preclude it by means of a bill of divorce. And levirate betrothal performed after levirate betrothal does not acquire her, as the first levirate betrothal has acquired her for him as much as possible. However, with regard to a bill of divorce after levirate betrothal, and levirate betrothal after a bill of divorce, this action precludes levirate marriage and that action acquires the yevama. Since the acquisition of levirate betrothal and the nullification of a bill of divorce work in different ways, there can be both an acquisition and a nullification, and therefore one can be effective after the other.

²³ However, the Rabbis maintain that the Sages instituted for each and every one of the brothers-in-law both the nullification of a bill of divorce and the acquisition of levirate betrothal for a yevama, and they decreed that these should be effective for each of the yevamot. Therefore the strength of the first bill of divorce or levirate betrothal is equal to that of the second one, and both are effective.

²⁴ Abaye proceeds to explain the rest of Rabban Gamliel's teaching in the baraita: And this invalid intercourse, i.e., intercourse that was performed after a disqualifying action, such as levirate betrothal or a bill of divorce, is superior to levirate betrothal and also inferior to levirate betrothal: It is preferable to levirate betrothal in the following respect: whereas levirate betrothal after levirate betrothal is not effective at all, intercourse after levirate betrothal is effective, because intercourse acquires a yevama according to Torah law. And it is inferior to levirate betrothal, for whereas levirate betrothal after a bill of divorce according to Rabban Gamliel acquires the entire remainder of the woman left by the bill of divorce, such that any further levirate betrothal would be ineffective, intercourse after a bill of divorce does not acquire the entire remainder of the woman left by the bill of divorce, as it is not considered valid intercourse, and a subsequent levirate betrothal is effective.

²⁵ § The Sages taught: How, i.e., in what case, did Rabban Gamliel say that a bill of divorce is not effective after a bill of divorce? In the case of two yevamot who happened before one yavam and he gave a bill of divorce to this one and a bill of divorce to that one. Rabban Gamliel says: He performs ḥalitza with the first one and is forbidden to marry her relatives, as she is his ḥalitza, and he is permitted to marry the relatives of the second one. Because the bill of divorce he gave the second

woman is of no consequence at all, she is merely the rival wife of his ḥalutza, and he is therefore permitted to marry her relatives.

²⁶ But the Rabbis say: If he gave a bill of divorce to this one and a bill of divorce to that one, he is forbidden to marry the relatives of both of them, and he must perform ḥalitza with one of them. And you would say the same with regard to two yevamim and one yevama. If the two yevamin gave one yevama a bill of divorce, one after the other, Rabban Gamliel maintains that the bill of divorce of the second yavam is of no account, and he is therefore permitted to marry her relatives, whereas the Rabbis hold that it is effective in that it renders him forbidden to her relatives.

²⁷ How, with regard to what circumstance, did Rabban Gamliel say that there is no levirate betrothal after levirate betrothal? In a case of two yevamot who happened before one yavam, and he performed levirate betrothal with this one and levirate betrothal with that one, Rabban Gamliel says: He gives a bill of divorce to the first one and performs ḥalitza with her, and is forbidden to her relatives, but he is permitted to the relatives of the second one, as the levirate betrothal performed with the rival wife is ineffective. But the Rabbis say: He gives a bill of divorce to both of them, as the levirate betrothal is effective for both women, and he is forbidden to the relatives of both of them; and as for ḥalitza, he must perform it with one of them. And you would say the same with regard to two yevamim and one yevama. If the first yavam performed levirate betrothal with the yevama, and the second yavam consequently performed levirate betrothal with her, they are both required to give her a bill of divorce and both are forbidden to marry her relatives.

²⁸ The Master said above in the baraita: He gives a bill of divorce to this one and a bill of divorce to that one. Rabban Gamliel says: He performs ḥalitza with the first one and is forbidden to marry her relatives, and he is permitted to marry the relatives of the second one. The Gemara asks: Shall we say that this is a conclusive refutation of the statement of Shmuel? For Shmuel said: If he performed ḥalitza with the woman who received a bill of divorce, the rival wife is not exempted by this invalid ḥalitza. The yavam must therefore repeat the ḥalitza with the rival wife as well. This appears to contradict the baraita, where Rabban Gamliel rules that he has to perform ḥalitza with only one of the yevamot.

²⁹ The Gemara answers: Shmuel could have said to you: When I said my above teaching, it was in accordance with the opinion of the one who said that the levirate bond is substantial, and he must therefore perform a valid ḥalitza in order to cancel this bond. A ḥalitza performed with a woman who received a bill of divorce is not powerful enough to completely cancel the bond of the rival wife who did not perform ḥalitza. But Rabban Gamliel holds that the levirate bond is not substantial, and therefore any ḥalitza that releases one of the women also serves to release the other.

³⁰ The Gemara asks: But if so, from the fact that Rabban Gamliel holds that the levirate bond is not substantial,

³¹ it can be inferred that the Rabbis hold that the levirate bond is substantial, as it is assumed that they disagree with Rabban Gamliel in this regard as well. And the latter clause of that baraita teaches: And you would say the same with regard to two yevamin and one yevama such that if the two yevamin gave one yevama a bill of divorce, she is exempted by the ḥalitza of one of them. If so, let us say that it is a conclusive refutation of the statement that Rabba bar Rav Huna said that Rav said. For Rabba bar Rav Huna said that Rav said: In cases of invalid ḥalitza, the yevama is required

to repeat the ḥalitza with all the brothers. If the ḥalitza was invalid for some reason, all the brothers must perform ḥalitza with the yevama, as her bond with them is not canceled by an invalid ḥalitza.

³² The Gemara responds: Rabba bar Rav Huna could have said to you: Both Rabban Gamliel and the Rabbis hold that the levirate bond is not substantial, whereas my statement is in accordance with the opinion that the levirate bond is substantial. And here the dispute does not concern the topic of the levirate bond at all, but rather it only involves the explicitly mentioned issue: They disagree with regard to the efficacy of a bill of divorce after a bill of divorce and levirate betrothal after levirate betrothal.

³³ The Master said above in the baraita: If he performed levirate betrothal with this one and levirate betrothal with that one, Rabban Gamliel says: He gives a bill of divorce to the first one and performs ḥalitza with her and is forbidden to her relatives, but he is permitted to the relatives of the second one. The Gemara poses a question: Since Rabban Gamliel holds that levirate betrothal is not effective after levirate betrothal, and the second levirate betrothal is of no consequence, the first woman should also be permitted to enter into levirate marriage. Why must he perform ḥalitza with her? The Gemara answers: It is prohibited due to a rabbinic decree lest he perform levirate marriage with the second woman. The Sages were concerned that in cases where the yavam performed levirate betrothal with both women, if he were permitted to consummate the levirate marriage with the first woman, he might do so with the second woman as well.

³⁴ § Rabbi Yoḥanan said: Rabban Gamliel, and Beit Shammai, and Rabbi Shimon, and ben Azzai, and Rabbi Neḥemya, they all hold that levirate betrothal acquires the yevama as a full-fledged acquisition, like a regular betrothal. The source for Rabban Gamliel's opinion is that which we said above, that levirate betrothal is not effective after levirate betrothal. Rabbi Yoḥanan maintains that the second levirate betrothal is not effective because she was already fully acquired by the first one.

³⁵ The source for the opinion of Beit Shammai is as we learned in a mishna: In the case of three brothers, two of whom were married to two sisters, and one who was single, the following occurred: The husband of one of the sisters died childless, leaving behind his wife, and the single brother performed levirate betrothal with this wife. Afterward, the second brother died, whereby the second brother's wife, the sister of the betrothed, happened before him for levirate marriage as well. In this case, Beit Shammai say: His wife remains with him, i.e., the woman he betrothed is considered like his wife, and he is not required to divorce her. And this other leaves the yavam and is exempt from levirate marriage due to the fact that she is the sister of a wife. This indicates that Beit Shammai hold that the levirate betrothal performed with the first woman makes her fully betrothed, thereby nullifying the levirate bond with her sister.

³⁶ The source for the opinion of Rabbi Shimon is based on the following case cited in a mishna (96b): In the case of a boy aged nine years and one day old who had relations with his yevama, and afterward his brother, who is also nine years and one day old, had relations with her, the second brother disqualifies her from performing levirate marriage with the first one. Rabbi Shimon says he does not disqualify her. As it is taught in a baraita that Rabbi Shimon said to the Rabbis: If the intercourse of the first brother is considered effective intercourse, the intercourse of the second brother is not considered effective intercourse such that it would disqualify her from performing levirate marriage with the first brother, as the first brother has already acquired her through his intercourse. If the intercourse of the first brother is not considered effective intercourse, the

intercourse of the second brother is also not effective intercourse. And the Sages considered the intercourse of a nine-year-old boy to be like levirate betrothal, and Rabbi Shimon says that the intercourse of the second boy is not considered intercourse. This proves that in his opinion the intercourse of a nine-year-old fully acquires the yevama, and similarly, so does levirate betrothal.

³⁷ This source for ben Azzai's opinion is as it is taught in a baraita that ben Azzai says: Levirate betrothal is effective after levirate betrothal in the case of two yevamin and one yevama, but levirate betrothal is not effective after levirate betrothal in the case of two yevamot and one yavam. Because the latter case involves only one yavam, his levirate betrothal fully acquires the yevama, and therefore the levirate betrothal he performs with the second woman is of no account, as he is already betrothed to the first yevama. The source for Rabbi Neḥemya's opinion is as we learned in a mishna that Rabbi Neḥemya says: With regard to both intercourse and ḥalitza, whether at the beginning, in the middle, or at the end, nothing is effective after it. And the Sages considered invalid intercourse to be like levirate betrothal, and Rabbi Neḥemya teaches that nothing is effective after it. This indicates that he maintains that no form of acquisition is effective after levirate betrothal, as levirate betrothal completely acquires the yevama.

³⁸ § The mishna states: How so? If he performed levirate betrothal with his yevama and gave her a bill of divorce, etc.

³⁹ The Gemara is puzzled: Is this case upon which the mishna elaborates the case of a bill of divorce after a bill of divorce that is mentioned first in the mishna? The mishna first is referring to a bill of divorce after a bill of divorce, but when it comes to the specifics, it mentions a bill of divorce after levirate betrothal. Rav Yehuda said: This is what the tanna is saying: With regard to a bill of divorce after a bill of divorce, and levirate betrothal after levirate betrothal, it is as we said and these cases were explained in the baraita, but with regard to one yavam and one yevama, how is their complex bond released? He then proceeds to delineate: If he performed levirate betrothal with his yevama and gave her a bill of divorce, she requires ḥalitza from him.

⁴⁰ § The mishna teaches: If the yavam performed levirate betrothal and engaged in intercourse, this is done in accordance with its mitzva. The Gemara suggests: Let us say that this mishna supports the statement of Rav Huna. As Rav Huna said: The mitzva of a yevama is properly performed when the yavam betroths the yevama and only afterward engages in intercourse. This statement indicates that the levirate betrothal is a necessary component of the mitzva, and the mishna seems to imply the same. The Gemara refutes this claim: This is not necessarily the case, as you can read the mishna as stating that this also is in accordance with its mitzva. If he performed levirate betrothal and then engaged in intercourse, this too is a proper manner to proceed, but we do not have to interpret the mishna as indicating that this is the only way to fulfill the mitzva.

⁴¹ The Gemara asks: Isn't this obvious? If one can fulfill the mitzva without performing levirate betrothal, why would one think that levirate betrothal is detrimental? The Gemara answers: It was indeed necessary for the mishna to teach us this, for it might enter your mind to say that since the Master said above (29b): One who performs levirate betrothal with his yevama causes the levirate bond to dissipate from himself, and a standard bond of betrothal and marriage takes effect on him, you might say that he no longer performs a mitzva when he carries out levirate marriage, as the levirate bond is no longer in place. The tanna therefore teaches us that we consider the levirate betrothal and the subsequent intercourse as part of the same process, which constitutes a mitzva.

⁴² The Gemara continues: With regard to the matter itself, Rav Huna said: The mitzva of levirate marriage is properly performed when the yavam betroths the yevama and afterward engages in intercourse, and if he engaged in intercourse and later performed levirate betrothal, he has acquired the yevama. The Gemara is puzzled: If he engaged in intercourse and then performed levirate betrothal it is obvious that he has acquired her, as he has already acquired her by intercourse. The levirate betrothal does not affect the issue one way or another. Rather, say as follows: If he engaged in intercourse without prior levirate betrothal, even in that case he has acquired her.

⁴³ The Gemara challenges this: But isn't it taught in a baraita that a yavam who has intercourse without levirate betrothal is flogged? The Gemara answers: The lashes are not because he transgressed by not performing levirate betrothal, but rather they are lashes for rebelliousness given for transgressing a rabbinic law, namely for acting in an immodest manner.

⁴⁴ The Gemara cites other instances where the Sages administered lashes for immodest behavior. As Rav would flog one who betroths a woman by intercourse, despite the fact that betrothal is effective by this method, because he acted in a promiscuous manner. And he would likewise flog one who betroths a woman in the marketplace, rather than at home, as this too is loose behavior, and he would also administer lashes to one who betroths a woman without a prior marriage agreement [shiddukhei], as this too is an act of permissiveness.

⁴⁵ And he would further lash one who nullifies a bill of divorce he had earlier sent by declaring in the presence of witnesses that the bill of divorce is nullified. This action is effective, but by doing so he transgresses the rabbinic ordinance of the Sages that bans such an action as it might lead his wife to unlawfully wed another. And he would also flog one who delivers a declaration preemptively invalidating a bill of divorce, by informing three people before giving a bill of divorce that he is not doing so of his own free will and he wants to cancel it ahead of time. Here too he will mislead his wife, who will assume it is a valid bill of divorce.

⁴⁶ And he would lash one who behaves irreverently toward a messenger of the Sages, even if the messenger is not a scholar, as he thereby shows disrespect to the Sages themselves. And he would administer lashes to one who remained under an excommunication of the Sages for thirty days and did not go to the court and petition for the removal of his excommunication after correcting the sin that led to the excommunication in the first place. This behavior demonstrates that he does not care about the excommunication, and is therefore deserving of lashes.

⁴⁷ And he would also lash a son-in-law who lives in his father-in-law's house, as this is likely to lead to temptation between the younger couple and older couple who share the same house. The Gemara asks: With regard to one who lives in his father-in-law's house, yes, he would lash him, but with regard to one who only passed through his father-in-law's house at regular intervals, no, he would not lash him? But an incident occurred involving a certain man who passed by the entrance to his father-in-law's house and Rav Sheshet lashed him. The Gemara explains: There was a special set of circumstances in that case, as that man was suspected with regard to his mother-in-law, and therefore he was lashed merely for passing near her house, as he thereby gave credence to the rumors.

⁴⁸ The Sages of Neharde'a would say: In all these cases Rav would not flog, apart from the case of one who betrothed by intercourse and without a prior marriage agreement. And there are those who say he would flog a man who betrothed by intercourse even if he did so with a prior marriage agreement, due to the immorality involved, as he must invite witnesses to observe the act.

⁴⁹ § The Sages taught: How is levirate betrothal performed? He gives her money or the equivalent value of money and declares: You are hereby betrothed to me. The Gemara asks: And with a document, how does he betroth her? The Gemara is puzzled by this question: With a document, how does he betroth her? It is as we have said by the halakhot of a regular document of betrothal: If he wrote to her on paper or on earthenware, even though it is not worth a peruta, the words: You are hereby betrothed to me, it is effective. As a document is not effective as a means of betrothal due to its monetary value but rather due to the words it contains, there is no requirement that it be of a minimum value. However, because the halakhot of betrothal by a document were already taught, the Gemara is puzzled as to the nature of this question. Abaye said that this is what the baraita is saying: With regard to the document of a marriage contract for levirate marriage, how is it written? Abaye understands that the question did not refer to the document of betrothal but rather to the marriage contract of a levirate marriage.

⁵⁰ The Gemara explains that he writes to her: I, so-and-so, son of so-and-so, have accepted so-and-so, my yevama upon me, to feed and maintain her in a fitting manner, provided that her marriage contract will still be payable from the property of her first husband and not from the property of the yavam. The Gemara adds: But if the first husband does not have property, the Sages instituted for her that she should receive her marriage contract from the second husband, i.e., the yavam, for the same reason that they instituted the marriage contract in the first place: So that she will not be demeaned in his eyes such that he will easily divorce her. If he will suffer no financial penalty, he is likely to divorce over the smallest argument.

⁵¹ § Abaye inquired of Rabba: If a yavam gave his yevama a bill of divorce, and said the following formula: You are hereby divorced from me but you are not permitted to any other man, what is the status of such a bill of divorce? Is the bill of divorce of a yevama a bill of divorce based on rabbinic law and therefore subject to the halakhot of a regular bill of divorce; and consequently, a bill of divorce that is effective for a married woman is also effective for a yevama, and a bill of divorce that is not effective for a married woman is not effective for a yevama? Since this type of a divorce is invalid in the case of a married woman, it is similarly ineffective in the case of a yevama. Or perhaps the Sages were concerned that perhaps people will come to confuse this bill of divorce with an unqualified bill of divorce given by a yavam and they therefore decreed that it should affect the levirate bond, preventing the yavam from marrying the yevama.

⁵² Rabba said to him: We are concerned that perhaps they will come to confuse this bill of divorce with a regular bill of divorce, and it therefore disqualifies a yevama. Rabba bar Ḥanan strongly objects to this: However, if that is so, that we are stringent with the bill of divorce of a yevama out of concern that people might confuse the two types of bills of divorce, if he gives her a mere piece of paper, which does not mention divorce, so too will it disqualify her? He said to him: There it is different, as a mere piece of paper has no effect on any other woman, for it does not disqualify her for marrying into the priesthood. If a husband gives his wife a piece of paper that contains nothing about divorce, even if he says: This is a bill of divorce, his action is of no consequence, not even to forbid her to a priest. Here, however, a bill of divorce of this kind at least disqualifies a woman from marrying into the priesthood.

⁵³ As it is taught in a baraita: “They shall not take a woman that is a harlot, or profaned; and a woman divorced from her husband they shall not take, as he is holy to his God” (Leviticus 21:7).

This verse lists the women whom a priest is prohibited from marrying. From this verse it can be inferred: Even if she was only divorced from her husband who said when giving her a bill of divorce: You are divorced from me, but did not permit her to other men, even such a woman they may not take in marriage. Although a bill of divorce of this kind does not permit the woman to others, it does suffice to prohibit her from marrying a priest. And this is what is referred to as the trace of a bill of divorce, which disqualifies a woman from marrying into the priesthood. Since this bill of divorce is valid to a certain extent, it also disqualifies a yevama.

⁵⁴ Rami bar Hama said: They said that if one said to a scribe [lavlar]: Write a bill of divorce for my betrothed now, such that when I marry her I will divorce her with the bill of divorce, if he indeed gave her this bill of divorce after their marriage it is a valid bill of divorce. Why? Because it is already in his power to divorce her while she is betrothed to him, and therefore the bill of divorce written during their betrothal is valid.

⁵⁵ But if he wrote a bill of divorce for a regular woman who has no connection to him, even if he later married her, it is not a valid bill of divorce. This is because at the time of the writing of the bill of divorce, it is not in his power to divorce her, and therefore the bill of divorce is of no consequence. All this is evident, but in light of the above halakhot Rami bar Hama inquires: If he wrote a bill of divorce for his yevama and did not give it to her immediately, but only after they were married, what is the halakha? Is it a valid bill of divorce or not? The Gemara clarifies the options: On the one hand, since she is tied to him she is considered like his betrothed; or perhaps, since he has not yet performed levirate betrothal with her, she is not even considered the equivalent of his betrothed, and the bill of divorce is not effective? The Gemara does not have a resolution for this and states that the question shall stand unresolved.

⁵⁶ Rav H̄ananya inquires: If he wrote a bill of divorce for his levirate bond, by specifying in the bill of divorce that he is thereby severing the levirate bond between them, but not for his levirate betrothal, or if he wrote a bill of divorce for his levirate betrothal and stated that it is not for his levirate bond, what is the halakha? Is the levirate betrothal superimposed upon the levirate bond, so that they are considered a single, continuous link, and he is like one who divorces half a woman, and one who divorces half a woman has done nothing; or perhaps this stands on its own and that stands on its own, and he can therefore cancel either the levirate bond or the levirate betrothal separately.

⁵⁷ The Gemara asks: And why do you not resolve the dilemma from a teaching of Rava? For Rava said: If a yavam gave a bill of divorce for his levirate betrothal, her rival wife is permitted. The levirate betrothal he had previously performed is thereby canceled, which leaves the bond intact, and the rival wife of this yevama remains available for levirate marriage. This indicates that levirate betrothal and the levirate bond are not connected. The Gemara answers: To Rava it is obvious, but to Rav H̄ananya it is a dilemma. What, then, is the halakha? Since no other proof is forthcoming, and Rav H̄ananya does not accept the teaching of Rava, the question remains undecided. The Gemara states that the dilemma shall stand unresolved.

⁵⁸ § It was taught in the mishna: If the yavam performed ḥalitza and then performed levirate betrothal, nothing is effective after ḥalitza and this levirate betrothal is not valid. Rav Yehuda said that Rav said: This is the statement of Rabbi Akiva, who says that betrothal does not take effect on those who are forbidden as they are liable for violating a prohibition. Once he has performed ḥalitza, the woman is forbidden to him due to the prohibition derived from the verse “So shall it be done to

the man who does not build his brother's house" (Deuteronomy 25:9), and betrothal is ineffective. But the Rabbis say something is effective after ḥalitza. Although the woman who performed ḥalitza is forbidden to him, if he does betroth her, his betrothal is effective, as with any regular prohibition.

⁵⁹ The Gemara asks: And can you establish that the mishna is in accordance with the opinion of Rabbi Akiva? But doesn't the first clause of the mishna teach: If he gave a bill of divorce and performed levirate betrothal, she requires a bill of divorce and ḥalitza. Now if this is in accordance with Rabbi Akiva's opinion, once he gave her a bill of divorce, is levirate betrothal effective for her?

⁶⁰ But isn't it taught in a baraita that Rabbi Akiva says: From where is it derived that if one gives a bill of divorce to his yevama, she is forbidden to him forever and he no longer has the option of marrying her? As it is stated with regard to a woman who was divorced and married another man who subsequently died or divorced her: "Her former husband, who sent her away, may not take her again to be his wife" (Deuteronomy 24:4). Rabbi Akiva emphasizes the words "who sent her away," implying that he may not remarry her after sending her away. This indicates that there is an instance where a husband may not remarry his wife even if she has not married another, merely because he has given her a bill of divorce. This applies to the case of a yevama where the bill of divorce she receives renders her permanently prohibited to him. According to Rabbi Akiva, once she is rendered prohibited to him, no further action performed by the yavam is effective, so why does the levirate betrothal performed require a bill of divorce?

⁶¹ Rav Ashi said: This is not difficult because the bill of divorce for levirate marriage was established by the Sages and only has the force of rabbinic law, and the aforementioned verse is not a Torah prohibition, but rather a mere support. Therefore there is no Torah prohibition against marrying a yevama who received a bill of divorce, and the levirate betrothal performed afterward is effective according to Rabbi Akiva as well.

⁶² With regard to the halakha of betrothal after ḥalitza, the Gemara notes: This halakha is also taught in a baraita as Rabbi Yehuda HaNasi said: These matters were only stated in accordance with the statement of Rabbi Akiva, who considers a yevama who underwent ḥalitza to be prohibited like a forbidden relation. Therefore, any further betrothal is not effective with her, as is the case with forbidden relations. But the Rabbis say something is effective after ḥalitza. And I say: When is betrothal effective after ḥalitza? It is effective when he betrothed for the purpose of marriage, like the regular betrothal of any ordinary woman. But if he betrothed her after ḥalitza and specified that he is doing so for the purpose of levirate marriage, in that case nothing is effective after ḥalitza.

⁶³ It is taught in another baraita: With regard to one who performs ḥalitza with his yevama and then betroths her, Rabbi Yehuda HaNasi says: If he betrothed her for the purpose of regular marriage she requires a bill of divorce from him; if he betrothed her for the purpose of levirate marriage she does not require a bill of divorce from him. And the Rabbis say: Whether he betrothed her for the purpose of regular marriage, or whether he betrothed her for the purpose of levirate marriage, she requires a bill of divorce from him, as this betrothal is effective.

⁶⁴ Rav Yosef said: What is the reason for Rabbi Yehuda HaNasi's distinction between one who betroths his ḥalitza for the purpose of levirate marriage and one who does so for the purpose of regular marriage? It is because the Sages considered him like one who hoes the property of a convert who died without leaving heirs. The property of such a convert is ownerless, and whoever takes possession of it acquires its title. As one of the methods of taking possession of land is hoeing, if one

hoed the property of this convert with the intention of acquiring it, it belongs to him. However, if he hoed the convert's property while mistakenly thinking that the land was his own, even though he performed an act of acquisition, since he lacked the requisite intention he has not acquired the land. Here too, since the yavam intended to betroth her for the purpose of levirate marriage, and the levirate bond no longer exists, his action is not effective.

⁶⁵ Abaye said to him: Are the two situations comparable? There, in the case of hoeing, he does not intend to acquire the land as he works, as he thinks that it is already his, whereas here he does intend to acquire the woman. This case is similar only to the one who hoes the property of this deceased convert while thinking it is that of a different convert. The halakha in that case is that he acquires the land, despite his imprecise knowledge of what he is acquiring. Here too the betrothal should take effect regardless of his error.

⁶⁶ Rather, Abaye said that the dispute between Rabbi Yehuda HaNasi and the Rabbis cannot be explained in the above manner. Instead, he suggests: With what are we dealing here? It is a case where he said to his ḥalitza: Be betrothed to me with levirate betrothal. Rabbi Yehuda HaNasi holds that levirate betrothal is superimposed upon the levirate bond, and is therefore only possible when the bond exists, and since ḥalitza comes and releases the levirate bond, levirate betrothal is not effective for her. And the Rabbis hold: This, the levirate bond, stands on its own, and that, levirate betrothal, stands on its own. Although the bond has been canceled, the formula of: Be betrothed to me with levirate betrothal, is effective. At the outset, before ḥalitza, if he had said to her: Be betrothed to me with levirate betrothal, would this not be an effective betrothal despite the lack of connection between the levirate betrothal and the levirate bond? Now too it should be effective, even though she performed ḥalitza.

⁶⁷ Rava said: If he said to her: Be betrothed to me with levirate betrothal, everyone agrees that it is effective, and she is acquired. And with what are we dealing here? It is a case where he said to her: Be betrothed to me with the levirate bond, and the dispute is as follows: Rabbi Yehuda HaNasi holds

⁶⁸ that the levirate bond is substantial, and this betrothal is based on the levirate bond. And in this case, the ḥalitza comes and releases the levirate bond. Therefore this type of betrothal does not acquire the ḥalitza. But the Rabbis hold that the levirate bond is not substantial, that is, the bond itself does not create a connection between the yavam and yevama, and that in general, levirate betrothal acquires a yevama as a form of betrothal unrelated to the levirate bond. And consequently, at the outset, if he had said to her: Be betrothed to me by the levirate bond, would this not be effective? Now too, after ḥalitza, even without the bond, it should likewise be effective.

⁶⁹ Rav Sherevya suggested a different point of dispute and said: In a case when the woman performed valid ḥalitza, if he later said to her: Be betrothed to me by the levirate bond, everyone agrees that it is not effective, as there is no longer any bond. And here, they disagree with regard to one who performed invalid ḥalitza. One Sage, Rabbi Yehuda HaNasi, holds that invalid ḥalitza exempts her from the levirate bond and disqualifies her from betrothal as a yevama. And one Sage, i.e., the Rabbis, holds that invalid ḥalitza does not fully exempt her, and some element of the levirate bond remains intact and she can therefore be betrothed with the levirate bond.

⁷⁰ Rav Ashi said: Everyone agrees that invalid ḥalitza does not exempt her and does not entirely nullify the bond. And here they disagree as to whether a condition is effective with regard to ḥalitza. When the yavam states he is performing ḥalitza on the condition that the yevama give him one

hundred dinars, for example, is this condition effective and therefore the ḥalitza is nullified if the condition is not fulfilled? One Sage, i.e., the Rabbis, holds that a condition is effective with regard to ḥalitza. If the yevama fails to comply with the condition, the ḥalitza is ineffective and she can still be betrothed with the levirate bond. And one Sage, Rabbi Yehuda HaNasi, holds that a condition is not effective with regard to ḥalitza, and therefore the ḥalitza is always effective, and the subsequent levirate betrothal is ineffective.

⁷¹ Ravina said: Everyone agrees that a condition is effective with regard to ḥalitza, and here they disagree with regard to a compound condition. One Sage, Rabbi Yehuda HaNasi, holds that we require a compound condition. The man must explicitly stipulate that the ḥalitza should be effective if the condition is upheld, and that it should not be effective if she does not fulfill the condition. If he did not state both the positive and negative sides of the condition it does not take effect, and the ḥalitza is effective and the levirate bond is canceled. Consequently, betrothal by the levirate bond is ineffective. And one Sage, i.e., the Rabbis, holds that we do not require a compound condition. Therefore, the condition applies and cancels the ḥalitza, which leaves the levirate bond intact.

⁷² § The mishna teaches: If the yavam performed ḥalitza and then either performed levirate betrothal, or gave a bill of divorce, or engaged in intercourse, nothing is effective after ḥalitza. The Gemara asks: And let the tanna likewise teach that nothing is effective after intercourse, for he also mentioned the case of one who engaged in intercourse and then proceeded to perform other actions such as levirate betrothal, divorce and ḥalitza. Indeed, Abaye and Rava both say that the mishna should teach: Nothing is effective after intercourse, as this clause is fit to be inserted into the mishna. The Gemara asks: And the tanna of our mishna; why did he not state this? The Gemara explains: The permission for a yevama to marry a member of the public is preferable to him. He preferred to teach cases in which the yevama is permitted to marry any man from the general public as opposed to a situation where she is married to the yavam.

⁷³ The mishna teaches that all the halakhot with regard to levirate betrothal after levirate betrothal and the like apply both in cases of one yevama to one yavam, as well as in cases of two yevamot to one yavam. The Gemara comments: The mishna is not in accordance with the opinion of ben Azzai. As it is taught in a baraita: Ben Azzai says: Levirate betrothal is effective after levirate betrothal in the case of two yevamin and one yevama, but levirate betrothal is not effective after levirate betrothal in the case of two yevamot and one yavam. The tanna of the mishna, in contrast, does not differentiate between the cases.

⁷⁴ The mishna further teaches: How so? If he performed levirate betrothal with this one and performed ḥalitza with that one, the first woman requires a bill of divorce to cancel the levirate betrothal. The Gemara suggests: Let us say that this teaching supports the opinion of Shmuel. As Shmuel said: If a yavam performed ḥalitza with the woman who received levirate betrothal, then the rival wife is not exempt as this ḥalitza is invalid. The fact that the Gemara does not state that the ḥalitza be performed with the woman who received levirate betrothal indicates that this ḥalitza is not a valid ḥalitza and would not be sufficient to exempt the rival wife.

⁷⁵ And this would constitute a conclusive refutation of Rav Yosef's opinion, for he holds that it is preferable to perform ḥalitza with the woman who received levirate betrothal and thereby exempt the second woman. As the first woman requires a bill of divorce and therefore is necessarily disqualified from marrying into the priesthood, it is preferable to perform ḥalitza with her as well and

consequently leave the second woman eligible to marry a priest. The Gemara refutes this claim: Does the mishna teach: He should perform ḥalitza, which would imply that the yavam should do so ab initio? It teaches that he performed ḥalitza, implying that the ruling in the mishna is after the fact. Therefore, there is no indication in the mishna that the yavam should perform ḥalitza with the second woman, and it is possible that if he were to perform ḥalitza with the first woman he would thereby exempt the second one. It is simply that the particular case discussed by the mishna here concerns a man who performed levirate betrothal with this woman and ḥalitza with that one.

⁷⁶ It is further taught in the mishna: If he gave a bill of divorce to this one and a bill of divorce to that one, they require ḥalitza from him. The Gemara suggests: Let us say that it supports the statement of Rabba bar Rav Huna. As Rabba bar Rav Huna said: In cases of invalid ḥalitza, the yevama is required to repeat the ḥalitza with all of the brothers, as that single invalid ḥalitza is insufficient. Similarly, in this case of invalid ḥalitza, it would be necessary to perform ḥalitza with all of the yevamot. The Gemara rejects this suggestion: What is the meaning of require in this context? It means that such women require in general. The plural form does not refer to all the yevamot mentioned in the mishna, but rather it means that all yevamot in similar situations require ḥalitza.

⁷⁷ It was taught in the mishna: If he gave a bill of divorce to this one and performed ḥalitza with that one, nothing is effective after ḥalitza. The Gemara suggests: Let us say that this supports the opinion of Shmuel, as it indicates that the yavam should perform ḥalitza with the rival wife rather than the woman who received a bill of divorce. And it would likewise be a conclusive refutation of the opinion of Rav Yosef, who prefers performing ḥalitza with the disqualified woman. The Gemara again rejects this proof: Does it teach: He should perform ḥalitza, a ruling ab initio? It teaches: He performed ḥalitza, which is only after the fact, meaning he acted in that manner in this particular case.

⁷⁸ The mishna taught that if he performed ḥalitza with one woman and then performed ḥalitza with another one, or he performed ḥalitza and then proceeded to perform levirate betrothal, nothing is effective after ḥalitza. The Gemara suggests: And let the tanna also teach: Nothing is effective after intercourse, as this is indicated in the mishna as well. The Gemara answers: Indeed, Abaye and Rava both say that it should teach: Nothing is effective after intercourse. The Gemara comments: And the tanna of our mishna did not state this because the permission for a yevama to marry a member of the public is preferable to him, and he therefore specified a case that involves ḥalitza.

⁷⁹ § It was taught in the mishna: Nothing is effective after ḥalitza, both in cases of one yavam to two yevamot, as well as cases of two yevamin to one yevama. The Gemara comments: Granted, according to the opinion of Rabbi Yoḥanan, who said that once a yavam has performed ḥalitza with his yevama, the entire household, the woman who performed ḥalitza as well as her rival wives, is liable due to a prohibition derived from the verse “So shall it be done to the man who does not build his brother’s house” (Deuteronomy 25:9), but the women are not liable to karet due to the prohibition with regard to a brother’s wife. In light of Rabbi Yoḥanan’s ruling, it was necessary to teach us that betrothal does not take effect on the rival wife of the woman who performed ḥalitza, despite the fact that she is only liable for violating a prohibition, in accordance with the opinion of Rabbi Akiva.

⁸⁰ However, according to Reish Lakish, who said that the entire household, apart from the woman who received ḥalitza, is liable to receive karet, was it necessary to teach us that betrothal does not take effect on forbidden relations for which one is liable to receive karet? According to Reish Lakish,

after the yavam performs ḥalitza, the mitzva of levirate marriage is canceled and the karet prohibition against marrying a brother's wife is once again in force. As all agree that betrothal does not take effect on those liable to receive karet, it is unnecessary for the mishna to teach this ruling.

⁸¹ The Gemara answers: Reish Lakish could have said to you: And according to your reasoning, that the mishna would not be teaching us an apparently obvious halakha, consider the latter clause of the mishna, which teaches that if a yavam engaged in intercourse and another yavam performed levirate betrothal with the same woman, the levirate betrothal is not effective. Now was it necessary to teach us that betrothal is not effective for a married woman? Once a yavam has engaged in relations with a yevama she is his full-fledged wife, and certainly no other betrothal is effective.

⁸² Rather, it must be that not every clause in the mishna teaches a novel halakha, and the reasoning of the tanna is as follows: Since he teaches the release of the bond between one yavam and one yevama, he also teaches the case of two yevamot and one yavam, and since he teaches the case of two yevamot and one yavam, he also teaches the case of two yevamin and one yevama. The tanna therefore listed all possible cases even though we do not learn a novel halakha from each and every one.

⁸³ § It was taught in the mishna: If he performed ḥalitza and then proceeded to either perform levirate betrothal, or give a bill of divorce, or engage in intercourse with a second woman, nothing is effective after ḥalitza. The Gemara asks: Granted, it was necessary to teach that in the case of one who performed ḥalitza and then performed levirate betrothal the levirate betrothal is not effective. For it might enter your mind to say that we should issue a decree with regard to levirate betrothal that takes place after ḥalitza due to levirate betrothal that takes place before ḥalitza, and rule that all levirate betrothal is effective. The mishna therefore teaches us that we do not issue a decree in this case. However, the case of one who performed ḥalitza and gave a bill of divorce, why do I need this case? What novelty is there in the teaching that a bill of divorce after ḥalitza is not effective?

⁸⁴ The Gemara answers: And according to your reasoning, that each new case must teach something new, say the latter clause of the mishna: If he engaged in intercourse and then proceeded to perform levirate betrothal, or give a bill of divorce, or perform ḥalitza with a second woman, nothing is effective. In this case the same question can be asked: Granted, it was necessary to teach the case of one who engaged in intercourse and gave a bill of divorce. This is because it might enter your mind to say that we should issue a decree with regard to a bill of divorce that is given after intercourse, due to a bill of divorce that is given before intercourse, and decree that this bill of divorce alone is insufficient and she requires ḥalitza as well. The mishna therefore teaches us that we do not issue such a decree. But the case of a yavam who engaged in intercourse and performed levirate betrothal, why do I need to state it? Once he has engaged in intercourse with her she is his wife in all regards; what difference does levirate betrothal make?

⁸⁵ Rather, one must say that since the tanna taught the case of one who performed ḥalitza and then performed levirate betrothal, he also taught the case of one who engaged in intercourse and then performed levirate betrothal, due to the similarity between them. And since he wished to teach the case of one who engaged in intercourse and then gave a bill of divorce, he also taught the case of one who performed ḥalitza and then gave a bill of divorce. We should therefore not infer anything from these superfluous cases, as they are merely stated for stylistic reasons.

⁸⁶ § The mishna taught: With regard to intercourse, when it is at the beginning nothing is effective after it, but if it was in the middle or at the end, something is effective after it. The Gemara comments: The mishna is not in accordance with the opinion of this tanna. As it is taught in a baraita: Abba Yosei ben Yoḥanan, a man of Jerusalem, says in the name of Rabbi Meir: With regard to both intercourse and ḥalitza, if one of them were performed at the beginning, nothing is effective after it, but if they were done in the middle or at the end, i.e., they were preceded by some other action, something is effective after it. According to the mishna, however, nothing is effective after ḥalitza regardless of when it was performed.

⁸⁷ And therefore it can be concluded that there are three disputes with regard to this matter, i.e., three opinions on this issue. The first tanna holds: In the case of intercourse that is preceded by a disqualifying action, where there is a reason to issue a decree, lest one violate a prohibition by engaging in intercourse after ḥalitza or intercourse was performed, we issue a decree establishing that invalid intercourse should not be as effective as valid intercourse. With regard to ḥalitza, however, where there is no reason to issue a decree as there is no concern of a prohibition even if an action is performed after ḥalitza, we do not issue a decree.

⁸⁸ And Rabbi Neḥemya holds that with regard to intercourse there is also no reason to issue a decree. And as for what you said in justification of your ruling, that we should issue a decree in a case of intercourse after a bill of divorce due to intercourse after ḥalitza, there is no cause for such a concern. Since ḥalitza is effective by Torah law, people know that it is fully effective and cannot be followed by anything, and they will not confuse it with laws instituted by the Sages. And as for what you said that we should issue a decree with regard to intercourse after levirate betrothal due to intercourse after intercourse, since the acquisition of intercourse is by Torah law, this matter is known by people, and they will not err in this regard. And Abba Yosei ben Ḥanan holds in accordance with the opinion of the Rabbis, who issue a decree with regard to intercourse, but he adds and issues a decree with regard to ḥalitza due to intercourse. He therefore does not differentiate between ḥalitza and intercourse at all.

Chapter 6

¹ MISHNA: One who had intercourse with his yevama, whether unwittingly, i.e., he thought he was having intercourse with someone else, or intentionally, i.e., he knew she was his yevama and nevertheless had intercourse with her without intent to perform levirate marriage; whether due to coercion or willingly; even if he was unwitting and her participation was intentional, his participation was intentional and she was unwitting, he was coerced and she was not coerced, or she was coerced and he was not coerced; both one who merely engages in the initial stage of intercourse and one who completes the act of intercourse has thereby acquired his yevama. And similarly, the Torah did not distinguish between an act of intercourse in an atypical manner, i.e., anal intercourse, and intercourse in a typical manner.

² And so too, with regard to a man who had intercourse with any one of those with whom relations are forbidden [arayot] by the Torah or with those who are unfit for him even though they are not in the category of arayot, for example, a widow with a High Priest; a divorcée and a yevama who performed ḥalitza [ḥalutza] with a common priest; a mamzeret, i.e., a woman born from an

incestuous or adulterous relationship, or a Gibeonite woman with an Israelite; the daughter of an Israelite with a mamzer or a Gibeonite; he has disqualified her from marrying into the priesthood through this act no matter how it was performed, and the Torah did not distinguish between the act of intercourse in an atypical manner, i.e., anal intercourse, and intercourse in a typical manner.

³ GEMARA: The Gemara asks: What is the significance of the word even in the statement that begins with: Even if he was unwitting and her participation was intentional? Since the mishna has already said that there is no halakhic difference whether the act of intercourse was performed intentionally, what is added by that statement?

⁴ The Gemara answers: The mishna is stated in the style of: Needless to say. It is needless to say that if he was unwitting and she intended to fulfill the mitzva, or alternatively, he acted intentionally without intent to fulfill the mitzva and she intended to fulfill the mitzva, he has acquired her. However, even if he was unwitting and she acted intentionally, where both of them did not intend to act for the sake of the mitzva, he nevertheless acquires her. Similarly, Rabbi Ḥiyya taught: Even if both of them acted unwittingly, intentionally, or were coerced, he acquires the yevama through the act of intercourse.

⁵ § The Gemara asks: What are the circumstances the mishna is referring to when it mentions a man who was coerced? If we say that it is when gentiles coerced him by threatening to kill him if he did not have intercourse with her and he therefore had intercourse with her, didn't Rava say that there is no such thing as coercion of a man to have intercourse with a woman with whom relations are forbidden, because there is no erection of the male organ without intent? Consequently, even if he acted due to the threat, his action is considered intentional.

⁶ Rather, the mishna must be referring to one who was sleeping and became erect, and his yevama drew him onto herself. However, didn't Rav Yehuda say that

⁷ a sleeping man has not acquired his yevama, as he did not intend to perform the act of intercourse at all? Rather, the mishna was referring to one who was inserted into his yevama by accident. But didn't Rabba say: One who fell from a roof and was inserted into a woman due to the force of his fall is liable to pay four of the five types of indemnity that must be paid by one who damaged another: Injury, pain, medical costs, and loss of livelihood. However, he is not liable to pay for the shame he caused her, as he did not intend to perform the act, and if she is his yevama, he has not acquired her in this manner.

⁸ Rather, it is a case where he intended to have intercourse with his wife and became erect, and his yevama forcefully grabbed hold of him and he had intercourse with her. The Gemara further asks: If so, what are the circumstances of the case when both of them were coerced that was mentioned by the school of Rabbi Ḥiyya? The Gemara answers: It is a case where he intended to have intercourse with his wife, and gentiles grabbed hold of him and pressed him and his yevama against each other, and he thereby had intercourse with her.

⁹ § The Gemara inquires as to the source of these halakhot: From where are these matters derived? As the Sages taught with regard to the verse "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5), that this indicates that the act of intercourse in this circumstance is a mitzva, i.e., it is preferable to the alternative, which is ḥalitza. Alternatively, the verse "Her brother-in-law will have intercourse with her," indicates that it does not matter how he had intercourse with her, whether unwittingly or intentionally, whether due to coercion or willingly.

¹⁰ The Gemara asks: Didn't you derive from this phrase that the act of intercourse in this case is a mitzva? How can the same phrase also indicate that it does not matter what the intentions of the two parties were during the act of intercourse? The Gemara answers: The fact that it is a mitzva is derived from the verse: "And if the man does not wish to take his yevama" (Deuteronomy 25:7), which indicates that if he wishes, he performs levirate marriage, which is preferable to ḥalitza. Therefore, when the verse cited above came, it indicated that levirate marriage has occurred whether the parties acted unwittingly or intentionally, whether due to coercion or willingly.

¹¹ It is taught in another baraita that the phrase: "Her brother-in-law will have intercourse with her" indicates that levirate marriage has been performed if they engage in typical sexual intercourse. The next phrase, "and take her," includes even atypical, i.e., anal, sexual intercourse. The concluding phrase of the verse, "and consummate the levirate marriage," indicates that sexual intercourse completes her acquisition, but money and a marriage document do not complete her acquisition to him as his fully betrothed wife, in contrast to the regular halakhot of marriage. By emphasizing "and consummate the levirate marriage with her," the verse teaches that he acquires her even if he acted against her will. Alternatively: "Her brother-in-law will have intercourse with her" indicates that levirate marriage has occurred whether the parties acted unwittingly or intentionally, whether due to coercion or willingly.

¹² The Gemara asks: Didn't you derive from this phrase that levirate marriage has been performed if they engage in typical sexual intercourse? How can it also indicate that it does not matter what the intentions of the two parties were during the act of intercourse? The Gemara answers: That halakha is derived from a different verse: "To establish a name for his brother" (Deuteronomy 25:7), which indicates that intercourse must occur in the place where he establishes a name, i.e., where it can lead to childbirth. Therefore, when the verse cited above came, it indicated that levirate marriage has occurred whether the parties acted unwittingly or intentionally, whether due to coercion or willingly.

¹³ § The Gemara addresses the matter itself cited in the previous discussion. Rav Yehuda said: A sleeping man has not acquired his yevama, as the verse states: "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5), which indicates that he does not acquire her unless he intends to act for the sake of sexual intercourse. Since a sleeping man does not intend to engage in sexual intercourse, he does not acquire his yevama. The Gemara asks: Isn't it taught in a baraita that one acquires his yevama through sexual intercourse regardless of whether he was awake or asleep? The Gemara answers: Say the baraita in the following emended form: Whether she was awake or asleep. The woman's awareness is not a necessary component in order to perform levirate marriage.

¹⁴ The Gemara asks further: Wasn't it taught in another baraita that one acquires his yevama through sexual intercourse regardless of whether he was awake or he was asleep and regardless of whether she was awake or she was asleep? The Gemara answers: With what are we dealing here when the baraita says that a sleeping man acquires his yevama? It is referring to a man who is dozing. The Gemara asks: What are the circumstances of dozing? Rav Ashi said: One is asleep but not asleep, awake but not awake, when, if they call him, he will answer, but he is unable to provide a reasonable answer. And when they later inform him of what happened, he remembers it.

¹⁵ The Gemara returns to the statement of Rabba cited earlier in order to discuss the matter itself that Rabba addressed. Rabba said: One who fell from a roof and was inserted into a woman due to the force of his fall is liable to pay four of the five types of indemnity that must be paid by one who

damaged another, and if she is his yevama he has not acquired her in this manner. He is liable to pay for injury, pain, loss of livelihood, and medical costs. However, he is not liable to pay for the shame he caused her, as the Master said: One is not liable to pay for shame unless he intends to humiliate his victim. Consequently, one who fell from a roof accidentally is not liable to pay for the shame he caused the woman.

¹⁶ Rava said: If he intended to press his sexual organ into a wall, and he accidentally pressed it into his yevama, he has not acquired her, as he did not intend to engage in an act of sexual intercourse. However, if he intended to press his sexual organ into an animal, and he pressed it into his yevama, he has acquired her, as he at least intended to act for the purpose of sexual intercourse in general, i.e., for some form of sexual intercourse.

¹⁷ § We learned in the mishna that both one who merely begins the act of intercourse and one who completes it has acquired the yevama through this act. Ulla said: From where is it derived that the initial stage of intercourse is considered an act of sexual intercourse by Torah law? As it is stated: “And if a man shall lie with a woman having her sickness and shall uncover her nakedness, he has made naked [he’era] her fountain” (Leviticus 20:18). The verse is referring to the first stage of intercourse, and from here it is derived that the initial stage of intercourse [ha’ara’a] is considered sexual intercourse by Torah law.

¹⁸ The Gemara asks: We have found a source for this halakha in the case of a menstruating woman, the subject of the verse cited above. From where is it derived that the initial stage of intercourse is considered sexual intercourse with regard to the rest of those with whom relations are forbidden? And if you say we should derive it from the halakha with regard to a menstruating woman, what comparison can be made to a menstruating woman, concerning whom the halakha is more stringent than others with whom relations are forbidden, in that she causes one who has intercourse with her to become ritually impure?

¹⁹ Rather, the halakha in other cases comes from a verse about a brother’s wife, as it is written: “And if a man shall take his brother’s wife, it is impurity [nidda]” (Leviticus 20:21). The word nidda generally refers to a menstruating woman, and so the Gemara asks: Is his brother’s wife always menstruating? Rather, it means that the halakha with regard to her is like that of a menstruating woman: Just as one is liable to receive punishment for violating the prohibition against engaging in sexual intercourse with a menstruating woman through the initial stage of intercourse, so too, one is liable to receive punishment for violating the prohibition against engaging in sexual intercourse with a brother’s wife through the initial stage of intercourse.

²⁰ The Gemara asks: What comparison can be made between a brother’s wife and other women with whom relations are forbidden? The prohibition with regard to a brother’s wife is more stringent in that it is within his power to increase the number of women forbidden by this prohibition, as, if he wishes, he can go on betrothing a thousand women, all of whom would be forbidden to his brother. Consequently, the prohibition with regard to a brother’s wife cannot serve as a model for other prohibitions.

²¹ Rather, the halakha in other cases comes from a verse with regard to a father’s sister and a mother’s sister, as it is written: “And you shall not uncover the nakedness of your mother’s sister nor of your father’s sister; for he has made naked [he’era] his kin” (Leviticus 20:19). The Gemara asks: It is possible to refute this source as follows: What comparison can be made between other women with

whom relations are forbidden and a father's sister and a mother's sister, which are unique in that they are prohibited due to a prohibition that comes on its own? The prohibition with regard to a father's sister and a mother's sister does not stem from marriage, but from the biological fact that she is his father's or mother's sister. It is therefore dissimilar to prohibitions that result from marriage.

²² The Gemara states: The principle that the initial stage of intercourse is considered sexual intercourse does not come from any one of the sources cited above. Let it come by deriving the halakha in any one other case from the common denominator of two of the sources mentioned above. The Gemara asks: From which two sources could this principle come to be derived? If you say it can come to be derived from the combination of the source with regard to a brother's wife and the source with regard to a father's sister and a mother's sister, what comparison may be drawn from these cases, which are unique in that they are prohibited because they are kin?

²³ Rather, let it come from the prohibition proscribing a menstruating woman and the prohibition with regard to a father's sister and a mother's sister, as a menstruating woman is not prohibited as a family relative. The Gemara raises a difficulty: What comparison may be drawn from these cases, which are each a prohibition that comes of its own accord, as neither one is created through marriage? Rather, let it come from the prohibition proscribing a menstruating woman and the prohibition proscribing a brother's wife. As, what can you say to refute this teaching? These two cases do not share any unique features that might be cause for stringency.

²⁴ Rav Aḥa, son of Rav Ika, strongly objects to this: What comparison may be drawn based upon the precedent of a menstruating woman and a brother's wife, which are stringent in that they cannot be permitted to others for the duration of the existence of the factor that renders them prohibited? A menstruating woman is forbidden as long as she experiences a flow of menstrual blood, while a brother's wife is forbidden for the duration of the brother's lifetime. Can you say the same with regard to a married woman, who can become permitted during the lifetime of the one who renders her prohibited, i.e., if her husband divorces her?

²⁵ Rav Aḥa of Difti said to Ravina: Is that to say that it is only during the existence of the factor that renders them prohibited that a menstruating woman and a brother's wife cannot be permitted to others, but afterward, when the prohibiting factor has been resolved, they can be permitted? In the case of a menstruating woman,

²⁶ the matter depends upon days, not blood. Although the flow of blood causes her to become impure, she remains impure for a full seven days regardless of whether she continues to experience menstrual bleeding for the duration of that time period. Similarly, in the case of a brother's wife, the Merciful One makes her forbidden status dependent upon children, as, if she has children she remains forbidden to her husband's brother even after her husband dies.

²⁷ Rather, the Gemara refutes the derivation in the following manner: What comparison can be drawn from a menstruating woman and a brother's wife, which are unique in that what renders them prohibited does not render them permitted? Each becomes permitted due to an external factor, i.e., the passing of seven days or the death of her childless husband. Can you say that the halakhot of these cases apply to a married woman, whose prohibited status is different in that the one who renders her prohibited to the rest of the world, i.e., her husband, has the capacity to render her permitted through divorce?

²⁸ Rather, the Gemara offers another source for the halakha that the initial stage of intercourse is considered sexual intercourse. Rabbi Yona said, and some say it was Rav Huna, son of Rav Yehoshua: The verse states at the end of the chapter on forbidden relations: “For whoever shall do any of these abominations, the souls that do them shall be cut off” (Leviticus 18:29). All those with whom relations are forbidden are compared to each other in this verse, and therefore also to a menstruating woman, who is mentioned in that chapter. Consequently, just as one is liable to receive punishment for having sexual intercourse with a menstruating woman from the time of the initial stage of intercourse, so too, one violates all prohibitions against engaging in forbidden relations from the time of the initial stage of intercourse.

²⁹ The Gemara further asks: But if that is the source of this halakha, why do I need the term *nidda* that is written with regard to a brother’s wife? The Gemara answers that it is needed for that which Rav Huna taught, as Rav Huna said: From where in the Torah is there a hint to the halakha of a *yevama*? The Gemara expresses surprise: From where? Isn’t it written explicitly in the verse “Her brother-in-law will have intercourse with her” (Deuteronomy 25:5)? Rather, Rav Huna meant to say: From where is there a hint that a *yevama* is forbidden to her brother-in-law in her husband’s lifetime, even after she is divorced from her husband?

³⁰ The Gemara remains puzzled: No proof is needed for this halakha either, as this is based upon logical reasoning: From the fact that the Merciful One says the woman is permitted to her brother-in-law after her husband’s death it may be inferred that in her husband’s lifetime she is forbidden to him.

³¹ The Gemara refutes this argument: Perhaps after her husband’s death it is a *mitzva* for her brother-in-law to marry her, whereas during her husband’s lifetime their marriage is optional. Alternatively, perhaps after her husband’s death, yes, she is permitted to him, while during her husband’s lifetime, no, they are not permitted to marry, but there is no punishment of *karet* if they do. This is because the source of the prohibition is the *mitzva* for them to marry after the husband’s death, and a prohibition that stems from a positive *mitzva* has the status of a positive *mitzva*, but nothing more.

³² Therefore, the verse states: “And if a man shall take his brother’s wife, it is impurity [*nidda*]” (Leviticus 20:21). Is his brother’s wife necessarily a menstruating woman [*nidda*]? Rather, she is like a menstruating woman in the following manner: Just as with regard to a menstruating woman, although she has a permitted stage afterward, at the time that she is forbidden, one who has intercourse with her is liable to receive the punishment of *karet*, so too, with regard to a brother’s wife, although she has a permitted stage afterward, during her husband’s lifetime marriage to her brother-in-law is punishable by *karet*.

³³ The Gemara asks: But if the source of the halakha that the initial stage of intercourse is considered sexual intercourse is as stated above, why do I need this halakha to be indicated by the word *he’era* (Leviticus 20:19) in the case of a father’s sister and a mother’s sister?

³⁴ The Gemara answers that it is needed for the dilemma that Ravina raised before Rava: With regard to one who performs the initial stage of intercourse with another male, what is the halakha? Is it considered to be a forbidden act of homosexual intercourse? The Gemara is puzzled by this dilemma: With regard to a male, it is written explicitly: “You shall not lie with a man as with a woman” (Leviticus 18:22), which indicates that anything considered an act of sexual intercourse with a woman is also considered an act of sexual intercourse with a man.

³⁵ Rather, the word he'era in the case of a father's sister and a mother's sister is needed to resolve the following dilemma: With regard to one who performs the initial stage of intercourse with an animal, what is the halakha? Rava said to Ravina: If the word he'era does not refer to the matter of the initial stage of intercourse in the context where it is written, i.e., the prohibition with regard to a father's sister and a mother's sister, as this halakha is derived from a comparison based upon the statement of Rabbi Yona, refer it to the matter of the initial stage of intercourse with an animal. The superfluous expression written in the case of a father's sister and a mother's sister teaches that the initial stage of intercourse is considered sexual intercourse even with an animal.

³⁶ The Gemara asks: Since intercourse with an animal is a prohibition for which one is liable to receive capital punishment from the court, what is the reason that the halakha of the initial stage of intercourse that applies to it is written with regard to the prohibitions proscribing a father's sister and a mother's sister, for which one is liable to receive karet? Let the word he'era be written with regard to prohibitions for which one is liable to receive capital punishment from the court, and let us derive the halakha with regard to a prohibition punishable by capital punishment from the court, i.e., the case of bestiality, from another prohibition punishable by capital punishment from the court.

³⁷ The Gemara answers: Since the entire verse of a father's sister and a mother's sister comes for the purpose of an exposition, as the Gemara is about to explain, this matter, i.e., that the initial stage of intercourse is considered intercourse, is also written for the purpose of an exposition, i.e., to indicate that this principle holds true in a different context, i.e., that of bestiality.

³⁸ The Gemara asks: What is the exposition that the rest of the verse introduces? As it is taught in a baraita, the verse "You shall not uncover the nakedness of your father's sister" (Leviticus 18:12) indicates that the prohibition applies whether she is your father's sister from his father, or from his mother. Do you say that she is forbidden whether she is your father's sister from his father or from his mother, or perhaps it is only a sister from his father who is forbidden, but not from his mother?

³⁹ It may be inferred logically from the fact that the Torah rendered him liable here and rendered him liable with his sister: Just as with regard to his sister he is liable to receive punishment whether she is his sister from his father or from his mother, so too here, he is liable whether she is his father's sister from his father or from his mother.

⁴⁰ Or perhaps go this way and compare a father's sister and a mother's sister to a different halakha: The Torah rendered him liable here and rendered him liable with his aunt, i.e., the wife of his father's brother: Just as concerning his aunt, he is liable to receive punishment only with regard to the wife of his father's brother from his father, i.e., the wife of his father's paternal brother, and not for the wife of his father's brother from his mother, i.e., the wife of his father's maternal brother, so too here, he is liable only with regard to a father's sister or a mother's sister from their father, i.e., a paternal sister, and not from their mother, a maternal sister.

⁴¹ The Gemara analyzes these two possibilities: Let us see to which case it is more similar, i.e., which is a better comparison. We should derive the halakha with regard to a prohibition that comes on its own, i.e., a father's sister and a mother's sister, from a prohibition that also comes on its own, i.e., a sister, and the halakha with regard to his aunt cannot be used to prove otherwise, as it is not a prohibition that comes on its own, but through marriage.

⁴² The Gemara counters this argument: Or perhaps go this way and claim that we should derive the halakha with regard to the relatives of his father, i.e., his father's sister, from the halakha with regard

to the relatives of his father, i.e., his father's brother's wife, and the case of his sister cannot be used to prove otherwise, as she is his own relative. Consequently, there is no conclusive proof based on reasoning alone.

⁴³ Therefore the verse states: "You shall not uncover the nakedness of your father's sister," which teaches that this prohibition applies whether she is your father's sister from his father or from his mother. Similarly, the verse "You shall not uncover the nakedness of your mother's sister" indicates that the prohibition applies whether she is your mother's sister from her father or from her mother. These prohibitions are stated twice (Leviticus 18:12–13 and 20:19), and the superfluous verse indicates that the prohibition applies even to the maternal sister of one's father or mother.

⁴⁴ The Gemara asks: Why do I need the Torah to write this halakha with regard to a father's sister, and why do I need the Torah to write it again with regard to a mother's sister? Rabbi Abbahu said: Both verses are necessary. If the Merciful One had written this halakha only with regard to one's father's sister, one might say that it is limited to that case, as she has common lineage with her nephew, since lineage goes through one's father. However, with regard to one's mother's sister you might say that she is not prohibited, as she is not considered to share common lineage with him.

⁴⁵ And conversely, if the Merciful One had written this halakha only with regard to one's mother's sister, one might say that it is limited to that case, as she is certainly his relative, since one's biological relationship with his mother is absolutely certain. However, with regard to one's father's sister, one might say no, that she is not forbidden, as paternity can never be established beyond doubt. It is therefore necessary for this halakha to be stated in both cases.

⁴⁶ The Gemara asks: And with regard to his aunt, where it is obvious to the tanna that the prohibition includes only the wife of his father's brother from his father and not from his mother, from where does he derive this halakha?

⁴⁷ Rava said: It is derived through a verbal analogy between the terms "his uncle" and "his uncle." It is written here: "He has uncovered his uncle's nakedness" (Leviticus 20:20), and it is written there, with regard to the redemption of a Jew who has been sold to a gentile: "Either his uncle or his uncle's son shall redeem him" (Leviticus 25:49). Just as there, in the case of redemption, it must be a relative from the side of his father and not from the side of his mother, so too here, with regard to forbidden relations, the prohibition applies to the wife of his father's brother from his father, i.e., the wife of his father's paternal brother, and not from his mother.

⁴⁸ The Gemara asks: And there, with regard to the halakhot of redemption, from where do we derive that a maternal relative is not included? The verse states: "Or any that is near of kin to him of his family shall redeem him" (Leviticus 25:49), and it is an established principle that only the family of one's father is called family, while the family of one's mother is not called family, as lineage is determined based upon one's father.

⁴⁹ And with regard to that which we learned in a mishna: If they said to him: Your wife is dead, and he then married her sister from her father. He was subsequently informed that his second wife died, and he married her sister from her mother, i.e., his second wife's maternal sister. He was then informed that his third wife died, and he married her sister from her father, i.e., his third wife's paternal sister. He was then informed that his fourth wife died, and he married her sister from her mother, i.e., his fourth wife's maternal sister. It later became apparent that all these rumors were

unfounded and all the women were still alive. Consequently, since one cannot marry his wife's sister during his wife's lifetime, some of the marriages are void.

⁵⁰ The halakha in this case is that it is permitted for him to marry his first, third, and fifth wives, as they are not related to each other. Consequently, these marriages are valid, and these women exempt their rival wives from levirate marriage if they all became subject to levirate marriage and one of them performed levirate marriage or *ḥalitza*. However, it is prohibited for him to marry his second and fourth wives, as they are both sisters of one of his previous wives, and their marriages are therefore void. Consequently, sexual intercourse between one of them and his brother, if he has died childless, does not exempt her rival wife, i.e., the real wives of the deceased, from levirate marriage.

⁵¹ And if the first wife indeed died, and he had intercourse with the second woman after the death of the first one, it is permitted for him to marry the second and fourth women, who are not related to each other, and they exempt their rival wives from levirate marriage if they perform levirate marriage or *ḥalitza*, and it is prohibited for him to marry the third and fifth women, as they are sisters of his previous wives, who are still alive, and consequently these marriages are void.

⁵² Apparently, this mishna indicates that his wife's sister, whether from the father, i.e., a paternal sister, or from the mother, i.e., a maternal sister, is forbidden. From where do we derive this halakha that the prohibition applies even to his wife's maternal sister? The Gemara responds: It is derived from the prohibition proscribing his sister. Just as his sister is forbidden whether she is his sister from his father or from his mother, so too here, a wife's sister is forbidden whether from the father or from the mother.

⁵³ The Gemara challenges the validity of this source: And let it be derived from the halakha with regard to his aunt: Just as the prohibition with regard to his aunt applies only to the wife of his father's brother from his father but not from his mother, i.e., the wife of his father's paternal brother but not the wife of his father's maternal brother, so too here, the prohibition with regard to his wife's sister should apply only to her sister from her father but not to her sister from her mother. The Gemara answers: It is reasonable that he should derive the halakha in this case from the case of his sister, as the tanna thereby derives the halakha of one's own relatives from another case of his own relatives, whereas his aunt is forbidden as his father's relative.

⁵⁴ The Gemara counters: On the contrary, he should derive the halakha in this instance from the case of his aunt, as he thereby derives the halakha in a matter prohibited through betrothal from another matter prohibited through betrothal. The Gemara concludes: Rather, the halakha of a wife's sister is derived from that of a brother's wife, as they are both something forbidden by means of betrothal and they are his own relatives.

⁵⁵ The Gemara asks: And in the case of a brother's wife itself, from where do we derive that the prohibition applies to the wife of both a paternal and a maternal brother? As it is taught in a baraita: "You shall not uncover the nakedness of your brother's wife" (Leviticus 18:16), which indicates: Whether from the father or from the mother.

⁵⁶ The baraita elaborates: Do you say the prohibition applies whether she is the wife of one's brother from his father or from his mother, i.e., whether she is the wife of one's paternal brother or maternal brother? Or perhaps it is only the wife of one's brother from his father and not from his mother? It may be inferred logically from the fact that the Torah rendered him liable here and rendered him liable with regard to his sister: Just as with regard to his sister he is liable to receive punishment

whether she is his sister from his father or from his mother, so too here, he is liable to receive punishment whether she is the wife of his brother from his father or from his mother.

⁵⁷ Or perhaps go this way and compare this case to the case of an aunt. The Torah rendered him liable here and rendered him liable with regard to his aunt, i.e., the wife of his father's brother: Just as with regard to his aunt, he is liable to receive punishment only for the wife of his father's brother from his father and not for the wife of his father's brother from his mother, so too here, he is liable to receive punishment only for the wife of his brother from his father and not from his mother.

⁵⁸ The Gemara analyzes these two possibilities: Let us see to which case it is more similar. We should derive the halakha with regard to his own relatives, i.e., his brother's wife, from another case of his own relatives, i.e., his sister, and the halakha with regard to his aunt cannot be used to prove otherwise, as she is his father's relative. Or perhaps go this way: We should derive the halakha of a matter prohibited through betrothal, i.e., a brother's wife, from another matter prohibited through betrothal, i.e., his father's brother's wife, and the halakha with regard to his sister cannot be used to prove otherwise, as it is a prohibition that comes on its own.

⁵⁹ Since it is impossible to prove which halakha should serve as the model for the case of a brother's wife, the verse states a second time in the same verse: "It is your brother's nakedness" (Leviticus 18:16), in order to emphasize that she is forbidden whether she is the wife of his brother from his father or from his mother.

⁶⁰ The Gemara challenges this interpretation of the extra phrase in the verse: Say that both this first part of the verse and that latter part refer to the wife of a brother from the father, i.e., the wife of one's paternal brother. As for the repetition, one part of the verse renders prohibited a woman who has children, who is prohibited from marrying her husband's brother during her husband's lifetime even after they are divorced, and the other one renders prohibited a woman who does not have children, who is also prohibited from marrying her husband's brother during her husband's lifetime, even after she is divorced. The Gemara responds: The prohibition proscribing a woman who does not have children for the duration of her husband's lifetime is derived from the statement of Rav Huna (54b), and it requires no further source.

⁶¹ The Gemara presents another challenge: Say that both this first part of the verse and that latter part refer to the wife of a brother from the father, i.e., the wife of one's paternal brother. As for the repetition, one part of the verse renders a woman who has children prohibited from marrying her husband's brother for the duration of her husband's lifetime, even after she is divorced, and the other one renders prohibited a woman who has children and indicates that it is prohibited for her to marry her husband's brother even after her husband's death.

⁶² The Gemara responds: The halakha that it is prohibited for a woman who has children to marry her husband's brother even after her husband's death does not require a verse. From the fact that the Merciful One says that one who has no children is permitted to marry the brother after her husband's death, it can be inferred that if she has children, it is prohibited for her to marry her husband's brother.

⁶³ The Gemara raises another challenge: But perhaps if she does not have children it is prohibited for her to marry everyone else and permitted for her to marry her yavam, as specified by the Torah. However, if she does have children it is permitted for her to marry everyone and it is permitted for her to marry her yavam as well. Alternatively, perhaps if she does not have children it is a mitzva for

her husband's brother to marry her, and if she does have children it is optional. Consequently, the extra phrase in the verse should be necessary in order to indicate that the prohibition against marriage applies in all of these cases.

⁶⁴ Alternatively, if she does not have children, yes, she is permitted to her husband's brother, and if she does have children, no, she is not permitted to him, but the punishment of karet does not apply to this prohibition. This is because the source of the prohibition is the mitzva for them to marry after the husband's death, and a prohibition that stems from a positive mitzva has the status of a positive mitzva, but nothing more. Consequently, the extra phrase in the verse should be necessary in order to indicate that the punishment of karet is still applicable.

⁶⁵ The Gemara responds: The Torah wrote a different verse to teach that the prohibition against marrying one's brother's wife is in full force, including the punishment of karet, in these cases: "He has uncovered his brother's nakedness; they shall be childless" (Leviticus 20:21). Therefore, the extra phrase mentioned in the baraita can indicate that the prohibition against marrying one's brother's wife applies both to the wife of a paternal brother and to the wife of a maternal brother.

⁶⁶ The Gemara suggests: Say that the halakha of the wife of a brother from one's mother should be just like that of the wife of a brother from his father: Just as the wife of a brother from one's father is permitted, i.e., one can marry her, after her husband's death, so too, the wife of a brother from his mother should be permitted after her husband's death. The Gemara responds: The verse states: "She is your brother's nakedness," thereby emphasizing that she shall remain after her husband's death as she is during his life.

⁶⁷ § The Gemara above stated that all of the instances of forbidden intercourse are compared to one another. Therefore, since there is already a verse that states: "For whoever shall do any of these abominations, the souls that do them shall be cut off from among their people" (Leviticus 18:29), the Gemara asks: Why do I need the phrase written with regard to one's sister that states that intercourse is punishable by karet?

⁶⁸ The Gemara answers that it is necessary for that which Rabbi Yoḥanan said, as Rabbi Yoḥanan said that if he performed all of them, i.e., he violated every prohibition against engaging in forbidden intercourse in a single lapse of awareness, he is liable to receive punishment for each and every one. One might have thought that there is one prohibition against engaging in forbidden intercourse, and many different ways to violate the prohibition. Therefore, if one violated the prohibition in different ways during one lapse of awareness, one is liable to bring only one sin-offering. This verse therefore indicates that each act of intercourse with a relative with whom intercourse is forbidden is a violation of an independent prohibition.

⁶⁹ The Gemara asks: And according to Rabbi Yitzḥak, who said that all forbidden relations for which one is liable to receive karet were included in the verse: "The souls that do them shall be cut off from among their people," why was the punishment of karet with regard to one's sister singled out? In order to sentence him to karet and not to flogging. Although he has violated a prohibition, which generally carries a punishment of flogging, he is not flogged due to the fact that he is liable to receive the more severe punishment of karet. Since he has used the verse to teach this halakha, from where do we know to divide the prohibitions against engaging in forbidden intercourse and consider each an independent prohibition?

⁷⁰ The Gemara answers: He derives it from the verse “And you shall not approach a woman to uncover her nakedness as long as she is impure by her uncleanness” (Leviticus 18:19), which serves to render him liable to receive punishment for each and every woman.

⁷¹ The Gemara poses another question: Why do I need the phrase that the Merciful One writes with regard to one’s aunt, which states: They shall be childless? The death of one’s children is included in the punishment of karet, and it has already been established that all of the forbidden intercourse is punishable by karet. The Gemara answers that it is necessary for that which Rabba said, as Rabba raised a contradiction: It is written with regard to one who had intercourse with his brother’s wife: “They shall be childless” (Leviticus 20:22), and it also states with regard to one who had intercourse with his aunt: “They shall die childless” (Leviticus 20:21). How so? If he already has children, he will eventually bury them; if he does not have children, he will go childless.

⁷² The Gemara comments: And it is necessary to state: They shall be childless, and it is also necessary to state: They shall die childless. As, if the Merciful One had written only: They shall be childless, I would have said that only those children he had before his sin will die, but those born to him from the time of his sin and on, no, they will not die. The Torah therefore states: They shall die childless, indicating that even if he has children afterward they will die and he will remain childless. And similarly, if the Merciful One had written only: They shall die childless, I would have said that this is referring to children born from the time of his sin and on, but those born from the beginning, before he sinned, no, they will not die. It is therefore necessary to mention both expressions.

⁷³ § The Gemara above (54a–54b) derived that the initial stage of intercourse is considered an act of sexual intercourse with regard to prohibitions that are punishable by capital punishment or karet. The Gemara asks: From where do we derive that the initial stage of intercourse is considered an act of sexual intercourse with regard to those liable to receive punishment for violating ordinary Torah prohibitions?

⁷⁴ The Gemara answers: From the fact that the Merciful One reveals with regard to a designated maidservant that the prohibition has been violated only through an act of cohabitation with seed, i.e., a complete act of sexual intercourse, in the verse “And whoever lies with a woman in cohabitation with seed, and she is a bondmaid designated to a man” (Leviticus 19:20), by inference, those liable to receive punishment for violating ordinary prohibitions are liable even through the initial stage of intercourse.

⁷⁵ The Gemara responds: On the contrary, from the fact that the Merciful One reveals that the initial stage of intercourse is considered sexual intercourse with regard to forbidden relationships for which one is liable to receive karet, then, by inference, those liable for violating ordinary prohibitions are liable only through the completion of the act of sexual intercourse and not merely for the initial stage of intercourse. Rav Ashi said: If so, let the verse remain silent in the case of a designated maidservant, and it would be assumed that one is liable to receive punishment only for completing the act of sexual intercourse. The fact that the Torah specified that in this case one is liable to receive punishment only for completing the act of sexual intercourse indicates that with regard to other ordinary prohibitions one is liable even for the initial stage of intercourse.

⁷⁶ The Gemara asks: From where do we derive that the initial stage of intercourse is considered an act of sexual intercourse with regard to those liable to receive punishment for violating prohibitions specific to the priesthood? Since these prohibitions are unique in that they apply only to priests, their

parameters cannot be derived from prohibitions that apply to the entire population. The Gemara answers: It is derived from a verbal analogy between the words taking and taking. This verb appears in prohibitions punishable by karet, e.g., “And if a man shall take his sister” (Leviticus 20:17), and in prohibitions of the priesthood, where it states: “They shall not take a woman that is a harlot” (Leviticus 21:7).

⁷⁷ The Gemara asks further: From where do we derive that the initial stage of intercourse is considered an act of sexual intercourse with regard to those liable to receive punishment for violating a positive mitzva, e.g., one who has intercourse with an Egyptian or Edomite convert? The verse states: “The children that are born to them of the third generation may enter into the assembly of the Lord” (Deuteronomy 23:9). It is therefore a positive mitzva that only the grandchildren of these converts may have intercourse with a Jew.

⁷⁸ It is derived from a verbal analogy between the terms entering and entering. The verse states in the context of a prohibition: “A mamzer shall not enter into the assembly of the Lord” (Deuteronomy 23:3), and in the context of a prohibition derived from a positive mitzva: “The children that are born to them of the third generation may enter into the assembly of the Lord” (Deuteronomy 23:9). Consequently, these types of prohibitions are equated.

⁷⁹ The Gemara poses another question: From where do we derive that the initial stage of intercourse is considered sexual intercourse with regard to the prohibition against a yevama having intercourse with a man from the general public? The Gemara answers that there is no need for an independent source in this case: If you are asking according to the one who said that this is an ordinary prohibition, it is a prohibition like any other. If you are asking according to the one who said that this is a positive mitzva, it is a positive mitzva like any other.

⁸⁰ Rather, the question is as follows: From where do we derive that a yevama is acquired by her yavam via the initial stage of intercourse? The Gemara answers: It is derived from a verbal analogy between the words entering and entering. This verb is used with regard to ordinary Torah prohibitions, as mentioned above, and also with regard to levirate marriage, in the verse “Her brother-in-law will have intercourse with her” (Deuteronomy 25:5).

⁸¹ The Gemara asks further: From where do we derive that a woman is betrothed to her husband through the initial stage of intercourse? The Gemara answers: It is derived from a verbal analogy between the words taking and taking. With regard to betrothal, the verse states: “When a man takes a wife and marries her” (Deuteronomy 24:1). This verb is also used with regard to forbidden intercourse, as in the verse: “And if a man shall take his sister” (Leviticus 20:17).

⁸² § Rava said: Now that it has been established that the initial stage of intercourse is considered an act of sexual intercourse, why do I need the expression “cohabitation with seed” (Leviticus 19:20) that the Merciful One writes with regard to a designated maidservant; the expression “cohabitation with seed” (Leviticus 18:20) written with regard to a married woman; and the expression “cohabitation with seed” (Numbers 5:13) written with regard to a sota?

⁸³ The Gemara explains that the expression is necessary with regard to a designated maidservant as we said above (55a), because it indicates that one is liable to receive punishment only for a complete act of intercourse with a designated maidservant but not for the initial stage of intercourse. With regard to a married woman, the word seed excludes one who has intercourse with a dead organ, i.e., one that is not erect, as this cannot lead to childbirth.

⁸⁴ The Gemara questions this resolution: This works out well according to the one who said that one who has intercourse while his organ is dead with those with whom relations are forbidden, is exempt, as this is not considered an act of intercourse. However, according to the one who said that he is liable, what is there to say? Rather, according to this opinion, the verse excludes one who has intercourse with a dead woman. As it might enter your mind to say: Since after death she is also called her husband's kin, say that one who had intercourse with her should be liable to receive punishment for committing adultery with a married woman. It therefore teaches us that intercourse with a dead woman is not considered intercourse at all.

⁸⁵ The Gemara addresses the third case: Why do I need the expression cohabitation with seed in the context of a sota? It is needed for that which is taught in a baraita, that the expression a cohabitation with seed excludes something else. The Gemara asks: What is this something else? Rav Sheshet said: It excludes a case where the husband was jealous with regard to her and warned her not to seclude herself and have atypical, i.e., anal, sexual intercourse with another man. Rava objected to this explanation and said to him: It is written: "The cohabitations of a woman" (Leviticus 18:22), indicating that there are two types of intercourse with a woman, and the same halakha applies to both.

⁸⁶ Rather, Rava said: It excludes a situation where the husband was jealous with regard to her and warned her not to seclude herself with another man and engage in intimate contact by way of other limbs. The verse indicates that the wife does not become prohibited to her husband if she secludes herself with the man after this warning. Abaye said to him: Does the Merciful One prohibit a woman to her husband due merely to licentious behavior without sexual intercourse? Since this behavior would not render a woman prohibited to her husband, it is obvious that a warning that explicitly mentions this behavior is insufficient to cause the woman to become a sota if she then secludes herself with the man.

⁸⁷ Rather, Abaye said: It excludes a case where he was jealous with regard to her and warned her not to seclude herself with another man and kiss, i.e., have external contact of the sexual organs. The Gemara asks: This works out well according to the one who said that the definition of the initial stage of intercourse is the insertion of the corona; therefore, mere external contact is not considered sexual intercourse. However, according to the one who said that the definition of the initial stage of intercourse is a kiss, what is there to say?

⁸⁸ Rather, the expression: Something else, in the baraita, is actually referring to a case where the husband was jealous with regard to her and warned her not to seclude herself with another man and engage in intimate contact by way of other limbs. And it is necessary to state that the woman does not become prohibited to her husband as a sota in this case, as it might enter your mind to say that the Merciful One made this halakha dependent on the husband's objection, as it is his decision to warn his wife, and since he objects to contact of this nature, she becomes a sota if she secludes herself after this warning. The Torah therefore teaches us that this is not considered a warning.

⁸⁹ § The Gemara returns to the precise definition of the initial stage of intercourse. Shmuel said: The definition of the initial stage of intercourse is a kiss, i.e., external contact of the sexual organs. Shmuel explains: This is comparable to a person who places his finger on his mouth; it is impossible that he not press the flesh of his lips. Similarly, when there is contact of the sexual organs, there will certainly be at least a small amount of penetration, and this is considered an act of sexual intercourse.

⁹⁰ When Rabba bar bar Ḥana came from Eretz Yisrael, he said that Rabbi Yoḥanan said: The completion of intercourse stated with regard to a designated maidservant is the insertion of the corona, and no more. Rav Sheshet raised an objection based upon the following baraita: The phrase cohabitation with seed indicates that one is liable to receive punishment only for a complete act of sexual intercourse. What, does this not refer to the complete insertion of the member? The Gemara responds: No, it is possible that it is referring to the complete insertion of the corona.

⁹¹ When Rav Dimi came from Eretz Yisrael he said that Rabbi Yoḥanan said: The definition of the initial stage of intercourse is the insertion of the corona. They said to him: But Rabba bar bar Ḥana did not say so, as he taught that Rabbi Yoḥanan said that the insertion of the corona constitutes a complete act of sexual intercourse and is not considered merely the initial stage of intercourse. He said to them: Either he lied or I am lying. There is clearly a contradiction, and one of us cited Rabbi Yoḥanan's opinion incorrectly.

⁹² When Ravin came from Eretz Yisrael he said that Rabbi Yoḥanan said: The definition of the initial stage of intercourse is the insertion of the corona. The Gemara comments: He certainly disagrees with Rabba bar bar Ḥana, who cited Rabbi Yoḥanan as stating that insertion of the corona constitutes a complete act of sexual intercourse. Shall we say that he also disagrees with Shmuel, who defined the initial stage of intercourse as external contact of the sexual organs?

⁹³ The Gemara responds: No; it is possible that there is no dispute between them, and Ravin said that Rabbi Yoḥanan calls the entire process from a kiss until the insertion of the corona the initial stage of intercourse, while anything beyond that point is a complete act of sexual intercourse.

⁹⁴ When Rav Shmuel bar Yehuda came from Eretz Yisrael he reported that Rabbi Yoḥanan said: The definition of the initial stage of intercourse is the insertion of the corona, whereas a complete act of sexual intercourse is literally a complete act of sexual intercourse, i.e., insertion of the male organ beyond the corona.

⁹⁵ From this point forward, insertion of anything less than the corona is only considered a kiss, for which he is exempt. And this statement disagrees with that of Shmuel, who maintains that one is liable to receive punishment for external contact of the sexual organs.

⁹⁶ § It was taught in the mishna that both one who merely engages in the initial stage of intercourse and one who completes the act of intercourse have thereby acquired the yevama. The Gemara asks: What does it mean that he has acquired his yevama? Rav said: He has acquired her for everything. In other words, she is considered his wife in all regards. Therefore, if he is a priest, she may partake of teruma. And Shmuel said he has only acquired her with regard to the matters stated in the chapter of levirate marriage, i.e., to inherit his brother's property and to exempt her from levirate marriage if he then dies and leaves behind children from another wife.

⁹⁷ The Gemara adds: If she was a yevama from marriage, everyone agrees that she may partake of teruma after the initial stage of intercourse, as she was already partaking at the outset, when she was married to the deceased brother. Therefore, even a minimal act of intercourse is enough to allow her to continue to partake of teruma. When they disagree it is with regard to a yevama from betrothal. Rav said: She may partake, as the Merciful One includes unwitting intercourse and the other forms of intercourse listed in the mishna, and considers them like intentional intercourse.

⁹⁸ And Shmuel said: When the Merciful One includes these forms of intercourse, He does so only to establish the yavam in place of the husband, but to strengthen him more than the husband, no. Since she was merely betrothed to the deceased brother, she was not permitted to partake of teruma, and therefore she may not partake of teruma at this point either.

⁹⁹ The Gemara comments: And Shmuel follows his regular line of reasoning, as Rav Nahman said that Shmuel said: In any case where the woman's marriage to her original husband entitles her to partake of teruma, intercourse with the yavam in any of the manners described in the mishna also entitles her to partake of teruma, and any case where her relationship with her original husband does not entitle her to partake of teruma, i.e., if she had been betrothed but not married, intercourse with the yavam in the manners described in the mishna also does not entitle her to partake of teruma.

¹⁰⁰ The Gemara raises an objection from the following baraita: In the case of a mentally competent daughter of an Israelite who was betrothed to a competent priest, and he did not have a chance to marry her before he became a deaf-mute and was no longer mentally competent, she may not partake of teruma, as marriage to a deaf-mute does not enable a woman to partake of teruma. If the deaf-mute husband subsequently died and the yevama happened before a deaf-mute yavam for levirate marriage, she may partake of teruma. And in this regard the strength of the yavam is greater than the strength of the husband.

¹⁰¹ Granted, according Rav, this works out well, as intercourse with the deaf-mute yavam, which is comparable to the unwitting intercourse mentioned in the mishna because the deaf-mute is not mentally competent, effects the levirate marriage and allows her to partake of teruma despite the fact that she could not do so during the lifetime of her first husband. However, according to Shmuel, this is difficult, as he maintains that a yavam cannot have more rights than the deceased husband due to intercourse undertaken without intent to perform levirate marriage.

¹⁰² The Gemara answers: Shmuel could have said to you: Amend the baraita and say as follows: If he did not have a chance to marry her before he became a deaf-mute, she may not partake of teruma. If he married her and afterward became a deaf-mute, she may partake of teruma. If he then died, and she happened before a deaf-mute yavam for levirate marriage, she may partake of teruma.

¹⁰³ And what is the meaning of the phrase: In this regard the strength of the yavam is greater than the strength of the husband? It means to say that if the original husband was a deaf-mute from the outset, i.e., before consummating the marriage, she would not have been allowed to partake of teruma, whereas if the yavam was a deaf-mute from the outset she may partake of teruma once they perform levirate marriage, because she had been fully married to the deceased brother.

¹⁰⁴ And some say a different version of the dispute between Rav and Shmuel: If she was a yevama from betrothal, i.e., her marriage with the deceased brother had never been completed, and she and the brother-in-law engaged in an inferior form of intercourse as described in the mishna, everyone agrees that she may not partake of teruma, as she did not partake of teruma in her husband's lifetime.

¹⁰⁵ When they disagree, it is with regard to a yevama from marriage. Rav says: She may partake of teruma as she was permitted to partake of teruma initially, while married to the deceased brother. And Shmuel says she may not partake of teruma, because when the Merciful One includes unwitting intercourse and considers it like intentional intercourse, it was only with regard to the matters stated in the chapter of levirate marriage, but for every other issue, no.

¹⁰⁶ The Gemara raises a difficulty: Didn't Rav Nahman say that Shmuel himself said: In any case where the woman's marriage to her original husband entitles her to partake of teruma, intercourse with the yavam in one of the manners listed in the mishna also entitles her to partake of teruma? The Gemara answers: Emend the wording and say as follows: With regard to any act of intercourse through which the husband entitles her to partake of teruma, a yavam also entitles her to partake of teruma; and with regard to any act of intercourse through which the husband does not entitle her to partake of teruma, a yavam also does not entitle her to partake of teruma. Just as betrothal cannot be performed via an unwitting act of intercourse, this act does not entitle a yevama to partake of teruma.

¹⁰⁷ The Gemara raises an objection from the following baraita: In the case of a mentally competent daughter of an Israelite who was betrothed to a competent priest, and he did not have a chance to marry her before he became a deaf-mute and was no longer mentally competent, she may not partake of teruma. If the deaf-mute husband subsequently died, and the yevama happened before a deaf-mute yavam for levirate marriage, she may partake of teruma. And in this regard the strength of the yavam is greater than the strength of the husband. Granted, according to Rav, he can answer as Shmuel answered initially, i.e., according to the first version of the dispute between Rav and Shmuel. However, according to Shmuel, it is difficult. The Gemara concludes: Indeed, it is difficult.

¹⁰⁸ § The Sages taught: In the case of a mentally competent daughter of an Israelite who was betrothed to a mentally competent priest, and he did not have a chance to marry her before he became a deaf-mute and was no longer mentally competent, she may not partake of teruma. If a son was born to her from this priest, she may partake of teruma on account of her son. If the son died, Rabbi Natan says she may continue to partake of teruma, and the Rabbis say she may not continue to partake of teruma.

¹⁰⁹ The Gemara asks: What is the reasoning of Rabbi Natan? Rabba said: Since she has already partaken of teruma in a permitted manner, she may continue. Abaye said to him: However, if that is so, in the case of the daughter of an Israelite who was married to a priest, and he died childless, she should be allowed to partake of teruma, as she has already partaken of it in the past. Rather, it must be that since he has passed away, his priestly sanctity has left her, and she is considered a regular Israelite in all regards. Here too, since the son has passed away, his priestly sanctity has left her, and therefore she should not be entitled to partake of teruma. Rabba's explanation should consequently be rejected.

¹¹⁰ Rather, Rav Yosef said: Rabbi Natan holds that the marriage of a deaf-mute who was competent when he betrothed his wife entitles her to partake of teruma, and we do not issue a decree against the wife partaking of teruma through marriage to a deaf-mute due to the case of betrothal to a deaf-mute. Although the betrothal of a deaf-mute does not take effect, his consummation of a marriage does take effect and entitles his wife to partake of teruma. Abaye said to him: If so, why do I need the baraita to specify that a son was born to her? She should be entitled to eat teruma even if she did not have a son. Rav Yosef responded: That case is mentioned due to the opinion of the Rabbis, who hold that she is entitled to partake of teruma only if she has a child.

¹¹¹ Abaye asks further: And let Rabbi Natan disagree with them in the first clause of the baraita as well. Rav Yosef responds: Rabbi Natan left the Rabbis until they finished their statement, and then disagreed with them with regard to their entire statement. The Gemara asks: If so, let the baraita first teach that if the son died she may not partake of teruma, and subsequently state: Rabbi Natan said

she may eat. Why is Rabbi Natan's opinion mentioned before the Rabbis finished stating their opinion? The Gemara concludes: Indeed, this is difficult according to Rav Yosef.

¹¹² § It was taught in the mishna: And so too, one who had intercourse with any one of those with whom relations are forbidden by the Torah in any form is liable to receive punishment. Rav Amram said: This matter was said to us by Rav Sheshet,

¹¹³ and he illuminated our eyes from the mishna, i.e., he demonstrated that the mishna serves as the basis for his opinion: With regard to the wife of an Israelite who was raped, although she is permitted to her husband, she is disqualified for the priesthood. Therefore, if her husband dies, she may not marry a priest. And the tanna of our mishna also taught: And so too, in the case of one who had intercourse with any one of those with whom relations are forbidden [arayot] by the Torah or with those who are unfit to marry him even though they are not in the category of arayot, the woman is disqualified from marrying a priest.

¹¹⁴ What is the meaning of the phrase: And so too? What, is it not that it is no different whether they have intercourse unwittingly or intentionally, and it is no different whether they have intercourse due to coercion or willingly? And it is taught that he has rendered her disqualified from marrying a priest.

¹¹⁵ The Gemara refutes this proof: No, what is the meaning of the phrase: And so too? It is referring to the initial stage of intercourse, as this too invalidates her. The Gemara asks: The initial stage of intercourse of whom? If we say it is referring to those with whom relations are prohibited and carry a punishment of karet or death [arayot], is this to say that the halakha with regard to those with whom relations are prohibited is derived from the halakha with regard to a yevama, as implied by the phrase: And so too? On the contrary, we derive the halakha of a yevama from the halakha with regard to those with whom relations are prohibited, as the main source that indicates that the initial stage of intercourse is considered intercourse is stated in the context of those with whom relations are prohibited and not in the context of a yevama.

¹¹⁶ Rather, what is the meaning of the phrase: And so too? It is referring to atypical, i.e., anal, sexual intercourse with those with whom relations are prohibited [arayot]. The Gemara rejects this suggestion: On the contrary, the main source that atypical intercourse is considered intercourse, which is based upon the verse "The cohabitations of a woman" (Leviticus 18:22) is written with regard to those with whom relations are prohibited [arayot].

¹¹⁷ Rather, what is the meaning of the phrase: And so too? It is referring to atypical intercourse by those liable for violating an ordinary prohibition not punishable by karet, with regard to whom the expression: The cohabitations of a woman, does not appear. In any event, Rav Sheshet's proof from the mishna is not conclusive.

¹¹⁸ § Rava said: With regard to the wife of a priest who was raped, her husband is flogged if he later has intercourse with her, due to the fact that it is prohibited for a priest to have intercourse with a zona. The Gemara expresses surprise: Due to the prohibition proscribing a zona, yes; due to ritual impurity, no? The Torah refers to a married woman who has had intercourse with another man as ritually impure, and she is forbidden to her husband. The Gemara emends Rava's statement: Say that he is also flogged due to the prohibition with regard to a zona.

¹¹⁹ Rabbi Zeira raised an objection based upon a verse with regard to a sota: "And neither was she taken" (Numbers 5:13) indicates that she is forbidden to her husband because she willingly

committed adultery, but if she was forcibly taken, i.e., raped, she is permitted to her husband. The term “And...she” indicates that although these principles apply in this case, you have another case of a woman who is prohibited even though she was forcibly taken. And which is this? This is the wife of a priest.

¹²⁰ And a prohibition that stems from a positive mitzva, e.g., the prohibition proscribing a priest’s wife to her husband if she has been raped, which is derived from the fact that the Torah indicates that the wife of an Israelite remains permitted, has the status of a positive mitzva, not a prohibition. Consequently, one should not be flogged for this offense, as one is flogged only for violating a prohibition.

¹²¹ Rabba said in response: All married women who engaged in extramarital intercourse were included in the category of zona. When the verse specified with regard to the wife of an Israelite: “And neither was she taken,” as it is only in that case that she is forbidden, it thereby indicates that if in fact she was forcibly taken, she is permitted. By inference, unlike the wife of an Israelite, the wife of a priest remains as she was. Since the Torah does not limit the category of zona with regard to the wife of a priest, she is considered a zona even if she was raped.

¹²² And some say a different version of this discussion. Rabba said: With regard to the wife of a priest who was raped, her husband is flogged for having intercourse with her due to her ritual impurity. The Gemara asks: Due to ritual impurity, yes; due to the prohibition proscribing a zona, no? Apparently, in a case of rape, the victim is not called a zona.

¹²³ Rabbi Zeira raised an objection from the verse: “And neither was she taken” indicates that she is forbidden to her husband because she willingly committed adultery, but if she was forcibly taken, she is permitted to her husband. The term: “And...she,” indicates that although these principles apply in this case, you have another case of a woman who is forbidden even though she was forcibly taken. And which is this? This is the wife of a priest. And a prohibition that stems from a positive mitzva has the status of a positive mitzva, not a prohibition. Consequently, one should not be flogged for this offense, as one is flogged only for violating a prohibition.

¹²⁴ Rava said: All were included in the verse “Her former husband, who sent her away, may not take her again to be his wife after she was made ritually impure” (Deuteronomy 24:4). When the verse specified with regard to the wife of an Israelite: “And neither was she taken,” as it is only in that case that she is forbidden, it thereby indicates that if she was forcibly taken she is permitted. By inference, the wife of a priest remains as she was, and she is forbidden.

¹²⁵ MISHNA: A widow to a High Priest, a divorcée, or a ḥalutza to a common priest, even if they had only engaged in betrothal and had not yet had intercourse, may not partake of teruma. Since they are forbidden to the men who betrothed them, the betrothal itself disqualifies them from the privileges of priesthood even if they are the daughters of priests. Rabbi Elazar and Rabbi Shimon declare them fit to partake of teruma. Since the prohibition is violated through the act of intercourse and not betrothal, the women are disqualified only once they have intercourse.

¹²⁶ In a case where these women were widowed or divorced, if it was from marriage, they are disqualified from the priesthood and may not partake of teruma. This is because a woman prohibited from marrying a priest who has intercourse with a priest becomes a ḥalala, and is thereby disqualified from partaking of teruma. However, if they were widowed or divorced from their state of betrothal, they are once again fit to partake of teruma according to all opinions.

¹²⁷ GEMARA: It is taught in a baraita that Rabbi Meir said: This is an a fortiori inference: Just as optional betrothal, e.g., in the case of an Israelite who betroths the daughter of a priest, does not entitle her to partake of teruma, as her betrothal to a non-priest disqualifies her from partaking of her father's teruma, is it not all the more so true in a case of betrothal that constitutes a transgression, as in the cases in the mishna?

¹²⁸ They said to him: No, if you say that this is true with regard to an Israelite, whose status cannot entitle her to partake of teruma in another case, as one betrothed to an Israelite may never partake of teruma, shall you also say that this is the case with regard to betrothal to a priest that constitutes a transgression, where his status does entitle her to partake of teruma in a different case, as marriage to a priest entitles a woman to partake of teruma in a case where it is permitted for them to marry?

¹²⁹ Rabbi Elazar said that Rabbi Oshaya said: In the case of a priest with crushed testicles or with other wounds to his genitals who betrothed the daughter of an Israelite, which is prohibited by the verse "He that is crushed or maimed shall not enter into the congregation of the Lord" (Deuteronomy 23:2), we have arrived at the dispute between Rabbi Meir on the one hand and Rabbi Elazar and Rabbi Shimon on the other.

¹³⁰ According to Rabbi Meir, who said that a woman who is reserved for intercourse that is invalid, i.e., prohibited, by Torah law may not partake of teruma, this one may also not partake of teruma, as it is prohibited by Torah law for her to have intercourse with a man with crushed testicles. According to Rabbi Elazar and Rabbi Shimon, who say that a woman who is reserved for intercourse that is invalid by Torah law may partake of teruma until she actually engages in the prohibited act of intercourse,

¹³¹ this one may also partake of teruma until that time. The Gemara refutes this argument: From where do we know that this is correct? Perhaps Rabbi Elazar and Rabbi Shimon stated their opinion there only with regard to a priest whose status can entitle her to partake of teruma in another case, but here, in the case of a priest with crushed testicles, whose status cannot entitle her to partake of teruma in another case, as it is forbidden for him to marry a woman who was born Jewish, no, they did not state their opinion.

¹³² And if you say that here too, his status can at least entitle his wife to partake of teruma if he marries the daughter of converts, wasn't it already raised as a dilemma by Rabbi Yoḥanan before Rabbi Oshaya whether the daughter of converts who married a priest with crushed testicles may partake of teruma, and he was unable to resolve it for him? Therefore, there is a difference between a priest with crushed testicles and other priests who betroth women who are disqualified by their intercourse.

¹³³ It was stated that Abaye said: Women betrothed to a priest with crushed testicles may eat teruma since his status entitles his wife to partake of teruma in a case where he has not known her. If a priest was properly married and then his testicles became crushed, as long as he has not known his wife, i.e., engaged in intercourse with her, after that point in time, she may continue partaking of teruma as his wife.

¹³⁴ Rava said she may continue to partake of teruma for a different reason: She may eat teruma since the status of this priest entitles his Canaanite slaves and maidservants to partake of teruma. Because he has the power to enable others to partake of teruma, the case of a woman betrothed to a priest with

crushed testicles is comparable to the cases in the mishna, and Rabbi Elazar and Rabbi Shimon would permit the woman to partake of teruma.

¹³⁵ The Gemara clarifies the two opinions. Abaye did not say in accordance with the opinion of Rava because he claims that we derive the halakhot related to the acquisition of marriage from the acquisition of marriage, and we do not derive the halakhot related to the acquisition of marriage from the acquisition of slaves.

¹³⁶ And Rava did not state his opinion in accordance with the opinion of Abaye, as he maintains that it is different there, as she had already partaken of teruma before her husband's testicles were crushed and therefore she may continue to partake of it. And Abaye would respond that we do not say that the case is different because she had already partaken of teruma, as, if you do not say so, the daughter of an Israelite who was married to a priest who died childless should be allowed to partake of teruma, as she had already partaken of teruma while her husband was alive. And Rava replies that there is no comparison between the two cases: There, his acquisition lapses upon his death; here, his acquisition does not lapse, as she is still his wife.

¹³⁷ § The Gemara earlier mentioned a question that Rabbi Yoḥanan posed to Rabbi Oshaya, and it now turns its attention to that matter itself. Rabbi Yoḥanan raised a dilemma before Rabbi Oshaya: With regard to a priest with crushed testicles or with other wounds to his genitals who married the daughter of converts, what is the halakha concerning whether his status entitles her to partake of teruma? Rabbi Oshaya was silent and said nothing to him. Eventually another great man came and raised a different dilemma before Rabbi Oshaya, and he resolved his question. And who was this great man? Reish Lakish. Rabbi Yehuda Nesia said to Rabbi Oshaya: Is Rabbi Yoḥanan not a great man? Why didn't you address his dilemma? Rabbi Oshaya said to him: I did not respond because he raised a dilemma before me that has no resolution.

¹³⁸ The Gemara explains: According to whom did he raise his dilemma? If it was in accordance with the opinion of Rabbi Yehuda, then, whether the priest with crushed testicles retains his priestly sanctity or whether he does not retain his priestly sanctity and may marry women forbidden to priests, she may not partake of teruma. The reasoning is as follows: If he retains his priestly sanctity she may not partake of teruma, as the Master said: The status of the daughter of a male convert is like that of the daughter of a male ḥalal. They are both prohibited from marrying a priest, and therefore even if they marry a priest, it is prohibited for them to eat teruma.

¹³⁹ Even if he does not retain his priestly sanctity she may not eat, as we say that according to Rabbi Yehuda, the congregation of converts is called the congregation of the Lord. Therefore, when the Torah renders it prohibited for a man with crushed testicles to marry into the congregation of the Lord (see Deuteronomy 23:2), it renders it prohibited for him to marry converts.

¹⁴⁰ And if he raised his dilemma in accordance with the opinion of Rabbi Yosei, then, whether he retains his priestly sanctity or whether he does not retain his priestly sanctity, she may partake of teruma. If he retains his sanctity she may partake, as Rabbi Yosei said: Even if a convert married a convert, his daughter is fit for marrying into the priesthood. If he does not retain his sanctity she may partake, as Rabbi Yosei said: The congregation of converts is not called the congregation of the Lord, and therefore even those forbidden from entering the congregation may marry converts. Consequently, it is certainly permitted for the priest with crushed testicles to marry the daughter of converts.

¹⁴¹ Rather, Rabbi Yoḥanan raised his dilemma in accordance with the opinion of this tanna, as we learned in a mishna (Bikkurim 1:5) that Rabbi Eliezer ben Ya'akov says: A woman who is the daughter of converts may not marry into the priesthood unless her mother was Jewish from birth.

¹⁴² And his dilemma was as follows: Is the reason she may marry a priest if her mother was Jewish from birth that fitness to marry a priest has been added to her, but she is not considered a member of the congregation of the Lord and may therefore marry a man with crushed testicles? If so, since she may marry a priest, she may partake of teruma once she does so. Or perhaps sanctity has been added to her and she is considered a member of the congregation of the Lord. Consequently, she may not marry a man with crushed testicles, and if she does, she may not partake of teruma even if he is a priest.

¹⁴³ The Gemara suggests an answer to this dilemma. Come and hear: When Rabbi Aḥa bar Ḥinnana came from the south, he came and brought this baraita in hand: From where is it derived that a priest with crushed testicles or with other wounds to his genitals who married the daughter of converts entitles her to partake of teruma? As it is stated: "But if a priest buys any soul, the purchase of his money, he may eat of it" (Leviticus 22:11). In this context, a wife is also considered his monetary acquisition, and therefore she may partake of teruma.

¹⁴⁴ The Gemara analyzes this source: According to whom is this baraita stated? If we say it is in accordance with the opinion of Rabbi Yehuda, didn't he say that whether this priest retains his sanctity or whether he does not retain his sanctity, she may not partake of teruma? And if it is in accordance with the opinion of Rabbi Yosei, why do I need a special verse to teach this halakha? Didn't he say that whether he retains his sanctity or whether he does not retain his sanctity, she may partake of teruma? Rather, is it not in accordance with the opinion of Rabbi Eliezer ben Ya'akov? And you can learn from this baraita that fitness was added to her, and therefore she may partake of teruma. The Gemara concludes: Indeed, learn from this that it is so.

¹⁴⁵ § The Gemara cites a dispute with regard to an issue related to the previous discussion. It was stated that the amora'im disagreed about the following question. Rav said:

¹⁴⁶ There is significance to a priest entering a wedding canopy with women who are unfit to marry a priest. If a priest's daughter who is unfit to marry a priest enters the wedding canopy with a priest, she becomes disqualified from partaking of teruma from her father's household. This is the case even if the priest did not betroth her and they did not engage in sexual intercourse. And Shmuel said: There is no significance to a priest entering the wedding canopy with women who are unfit to marry a priest. Only sexual intercourse disqualifies her from the privileges of priesthood.

¹⁴⁷ Shmuel said: And Abba, i.e., Rav, whose first name was Abba, concedes to me, with regard to a girl less than three years and one day old, that she is not disqualified by merely entering the wedding canopy. Since there is no legal significance to an act of intercourse with her, there is no legal significance to entering the wedding canopy with her.

¹⁴⁸ Rava said: We, too, learn in the following baraita that there is no legal significance to an act of intercourse with a girl less than three years old: A girl three years and one day old can be betrothed via sexual intercourse; and if she was a yevama and her yavam had intercourse with her, he has acquired her; and a man who has intercourse with her while she is married to someone else is liable on her account because of the prohibition of intercourse with a married woman; and if she

experiences a menstrual discharge she renders ritually impure a man who has intercourse with her, so that he renders impure the object upon which he lies like the upper one.

¹⁴⁹ If she is married to a priest she may partake of teruma. If one of those who render women unfit for marrying a priest had intercourse with her, he has disqualified her from being able to partake of teruma.

¹⁵⁰ Rava infers from this baraita that it is a girl three years and one day old who is disqualified via intercourse, and consequently she is also disqualified via the wedding canopy. However, a girl who is less than three years and one day old, who is not disqualified via intercourse, is also not disqualified via the wedding canopy. The Gemara concludes: Indeed, learn from this that it is so.

¹⁵¹ Rami bar Hama said: With regard to the question of whether there is legal significance to a priest entering the wedding canopy with women who are unfit to marry a priest, we have arrived at the dispute cited in the mishna between Rabbi Meir on the one hand and Rabbi Elazar and Rabbi Shimon on the other.

¹⁵² According to Rabbi Meir, who says that betrothal to a priest disqualifies a woman who is unfit to marry him from partaking of teruma even if she is the daughter of a priest, entering the wedding canopy with a priest also disqualifies her. Conversely, according to Rabbi Elazar and Rabbi Shimon, who say that betrothal does not disqualify her, entering the wedding canopy also does not disqualify her.

¹⁵³ The Gemara refutes this claim: And from where do we know that these tanna'im would apply their opinions with regard to betrothal to entering the wedding canopy? Perhaps Rabbi Meir only stated his opinion there, with regard to betrothal, which acquires her. However, in the case of a wedding canopy, which does not acquire her, no, she is not disqualified.

¹⁵⁴ Alternatively, perhaps Rabbi Elazar and Rabbi Shimon stated their opinion only there, with regard to betrothal, as it is not close to an act of sexual intercourse. However, with regard to entering the wedding canopy, which is close to an act of sexual intercourse, as it is the place where the bride and groom are secluded together and symbolizes the woman's entrance into her husband's home, it is possible that it also disqualifies her from partaking of teruma.

¹⁵⁵ Rather, if it can be said that this issue was already discussed by earlier Sages, it was in the dispute between these other tanna'im, as it is taught in a baraita: If they married one another, i.e., either a woman who is fit or a woman who is unfit married a priest, or they entered the wedding canopy and did not yet have intercourse with him, they are entitled to eat of his food and to partake of teruma.

¹⁵⁶ The Gemara interrupts its presentation of the baraita to examine its wording. The fact that the baraita mentions a case where they entered the wedding canopy but did not yet have intercourse proves by inference that the earlier case, where they married, is referring to actual marriage. However, this is difficult because if they were actually married and had engaged in intercourse, the woman who was unfit to marry a priest is certainly disqualified from partaking of teruma due to the prohibited act of intercourse.

¹⁵⁷ Rather, is it not that the baraita is referring to a single case: Where they were married, and they entered the canopy, and had not had intercourse? And it is taught in the baraita that they are entitled to partake of his food and to partake of teruma. This indicates that entrance into the wedding canopy

does not disqualify a woman who is unfit to marry a priest from eating teruma, although the act of intercourse does.

¹⁵⁸ The baraita continues: Conversely, Rabbi Yishmael, son of Rabbi Yoḥanan ben Beroka, says: Any woman whose act of intercourse entitles her to partake of teruma, her wedding canopy also entitles her to partake of teruma; and any woman whose act of intercourse does not entitle her to partake of teruma, her wedding canopy also does not entitle her to partake of teruma. Consequently, it appears that the tanna'im cited in this baraita disagree over the very question of whether the entry of a priest and a woman unfit to marry him into the wedding canopy has legal significance.

¹⁵⁹ The Gemara refutes this claim: From where do we know that this is correct? Perhaps Rabbi Yishmael, son of Rabbi Yoḥanan ben Beroka, holds in accordance with the opinion of Rabbi Meir, who said that in the case of the betrothal of a woman unfit for a priest she may not partake of teruma?

¹⁶⁰ The Gemara expresses surprise: According to this suggestion, this expression in the baraita is difficult: Any woman whose act of intercourse does not entitle her to partake of teruma, her wedding canopy also does not entitle her to partake of teruma. It should have said: Any woman whose act of intercourse does not entitle her to partake of teruma, her betrothal money also does not entitle her to partake of teruma, as it was the betrothal that disqualified her. The Gemara counters this argument: Perhaps it can be suggested that since the first tanna said his ruling with regard to a wedding canopy, Rabbi Yishmael, son of Rabbi Yoḥanan ben Beroka, also said his ruling with regard to a wedding canopy, even though he holds that she was already disqualified from the time of her betrothal.

¹⁶¹ § Rav Amram said: This matter was said to us by Rav Sheshet, and he illuminated our eyes from the mishna, i.e., he demonstrated that the mishna serves as the basis for his opinion. Rav Sheshet's statement was as follows: There is significance to a priest entering the wedding canopy with women who are unfit to marry a priest. And the tanna of the mishna also taught this halakha with regard to a sota (Sota 18a–b): When a sota is brought to the Temple to drink the bitter waters, she affirms the oath imposed on her by a priest that she has not committed adultery. The mishna explains that when she says amen, it is as though she herself states that: I did not go astray while betrothed, or married, or as a widow waiting for her yavam, or as a fully married woman.

¹⁶² The Gemara inquires: This case of a betrothed woman, what are the circumstances? If we say that he was jealous of her and warned her not to seclude herself with a particular man when she was betrothed, and he also causes her to drink the waters when she is betrothed, is a betrothed woman fit to drink the waters of a sota? Didn't we learn in a mishna (Sota 23b): A betrothed woman and a widow waiting for her yavam do not drink, as the halakha of the sota waters applies only to married women; and they do not collect their marriage contract if they secluded themselves after being warned, as they have acted in a licentious fashion?

¹⁶³ Rather, the case in the first mishna cited above is that he was jealous of her and warned her not to seclude herself with a particular man when she was betrothed, and she secluded herself with that man, and her husband causes her to drink when she is already married. However, in that case do the waters examine her? Isn't it taught in a baraita with regard to the verse: "And the man shall be clear from iniquity, and that woman shall bear her iniquity" (Numbers 5:31), that when the man is clear of iniquity the waters examine his wife, but if the man is not clear of iniquity the waters do not examine his wife? By secluding herself with the other man when she was betrothed, the woman rendered

herself forbidden to her husband. If he then married her, he cannot be described as clear of iniquity, and therefore the sota waters are ineffective.

¹⁶⁴ Rather, it must be that he was jealous of her when she was betrothed, and she secluded herself with the other man anyway, and she had entered the wedding canopy but did not yet have intercourse with her husband when he brought her to the priest. Consequently, she is made to drink the sota waters as a married woman, and her husband has not committed a transgression, as he has not had intercourse with her. Learn from this that there is significance to a priest entering the wedding canopy with women who are unfit to marry a priest, as demonstrated by the fact that the sota waters will examine her in these circumstances.

¹⁶⁵ Rava said: Do you hold that this baraita is sufficiently accurate to rely upon? But when Rabbi Aḥa bar Ḥanina came from the South, he came with this baraita in hand: The verse states with regard to the oath of the sota: “And some man has lain with you besides your husband” (Numbers 5:20), which indicates that it applies only when the cohabitation of the husband preceded that of the adulterer, but not when the cohabitation of the adulterer preceded that of the husband. Consequently, in the case under discussion, drinking the sota waters would not be effective.

¹⁶⁶ Rami bar Ḥama said: You find it in a case such as where her betrothed had intercourse with her licentiously when she was a betrothed woman in her father’s house. Since the act of intercourse was committed licentiously rather than for the purpose of consummating the marriage, the woman is still considered betrothed. Subsequently, her betrothed warned her not to seclude herself with a particular man, and she disobeyed. Then, they entered the wedding canopy together, despite the fact that they are forbidden to one another. Once they entered the wedding canopy, the woman can be made to drink the bitter waters. This proves that there is significance to entering the wedding canopy with a woman that is unfit for one to marry.

¹⁶⁷ The Gemara asks: If so, in the corresponding case with regard to a widow waiting for her yavam, in which the yavam had licentious intercourse with her in her father-in-law’s house,

¹⁶⁸ do you call her a widow waiting for her yavam? Once they have engaged in intercourse, she is his proper wife, as Rav said that one who has intercourse with his yevama, even without intending to thereby perform levirate marriage, has acquired her for all matters. The Gemara responds: This is in accordance with the opinion of Shmuel, who said that he has acquired her only with regard to the matters stated in the chapter of levirate marriage, but not with regard to other matters, and therefore she is not considered his wife with regard to the halakhot of sota.

¹⁶⁹ The Gemara responds: The only reason this proof was presented is to support the opinion of Rav, who is the one who holds that there is legal significance to a priest entering the wedding canopy with a woman who is unfit to marry him. Didn’t Rav say he has acquired her for all matters? The Gemara answers: With what are we dealing here? For example, a case where the yavam performed levirate betrothal with her and afterward had intercourse with her for the sake of promiscuity. And this is in accordance with the opinion of Beit Shammai, who say: Levirate betrothal acquires a yevama in a full-fledged manner and removes the levirate bond. Therefore, when they have intercourse, they do not become fully married.

¹⁷⁰ The Gemara raises a difficulty: If so, the case of the yevama who was betrothed is the same as the case of a betrothed woman. What is the difference between the two cases? The Gemara responds: And according to your reasoning, are the examples in the mishna of a married woman and a fully

married woman not a single matter? Rather, the mishna must be referring to two very similar cases, with the following difference: A married woman means his own wife and a fully married woman is referring to that of his fellow, i.e., his brother's wife who became his wife through levirate marriage. Here too, the case of a betrothed woman is referring to his own wife and the case of a widow waiting for her yavam is that of his fellow, i.e., his yevama, who is now betrothed to him.

¹⁷¹ Rav Pappa said: Rava's question can be resolved in a manner unrelated to the question about a priest entering the wedding canopy with a woman unfit for him. The baraita he cited is in accordance with this tanna, who does not require the man to be clear of iniquity, as it is taught in a baraita: One cannot be jealous over a betrothed woman and warn her not to seclude herself with a particular man in order to cause her to drink the sota waters when she is betrothed, but one can be jealous over her to cause her to drink the sota waters when she is married, even if she secluded herself with the man when she was still betrothed.

¹⁷² Rav Naḥman bar Yitzḥak said: The question never arises at all, as the oath is formulated by means of extension. The woman cannot be forced to drink the sota waters for events that took place while she was betrothed. However, if she is obligated to drink due to events that took place when she was married, the oath may be extended to include any possible acts of infidelity when she was betrothed.

¹⁷³ § Rav Ḥanina sent in the name of Rabbi Yoḥanan: One who performs levirate betrothal with his yevama and he has a brother, even if he is a priest and she is the daughter of a priest, he has disqualified her from partaking of teruma. By Torah law, the other brother may still have intercourse with her and thereby perform levirate marriage, but by rabbinic law only the brother who betrothed her may perform levirate marriage. Due to the fact that she is considered to be waiting for levirate marriage even vis-à-vis the brother who is rabbinically prohibited from marrying her, she is classified as a woman who is waiting for an invalid act of intercourse. Consequently, she may not partake of teruma until the consummation of the levirate marriage.

¹⁷⁴ The Gemara asks: According to whom did Rabbi Yoḥanan make this statement? If we say it is in accordance with the opinion of Rabbi Meir, say that Rabbi Meir said that a woman who is reserved for an invalid act of intercourse may not eat teruma when the act of intercourse is prohibited by Torah law. However, if the act of intercourse is prohibited by rabbinic law, did Rabbi Meir actually say that the woman is disqualified from eating teruma? Rather, if we say it is in accordance with the opinions of Rabbi Elazar and Rabbi Shimon, now that they hold that even a woman who is reserved for intercourse prohibited by Torah law may partake of teruma, is it necessary to state that she may partake of teruma if she is reserved for intercourse prohibited by rabbinic law?

¹⁷⁵ Rather, when Ravin came from Eretz Yisrael he said an accurate version of Rabbi Yoḥanan's statement: If a yavam who performed levirate betrothal with his yevama has a brother, all agree that the yevama may partake of teruma. If he has a brother who is a ḥalal, e.g., his mother was a divorcée and therefore unfit to marry his father, who was a priest, all agree that the yevama may not partake of teruma, as she is considered reserved for an invalid act of intercourse. They disagreed only in a case when he gave her a bill of divorce. Rabbi Yoḥanan said she may partake of teruma, as she is considered to have returned to her father's house, while Reish Lakish said that she may not partake of teruma.

¹⁷⁶ The Gemara analyzes the two opinions: Rabbi Yoḥanan said she may eat teruma because even according to Rabbi Meir, who said in the mishna that she may not partake of teruma, this applies only when she is waiting for intercourse that is invalid by Torah law, but if the intercourse is prohibited by rabbinic law, she may partake of teruma. In this case, since they have not yet performed ḥalitza, the levirate bond still applies by Torah law, but they are prohibited by rabbinic law from consummating the levirate marriage.

¹⁷⁷ And Reish Lakish said: She may not partake of teruma because even according to Rabbi Elazar and Rabbi Shimon, who say in the mishna that she may partake of teruma, this applies only to a case of betrothal, as a priest can entitle a woman to partake of teruma in another case via betrothal. But here, where he gave her a bill of divorce, since he cannot entitle a woman to partake of teruma in any other case by giving her a bill of divorce, no.

¹⁷⁸ And lest you say here too, in the case of a bill of divorce, he can entitle her to partake of teruma when she returns to her father's house, this case is different for the following reason: A woman who returns to her father's house has been severed from her husband and she is close to her father's house [bei nasha], and therefore she may once again partake of teruma on her father's account. However, this yevama who has received a bill of divorce is still bound to her yavam until they perform ḥalitza, and she is therefore disqualified from eating teruma.

¹⁷⁹ § It was taught in the mishna that in the case of women who married priests despite the fact that they were unfit to do so, if they were widowed or divorced from that marriage, they are disqualified from eating teruma, but if they were widowed or divorced while they were only betrothed, they are fit to partake of teruma. Rabbi Ḥiyya bar Yosef raised a dilemma before Shmuel: In the case of a High Priest who betrothed a minor and she matured under him, i.e., while betrothed to him,

¹⁸⁰ what is the halakha? The Gemara clarifies the dilemma: Do we follow the time of marriage, at which point she was unfit for him according to most tanna'im, who hold that a High Priest may not marry a grown woman, as she is no longer called "a wife in her virginity" (Leviticus 21:13)? Or do we follow the time of betrothal, at which point she was of suitable age?

¹⁸¹ Shmuel said to him: You learned it in the mishna: If they were widowed or divorced from marriage, they are disqualified from partaking of teruma, but if they were widowed or divorced from betrothal, they are fit to partake of teruma. This indicates that disqualifications from the privileges of priesthood are determined based upon marriage rather than betrothal.

¹⁸² Rabbi Ḥiyya bar Yosef said to Shmuel: With regard to causing her to become a ḥalala I did not raise a dilemma, as it is clear that it is intercourse that causes her to become a ḥalala. When I raised a dilemma, it was with regard to the verse pertaining to a High Priest: "And he shall take a wife in her virginity" (Leviticus 21:13). What does "take" mean in this verse? Do we require that only the taking of betrothal must occur when she is in her virginity, i.e., when she is a minor or a young woman, or perhaps we require even the taking of marriage to be performed when she is a minor or young woman?

¹⁸³ Shmuel said to him: This, too, you learned in a mishna (61a): If he betrothed a widow and was subsequently appointed to be High Priest, he may marry her, despite the fact that a High Priest is prohibited from marrying a widow. This indicates that her permissibility to him is determined according to the time of the betrothal rather than the time of marriage. The Gemara refutes this proof:

There it is different, as it is written: “He shall take for a wife” (Leviticus 21:14). The superfluous expression “for a wife” indicates that he is permitted to marry the widow in this case.

¹⁸⁴ The Gemara objects: Here, too, with regard to a woman who matured after betrothal, it is written: “And he shall take a wife in her virginity,” and this should indicate that he may marry the grown woman in this case. The Gemara answers that the term “wife” allows for the inclusion of one case but not two. Consequently, since a High Priest may marry a widow he had betrothed before he was appointed High Priest, it cannot also be derived that he may marry a grown woman that he had betrothed before she matured.

¹⁸⁵ The Gemara asks: And what did you see that led you to include the case of a widow and exclude that of a grown woman? The Gemara answers: In this case, of the grown woman, her body has changed, and therefore she is forbidden to him even though she was betrothed before she matured. In that case, of the widow, her body has not changed. It is the priest’s personal status that has changed, and therefore she remains permitted.

¹⁸⁶ MISHNA: A High Priest may not marry a widow, whether she is a widow from betrothal or a widow from marriage. And he may not marry a grown woman. He may marry only a minor or a young woman. Rabbi Elazar and Rabbi Shimon declare a grown woman fit to marry a High Priest. And he may not marry a woman whose hymen was torn accidentally.

¹⁸⁷ GEMARA: The Sages taught: The verse states with regard to a High Priest: “A widow...he shall not take” (Leviticus 21:14), which prohibits him from marrying any widow, whether she is a widow from betrothal or a widow from marriage. The Gemara is surprised by this statement: This is obvious, as the verse is referring to a widow without further specification. The Gemara answers: It is necessary; lest you say that one should derive a verbal analogy between the words “widow” and “widow,” based upon the usage of that term in a verse with regard to Tamar, Judah’s daughter-in-law (Genesis 38:11), as follows: Just as there, Tamar was a widow from marriage, so too here the verse is referring only to a widow from marriage. The tanna therefore teaches us that this is not the case.

¹⁸⁸ The Gemara asks: And say that it is indeed so, that the suggested verbal analogy is correct. The Gemara answers: It is similar to the case of a divorcée: Just as a divorcée is forbidden to a priest whether she was divorced from marriage or from betrothal, so too a widow is forbidden to a High Priest whether she is a widow from marriage or from betrothal.

¹⁸⁹ § It was taught in the mishna: And a High Priest may not marry a grown woman. The Sages taught that the verse: “And he shall take a wife in her virginity” (Leviticus 21:13) excludes a grown woman, whose hymen has worn away, i.e., it is no longer as complete as that of a minor or a young woman; this is the statement of Rabbi Meir. Rabbi Elazar and Rabbi Shimon declare a grown woman fit to marry a High Priest.

¹⁹⁰ The Gemara asks: With regard to what do they disagree? The Gemara explains: Rabbi Meir holds that were the verse referring simply to a virgin it would have indicated that even a woman with partial signs of virginity, i.e., a grown woman, is permitted. Since the verse states “her virginity,” it means that she is fit to marry a High Priest only if all of the signs of her virginity are intact, which excludes a grown woman. The full expression “in her virginity” indicates that if she has experienced sexual intercourse in a typical manner, which takes place in the area of her virginity, i.e., her hymen, yes, she is disqualified from marrying a High Priest; but if she has experienced sexual intercourse in an atypical manner i.e., anal intercourse, no, she is not disqualified.

¹⁹¹ And Rabbi Elazar and Rabbi Shimon hold that were the verse referring simply to a virgin, it would have indicated that only a complete virgin is fit to marry a High Priest, but not a grown woman. When it states “her virginity,” it indicates that even a woman with partial signs of virginity, i.e., a grown woman, is fit to marry the High Priest. The full expression “in her virginity” indicates that she is not fit to marry a High Priest unless all of her virginity is intact, i.e., she has not engaged in intercourse of any kind, whether typical sexual intercourse or atypical sexual intercourse.

¹⁹² Rav Yehuda said that Rav said: If she had atypical sexual intercourse, she is disqualified from the High Priesthood, i.e., from marrying the High Priest. Rava raised an objection based upon a baraita: The verse states with regard to rape: “And she shall be his wife” (Deuteronomy 22:19), and the Sages explained that this is referring only to a woman suitable for him, excluding a widow for a High Priest and a divorcée or a ḥalutza for a common priest. In these cases, the rapist is not permitted to marry his victim.

¹⁹³ The Gemara clarifies: What are the circumstances of this halakha? If we say that the High Priest raped her by engaging in typical intercourse, why does the baraita specifically state that she is forbidden to him because she is a widow? Let him derive this halakha from the fact that she is now a non-virgin. Rather, is it not that he had atypical intercourse with her, and due to the fact that she is a widow, yes, that is the reason she is forbidden, but due to the fact that she is a non-virgin, no, that is not the reason she is forbidden? This indicates that a woman who had intercourse in an atypical manner is not considered a non-virgin and is not disqualified from marrying a High Priest.

¹⁹⁴ The Gemara refutes this proof: In accordance with whose opinion is this baraita? It is in accordance with the opinion of Rabbi Meir, who maintains that a woman who engaged in atypical intercourse is permitted to a High Priest, and when Rav said his statement, it was in accordance with the opinion of Rabbi Elazar, who holds that such a woman is disqualified from marrying a High Priest.

¹⁹⁵ The Gemara asks: If Rav’s statement is in accordance with the opinion of Rabbi Elazar, why did he specifically state that she is forbidden to him because she is a non-virgin? Let him derive it from the fact that she is a zona, as Rabbi Elazar said: Even in the case of an unmarried man who had intercourse with an unmarried woman not for the purpose of marriage, he has thereby caused her to become a zona.

¹⁹⁶ Rav Yosef said: When Rav said that a woman who had anal intercourse is disqualified from marrying a High Priest, he was referring to a woman who had intercourse with an animal, as there she is disqualified because she is a non-virgin, but she is not disqualified because of the prohibition of a zona.

¹⁹⁷ Abaye said to him: Whichever way you look at it, there is a difficulty with this answer: If she is considered a non-virgin, she is also a zona, and if she is not a zona she is also not a non-virgin. And lest you say that it is analogous to a case of a woman who lost her virginity via penetration by a foreign object atypically, i.e., anally, whose hymen was therefore not damaged and she is not forbidden as a zona, yet she is no longer considered a virgin, that is not correct: If so, if such a woman is considered a non-virgin and forbidden to a High Priest, you would have no woman who is fit for the High Priesthood, who has not lost her virginity via penetration by a foreign object atypically, i.e., by a pebble used to clean herself in the lavatory.

¹⁹⁸ Rather, Rabbi Zeira said that Rav was referring to one who refused her husband after having only atypical intercourse with him. Although the act of intercourse was not licentious, as she was married at the time, she is nevertheless disqualified from marrying into the priesthood because she is not a virgin.

¹⁹⁹ § Rabbi Shimi bar Ḥiyya said: A woman who had intercourse with an animal is like one whose hymen was torn accidentally. Consequently, she is not a zona and is fit for the priesthood. This is also taught in a baraita: If a woman had intercourse with one who is not a man, i.e., an animal, although she is liable to stoning if she did so intentionally and in the presence of witnesses who forewarned her of her punishment, she is nevertheless fit for the priesthood.

²⁰⁰ When Rav Dimi came from Eretz Yisrael he said: There was an incident involving a certain girl [riva] in the village of Hitlu who was sweeping the house, and a village [kufri] dog used for hunting sodomized her from behind. And Rabbi Yehuda HaNasi permitted her to the priesthood, as she was not considered a zona. Shmuel said: And Rabbi Yehuda HaNasi permitted her even to a High Priest, as she was still considered a virgin. The Gemara is puzzled by this comment: Was there a High Priest in the days of Rabbi Yehuda HaNasi? Rather, Shmuel meant that she is fit for a High Priest.

²⁰¹ Rava of Pirkin said to Rav Ashi: From where is this matter derived that the Sages stated that there is no harlotry with regard to an animal? Rav Ashi responded that it is as it is written: “You shall not bring the hire of a harlot or the price of a dog into the House of the Lord your God for any vow; for both of them are an abomination to the Lord your God” (Deuteronomy 23:19). This verse prohibits one from sacrificing an animal as an offering if that animal was ever used to pay a harlot for her services, or if it was ever used as payment in the purchase of a dog.

²⁰² And we learned in a mishna (Temura 30a): The hire of a dog, i.e., a kosher animal that a man or woman gave as payment to the owner of a dog in order to have sexual intercourse with it, and similarly the price of a prostitute, a kosher animal used to purchase a prostitute as a maidservant, are permitted to be sacrificed as offerings. This is because it is stated that both of them, the specific items listed in the verse, are abominations. Consequently, only two items are prohibited, i.e., the payment given to a prostitute for her services, and the payment used in the purchase of a dog, and not four, as the reverse cases are excluded from this halakha.

²⁰³ § The Sages taught: A High Priest may not marry a woman that he himself raped and a woman that he himself seduced, as he is commanded to marry a virgin. And if he married her, he is married. With regard to a woman who was raped by another man and a woman seduced by another man, he may not marry her. And if he married her, Rabbi Eliezer ben Ya’akov says that the child born from this union is a ḥalal, and the Rabbis say the lineage of the offspring is unflawed.

²⁰⁴ The Gemara analyzes this baraita. It states that if he married the woman that he himself raped or seduced, he is married. Rav Huna said that Rav said: And he must divorce her with a bill of divorce. The Gemara asks: But consider that which the baraita teaches: If he married her, he is married. Since it is obvious that the marriage is technically valid, it must be saying that they are permitted to remain married. Rav Aḥa bar Ya’akov said: No, it means to say

²⁰⁵ that he does not pay the fine of a seduced woman. One who seduced a woman and does not wish to marry her must pay a fine (see Exodus 22:14–15). Since in this case he did marry her, he is not liable to pay the fine even though he is required to divorce her.

²⁰⁶ The Gemara relates that when Rav Geviha went from Bei Ketil he stated this halakha before Rav Ashi, who said to him: Isn't it Rav and Rabbi Yoḥanan who both say: A High Priest may not marry a grown woman and a woman whose hymen was torn accidentally, but if he married one of them he is married?

²⁰⁷ Apparently, the reason for this halakha is that since she will eventually be a grown woman under him, i.e., while married to him, and she will eventually be a woman whose hymen was torn under him, as she will not remain a virgin, they are permitted to remain married after the fact. Here too, in the case of a High Priest who married a woman he raped or seduced, since she will eventually be a non-virgin under him, the baraita should be understood as stating that they may remain married. The Gemara concludes: Indeed, this is difficult for Rav Huna.

²⁰⁸ § The baraita cited above taught: With regard to a woman who was raped by another man and a woman seduced by another man, the High Priest may not marry her. And if he married her, Rabbi Eliezer ben Ya'akov says that the child born from this union is a ḥalal, and the Rabbis say the lineage of the offspring is unflawed. Rav Huna said that Rav said: The halakha is in accordance with the opinion of Rabbi Eliezer ben Ya'akov. And, so too, Rav Giddel said that Rav said: The halakha is in accordance with the opinion of Rabbi Eliezer ben Ya'akov.

²⁰⁹ Some say a different version of this statement. Rav Huna said that Rav said: What is the reason of Rabbi Eliezer ben Ya'akov? He holds in accordance with the opinion of Rabbi Elazar, that an unmarried man who has intercourse with an unmarried woman has thereby caused her to become a zona. Consequently, since the other man had intercourse with this woman outside of the context of marriage, she is a zona.

²¹⁰ The Gemara asks: Does he really hold in accordance with the opinion of Rabbi Elazar? Don't we maintain that the teaching of Rabbi Eliezer ben Ya'akov measures a kav but is clean, i.e., not many of his rulings have been recorded, but those that have been recorded are considered authoritative, and the halakha is always in accordance with his opinion? However, with regard to this ruling of Rabbi Elazar, Rav Amram said that Rav said that the halakha is not in accordance with Rabbi Elazar. The Gemara comments: This is indeed difficult.

²¹¹ Rav Ashi said: This is not the reason for the dispute. Rather, they disagree with regard to whether there is a ḥalal from a relationship for which the man and woman are liable for transgressing a positive mitzva. The marriage of a High Priest to a non-virgin is a violation of the mitzva that a High Priest marry a virgin, but it is not expressed in the Torah as a prohibition against a High Priest marrying a non-virgin. Rabbi Eliezer ben Ya'akov holds that there is a ḥalal from a relationship for which the man and woman are liable for violating a positive mitzva, and the Rabbis hold that there is no ḥalal from a relationship for which the man and woman are liable for violating a positive mitzva.

²¹² What is the reason of Rabbi Eliezer ben Ya'akov? As it is written: "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 for a wife" (Leviticus 21:14), and it states subsequently: "And he shall not profane his seed among his people" (Leviticus 21:15). Rabbi Eliezer ben Ya'akov maintains that this profanation is referring to all of them, i.e., he profanes his seed by marrying any woman unfit for him, including a non-virgin.

²¹³ And what do the Sages hold? The word "these" concluded discussion of that matter. Consequently, only the prohibitions listed before the phrase "these shall he not take" result in the offspring being a ḥalal. And Rabbi Eliezer ben Ya'akov said: The word "these" comes to exclude a

menstruating woman. If a priest has relations with a menstruating woman, the offspring is not a ḥalal, as this is not a prohibition specific to priests.

²¹⁴ The Gemara asks: In accordance with whose opinion is that which is taught in the following baraita: From the prohibitions preceding the phrase “these shall he not take” you cause your offspring to be a ḥalal, but you do not cause your offspring to be a ḥalal by having a child with a menstruating woman. In accordance with whose opinion is it? It is in accordance with the opinion of Rabbi Eliezer ben Ya’akov. The Gemara asks: And according to Rabbi Eliezer ben Ya’akov, let the verse write the word these at the end, after stating that a High Priest must marry a virgin, in order to make it clear that if he marries a non-virgin their child is a ḥalal. The Gemara responds: Indeed, this is difficult.

²¹⁵ § The Sages taught: With regard to a priest’s betrothed sister, Rabbi Meir and Rabbi Yehuda say: He must become impure for her upon her death. Rabbi Yosei and Rabbi Shimon say: He may not become impure for her. With regard to his sister who has been raped or seduced, all agree that he may not become impure for her upon her death. With regard to his sister whose hymen was torn accidentally, he may not become impure for her; this is the statement of Rabbi Shimon, as Rabbi Shimon would say the following principle: If his sister was fit for a High Priest, he must become impure for her, but if she was not fit for a High Priest, he may not become impure for her.

²¹⁶ And if his sister was a grown woman, he must become impure for her according to everyone. Even those who hold that a High Priest may not marry a grown woman because her hymen is no longer whole agree that with regard to a priest becoming impure, she is considered a virgin and he must therefore become impure for her upon her death.

²¹⁷ The Gemara analyzes this baraita: What is the reason of Rabbi Meir and Rabbi Yehuda? They expound the verse as follows: “And for his virgin sister, who is near to him, who has had no man, for her must he defile himself” (Leviticus 21:3). “And for his virgin sister” excludes one who has been raped or seduced, as they are not virgins.

²¹⁸ One might have thought that I should exclude even a woman whose hymen was torn accidentally via a foreign object. The verse therefore states: “Who has had no man,” to include only one whose becoming a non-virgin was caused by a man, i.e., through intercourse. This case of a woman whose becoming a non-virgin was not caused by a man but rather by an object is thereby excluded from the category of a non-virgin, and her brother does become impure for her. “Who is near”; this is to include a betrothed sister. “To him”; this is to include a grown woman.

²¹⁹ The Gemara asks: Why do I need a verse to include a grown woman? Didn’t Rabbi Meir say that the word “virgin” indicates even a woman who is partly a virgin, i.e., a grown woman, whose hymen is partially intact? Consequently, when the verse states that the priest becomes impure for his virgin sister, a grown woman is included. The Gemara answers: The derivation from the verse is necessary, as it might enter your mind to say that we should derive a verbal analogy from the word “virgin” in this context and the word “virgin” from there, the context of a High Priest: In the analogy, just as there the virgin referred to is a young woman and not a grown woman, so too here she must be a young woman. The verse therefore teaches us that a priest becomes impure for his sister even if she is a grown woman.

²²⁰ And Rabbi Yosei and Rabbi Shimon, what is their reason? They expound as follows: “And for his virgin sister” excludes a woman who was raped or seduced and a woman whose hymen was torn

accidentally, who is also not considered a virgin. “Who has had no man” excludes a betrothed sister, although she is not yet fully married. “Who is near”; this is to include a betrothed woman who was then divorced, as she is once again near to her brother. “To him”; this is to include a grown woman. The Gemara asks: Can the term “who is near” come to include a betrothed woman who was divorced?

²²¹ Didn’t Rabbi Shimon say: If she was fit for a High Priest, her brother must become impure for her, and if she was not fit for a High Priest, her brother may not become impure for her? A divorced woman is not fit for a High Priest even if she had been only betrothed before her divorce. The Gemara answers: It is different there, as the Merciful One includes her by the term: Who is near, which includes any sister who is close to him, even if she is unfit for a High Priest.

²²² The Gemara asks: If so, a woman whose hymen was torn accidentally should also be included. The Gemara responds that the term: Who is near, which is written in the singular, includes only one additional case and not two. The Gemara asks: And what did you see to render forbidden a woman whose hymen was accidentally torn and permit a divorcée who had previously been only betrothed, and not the opposite? The Gemara answers: In this case of the woman whose hymen was torn, an action has been performed on her body, whereas in that case of the divorcée, no action has been performed on her body.

²²³ The baraita cites Rabbi Yosei and Rabbi Shimon as holding that a priest may not become impure for his sister who was betrothed and then divorced, and it cites only Rabbi Shimon as holding that he may not become impure for his sister who was a grown woman. Based on this, the Gemara asks: From the fact that Rabbi Yosei left his partner, Rabbi Shimon, it may be inferred that with regard to a woman whose hymen was torn accidentally he holds in accordance with the opinion of Rabbi Meir, that a priest does become impure. From where does he derive this halakha? The Gemara explains that he derives it from the phrase: “Who has had no man,” as a woman whose hymen was torn accidentally has not been with a man.

²²⁴ The Gemara asks: Haven’t you already derived the halakha of a betrothed woman from that phrase? The Gemara answers: Rabbi Yosei learns one halakha from the phrase “has had no,” which indicates that she has not even been betrothed, and he derives one halakha from the term “man,” which indicates that only a woman who was with a man is no longer considered a virgin with regard to this halakha, but not one whose hymen was torn accidentally.

²²⁵ It was stated previously that according to Rabbi Shimon, the term “to him,” comes to include a grown woman. The Gemara asks: Didn’t Rabbi Shimon say with regard to a High Priest that the term virgin indicates a complete virgin, which does not include a grown woman? The Gemara answers: His reason there is also derived from here, as he expounds as follows: From the fact that the expression “to him” is needed to include a grown woman, it may be inferred that the term virgin by itself indicates a complete virgin.

²²⁶ § The Gemara cites another ruling of Rabbi Shimon ben Yoḥai, also related to the discussion of defining who is considered a virgin. It is taught in a baraita that Rabbi Shimon ben Yoḥai says: A female convert who converted when she was less than three years and one day old is permitted to marry into the priesthood, as it is stated: “But all the women children that have not known man by lying with him, keep alive for yourselves” (Numbers 31:18). This verse indicates that these women

were fit for all of the warriors, and since Pinehas the priest was with them (see Numbers 31:6), it is clear that young converts are permitted to priests.

²²⁷ The Gemara asks: And how do the Rabbis, who disagree with Rabbi Shimon, interpret this verse? The Gemara responds: They understand the phrase “keep alive for yourselves” to mean that they could keep them as slaves and as maidservants, but they could not necessarily marry them. The Gemara asks: If so, if the source for Rabbi Shimon’s ruling is this verse, a girl who converted at the age of three years and one day old should also be permitted to a priest, as long as she has never had intercourse, as stated by the verse.

²²⁸ The Gemara replies: His reasoning is as stated by Rav Huna, as Rav Huna raised a contradiction: It is written in one verse: “Kill every woman that has known man by lying with him” (Numbers 31:17), which indicates that a woman who has not known a man in this way you may keep alive. This proves by inference that the female children, who are not classified as women, you may keep alive regardless of whether they knew a man or they did not know a man. And it is written in a different verse: “But all the women children that have not known man by lying with him, keep alive for yourselves” (Numbers 31:18), which indicates that if they have known men, you must kill them. This is an apparent contradiction.

²²⁹ Rav Huna explains: You must say that the verse is speaking of a woman who is fit for intercourse. The verse does not mean to distinguish between women who have actually engaged in sexual intercourse and those who have not. Rather, it distinguishes between a girl over the age of three, with whom an act of intercourse is recognized as such, and a girl below the age of three.

²³⁰ This is also taught in a baraita: “Every woman that has known man”; the verse is speaking of a woman who is fit for intercourse. The baraita proceeds to discuss this halakha: Do you say it is referring to one who is fit for intercourse, or perhaps it is referring only to one who has actually had intercourse? When the verse states: “But all the women children that have not known man by lying with him, keep alive for yourselves,” which indicates that grown women must be killed even if they have not had intercourse with a man, you must say that the verse is speaking of a woman who is fit for intercourse.

²³¹ The Gemara asks a practical question with regard to the events described by the Torah: From where did they know whether a particular girl was already three years old and fit for intercourse? Rav Huna bar Bizna said that Rabbi Shimon Ḥasida said: They passed them before the frontplate of the High Priest. Any girl whose face miraculously turned sallow, it was known that she was fit for intercourse, and any girl whose face did not turn sallow, it was thereby known that she was not fit for intercourse. Similarly, Rav Naḥman said: A sign of transgression in the area of sexual morality is the disease *hidrokān*, which causes one’s face to turn sallow.

²³² Similarly, you can say with regard to the verse: “And they found among the inhabitants of Jabesh-gilead four hundred young virgins that had not known man by lying with him” (Judges 21:12). From where did they know that they were virgins? Rav Kahana said: They sat them on the opening of a barrel of wine. If she was a non-virgin, her breath would smell like wine; if she was a virgin, her breath did not smell like wine.

²³³ The Gemara suggests: They should have passed them before the frontplate, as described previously with regard to the daughters of Midian. Rav Kahana, son of Rav Natan, said: The verse states with regard to the frontplate: “And it shall be upon Aaron’s forehead...that they may be

accepted before the Lord” (Exodus 28:38), which indicates that the frontplate is worn for acceptance but not for calamity. The Gemara raises a difficulty: If so, the frontplate should also not have been used with regard to the women of Midian. Rav Ashi said: The word “they” is written in the verse, indicating that for them, the Jewish people, the frontplate is for acceptance but not for calamity; but for gentiles it can be used even for calamity.

²³⁴ Rabbi Ya’akov bar Idi said that Rabbi Yehoshua ben Levi said: The halakha is in accordance with the opinion of Rabbi Shimon ben Yoḥai. Rabbi Zeira said to Rabbi Ya’akov bar Idi: Did you hear Rabbi Yehoshua ben Levi say this explicitly or did you learn it by inference?

²³⁵ The Gemara asks: What inference was Rabbi Zeira hinting at? The Gemara explains: As Rabbi Yehoshua ben Levi said: There was a certain city in Eretz Yisrael where they contested the lineage of a particular family. And Rabbi Yehuda HaNasi sent Rabbi Romanus, and he examined the family’s lineage and found that it included the daughter of a convert who had converted when she was less than three years and one day old, and she had married a priest. And Rabbi Yehuda HaNasi permitted her to the priesthood. This indicates that Rabbi Yehoshua ben Levi ruled in accordance with Rabbi Shimon. Rabbi Ya’akov bar Idi said to him: I heard explicitly that Rabbi Yehoshua ben Levi ruled in this manner.

²³⁶ The Gemara asks: And if Rabbi Yehoshua ben Levi’s opinion had been derived by inference, what of it? The Gemara answers: Perhaps it was different there, because since she had already married a priest, she could remain married after the fact, but it would not be permitted for her to marry a priest ab initio, as it is Rav and Rabbi Yoḥanan who both say: A High Priest may not marry a grown woman and a woman whose hymen was torn accidentally, but if he married one of them he is married and not required to divorce her.

²³⁷ The Gemara refutes this claim: How can these cases be compared? Granted, there, in the case of a grown woman, it is reasonable for her to be permitted after the fact, as a young woman will eventually be a grown woman under him, i.e., while married to him, and she will eventually be a non-virgin under him. However, here, in the case of a convert, will she eventually be a zona under him? If she is forbidden to a priest ab initio it is because she has the status of a zona, in which case she should be prohibited after the fact as well. Consequently, it can be proven from the incident cited previously that Rabbi Yehoshua ben Levi rules in accordance with the opinion of Rabbi Shimon.

²³⁸ The Gemara comments: Rav Safra taught this halakha after deriving Rabbi Yehoshua ben Levi’s ruling by inference, although he had never heard this ruling explicitly. And the question mentioned above was difficult for him, and he resolved it in this same manner.

²³⁹ The Gemara relates another incident related to this halakha: A certain priest married a convert, who had converted when she was less than three years and one day old. Rav Naḥman bar Yitzḥak said to him: What is this? Why are you violating the halakha? He said to him: It is permitted for me to marry her, as Rabbi Ya’akov bar Idi said that Rabbi Yehoshua ben Levi said that the halakha is in accordance with the opinion of Rabbi Shimon ben Yoḥai. He said to him: Go remove her, i.e., divorce her. And if not, I will remove Rabbi Ya’akov bar Idi from your ear [me’unekh] for you. In other words, I will take the necessary action to ensure that you obey and divorce her, so that you can no longer follow Rabbi Ya’akov bar Idi’s opinion.

²⁴⁰ § It is taught in a baraita: And similarly, Rabbi Shimon ben Yoḥai would say:

²⁴¹ The graves of gentiles do not render items impure through a tent, as it is stated: “And you My sheep, the sheep of My pasture, are men [adam]” (Ezekiel 34:31), from which it is derived that you, the Jewish people, are called men [adam] but gentiles are not called men [adam]. Since the Torah introduces the halakha of ritual impurity of a tent with the words: “When a man [adam] dies in a tent” (Numbers 19:14), this halakha applies only to corpses of Jews but not those of gentiles.

²⁴² The Gemara raises an objection based upon the verse with regard to captives taken during the war against Midian: “And the persons [nefesh adam] were sixteen thousand” (Numbers 31:40), which indicates that gentiles are also referred to as adam. The Gemara answers: They are given this title due to the need to distinguish the people taken captive from the animals that were taken as spoils of war.

²⁴³ The Gemara raises another difficulty based upon a verse with regard to the city of Nineveh: “Wherein are more than one hundred and twenty thousand men [adam] that cannot discern between their right hand and their left hand, and also much cattle” (Jonah 4:11). The Gemara answers: There, too, the gentiles are given this title due to the need to distinguish them from the animals mentioned in the verse.

²⁴⁴ The Gemara continues to question Rabbi Shimon’s ruling based upon a verse pertaining to the war against Midian: “Whoever has killed anyone, and whoever has touched any slain, purify yourselves” (Numbers 31:19). This indicates that gentile corpses convey ritual impurity. The Gemara answers: Perhaps a Jew was killed, and the concern was for impurity caused by his corpse. And the Rabbis reply that the verse attests: “Not one man of us is missing” (Numbers 31:49). No Jewish soldiers fell in battle, and therefore the concern for impurity must have been due to the corpses of gentiles. And Rabbi Shimon ben Yoḥai responds: The intent of that verse is that not one man of us is missing due to transgression, i.e., none of them sinned.

²⁴⁵ Ravina said that the explanation above is unnecessary: Granted, the verse excluded gentiles from rendering items impure through a tent, as it is written: “When a man [adam] dies in a tent” (Numbers 19:14); but did the verse exclude them from rendering items impure via touching and carrying? Since gentile corpses convey impurity in these ways, they could have rendered impure the Jews involved in the war with Midian, even according to Rabbi Shimon ben Yoḥai.

²⁴⁶ MISHNA: If a priest betrothed a widow and was subsequently appointed to be High Priest, he may marry her. And there was an incident with Yehoshua ben Gamla, who betrothed Marta bat Baitos, a widow, and the king subsequently appointed him to be High Priest, and he nevertheless married her. Conversely, in the case of a widow waiting for her yavam who happened before a common priest, i.e., the priest was her yavam, and he was subsequently appointed to be High Priest, then even if he had already performed levirate betrothal with her, he may not marry her, because she is a widow.

²⁴⁷ GEMARA: The Sages taught: From where is it derived that if a priest betrothed a widow and was subsequently appointed to be High Priest, that he may marry her? The verse states: “Shall he take for a wife” (Leviticus 21:14), an inclusive phrase that indicates that he may marry her in this situation despite the general prohibition for a High Priest to marry a widow. The Gemara asks: If so, a widow waiting for her yavam should also be permitted to a High Priest. The Gemara answers: The word “wife” indicates that this does not include a yevama, who was not initially his wife but his brother’s.

²⁴⁸ The mishna related an incident with Yehoshua ben Gamla. The Gemara notes that the mishna states that the king appointed him, yes, but not that he was worthy of being appointed. Rav Yosef

said: I see a conspiracy here, as this was clearly not a proper appointment by the priests and the Sanhedrin but rather a political appointment, as Rav Asi said: Marta bat Baitos brought a vessel the size of a half-se'a [tarkav] full of dinars to King Yannai until he appointed Yehoshua ben Gamla High Priest.

²⁴⁹ MISHNA: A High Priest whose brother died without children performs ḥalitza and he does not perform levirate marriage, as he may not marry a widow.

²⁵⁰ GEMARA: The Gemara comments: The mishna teaches this halakha categorically, indicating that it is no different if she is his brother's widow from betrothal, and it is no different if she is his widow from marriage. The Gemara analyzes this halakha: Granted, she is forbidden to him if she was widowed from marriage, as, if he were to marry her, it would be a violation of both the positive mitzva that the High Priest marry a virgin and the prohibition for him to marry a widow. And a positive mitzva, i.e., levirate marriage, does not override a prohibition and a positive mitzva together. However, if she was a widow from betrothal and is therefore still a virgin, the positive mitzva of levirate marriage should come and override the prohibition for a High Priest to marry a widow.

²⁵¹ The Gemara answers: By Torah law, levirate marriage is permitted in this case. However, there is a rabbinic decree prohibiting their first act of intercourse due to their second act of intercourse. After they have engaged in intercourse once, they have fulfilled the mitzva of levirate marriage, and any subsequent act of intercourse would constitute a violation of the prohibition without the fulfillment of a mitzva.

²⁵² MISHNA: A common priest may not marry a sexually underdeveloped woman [aylonit], who is incapable of bearing children, unless he already has a wife and children. Rabbi Yehuda says: Even if he has a wife and children, he may not marry a sexually underdeveloped woman, as she is the zona about whom it is stated in the Torah that a priest may not marry her. Intercourse with her is considered a licentious act because she is incapable of bearing children. And the Rabbis say: The only women in the category of zona, who are therefore forbidden to a priest, are a female convert, a freed maidservant, and any woman who engaged in licentious sexual intercourse with a man she is prohibited from marrying.

²⁵³ GEMARA: The Exilarch said to Rav Huna: What is the reason for the halakha that a priest may not marry a sexually underdeveloped woman? It is because he is obligated to fulfill the mitzva to be fruitful and multiply. Is it only priests who were commanded to be fruitful and multiply, but Israelites were not commanded? Why does the mishna specify that a priest may not marry a sexually underdeveloped woman? Rav Huna said to him: This halakha does in fact apply even to Israelites, and the tanna mentions priests because he wants to teach it in a way that would parallel the latter clause of the mishna, which states that Rabbi Yehuda says: Even if he has a wife

²⁵⁴ and he has children, he may not marry a sexually underdeveloped woman, as she is the zona about whom it is stated in the Torah that a priest may not marry her. It is priests who were commanded not to marry a zona, but Israelites were not commanded this. It is due to that reason that he taught the first clause of the mishna about a priest, even though that halakha applies equally to Israelites.

²⁵⁵ Rav Huna said: What is the reason for the opinion of Rabbi Yehuda? As it is written: "And they shall eat, and not have enough, they shall commit harlotry, and shall not increase" (Hosea 4:10). He expounds the verse as follows: Any intercourse that does not have the possibility to increase the

population because the woman is incapable of having children, is nothing other than licentious sexual intercourse.

²⁵⁶ § It is taught in a baraita that Rabbi Eliezer says: A priest may not marry a minor. Rav Ḥisda said to Rabba: Go and investigate this halakha, as in the evening Rav Huna will ask you the reason for Rabbi Eliezer's ruling. He went and investigated it, and arrived at the following conclusion: Rabbi Eliezer holds in accordance with the opinion of Rabbi Meir, and he also holds in accordance with the opinion of Rabbi Yehuda.

²⁵⁷ Rabba explains: He holds in accordance with the opinion of Rabbi Meir, who says that one must be concerned for the minority. Rabbi Meir does not allow one to assume that an unknown case is similar to the majority of cases. Consequently, one must take into account the possibility that a minor will turn out to be sexually underdeveloped, although this will not be true of most individuals. And he also holds in accordance with the opinion of Rabbi Yehuda, who said that a sexually underdeveloped woman is a zona and therefore forbidden to a priest.

²⁵⁸ The Gemara challenges Rabba's explanation: And does Rabbi Eliezer hold in accordance with the opinion of Rabbi Meir? Isn't it taught in a baraita: A boy minor and a girl minor may not perform ḥalitza or levirate marriage; this is the statement of Rabbi Meir. The Rabbis said to Rabbi Meir: You spoke well when you said that they may not perform ḥalitza, as the term "man" is written in the passage of ḥalitza (Deuteronomy 25:7–10), which limits the halakha to an adult male, and we compare a woman to a man and therefore limit ḥalitza to an adult woman. However, what is the reason that they may not perform levirate marriage?

²⁵⁹ Rabbi Meir said to them: A boy minor may not perform levirate marriage lest he be found to be a eunuch, i.e., one who is incapable of fathering children for his late brother. Similarly, a girl minor may not perform levirate marriage lest she be found to be sexually underdeveloped when she grows up. In either case, the mitzva of levirate marriage does not apply, and they turn out to have encountered a forbidden relative. And it was taught in a different baraita: A girl minor enters into levirate marriage but does not perform ḥalitza; this is the statement of Rabbi Eliezer. This proves that Rabbi Eliezer disagrees with Rabbi Meir and is not concerned that a girl may turn out to be sexually underdeveloped.

²⁶⁰ The Gemara continues to challenge Rabba's explanation of Rabbi Eliezer's ruling. And does Rabbi Eliezer hold in accordance with the opinion of Rabbi Yehuda? Wasn't it taught in a baraita: The zona forbidden to a priest is as the name zona implies, i.e., a married woman who committed adultery; this is the statement of Rabbi Eliezer. Rabbi Akiva says: A zona is a woman, even an unmarried woman, who is available to all, i.e., she has intercourse with whoever is interested. Rabbi Matya ben Ḥarash says: Even if her husband went to make her drink the bitter waters after she disregarded his warning not to seclude herself with a certain man, and he had intercourse with her on the way, he has thereby caused her to become a zona because she was forbidden to him at the time, despite the fact that she is his wife.

²⁶¹ Rabbi Yehuda says: A zona is a sexually underdeveloped woman. And the Rabbis say: The term zona applies only to a female convert, a freed maidservant, and one who engaged in licentious sexual intercourse. Rabbi Elazar says: Even in the case of an unmarried man who had intercourse with an unmarried woman not for the purpose of marriage, he has thereby caused her to become a zona. This baraita proves that Rabbi Eliezer does not agree with Rabbi Yehuda.

²⁶² Rather, Rav Adda bar Ahava said that Rabbi Eliezer's ruling that a priest may not marry a minor must be explained differently: Here we are dealing with a High Priest, and the problem is as follows: When can he acquire her as his wife? Only when she is grown up. However, if they had started living together as husband and wife when she was a minor, then when she is grown up and the marriage can legally take effect, she is already a non-virgin, and a High Priest is commanded to marry a virgin.

²⁶³ Rava said: This explanation is without reason. If her father betrothed her to her husband, her husband acquired her from that time, as betrothal that a father carries out on his daughter's behalf when she is a minor is effective by Torah law. And if the minor betrothed herself, is this Rabbi Eliezer's opinion and not that of the Rabbis? The Rabbis would certainly agree that a High Priest may not marry a minor under these circumstances.

²⁶⁴ Rather, Rava said: Actually, Rabbi Eliezer's ruling includes a common priest, and the reason he cannot marry a minor is that we are concerned lest she be seduced by another man, due to her tender age and naïveté, while married to him. The Gemara asks: If so, the same concern should apply to an Israelite also. The Gemara answers: The seduction of a minor is considered rape, and a rape victim remains permitted to her husband in a case where she is married to an Israelite, but not if she is married to a priest.

²⁶⁵ Rav Pappa said: Rabbi Eliezer's ruling applies specifically to a High Priest, and it is the opinion of this tanna, as it is taught in a baraita that when the verse states: "A virgin of his own people shall he take for a wife [isha]" (Leviticus 21:14), one might have thought a High Priest may marry a minor; the verse therefore states that he must marry a woman [isha], i.e., an adult. If he must marry a woman, one might have thought it means a grown woman. The verse therefore states that he must marry a virgin, which excludes a grown woman, who is considered only a partial virgin because her hymen is not fully intact. How so? He must marry a woman who has left the class of minority but who has not yet reached the class of grown womanhood, i.e., he must marry a maiden.

²⁶⁶ Rav Naḥman bar Yitzḥak said: It is the opinion of this tanna, as it is taught in a baraita: The High Priest must marry a virgin, and the term virgin refers only to a maiden. And a verse similarly states: "And the maiden was very fair to look upon, a virgin, and no man had known her" (Genesis 24:16).

²⁶⁷ The baraita cited above mentioned that Rabbi Elazar says: In the case of an unmarried man who had intercourse with an unmarried woman not for the purpose of marriage, he has caused her to become a zona. Rav Amram said: The halakha is not in accordance with the opinion of Rabbi Elazar.

²⁶⁸ MISHNA: A man may not neglect the mitzva to be fruitful and multiply unless he already has children. Beit Shammai say: One fulfills this mitzva with two males, and Beit Hillel say: A male and a female, as it is stated: "Male and female He created them" (Genesis 5:2).

²⁶⁹ GEMARA: The Gemara infers from the mishna's wording that if he already has children he may neglect the mitzva to be fruitful and multiply, but he may not neglect the mitzva to have a wife. This supports what Rav Naḥman said in the name of Shmuel, who said: Even if a man has several children, it is prohibited to remain without a wife, as it is stated: "It is not good that the man should be alone" (Genesis 2:18).

²⁷⁰ And some say a different version of the inference from the mishna: If he already has children, he may neglect the mitzva to be fruitful and multiply and he may also neglect the mitzva to have a wife. Shall we say this is a conclusive refutation of what Rav Naḥman said that Shmuel said? The Gemara

responds: No, it means that if he does not have children he must marry a woman capable of bearing children, whereas if he has children he may marry a woman who is not capable of bearing children. A practical difference between a man who has children and one who does not is whether he is permitted to sell a Torah scroll in order to marry a woman capable of having children. This is permitted only for one who does not yet have children.

²⁷¹ § The mishna states that Beit Shammai say that one fulfills the mitzva to be fruitful and multiply when he has two males. The Gemara asks: What is the reason of Beit Shammai? The Gemara answers: We learn this from Moses as it is written: “The sons of Moses, Gershom and Eliezer” (I Chronicles 23:15). Since Moses did not have any other children, two sons must be sufficient to fulfill the mitzva. And the reason of Beit Hillel is that we learn from the creation of the world, as mankind was created male and female. The Gemara asks: And Beit Shammai, let them learn from the creation of the world as well. The Gemara answers that Beit Shammai could say to you: We do not derive a case where it is possible

²⁷² from one that is not possible. Mankind was initially created with a male and female because otherwise reproduction would not have been possible. However, this fact cannot serve as a source that the mitzva to be fruitful and multiply is fulfilled only once one has a son and a daughter. The Gemara asks: And Beit Hillel, let them also learn from Moses. Beit Hillel could say to you: Moses acted based on his own perception when he separated from his wife, but this does not mean that a man is permitted to neglect the mitzva to be fruitful and multiply after fathering two males, as it is taught in a baraita: Moses did three things based on his own perception, and his perception agreed with the perception of the Omnipresent: He separated from his wife, he broke the tablets, and he added one day to the days of separation before the revelation at Sinai.

²⁷³ The Gemara clarifies: When Moses separated from his wife after the revelation at Sinai, what did he interpret that led him to do so? He said: If in the case of Israel, with whom the Divine Presence spoke only temporarily and for whom God set a specific time for revelation, the Torah stated: “Do not approach a woman” (Exodus 19:15), I, Moses, who am set aside for divine speech all the time and for whom God did not set a specific time, all the more so I must separate from my wife. And his perception agreed with the perception of the Omnipresent, as it is stated after the revelation at Sinai: “Go say to them: Return to your tents; and you, stand here with Me” (Deuteronomy 5:26–27). This indicates that whereas others could return to their homes and normal married life after the revelation at Sinai, Moses was to stay with God and not return to his wife.

²⁷⁴ Moses broke the tablets following the sin of the Golden Calf. What did he interpret that led him to do so? Moses said: If in the case of the Paschal lamb, which is only one of 613 mitzvot, the Torah states: “No alien shall eat of it” (Exodus 12:43), excluding not only gentiles but apostate Jews as well, then here, in the case of the Golden Calf, where the tablets represent the entire Torah and where the Jewish people are apostates, as they are worshipping the calf, all the more so must they be excluded from receiving them.

²⁷⁵ And his perception agreed with the perception of the Omnipresent, as it is written: “The first tablets that you broke [asher shibbarta]” (Exodus 34:1), and Reish Lakish said: The word asher is an allusion to the fact that the Holy One, Blessed be He, said to Moses: May your strength be true [yishar koḥakha] that you broke the tablets.

²⁷⁶ When Moses added one day to the days of separation before the revelation at Sinai based on his own perception, what did he interpret that led him to do so? He reasoned that since it is written: “And sanctify them today and tomorrow” (Exodus 19:10), the juxtaposition of the words “today” and “tomorrow” teaches that today is like tomorrow: Just as tomorrow the men and women will separate for that day and the night preceding it, so too, today requires separation for the day and the night preceding it. Since God spoke to him in the morning, and the night of that day already passed, Moses said: Conclude from this that separation must be in effect for two days aside from now, i.e., not including the day of the command. Therefore, he extended the mitzva of separation by one day. And his perception agreed with the perception of the Omnipresent, as the Divine Presence did not rest upon Mount Sinai until Shabbat morning, as Moses had determined.

²⁷⁷ § It is taught in a baraita that Rabbi Natan says that Beit Shammai say: The mitzva to be fruitful and multiply is fulfilled with two males and two females. And Beit Hillel say: A male and a female.

²⁷⁸ Rav Huna said: What is the reason of Rabbi Natan, in accordance with the opinion of Beit Shammai? It is as it is written: “And again she bore his brother [et aḥiv] Abel [et Hevel]” (Genesis 4:2). The use of the superfluous word “et” indicates that she gave birth to Abel and his sister, in addition to Cain and his sister. And it states: “For God has appointed me another seed instead of Abel; for Cain slew him” (Genesis 4:25). This indicates that one must have at least four children. And the Rabbis, how do they understand this verse? In their opinion, Eve was thanking God for granting her another child, but one is not obligated to have four children.

²⁷⁹ It is taught in another baraita that Rabbi Natan says that Beit Shammai say: The mitzva to be fruitful and multiply is fulfilled with a male and a female. And Beit Hillel say: Either a male or a female. Rava said: What is the reason of Rabbi Natan in accordance with the opinion of Beit Hillel? It is as it is stated: “He did not create it a waste; He formed it to be inhabited” (Isaiah 45:18), and one has made the earth inhabited to a greater degree by adding even one child to the world.

²⁸⁰ § It was stated that amora'im disagreed over the following issue: If a man had children when he was a gentile and he subsequently converted, Rabbi Yoḥanan said: He has already fulfilled the mitzva to be fruitful and multiply, and Reish Lakish said: He has not fulfilled the mitzva to be fruitful and multiply. Rabbi Yoḥanan said he has fulfilled the mitzva to be fruitful and multiply, as he already had children. And Reish Lakish said he has not fulfilled the mitzva to be fruitful and multiply, as the legal status of a convert who just converted is like that of a child just born, and it is considered as though he did not have children.

²⁸¹ The Gemara comments: And they follow their regular line of reasoning, as it was stated: If one had children when he was a gentile and he subsequently converted, Rabbi Yoḥanan said: He does not have a firstborn with regard to inheritance, i.e., the first son born to him after his conversion does not inherit a double portion, as this man already had “the first of his strength” (Deuteronomy 21:17), the Torah’s description of the firstborn in this context, before he converted. And Reish Lakish said: He does have a firstborn with regard to inheritance, as the legal status of a convert who just converted is like that of a child just born.

²⁸² The Gemara adds: And it is necessary to state their opinions in both cases. As, had it only been taught to us with regard to that first case of the mitzva to be fruitful and multiply, one might have said that it is only in that case that Rabbi Yoḥanan said his opinion, because from the outset, gentiles are also subject to the mitzva to be fruitful and multiply. However, with regard to inheritance, since

they are not subject to the halakhot of inheritance, one might say that Rabbi Yoḥanan concedes to Reish Lakish.

²⁸³ And conversely, if their dispute was stated only with regard to this issue of inheritance, I would have said that it is only in this case that Reish Lakish said his opinion, as the halakhot of inheritance do not apply to gentiles. But with regard to that case, the mitzva to be fruitful and multiply, one might say that he concedes to Rabbi Yoḥanan. Consequently, it is necessary for both disputes to be recorded.

²⁸⁴ Rabbi Yoḥanan raises an objection to Reish Lakish based upon the verse: “At that time Berodach-baladan, son of Baladan, king of Babylon, sent a letter” (II Kings 20:12), which indicates that gentiles are considered to be the children of their parents. Therefore, when they convert, they should already have fulfilled the mitzva to be fruitful and multiply. Reish Lakish said to Rabbi Yoḥanan: When they are gentiles they do have family lineage, but when they convert they do not have lineage, as they now belong to the family of the Jewish people and their previous lineage is disregarded.

²⁸⁵ Rav said: Everyone agrees with regard to a Canaanite slave, that he does not have lineage, as it is written that Abraham said to his slaves: “Remain here with the donkey” (Genesis 22:5). This verse is interpreted to mean that they are a nation comparable to a donkey, which has no lineage. The Gemara raises an objection based upon a verse pertaining to Jonathan’s Canaanite slave: “And Ziba had fifteen sons and twenty servants” (II Samuel 9:10), which indicates that a slave’s sons are in fact considered his sons. Rav Aḥa bar Ya’akov said: This is like the expression: A bullock, son of a bull. The word son in this context merely denotes progeny, not lineage.

²⁸⁶ The Gemara asks: If so, here too, with regard to gentiles, there is no proof from the verse about Berodach-baladan that they have family lineage. The Gemara answers: There it is different, as the Bible identified him by his name and by his father’s name, thereby emphasizing the family connection. But here, it does not specify the names of Ziba’s children. And if you wish, say instead that the Bible identified gentiles elsewhere by their father and their father’s father, as it is written: “And King Asa sent them to Ben-hadad, son of Tabrimmon, son of Hezion, king of Aram, who dwelled in Damascus, saying” (I Kings 15:18). This indicates that there is lineage for gentiles.

²⁸⁷ § It was stated that amora’im disagreed over the following issue: If a man had children and they died, Rav Huna said: He has fulfilled the mitzva to be fruitful and multiply through these children. Rabbi Yoḥanan said: He has not fulfilled the mitzva.

²⁸⁸ The Gemara clarifies the reasons for their opinions: Rav Huna said he has fulfilled the mitzva due to a statement of Rav Asi, as Rav Asi said that the reason for this mitzva is that the Messiah, son of David, will not come until all the souls of the body have been finished, i.e., until all souls that are destined to inhabit physical bodies will do so, as it is stated: “For the spirit that enwraps itself is from Me, and the souls that I have made” (Isaiah 57:16). Consequently, once a child has been born and his soul has entered a body the mitzva has been fulfilled, even if the child subsequently dies. And Rabbi Yoḥanan said he has not fulfilled the mitzva, as we require “He formed it to be inhabited” (Isaiah 45:18), and this is not fulfilled when the children have passed away and no longer inhabit the earth.

²⁸⁹ The Gemara raises an objection with regard to the opinion of Rav Huna based upon the following baraita:

²⁹⁰ Grandchildren are considered like children. This indicates that if one's children have passed away, he has fulfilled the mitzva to be fruitful and multiply only if they had children of their own, as they are considered like his own children. The Gemara responds: When that baraita is taught it is with regard to completing the required number of children, e.g., if he had only a son, but his son had a daughter, he has fulfilled the mitzva to be fruitful and multiply.

²⁹¹ The Gemara raises an objection to the opinion of Rav Huna from another baraita: Grandchildren are considered like children. If one of a man's children died or was discovered to be a eunuch, the father has not fulfilled the mitzva to be fruitful and multiply. This directly contradicts Rav Huna's statement that one fulfills the mitzva even if his children die. The Gemara concludes: The refutation of the opinion of Rav Huna is indeed a conclusive refutation.

²⁹² § It was taught in the baraita that grandchildren are considered like children. Abaye thought to say that if one's children die, he fulfills the mitzva to be fruitful and multiply through grandchildren, provided a son was born to his son and a daughter to his daughter, and all the more so if a son was born to his daughter, as his grandchildren take the place of his children in these cases. However, if a daughter was born to his son, no, she cannot take the place of her father. Rava said to him: We require merely fulfillment of the verse: "He formed it to be inhabited," and there is fulfillment in this case, as the earth is inhabited by his descendants.

²⁹³ The Gemara comments: In any event, everyone agrees that if one has two grandchildren from one child, no, he has not fulfilled the mitzva to be fruitful and multiply, even if he has both a grandson and a granddaughter. The Gemara asks: And has he not? Didn't the Rabbis say to Rav Sheshet: Marry a woman and have sons, as you have not yet fathered any sons, and Rav Sheshet said to them: The sons of my daughter are my sons? This indicates that one can fulfill the mitzva through grandchildren even if he did not have a son and daughter of his own.

²⁹⁴ The Gemara answers: There, Rav Sheshet was merely putting them off. The real reason he did not want to get remarried was because Rav Sheshet became impotent from Rav Huna's discourse. Rav Huna's discourses were so lengthy that Rav Sheshet became impotent after waiting for so long without relieving himself.

²⁹⁵ Rabba said to Rava bar Mari: From where is this matter that the Sages stated derived, that grandchildren are considered like children? If we say it is derived from the fact that it is written in Laban's speech to Jacob: "The daughters are my daughters and the children are my children" (Genesis 31:43), which indicates that Jacob's children were also considered to be the children of their grandfather Laban, if that is so, does the continuation of Laban's statement: "And the flocks are my flocks" (Genesis 31:43), indicate that so too, Jacob's flocks were considered as belonging to Laban? Rather, Laban was saying that you, Jacob, acquired them from me. Here too, with regard to the children, Laban was saying: You acquired them from me, i.e., it is only due to me that you have children.

²⁹⁶ Rather, the proof is from here: "And afterward Hezron went in to the daughter of Machir, the father of Gilead...and she bore him Segub" (I Chronicles 2:21), and it is written: "Out of Machir came down governors" (Judges 5:14), and it is written: "Judah is my governor" (Psalms 60:9). Consequently, the governors, who were from the tribe of Judah, were also called the sons of Machir, who was from the tribe of Manasseh. This must be because they were the children of Machir's daughter and Hezron, indicating that grandchildren are considered like children.

²⁹⁷ § The Gemara comments: The mishna is not in accordance with the opinion of Rabbi Yehoshua. As it is taught in a baraita that Rabbi Yehoshua says: If a man married a woman in his youth, and she passed away, he should marry another woman in his old age. If he had children in his youth, he should have more children in his old age, as it is stated: “In the morning sow your seed, and in the evening do not withhold your hand; for you do not know which shall prosper, whether this or that, or whether they both alike shall be good” (Ecclesiastes 11:6). This verse indicates that a man should continue having children even after he has fulfilled the mitzva to be fruitful and multiply.

²⁹⁸ Rabbi Akiva says that the verse should be understood as follows: If one studied Torah in his youth he should study more Torah in his old age; if he had students in his youth he should have additional students in his old age, as it is stated: “In the morning sow your seed, etc.” They said by way of example that Rabbi Akiva had twelve thousand pairs of students in an area of land that stretched from Gevat to Antipatris in Judea, and they all died in one period of time, because they did not treat each other with respect.

²⁹⁹ And the world was desolate of Torah until Rabbi Akiva came to our Rabbis in the South and taught his Torah to them. This second group of disciples consisted of Rabbi Meir, Rabbi Yehuda, Rabbi Yosei, Rabbi Shimon, and Rabbi Elazar ben Shamua. And these are the very ones who upheld the study of Torah at that time. Although Rabbi Akiva’s earlier students did not survive, his later disciples were able to transmit the Torah to future generations.

³⁰⁰ With regard to the twelve thousand pairs of Rabbi Akiva’s students, the Gemara adds: It is taught that all of them died in the period from Passover until Shavuot. Rav Ḥama bar Abba said, and some say it was Rabbi Ḥiyya bar Avin: They all died a bad death. The Gemara inquires: What is it that is called a bad death? Rav Naḥman said: Diphtheria.

³⁰¹ Rav Mattana said: The halakha is in accordance with the opinion of Rabbi Yehoshua, who said that one must attempt to have more children even if he has already fulfilled the mitzva to be fruitful and multiply.

³⁰² § Apropos the discussion with regard to the mitzva to have children, the Gemara cites statements about marriage in general. Rabbi Tanḥum said that Rabbi Ḥanilai said: Any man who does not have a wife is left without joy, without blessing, without goodness. He proceeds to quote verses to support each part of his statement. He is without joy, as it is written: “And you shall rejoice, you and your household” (Deuteronomy 14:26), which indicates that a man is in a joyful state only when he is with his household, i.e., his wife. He is without blessing, as it is written: “To cause a blessing to rest in your house” (Ezekiel 44:30), which indicates that blessing comes through one’s house, i.e., one’s wife. He is without goodness, as it is written: “It is not good that man should be alone” (Genesis 2:18), i.e., without a wife.

³⁰³ In the West, Eretz Yisrael, they say: One who lives without a wife is left without Torah, and without a wall of protection. He is without Torah, as it is written: “Is it that I have no help in me, and that sound wisdom is driven from me?” (Job 6:13), indicating that one who does not have a wife lacks sound wisdom, i.e., Torah. He is without a wall, as it is written: “A woman shall go round a man” (Jeremiah 31:22), similar to a protective wall.

³⁰⁴ Rava bar Ulla said: One who does not have a wife is left without peace, as it is written: “And you shall know that your tent is in peace; and you shall visit your habitation and shall miss nothing” (Job 5:24). This indicates that a man has peace only when he has a tent, i.e., a wife.

³⁰⁵ On the same verse, Rabbi Yehoshua ben Levi said: Whoever knows that his wife fears Heaven and she desires him, and he does not visit her, i.e., have intercourse with her, is called a sinner, as it is stated: And you shall know that your tent is in peace; and you shall visit your habitation. And Rabbi Yehoshua ben Levi said: A man is obligated to visit his wife for the purpose of having intercourse when he is about to depart on a journey, as it is stated: “And you shall know that your tent is in peace, etc.”

³⁰⁶ The Gemara asks: Is this last statement derived from here? It is derived from there: “And your desire shall be to your husband” (Genesis 3:16), which teaches that a wife desires her husband when he is about to depart on a journey. Rav Yosef said: The additional derivation cited by Rabbi Yehoshua ben Levi is necessary only near the time of her set pattern, i.e., when she expects to begin experiencing menstrual bleeding. Although the Sages generally prohibited intercourse at this time due to a concern that the couple might have intercourse after she begins bleeding, if he is about to depart on a journey he must have intercourse with her.

³⁰⁷ The Gemara asks: And how much before the expected onset of menstrual bleeding is considered near the time of her set pattern? Rava said: An interval of time, i.e., half a daily cycle, either a day or a night. The Gemara comments: And this statement that a man must have intercourse with his wife before he departs on a journey applies only if he is traveling for an optional matter, but if he is traveling in order to attend to a matter pertaining to a mitzva, he is not required to have intercourse with his wife so that he not become preoccupied and neglect the mitzva.

³⁰⁸ § The Sages taught: One who loves his wife as he loves himself, and who honors her more than himself, and who instructs his sons and daughters in an upright path, and who marries them off near the time when they reach maturity, about him the verse states: And you shall know that your tent is in peace. As a result of his actions, there will be peace in his home, as it will be devoid of quarrel and sin. One who loves his neighbors, and who draws his relatives close, and who marries the daughter of his sister, a woman he knows and is fond of as a family relative and not only as a wife,

³⁰⁹ and who lends a sela to a pauper at his time of need, about him the verse states: “Then shall you call, and the Lord will answer; you shall cry, and He will say: Here I am” (Isaiah 58:9).

³¹⁰ § The Gemara provides a mnemonic device for a series of statements cited in the name of Rabbi Elazar: Woman; and land; helper; this; two; the blessings; merchants; lowly. The Gemara presents these statements: Rabbi Elazar said: Any man who does not have a wife is not a man, as it is stated: “Male and female He created them...and called their name Adam” (Genesis 5:2). And Rabbi Elazar said: Any man who does not have his own land is not a man, as it is stated: “The heavens are the heavens of the Lord; but the earth He has given to the children of men” (Psalms 115:16).

³¹¹ And Rabbi Elazar said: What is the meaning of that which is written: “I will make him a helpmate for him [kenegdo]” (Genesis 2:18)? If one is worthy his wife helps him; if he is not worthy she is against him. And some say a slightly different version: Rabbi Elazar raised a contradiction: It is written in the Torah with a spelling that allows it to be read: Striking him [kenagdo], and we read it as though it said: For him [kenegdo]. If he is worthy she is for him as his helpmate; if he is not worthy she strikes him.

³¹² The Gemara relates that Rabbi Yosei encountered Elijah the prophet and said to him: It is written: I will make him a helpmate. In what manner does a woman help a man? Elijah said to him: When a man brings wheat from the field, does he chew raw wheat? When he brings home flax, does he wear

unprocessed flax? His wife turns the raw products into bread and clothing. Is his wife not found to be the one who lights up his eyes and stands him on his feet?

³¹³ And Rabbi Elazar said: What is the meaning of that which is written: “This is now bone of my bones and flesh of my flesh” (Genesis 2:23)? This teaches that Adam had intercourse with each animal and beast in his search for his mate, and his mind was not at ease, in accordance with the verse: “And for Adam, there was not found a helpmate for him” (Genesis 2:20), until he had intercourse with Eve.

³¹⁴ And Rabbi Elazar said: What is the meaning of that which is written: “And in you shall all the families of the earth be blessed [nivrekhu]” (Genesis 12:3)? The Holy One, Blessed be He, said to Abraham: I have two good shoots to graft [lehavrikh] onto you: Ruth the Moabite, the ancestress of the house of David, and Naamah the Ammonite, whose marriage with Solomon led to the ensuing dynasty of the kings of Judea. “All the families of the earth” means: Even families that live in the earth, i.e., who have land of their own, are blessed only due to the Jewish people. Similarly, when the verse states: “All the nations of the earth shall be blessed in him” (Genesis 18:18), it indicates that even ships that come from Galia to Hispania are blessed only due to the Jewish people.

³¹⁵ And Rabbi Elazar said: All craftsmen are destined to stand upon and work the land, as it is stated: “And all that handle the oar, the mariners, and all the pilots of the sea, shall come down from their ships, they shall stand upon the land” (Ezekiel 27:29). And Rabbi Elazar said: There is no occupation lowlier than working the land, as it is stated: “And they shall come down,” implying that one who works the land is of lower stature than even a sailor. The Gemara similarly relates: Rabbi Elazar saw land that was plowed across its width. He said to it: Even if they plow you once more lengthwise, for further improvement, conducting business is better than farming with you, as the potential profits gained by selling merchandise are far greater than those from working the land.

³¹⁶ The Gemara relates a similar incident: Rav entered between the sheaves in a field and saw them waving in the wind. He said to them: If you want to wave go ahead and wave, but conducting business is better than farming with you. Rava similarly said: One who has a hundred dinars that are invested in a business is able to eat meat and wine every day, whereas he who has a hundred dinars worth of land eats only salt and vegetables. And what is more, working the land causes him to lie on the ground at night in order to guard it, and it draws quarrels upon him with other people.

³¹⁷ Rav Pappa said: Sow your own produce and do not buy it. Even though they are equal to each other in value, these that you sow will be blessed. Conversely, buy your clothes rather than weave [teizul] them yourself. The Gemara comments: This applies only to mats [bistarkei], but with regard to the cloak one wears, perhaps he will not find it precisely to his liking, and therefore he should make his own cloak, which fits his measurements.

³¹⁸ Rav Pappa further advised: If there is a hole in your house, close it up and do not enlarge it and then plaster it, or at least plaster it and do not knock it down and build it again. As, whoever engages in construction becomes poor. Hurry to buy land so that you do not lose the opportunity. Be patient and marry a woman who is suitable for you. Descend a level to marry a woman of lower social status, and ascend a level to choose a friend [shushevina].

³¹⁹ Rabbi Elazar bar Avina said: Calamity befalls the world only due to the sins of the Jewish people, as it is stated: “I have cut off nations, their corners are desolate; I have made their streets waste” (Zephaniah 3:6), and it is written: “I said: Surely you will fear Me, you will receive correction”

(Zephaniah 3:7). This indicates that other nations were punished so that the Jewish people would mend their ways.

³²⁰ The Gemara cites more statements with regard to wives. When Rav was taking leave of his uncle and teacher, Rabbi Ḥiyya, upon his return from Eretz Yisrael to Babylonia, Rabbi Ḥiyya said to him: May the Merciful One save you from something that is worse than death. Rav was perplexed: Is there anything that is worse than death? He went, examined the sources, and found the following verse: “And I find more bitter than death the woman, etc.” (Ecclesiastes 7:26). Rabbi Ḥiyya was hinting at this verse, and indeed, Rav’s wife would constantly aggravate him. When he would say to her: Prepare me lentils, she would prepare him peas; if he asked her for peas, she would prepare him lentils.

³²¹ When Ḥiyya, his son, grew up, he would reverse the requests Rav asked him to convey to her, so that Rav would get what he wanted. Rav said to his son Ḥiyya: Your mother has improved now that you convey my requests. He said to Rav: It is I who reverse your request to her. Rav said to him: This is an example of the well-known adage that people say: He who comes from you shall teach you wisdom; I should have thought of that idea myself. You, however, should not do so, i.e., reverse my request, as it is stated: “They have taught their tongue to speak lies, they weary themselves to commit iniquity, etc.” (Jeremiah 9:4). If you attribute such a request to me, you will have uttered a falsehood.

³²² The Gemara relates a similar story. Rabbi Ḥiyya’s wife would constantly aggravate him. Nevertheless, when he would find something she would appreciate, he would wrap it in his shawl and bring it to her. Rav said to him: Doesn’t she constantly aggravate you? Why do you bring her things? Rabbi Ḥiyya said to him: It is enough for us that our wives raise our children and save us

³²³ from sin. We should therefore show our gratitude to them. The Gemara cites a related incident: Rav Yehuda was teaching Torah to Rav Yitzḥak, his son, and they encountered the verse: “And I find more bitter than death the woman” (Ecclesiastes 7:26). His son said to him: For example, whom? His father replied: For example, your mother.

³²⁴ The Gemara asks: Didn’t Rav Yehuda teach Rav Yitzḥak, his son, the following baraita: A man finds peace of mind only with his first wife, as it is stated: “Let your fountain be blessed, and have joy from the wife of your youth” (Proverbs 5:18), and his son said to him: For example, whom, and his father responded in this case as well: For example, your mother. This indicates that Rav Yehuda did find peace of mind with his wife. The Gemara answers: She was aggressive and forceful, but she was easily appeased.

³²⁵ The Gemara asks: What are the circumstances when a woman is considered a bad wife? Abaye said: She arranges a table for him and arranges her mouth for him at the same time. In other words, although she prepares food for him, she verbally abuses him while he eats. Rava said: She arranges a table for him and then turns her back to him, displaying her lack of interest in his company.

³²⁶ Rabbi Ḥama bar Ḥanina said: Once a man marries a woman his iniquities crumble [mitpakekin], as it is stated: “Whoever finds a wife finds good, and obtains [veyafek] favor of the Lord” (Proverbs 18:22). In the West, i.e., Eretz Yisrael, when a man married a woman they would say to him as follows: Matza or motze? In other words, they would ask the groom if the appropriate passage for his wife is that verse, which begins with the word matza, as it is written: Whoever finds [matza] a wife finds good, or whether the more appropriate verse is the one beginning with the word motze, as it is written: “And I find [motze] more bitter than death the woman” (Ecclesiastes 7:26).

³²⁷ Rava said: It is a mitzva to divorce a bad wife, as it is written: “Cast out the scorner and contention will depart; strife and shame will cease” (Proverbs 22:10). And Rava said: A bad wife whose marriage contract settlement is too large for her husband to pay in the event of a divorce, her rival wife is at her side. In other words, the only way for him to improve matters is to take another wife. As people say in the well-known adage: The way to trouble a woman is with her peer and not with a thorn. And Rava said: A bad wife is as troublesome as a day of heavy rain, as it is stated: “A continual dropping on a very rainy day and a contentious woman are alike” (Proverbs 27:15).

³²⁸ And Rava said: Come and see how good a good wife is and how bad a bad wife is. How good is a good wife? As it is written: Whoever finds a wife finds good. If the verse speaks of her, a wife, this demonstrates how good a good wife is, as the Bible praises her. If the verse speaks metaphorically of the Torah, it nevertheless indicates how good a good wife is, as the Torah is compared to her. Conversely, how bad is a bad wife? As it is written: “And I find more bitter than death the woman.” If the verse speaks of her, this demonstrates how bad a bad wife is, as the Bible condemns her. If the verse speaks metaphorically of Gehenna, it still demonstrates how bad a bad wife is, as Gehenna is compared to her.

³²⁹ The Gemara cites further statements on the same issue. The verse states: “Behold, I will bring evil upon them, which they shall not be able to escape” (Jeremiah 11:11). Rav Naḥman said that Rabba bar Avuh said: This is a bad wife whose marriage contract is large. Similarly, with regard to the verse: “The Lord has given me into the hands of those against whom I cannot stand” (Lamentations 1:14), Rav Ḥisda said that Mar Ukva bar Ḥiyya said: This is a bad wife whose marriage contract is large. In the West, Eretz Yisrael, they said this verse is referring to one whose food is dependent on his money. He is forced to purchase his food with cash, as he does not possess land of his own.

³³⁰ With regard to the verse: “Your sons and your daughters shall be given to another people” (Deuteronomy 28:32), Rav Ḥanan bar Rava said that Rav said: This is a reference to the children’s father’s wife, their stepmother. With regard to the verse: “I will provoke them with a vile nation” (Deuteronomy 32:21), Rav Ḥanan bar Rava said that Rav said: This is a bad wife whose marriage contract is large. Rabbi Eliezer says that these are apostates, and so too the verse states: “The vile man has said in his heart: There is no God, they have dealt corruptly” (Psalms 14:1), which proves that an apostate is called vile.

³³¹ It was taught in a baraita with regard to the verse: “I will provoke them with a vile nation,” that these are the inhabitants of Barbarya and the inhabitants of Martenai, who walk naked in the marketplace, as none is more despised and abominable before the Omnipresent than one who walks naked in the marketplace. Rabbi Yoḥanan said: These are the Ḥabbarim, a sect of Persian priests. The Gemara relates: When they said to Rabbi Yoḥanan: The Ḥabbarim have come to Babylonia, he shuddered and fell off his chair, out of concern for the Jews living there. They said to him: There is a way to deal with their persecution, as they accept bribes. Upon hearing that not all was lost, he straightened himself and sat in his place once again.

³³² Apropos the Ḥabbarim, the Gemara cites the following statement of the Sages: The Ḥabbarim were able to issue decrees against the Jewish people with regard to three matters, due to three transgressions on the part of the Jewish people. They decreed against meat, i.e., they banned ritual slaughter, due to the failure of the Jewish people to give the priests the gifts of the foreleg, the jaw,

and the maw. They decreed against Jews bathing in bathhouses, due to their neglect of ritual immersion.

³³³ Third, they exhumed the dead from their graves because the Jews rejoice on the holidays of the gentiles, as it is stated: “Then shall the hand of the Lord be against you and against your fathers” (I Samuel 12:15). Rabba bar Shmuel said: This verse is referring to exhuming the dead, which upsets both the living and the dead, as the Master said: Due to the iniquity of the living, the dead are exhumed.

³³⁴ Rava said to Rabba bar Mari: It is written: “They shall not be gathered nor buried; they shall be for dung upon the face of the earth” (Jeremiah 8:2), and it is written: “And death shall be chosen rather than life” (Jeremiah 8:3). If death will be so indecent that their bodies will not even be buried, why would people choose death over life? Rabba bar Mari said to him: The latter verse does not refer to the previously described state of affairs, but rather it means: Death is preferable for the wicked, as it is better that they not live in this world and sin and consequently descend into Gehenna.

³³⁵ The Gemara cites more statements concerning women. It is written in the book of Ben Sira: A good wife is a good gift for her husband. And it is written: A good one will be placed in the bosom of a God-fearing man; a bad wife is a plague to her husband. What is his remedy? He should divorce her and he will be cured of his plague. A beautiful wife, happy is her husband; the number of his days are doubled. His pleasure in her beauty makes him feel as though he has lived twice as long.

³³⁶ Turn your eyes from a graceful woman who is married to another man, lest you be caught in her trap. Do not turn to her husband to mix wine and strong drink with him, which can lead to temptation. For on account of the countenance of a beautiful woman many have been destroyed, and her slain is a mighty host. Furthermore, many have been the wounded peddlers. This is referring to men who travel from place to place to sell women’s jewelry. Their frequent dealings with women lead their husbands to harm the peddlers. Those who accustom themselves to licentious matters are like a spark that ignites a coal. As a cage is full of birds, so are their houses full of deceit.

³³⁷ The Gemara quotes additional statements from the book of Ben Sira: Do not suffer from tomorrow’s trouble, that is, do not worry about problems that might arise in the future, as you do not know what a day will bring. Perhaps when tomorrow comes, the individual who was so worried will not be among the living, and he was consequently upset over a world that is not his. Prevent a crowd from inside your house, do not let many people enter, and do not even bring all your friends into your house. Make sure, however, that a crowd seeks your welfare, and that you have many allies. Reveal a secret to only one in a thousand, since most people are unable to keep a secret.

³³⁸ Rabbi Asi said: The Messiah, son of David, will not come until all the souls of the body have been finished, i.e., until all souls that are destined to inhabit physical bodies will do so. As it is stated: “For the spirit that enwraps itself is from Me, and the souls that I have made” (Isaiah 57:16). It is taught in a baraita that Rabbi Eliezer says: Anyone who does not engage in the mitzva to be fruitful and multiply is considered as though he sheds blood, as it is stated: “Whoever sheds the blood of man, by man shall his blood be shed” (Genesis 9:6), and it is written immediately afterward: “And you, be fruitful and multiply” (Genesis 9:7).

³³⁹ Rabbi Ya’akov says: It is as though he diminishes the Divine Image, as it is stated: “For in the image of God He made man” (Genesis 9:6), and it is written immediately afterward: “And you, be fruitful and multiply” (Genesis 9:7). Ben Azzai says: It is as though he sheds blood and also

diminishes the Divine Image, as it is stated: “And you, be fruitful and multiply,” after the verse that alludes to both shedding blood and the Divine Image.

³⁴⁰ They said to ben Azzai: There is a type of scholar who expounds well and fulfills his own teachings well, and another who fulfills well and does not expound well. But you, who have never married, expound well on the importance of procreation, and yet you do not fulfill well your own teachings. Ben Azzai said to them: What shall I do, as my soul yearns for Torah, and I do not wish to deal with anything else. It is possible for the world to be maintained by others, who are engaged in the mitzva to be fruitful and multiply.

³⁴¹ It is similarly taught in another baraita that Rabbi Eliezer says: Anyone who does not engage in the mitzva to be fruitful and multiply is considered as though he sheds blood, as it is stated: “Whoever sheds the blood of man,” and it is stated near it: “And you, be fruitful and multiply.” Rabbi Elazar ben Azarya says: It is as though he diminishes the Divine Image. Ben Azzai says: It is as though he both sheds blood and diminishes the Divine Image. They said to ben Azzai: There is a type of scholar who expounds well, etc.

³⁴² The Sages taught with regard to the mitzva to be fruitful and multiply: “And when it rested, he would say: Return, Lord, to the ten thousands of the thousands of Israel” (Numbers 10:36).

³⁴³ This teaches that the Divine Presence does not rest upon less than two thousands and two ten-thousands of the Jewish people, as the terms thousands and ten-thousands are both in the plural. Consequently, if there were two thousands and two ten-thousands of the Jewish people, less one, and this man did not engage in the mitzva to be fruitful and multiply, is he not found to have caused the Divine Presence to depart from the Jewish people?

³⁴⁴ Abba Ḥanan said in the name of Rabbi Eliezer: A man who does not engage in procreation is liable to death, as it is stated with regard to the sons of Aaron: “And Nadav and Avihu died...and they had no children” (Numbers 3:4). This indicates that if they would have had children they would not have died. Others say: He causes the Divine Presence to depart from the Jewish people, as it is stated: “To be a God to you and to your seed after you” (Genesis 17:7). When your seed is after you, i.e., when you have children, the Divine Presence rests upon the Jewish people, but if your seed is not after you, upon whom can the Divine Presence rest? Upon wood and stones?

³⁴⁵ MISHNA: If a man married a woman and stayed with her for ten years and she did not give birth, he is no longer permitted to neglect the mitzva to be fruitful and multiply. Consequently, he must either divorce her and marry someone else, or take another wife while still married to her. If he divorced her she is permitted to marry another man, as it is not necessarily on her account that she and her first husband did not have children, and the second husband is permitted to stay with her for ten years. And if she had a miscarriage, he counts the ten years from the time of the miscarriage.

³⁴⁶ GEMARA: The Sages taught: If a man married a woman and stayed with her for ten years and she did not give birth, he should divorce her and pay her marriage contract, because perhaps he did not merit to be built, i.e., to have children, from her. It is not certain that their failure to have children is due to her, as it is possible that they are not a suitable match for bearing children.

³⁴⁷ Although there is no explicit proof for the matter that one must take another wife if he has not had children after ten years of marriage, there is an allusion to the matter, as the verse states: “And Sarai, Abram’s wife, took Hagar...after Abram had dwelled ten years in the land of Canaan, and gave

her to Abram her husband to be his wife” (Genesis 16:3). Incidentally, this verse also comes to teach you that the years spent dwelling outside of Eretz Yisrael do not count as part of his tally. Consequently, if he was sick during this period or she was sick, or if one of the two of them was imprisoned in jail, it does not count as part of his tally.

³⁴⁸ Rava said to Rav Naḥman: Let us derive from Isaac that one may wait a longer period of time, as it is written: “And Isaac was forty years old when he took Rebekah...to be his wife” (Genesis 25:20), and it is written with regard to the birth of Jacob and Esau: “And Isaac was sixty years old when she bore them” (Genesis 25:26). This indicates that one may wait twenty years. Rav Naḥman said to him: Isaac knew that he was infertile, and therefore there was no reason for him to marry another woman, as Rebekah was not the cause of their infertility.

³⁴⁹ The Gemara responds: If so, Abraham also should not have married another woman, as he was also infertile. Rather, the tanna requires that verse that states when Jacob and Esau were born for that which Rabbi Ḥiyya bar Abba taught. This is because Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: Why were Ishmael’s years counted in the Torah, as they do not appear to be relevant to its narrative? In order to determine through them the years of Jacob, i.e., Jacob’s age at the time that various events took place, as explained in tractate Megilla (17a). The verse concerning Jacob’s birth was not meant to allude to a halakha about remaining married before having children, but to make it possible to determine Jacob’s age by relating it to the age of Ishmael.

³⁵⁰ Rabbi Yitzḥak said: Isaac our father was infertile, as it is stated: “And Isaac entreated the Lord concerning [lenokhaḥ] his wife because she was barren” (Genesis 25:21). It is not stated that he entreated the Lord for [al] his wife, but lenokhaḥ, which can mean opposite, against, or corresponding to; this teaches that they were both infertile. The Gemara asks: If so, why does the verse continue: “And the Lord let Himself be entreated of him”? The verse should say: And the Lord let Himself be entreated of them. The Gemara answers that their prayers were answered due to Isaac, because the prayer of a righteous individual who is the son of a righteous individual is not similar to the prayer of a righteous individual who is the son of a wicked individual, and Rebekah’s father was the wicked Bethuel.

³⁵¹ Rabbi Yitzḥak said: For what reason were our forefathers initially infertile? Because the Holy One, Blessed be He, desires the prayers of the righteous, and He therefore wanted them to pray for children. Similarly, Rabbi Yitzḥak said: Why are the prayers of the righteous compared to a pitchfork [eter], as in the verse: “And He let Himself be entreated [vaye’ater]”? This indicates that just as this pitchfork turns over produce from one place to another, so the prayer of the righteous turns over the attributes of the Holy One, Blessed be He, from the attribute of rage to the attribute of mercy. Rabbi Ami said: Abraham and Sarah were originally tumtumin, people whose sexual organs are concealed and not functional, as it is stated: “Look to the rock

³⁵² from where you were hewn, and to the hole of the pit from where you were dug” (Isaiah 51:1), and it is written in the next verse: “Look to Abraham your father and to Sarah who bore you” (Isaiah 51:2), which indicates that sexual organs were fashioned for them, signified by the words hewn and dug, over the course of time.

³⁵³ Rav Naḥman said that Rabba bar Avuh said: Our mother Sarah was initially a sexually underdeveloped woman [aylonit], as it is stated: “And Sarah was barren; she had no child” (Genesis

11:30). The superfluous words: “She had no child,” indicate that she did not have even a place, i.e., a womb, for a child.

³⁵⁴ Rav Yehuda, son of Rav Shmuel bar Sheilat, said in the name of Rav: They taught that he waits ten years only with regard to the people who lived in former generations, whose years were numerous, i.e., they lived longer. However, with regard to the people who live in later generations, whose years are few, he waits only two and half years before divorcing her, corresponding to the time period of three pregnancies. Rabba said in the name of Rav Nahman: He waits three years, corresponding to the three remembrances of barren women by God, as the Master said: On Rosh HaShana Sarah, Rachel, and Hannah were remembered, i.e., God gave them children. Since God determines on Rosh HaShana whether barren women will conceive that year, one may remain married until three such opportunities have passed.

³⁵⁵ However, Rabba himself said: These principles are not accepted as halakha. Why not? Now consider, who established the content of the mishna? Rabbi Yehuda HaNasi. Yet, in the days of King David, many years before the time of Rabbi Yehuda HaNasi, the years of an average lifespan were already diminished, as it is written: “The days of our years are seventy years, and if with strength eighty years” (Psalms 90:10). Consequently, if Rabbi Yehuda HaNasi included in the mishna the statement that one remains married for ten years, that must apply even nowadays.

³⁵⁶ The Gemara asks about the language of the baraita. And what about this expression: Perhaps he did not merit to be built from her; perhaps it was she who did not merit to build a family. The Gemara answers: She, since she is not commanded to be fruitful and multiply, is not punished. Their worthiness therefore depends on him, not her.

³⁵⁷ The Gemara challenges the mishna’s statement that if one did not have children after ten years he should marry a different woman. Is that so? Didn’t the Sages say to Rabbi Abba bar Zavda: Marry a woman and have children, and he said to them: If I had merited, I would already have children from my first wife? This indicates that there is no obligation to remarry if one did not have children with his first wife. The Gemara answers: There, Rabbi Abba bar Zavda was merely putting the Rabbis off with an excuse, as the real reason why he would not marry was because Rabbi Abba bar Zavda became impotent from Rav Huna’s discourse. Rav Huna’s students would hold back from relieving themselves until his lengthy sermons were finished, which caused them to become sterile.

³⁵⁸ The Gemara similarly relates that Rav Giddel became impotent from Rav Huna’s discourse, Rav Helbo became impotent from Rav Huna’s discourse, and Rav Sheshet became impotent from Rav Huna’s discourse. The Gemara relates: Rav Aha bar Ya’akov was afflicted by suskhinta, a disease caused by holding back from urinating. They suspended him from the cedar column that supported the study hall, and a substance that was as green as a palm leaf emerged from him, and he was healed. Rav Aha bar Ya’akov said: We were sixty elders present at the time, and they all became impotent from Rav Huna’s discourse, aside from me, as I fulfilled with regard to myself the verse: “Wisdom preserves the life of he who has it” (Ecclesiastes 7:12). I used the above cure to avoid becoming impotent.

³⁵⁹ § It was taught in the mishna that if a man divorced his wife after ten years without children, she is permitted to marry a second man, who may remain married to her for ten years. The Gemara comments: A second husband, yes, but a third one, no. Once she has been married to two men without children for ten years each, it is presumed that she is unable to have children.

³⁶⁰ The Gemara comments: Who is the tanna of the mishna? It is Rabbi Yehuda HaNasi, who holds that a legal presumption [ḥazaka] is established after two occurrences. As it is taught in a baraita: If a woman circumcised her first son and he died as a result of the circumcision, and she circumcised her second son and he also died, she should not circumcise her third son, as the deaths of the first two produce a presumption that this woman's sons die as a result of circumcision. This is the statement of Rabbi Yehuda HaNasi. Rabban Shimon ben Gamliel says: She should circumcise her third son, as there is not considered to be a legal presumption that her sons die from circumcision, but she should not circumcise her fourth son if her first three sons died from circumcision.

³⁶¹ The Gemara asks: Isn't the reverse taught in a baraita, that Rabbi Yehuda HaNasi holds that the woman's third son must be circumcised and Rabban Shimon ben Gamliel holds that he is not circumcised? Which of them was composed later and is therefore presumed to be more reliable?

³⁶² The Gemara suggests: Come and hear, as Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: An incident occurred involving four sisters in Tzipori, that the first sister circumcised her son and he died, and the second sister circumcised her son and he died, and the third one circumcised her son and he too died. The fourth sister came before Rabban Shimon ben Gamliel, who said to her: Do not circumcise him. This indicates that according to Rabban Shimon ben Gamliel a presumption is established only after three occurrences.

³⁶³ The Gemara refutes this proof: Perhaps if the third sister had come before him he would also have said to her the same ruling. The Gemara asks: If so, what is the purpose of Rabbi Ḥiyya bar Abba's testimony? Why would he have related this incident if it does not teach us anything? The Gemara answers: Perhaps he comes to teach us that sisters establish a presumption in a case like this even though the children who died were not from the same mother.

³⁶⁴ Rava said: Now that you have said that sisters establish a presumption, a man should not marry a woman from a family of epileptics or from a family of lepers, as these diseases might be hereditary. The Gemara adds: And this applies only if it was established three times, i.e., three members of the family are afflicted with the disease.

³⁶⁵ The Gemara asks: Which halakhic conclusion was about this matter? Is a presumption established after two occurrences or only after three? When Rav Yitzḥak bar Yosef came from Eretz Yisrael, he said: An incident occurred before Rabbi Yoḥanan in the synagogue of the town of Maon on a Yom Kippur that occurred on Shabbat. The first sister had circumcised her son and he died; the second sister circumcised her son and he also died. The third sister came before him, and he said to her: Go and circumcise your son, as a presumption is not established after only two occurrences.

³⁶⁶ Abaye said to Rav Yitzḥak: See to it that your report is accurate, as you are permitting an action that would otherwise constitute a prohibition and a danger. If the third baby should not be circumcised, doing so would be a prohibited labor and would endanger the life of the child.

³⁶⁷ The Gemara comments: Abaye relied on this report and went and married Ḥuma, the daughter of Isi, son of Rav Yitzḥak, son of Rav Yehuda. Ḥuma had previously married Raḥava of Pumbedita, and he died, and then she married Rav Yitzḥak, son of Rabba bar bar Ḥana, and he died; and he, Abaye, married her nevertheless, without concern that she had been established to be a woman whose husbands die; and he died as well while married to her.

³⁶⁸ Rava said: Is there anyone who performs an action like this and endangers himself by marrying such a woman? Wasn't it he, Abaye, who said that Avin is reliable but Yitzhak the Red, i.e., Rav Yitzhak bar Yosef, is not reliable? He proceeds to explain the difference between them: Avin returns to Eretz Yisrael and hears whether the Sages there rescind their previous rulings, whereas Yitzhak the Red does not return to Eretz Yisrael and never finds out if the Sages there rescind their rulings. And furthermore, say that they disagree with regard to whether a presumption is established by two or by three deaths due to circumcision, but do they necessarily argue with regard to marriage?

³⁶⁹ The Gemara responds: Yes, and it is taught in a baraita: If a woman was married to her first husband and he died, to a second one and he also died, she may not get married to a third husband. This is the statement of Rabbi Yehuda HaNasi. Rabban Shimon ben Gamliel says: She may get married to a third husband, but if he also dies, she may not get married to a fourth husband.

³⁷⁰ The Gemara asks: Granted with regard to circumcision a presumption of death due to circumcision can be established because there are families whose blood is thin and does not clot well, and there are families whose blood clots. However, in the case of marriage, what is the reason for concern that a subsequent husband will die? Rav Mordekhai said to Rav Ashi: Avimi of Hagron-ya said in the name of Rav Huna as follows: Her spring is the cause. In other words, the woman has some sort of condition that causes those who have intercourse with her to die. And Rav Ashi said that her constellation is the cause of her husbands' deaths.

³⁷¹ The Gemara asks: What is the practical difference between them? The Gemara answers: There is a difference between them in a case where a man betrothed her and died before the wedding; alternatively, in a case where he fell off a palm tree and died. If the concern is due to intercourse, then in these cases the husband's death cannot be attributed to his wife. Conversely, if the concern is due to her bad fortune, the husband's death can be attributed to his wife even in these cases.

³⁷² Rav Yosef, son of Rava, said to Rava: I inquired of Rav Yosef whether the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, and he said to me: Yes. I subsequently asked him if the halakha is in accordance with the opinion of Rabban Shimon ben Gamliel, and he said to me: Yes. Was he mocking me by issuing contradictory rulings?

³⁷³ Rava said to him: No, there are unattributed mishnayot in accordance with each opinion, and he resolved for you that the halakha is in accordance with each opinion in particular cases. With regard to marriage and lashings the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi that two occurrences are sufficient for a presumption. Concerning set patterns of menstrual bleeding and a forewarned ox, the halakha is in accordance with the opinion of Rabban Shimon ben Gamliel that a presumption is established after three occurrences.

³⁷⁴ The Gemara identifies the aforementioned halakhot. Marriage is referring to that which we said with regard to a woman whose husbands have died. The case of lashings is as we learned in a mishna (Nidda 63b): One who was flogged for transgressing a Torah law, and repeated the same transgression and was flogged again, if he then repeats the sin a third time, the court places him in a narrow, vaulted chamber and they feed him barley until his stomach bursts. Once he has sinned and been flogged twice he has established a presumption of wickedness, and when he sins again he is caused to die so that he will not continue to sin. The case of set patterns of menstrual bleeding is as we learned in a mishna (Nidda 63b): A woman does not

³⁷⁵ establish a set pattern of menstrual bleeding for herself, so that it can be assumed that she will start bleeding at a particular time, until she has established it three times. Similarly, she is not purified from her set pattern until it is uprooted from her three times, i.e., until she did not experience menstrual bleeding at the expected time according to her pattern on three occasions. And the case of a forewarned ox is as we learned in a mishna (Bava Kamma 23b): An ox does not become forewarned until witnesses testify that it has gored three times. Consequently, in the cases of set patterns and a forewarned ox, a legal presumption is created only after three occurrences, in accordance with the opinion of Rabban Shimon ben Gamliel.

³⁷⁶ The Sages taught: If a woman was married to her first husband and she did not have children, and then she was married to her second husband and she did not have children, she may not get married to a third husband unless it is to one who already has children and has fulfilled the mitzva to be fruitful and multiply, as it is presumed that she is unable to have children. If she got married to one who does not have children and he had been unaware of her presumptive status, she is divorced without receiving payment for her marriage contract, as he married her erroneously.

³⁷⁷ A dilemma was raised before the Sages: If she was married to a third husband and she did not have children for ten years, what is the halakha with regard to whether those first husbands can demand the return of the money they paid for her marriage contracts? Can they say to her: It has been revealed retroactively that it was you who caused our inability to have children, and therefore we entered our marriages erroneously, or perhaps she can say to them: It is now that I am older that I have become weak, but in my youth I could have had children with a different husband. The Sages answer: It is reasonable that she can say to them: It is now that I have become weak.

³⁷⁸ Another dilemma was raised before the Sages: If she was married to a fourth husband and she had children with him, what is the halakha with regard to whether she can demand the payment of her marriage contract from her third husband by claiming that it is now evident that she was capable of having children? The Gemara answers: We say to her: Your silence is preferable to your speech, i.e., you are better off not making this claim, as he can say to her: I did not divorce you with this understanding, and now that I know you are capable of having children, I regret divorcing you. This would invalidate her divorce and, consequently, her marriage to her fourth husband, and would render her child a mamzer.

³⁷⁹ Rav Pappa strongly objects to this: If she was silent do we remain silent? If there is room for concern that the divorce might be invalid, the concern exists regardless of her claim, and therefore the bill of divorce should be found invalid and her children from her fourth husband should be rendered mamzerin. Rather, we say that it is now that she has become healthy. In other words, she was previously incapable of bearing children, but she has since recovered from that disability.

³⁸⁰ § The Gemara addresses a related case. If he said that the cause for their failure to have children is from her, i.e., it is she who is infertile, and she said it is from him, Rabbi Ami said: With regard to such matters between him and her, she is believed. The Gemara inquires: What is the reason for this ruling? She is certain whether his semen shoots like an arrow, whereas he is not certain whether his semen shoots like an arrow.

³⁸¹ If he says: I will go and marry a different woman and examine myself to see if I am indeed the cause, Rabbi Ami said: Even in this case he must divorce his first wife and give her the payment for her marriage contract, as I say that whoever marries a woman in addition to his first wife must

divorce his first wife and give her the payment for her marriage contract. Conversely, Rava said that a man may marry several women in addition to his first wife, and there is nothing wrong with this practice as long as he has enough to support them all.

³⁸² The Gemara addresses another case in which the court forces a man to divorce his wife who has not had children after ten years. If he said: You miscarried within the ten years of our marriage, and since less than ten years have elapsed since that time he should not have to divorce her, and she said: I did not miscarry, Rabbi Ami said: Even in this case she is believed, because if it is so that she miscarried she would not establish herself as barren through denying his claim.

³⁸³ If she miscarried, and then miscarried again, and miscarried again, she has been established to be a woman who is prone to miscarriages, and her husband must divorce her so that he can have children with another woman. If he said she miscarried twice, and she said it occurred three times, Rabbi Yitzḥak ben Elazar said: There was an incident of this kind that was adjudicated in the study hall and they said that she is believed, because if it is so that she had not miscarried a third time she would not establish herself as one who is prone to miscarriages.

³⁸⁴ MISHNA: A man is commanded with regard to the mitzva to be fruitful and multiply, but not a woman. Rabbi Yoḥanan ben Beroka says that a woman is also commanded, as the verse states with regard to both of them: “And God blessed them, and God said to them: Be fruitful and multiply” (Genesis 1:28).

³⁸⁵ GEMARA: From where are these matters derived, that a woman is not obligated in the mitzva to be fruitful and multiply? Rabbi Ile’a said in the name of Rabbi Elazar, son of Rabbi Shimon: The verse states: “Be fruitful and multiply, and fill the land and conquer it” (Genesis 1:28). It is the manner of a man to conquer and it is not the manner of a woman to conquer. Consequently, it is evident that the entire command, including the mitzva to be fruitful and multiply, was given only to men and not to women.

³⁸⁶ The Gemara raises a difficulty. On the contrary, the plural term: “And conquer it [vekhivshuha],” indicates that the two of them are included. Rav Naḥman bar Yitzḥak said: It is written in the Torah without the letter vav, so that it can be read: And conquer it [vekhivsha], in the singular. Rav Yosef said: The proof is from here: “And God said to him: I am God Almighty, be fruitful and multiply [perei urvei]” (Genesis 35:11), which is in singular, and it does not state: Be fruitful and multiply [peru urvu] in the plural.

³⁸⁷ The Gemara cites other statements made by Rabbi Ile’a in the name of Rabbi Elazar, son of Rabbi Shimon. And Rabbi Ile’a said in the name of Rabbi Elazar, son of Rabbi Shimon: Just as it is a mitzva for a person to say that which will be heeded, so is it a mitzva for a person not to say that which will not be heeded. One should not rebuke those who will be unreceptive to his message. Rabbi Abba says: It is obligatory for him to refrain from speaking, as it is stated: “Do not reprove a scorner lest he hate you; reprove a wise man and he will love you” (Proverbs 9:8).

³⁸⁸ And Rabbi Ile’a further said in the name of Rabbi Elazar, son of Rabbi Shimon: It is permitted for a person to depart from the truth in a matter that will bring peace, as it is stated: “Your father commanded before he died, saying: So you shall say to Joseph: Please pardon your brothers’ crime, etc.” (Genesis 50:16–17). Jacob never issued this command, but his sons falsely attributed this statement to him in order to preserve peace between them and Joseph.

³⁸⁹ Rabbi Natan says: It is a mitzva to depart from the truth in order to preserve peace, as it is stated: “And Samuel said: How can I go, and Saul will hear and kill me” (I Samuel 16:2). God responded in the next verse that Samuel should say he went to sacrifice an offering, indicating that God commands one to lie in order to preserve peace.

³⁹⁰ It was taught in the school of Rabbi Yishmael: Great is peace, as even the Holy One, Blessed be He, departed from the truth for it. As, initially it is written that Sarah said of Abraham: “And my lord is old” (Genesis 18:12), and in the end it is written that God told Abraham that Sarah said: “And I am old” (Genesis 18:13). God adjusted Sarah’s words in order to spare Abraham hurt feelings that might lead Abraham and Sarah to quarrel.

³⁹¹ § It is taught in the mishna that Rabbi Yoḥanan ben Beroka says that women are also included in the mitzva to be fruitful and multiply. It was stated that two amora’im, Rabbi Yoḥanan and Rabbi Yehoshua ben Levi, disagreed concerning this matter. One said that the halakha is in accordance with the opinion of Rabbi Yoḥanan ben Beroka, and one said that the halakha is not in accordance with the opinion of Rabbi Yoḥanan ben Beroka.

³⁹² The Gemara comments: Conclude that it was Rabbi Yoḥanan who said that the halakha is not in accordance with the opinion of Rabbi Yoḥanan ben Beroka, as Rabbi Abbahu sat and said in the name of Rabbi Yoḥanan that the halakha is in accordance with the opinion of Rabbi Yoḥanan ben Beroka, and Rabbi Ami and Rabbi Asi, who were sitting across from him, turned their faces as an indication that they disagreed with this report of Rabbi Yoḥanan’s opinion, but did not want to explicitly contradict Rabbi Abbahu’s statement out of respect for him.

³⁹³ And some say a different version of the incident, that it was Rabbi Ḥiyya bar Abba who said this statement, and Rabbi Ami and Rabbi Asi turned their faces. Rav Pappa said: Granted, according to the one who said that Rabbi Abbahu said it, it makes sense that due to the honor of Caesar’s court, where Rabbi Abbahu maintained close ties, Rabbi Ami and Rabbi Asi did not say anything to him and merely hinted at their disagreement. However, according to the one who said that Rabbi Ḥiyya bar Abba said it, let them say to him explicitly: Rabbi Yoḥanan did not say this. In any event, it is clear that according to Rabbi Ami and Rabbi Asi, Rabbi Yoḥanan disagreed with the opinion of Rabbi Yoḥanan ben Beroka.

³⁹⁴ The Gemara asks: What conclusion was reached about this issue? The Gemara suggests: Come and hear, as Rabbi Aḥa bar Ḥanina said that Rabbi Abbahu said that Rabbi Asi said: There was an incident that came before Rabbi Yoḥanan in the synagogue of Caesarea involving a woman who wanted a divorce from her husband after ten years of childless marriage, and he said that the husband must divorce her and give her the payment for her marriage contract. If it enters your mind to say that she is not commanded to be fruitful and multiply, what is payment for a marriage contract doing here? Why does she have a right to demand to be divorced and to receive the payment for her marriage contract?

³⁹⁵ The Gemara responds: Perhaps that was in a case when she came to demand a divorce due to another claim, i.e., she wanted children for a reason other than the fulfillment of the mitzva to be fruitful and multiply. Since this claim has merit, her husband must divorce her and pay her marriage contract.

³⁹⁶ This is like the case of a certain woman who came before Rabbi Ami and requested a divorce due to her husband’s inability to father children. She said to him: Give me the payment for my marriage

contract. He said to her: Go away, as you are not commanded to be fruitful and multiply and have no right to demand a divorce. She said to him: In her old age, what will be with this woman, i.e., if I have no children, who will take care of me when I grow old? Rabbi Ami said: In a situation such as this, we certainly force the husband to divorce her and pay her marriage contract.

³⁹⁷ The Gemara relates a similar incident: A certain woman came before Rav Naḥman and requested a divorce due to her husband's inability to father children. He said to her: You are not commanded to be fruitful and multiply. She said to him: Does this woman not require a staff for her hand and a hoe for her burial? In other words, the woman said that she wanted children so that they could care for her in her old age and bury her when she would die. Rav Naḥman said: In a case such as this, we certainly force the husband to divorce her.

³⁹⁸ The Gemara relates that Rabbi Ḥiyya's sons, Yehuda and Ḥizkiyya, were twins, but one of them was fully developed after nine months of pregnancy and one was fully developed at the beginning of the seventh month, and they were born two months apart. Yehudit, the wife of Rabbi Ḥiyya, had acute birthing pain from these unusual deliveries. She changed her clothes to prevent Rabbi Ḥiyya from recognizing her and came before Rabbi Ḥiyya to ask him a halakhic question. She said: Is a woman commanded to be fruitful and multiply? He said to her: No. She went and drank an infertility potion.

³⁹⁹ Eventually the matter was revealed, and Rabbi Ḥiyya found out about what Yehudit had done. He said to her: If only you had given birth to one more belly for me, i.e., another set of twins. As the Master said: Yehuda and Ḥizkiyya were twin brothers and became prominent Torah scholars, and Pazi and Tavi, Rabbi Ḥiyya's daughters,

⁴⁰⁰ were twin sisters, and became the matriarchs of families of distinguished Torah scholars.

⁴⁰¹ The Gemara asks: Are women not commanded to be fruitful and multiply? Didn't Rav Aḥa bar Rav Ketina say that Rabbi Yitzḥak said: There was an incident with a certain woman who was half-slave and half-free woman and therefore could marry neither a Canaanite slave nor a Jew, and they forced her master and he made her a free woman. Presumably, the reason the court forced her master to free her was so that she could fulfill the mitzva to be fruitful and multiply. Rav Naḥman bar Yitzḥak said: The reason they forced her master to free her was because others treated her in a loose manner. Since she knew that she could not marry she engaged in promiscuous activity, and the court forced her master to free her in order to save her and others from sin.

Chapter 7

¹ MISHNA: A widow married to a High Priest, and a divorcée or a yevama who performed ḥalitza [ḥalutza] married to a common priest are all unions prohibited by Torah law. If one of these women brought with her into the marriage slaves of usufruct [melog] property or slaves of guaranteed investment, then the slaves of usufruct property do not partake of teruma but the slaves of guaranteed investment do partake of teruma.

² And these are slaves of usufruct property: They are those with regard to whom the couple stipulated that if the slaves die, their death is her loss, and if they increase in value, their increase is her gain. Although the husband is obligated in their sustenance, they do not partake of teruma, as

they belong to her, not to him. He owns only the right of their use while he is married to her. And these are slaves of guaranteed investment: They are those with regard to whom the couple stipulated that if they die, their death is his loss, and if they increase in value, their increase is his gain. Since he bears financial responsibility for compensating her in the event of their loss, they partake of teruma, as they are considered his property.

³ In the case of an Israelite woman who married a priest in a halakhic marriage and who brought slaves with her into the marriage, whether they are slaves of usufruct property or slaves of guaranteed investment, they partake of teruma. And in the case of the daughter of a priest who married an Israelite and who brought slaves with her into the marriage, whether they are slaves of usufruct property or slaves of guaranteed investment, they do not partake of teruma, although, as she is the daughter of a priest, it is permitted for her and her slaves to partake of teruma beforehand.

⁴ GEMARA: The mishna states that if a priest married a woman forbidden to him, his wife's slaves of usufruct property do not partake of teruma. The Gemara asks: Why is this so? Let this case be like that of his acquisition who acquired an acquisition, as it is taught in a baraita: From where is it derived with regard to a priest who married a woman and acquired slaves that they partake of teruma? As it is stated: "But if a priest buys any soul, the purchase of his money, he may eat of it" (Leviticus 22:11).

⁵ And from where is it derived with regard to both the wife of a priest who acquired slaves and a priest's slaves who acquired slaves, that the acquired slaves may also partake of teruma? As it is stated: "But if a priest buys any soul, the purchase of his money, he may eat of it," which is interpreted to mean: If his acquisition acquired an acquisition, the latter partakes of teruma. Here too, since the slaves of usufruct property belong to his wife, it should be permitted for them to partake of teruma.

⁶ The Gemara answers: The principle is that anyone who is fit to partake of teruma can enable others to partake of teruma, and anyone who does not partake of teruma cannot enable others to partake. Since the priest's wife in this case does not partake of teruma, as her marriage is forbidden, her slaves do not partake of teruma either.

⁷ The Gemara asks: And is it so that one who does not partake of teruma cannot enable others to partake? But aren't there the cases of a priest who is uncircumcised because it was considered too dangerous for him and all impure priests, who do not partake of teruma, and yet they enable their wives and slaves to partake of teruma? The Gemara answers: The difference is that there, in those cases, there is no inherent disqualification rendering them unfit to partake of teruma. The hindrance to their partaking of teruma is tantamount to a situation where their mouths hurt, and that is why they refrain from eating teruma. They retain, however, the fundamental right to partake of teruma, and therefore they can enable others to partake as well.

⁸ The Gemara asks: But isn't there the case of a son born from an incestuous or adulterous relationship [mamzer], who does not partake of teruma yet enables others to partake? If an Israelite woman was married to a priest and was subsequently widowed or divorced, and a child from that union married a mamzer and then had a child, in that case, even if the woman's child is dead, she partakes of teruma due to her grandchild, as she has a living descendant from a priest, although that descendant is a mamzer. Although this child does not partake of teruma, he enables his grandmother to partake of it.

⁹ Ravina said that the above principle is referring to the case of an acquisition who partakes of teruma. If the acquisition of a priest partakes of teruma, he enables others to partake, whereas an acquisition who does not partake, e.g., his forbidden wife, cannot enable others to partake.

¹⁰ And Rava said a different solution. By Torah law, the forbidden wife's slaves indeed partake of teruma, as they are included in the category of: His acquisition who acquired an acquisition. And it was the Sages who issued a decree prohibiting them from partaking of teruma, so that the woman unlawfully married to a priest would say: I do not partake of his teruma and my slaves do not partake of it either, so that she will realize that she is not a valid wife, but rather she is like a prostitute to him. Her husband will therefore come to divorce her, which is the desired outcome.

¹¹ Rav Ashi said a different reason for the prohibition: It is a rabbinic decree lest she have those slaves partake of teruma even after the death of her husband the priest. As long as he is alive, they are permitted to partake of teruma, as she is considered his acquisition and they belong to her. Once he dies, she is no longer his acquisition.

¹² The Gemara asks: However, if that is so, that the decree is lest she have those slaves partake of teruma after her husband's death, any Israelite woman who marries a priest should not enable her slaves of usufruct property to partake of teruma either, due to the same rabbinic decree, lest she have them partake of teruma after her husband's death.

¹³ Rather, Rav Ashi said that the decree is dealing with a widowed priestess, the daughter of a priest, who then married the High Priest, as she is likely to rationalize enabling her slaves to partake of teruma after the death of the High Priest as follows: Initially, my slaves partook of the teruma of my father's house. I then married this man, and they partook of the teruma of my husband. And now that my husband died, I have returned to the original circumstance, and therefore they may once again partake of my father's teruma. And she does not realize that this is not so, as initially she did not render herself a woman disqualified from marrying a priest [ḥalala], but now, by marrying a High Priest unlawfully, she rendered herself a ḥalala, and both she and her slaves do not partake of teruma even upon returning to her father's house.

¹⁴ The Gemara asks: This works out well as an explanation of the mishna, with regard to a widowed priestess. However, if that widow who married a High Priest was an Israelite woman, what can be said? There is no reason for the decree in that case. The Gemara answers: With regard to widowhood, the Sages did not distinguish between one type of widow and another. Once they issued a decree due to one widow, they applied it to all widows.

¹⁵ It was stated: With regard to a woman who brings appraised, guaranteed property into her marital contract with her husband, he is obligated to return it at the conclusion of the marriage. Upon collection of her marriage contract, e.g., following divorce, if she says: I am taking my belongings, and he says: I am willing to give you only their monetary value, the halakha favors whom? Rav Yehuda said:

¹⁶ The halakha favors her; she may take the belongings. And Rav Ami said: The halakha favors him; he may retain the items and return their value.

¹⁷ The Gemara explains that Rav Yehuda said that the halakha favors her because they are the assets of her paternal family, whose prestige will suffer if they aren't returned. Therefore, they are hers. Rabbi Ami said that the halakha favors him, since the Master said in the mishna, with regard to

guaranteed property: If they die, their death is his loss, and if they increase in value, their increase is his gain. Since he bears financial responsibility for their loss, they partake of teruma. Apparently, the slaves belong to the husband. Therefore, he is obligated to return only their monetary value. Rav Safra said in rejection of Rabbi Ami's reasoning: Does the mishna teach that they are his? It teaches only that he bears financial responsibility for their loss, but actually they are not his.

¹⁸ The Gemara asks: And do they partake of teruma wherever he bears financial responsibility for their loss, even if they are not his actual possession? But didn't we learn in a mishna (Terumot 11:9): An Israelite who rented a cow from a priest may feed it vetches [karshinin] of teruma, since the animal belongs to a priest? With regard to a priest who rented a cow from an Israelite, although its feed is incumbent upon him, he may not feed it vetches of teruma, as it does not belong to him. This indicates that the requirement for enabling an acquisition to eat teruma is possession, not responsibility.

¹⁹ The Gemara rejects this proof: And how can you understand that the case of the rented cow is parallel to the case of guaranteed property? Though the renter is indeed liable for theft and loss, is he liable for unavoidable accidents, for emaciation, i.e., the cow became thinner or weaker for any reason, or for any other decrease in its value? Certainly he is not. In fact, the case of guaranteed property is similar only to the latter clause of that mishna: In the case of an Israelite who appraised a cow upon renting it from a priest under an arrangement where he guaranteed its value to the owner, he may not feed it vetches of teruma, as it is considered his own. However, a priest who appraised a cow upon renting it from an Israelite may feed it vetches of teruma. This indicates that guaranteed property is considered the acquisition of its recipient with regard to enabling it to eat teruma.

²⁰ Rabba and Rav Yosef sat at the conclusion of Rav Nahman's sermon, and they sat and said: It is taught in a baraita in accordance with the opinion of Rav Yehuda, and it is taught in another baraita in accordance with the opinion of Rabbi Ami. It is taught in accordance with the opinion of Rabbi Ami in the following baraita: If a slave's owner strikes him and knocks out his tooth or blinds him in an eye, he is set free. Slaves of guaranteed investment go free at the loss of a tooth or an eye caused by the husband, but not at such loss caused by the wife. This indicates that they belong to the husband.

²¹ Conversely, it is taught in a baraita in accordance with the opinion of Rav Yehuda: When a woman brings appraised, guaranteed property into her marriage to her husband, if the husband wishes to sell it, he may not sell it, as it belongs to her. And not only that, but even when her husband brought property into the marriage and added it to her dowry as an appraised, guaranteed gift of his own, even if the husband wishes to sell that gift he may not sell it. With regard to a case in which either the husband or wife unlawfully sold this property for subsistence, there was an incident like this that came before Rabban Shimon ben Gamliel, and he said: Although the husband executed the sale, he may repossess the property from the purchasers, as the sale is void.

²² Rava said that Rav Nahman said: The halakha is in accordance with the opinion of Rav Yehuda. Rava said to Rav Nahman: But isn't it taught in a baraita in accordance with the opinion of Rabbi Ami? He replied: Although it is taught in accordance with the opinion of Rabbi Ami, Rav Yehuda's rationale, that the wife may take the objects in question because they are assets of her paternal family and their complete removal from her domain would hurt the family's prestige, is more reasonable.

²³ The Gemara relates an incident: A certain woman brought into her marriage to her husband a robe [itztela] of fine wool [meileta], which was deemed guaranteed property by her marriage contract. Her

husband subsequently died, and the orphans took that robe and spread it over the corpse as a shroud. The woman demanded that the robe be returned to her.

²⁴ Rava said: The dead has acquired it, as deriving benefit from anything consecrated for the dead is prohibited. Nanai, son of Rav Yosef, son of Rava, said to Rav Kahana: But didn't Rava say that Rav Nahman said that the halakha is in accordance with the opinion of Rav Yehuda? Accordingly, the woman's robe must be returned. He said to him: Doesn't Rav Yehuda admit that the robe has not yet been collected? And since it has not yet been collected, it remains in his possession, and his inheritors can render its use as a burial shroud prohibited.

²⁵ The Gemara adds that in this regard Rava conforms to his standard line of reasoning, as Rava said: Consecration of property, the prohibition against benefiting from leavened bread on Passover,

²⁶ and the manumission of a slave release the property from a lien. If someone placed an asset under a lien for his debt and subsequently consecrated it; or if the asset under lien is leavened bread and the festival of Passover arrived; or if the asset is a slave and he freed him, the lien is released, and the creditor must claim his debt from the debtor's other property. In the case of the robe as well, because it was placed over the corpse, it was consecrated for the dead. Consequently, it is prohibited to derive benefit from it. Therefore, it is released to the woman from under the lien.

²⁷ Rav Yehuda said: If the wife brought with her into the marriage two belongings of guaranteed investment worth one thousand dinars, and they appreciated until they stood at two thousand, one of them she collects as payment of her marriage contract, as it is now worth her dowry of one thousand dinars. And as for the other one, she pays its monetary value and takes it from her husband because it is an asset of her paternal family.

²⁸ The Gemara asks: What is he teaching us? Is it that assets of her paternal family are hers? Rav Yehuda already said this once, in his previous statement. The Gemara answers: The latter statement was necessary as well, lest you say that this applies only where she comes to collect her marriage contract, which is rightfully hers, but to give money and take assets that are worth beyond what her husband owes her, you might say that she may not do so, although the property in question is an asset of her paternal family. Rav Yehuda therefore teaches us that she may take all of the assets of her paternal family and pay for what they are worth beyond her husband's debt to her.

²⁹ MISHNA: With regard to an Israelite woman who married a priest and he died and left her pregnant, her slaves of guaranteed investment may not partake of teruma during her pregnancy, due to the share of the fetus, as an inheritor of his father, in the ownership of the slaves. In the opposite case, where the Israelite husband of a priest's daughter died and left her pregnant, the fetus disqualifies her from partaking of teruma. However, in the current case, the fetus does not enable its mother or the slaves to partake of teruma, despite the fact that it is the child of a priest. This is the statement of Rabbi Yosei.

³⁰ The Rabbis said to him: Since you testified before us about the case of an Israelite woman who was married to a priest, in the case of the daughter of a priest who was married to a priest and he died and left her pregnant, her slaves should not partake of teruma either, due to the fetus's share. The same halakha should apply whether the woman is an Israelite or the daughter of a priest.

³¹ GEMARA: A dilemma was raised before the scholars: Is the reason for the ruling of Rabbi Yosei because he holds that a fetus in the womb of a non-priest is a non-priest, as it is considered part of its

mother's body and it becomes a priest only upon birth, and therefore the slaves in which it owns a share will be allowed to eat teruma only at that stage? Or, is Rabbi Yosei perhaps of the opinion that only one who was born enables others to partake of teruma, whereas one who is not yet born does not enable others to partake, although it is considered a priest?

³² What is the practical difference between the two possible reasons? It is the case of a fetus in the womb of the priestess, the daughter of a priest. If Rabbi Yosei's rationale is that the fetus in the womb of a non-priest is a non-priest, that is not the case here, and therefore the slaves should partake of teruma. What is the halakha in this case? Rabba said that this is Rabbi Yosei's reasoning: He holds that a fetus in the womb of a non-priest is a non-priest. Rav Yosef said: His rationale is that only one who was born enables others to partake of teruma, whereas one who is not yet born does not enable others to partake.

³³ The Gemara raises an objection to Rav Yosef's opinion from a baraita that continues the last clause of the mishna: The Rabbis said to Rabbi Yosei: Since you testified before us about the case of an Israelite woman married to a priest, in the case of the daughter of a priest married to a priest, what is the halakha? He said to them: With regard to the former case, I heard from my teachers that the slaves do not partake of teruma, but with regard to this one, I did not hear such a thing.

³⁴ Granted, if you say that Rabbi Yosei's reasoning is that a fetus in the womb of a non-priest is a non-priest, this is the reason that he said to them: This case I heard but this case I did not hear. There is a logical distinction between the two cases, as in the latter case the fetus is not in the womb of a non-priest. However, if you say that his rationale is that only one who was born enables others to partake of teruma, whereas one who is not yet born does not enable others to partake, what does he mean by saying: This case I heard but this case I did not hear? It is the same case with regard to this principle. The Gemara concludes: This is a difficult objection.

³⁵ Rav Yehuda said that Shmuel said: This is the statement of Rabbi Yosei. However, the Rabbis say that if the dead husband has children, the slaves partake of teruma due to the children, as they inherit the slaves. If he does not have children, they partake of teruma due to his brothers, who inherit his property. If he does not have brothers either, they partake due to the entire family, which inherits his property. The fetus does not disqualify them, as it does not yet own its share of the inheritance.

³⁶ The Gemara asks: By saying that this is only Rabbi Yosei's stance, Shmuel seemingly indicates that he himself does not maintain that opinion. However, Shmuel said to Rav Ḥana of Baghdad: Go and bring me an assembly of ten men and I will say to you before them a halakha that I seek to disseminate: One who transfers ownership of an object to a fetus, the fetus acquires it. Consequently, according to Shmuel, a fetus can own property, which is the premise of Rabbi Yosei's stance that a fetus shares the inheritance even before he is born. The Gemara answers: Rather, although Shmuel said that this is only Rabbi Yosei's stance, he holds likewise. What is Shmuel teaching us by saying so? He is teaching us that the Rabbis disagree with Rabbi Yosei.

³⁷ The Gemara asks: But do they really disagree? Rabbi Zakkai raised an objection to this statement from a baraita: This was a testimony that Rabbi Yosei testified that he heard from the mouths of Shemaya and Avtalyon, and the Rabbis acknowledged his testimony. Apparently, they accepted his opinion. Rav Ashi said: Does that baraita state: And the Rabbis accepted his testimony? It states: And they acknowledged his testimony, which indicates that his opinion is reasonable. However, they did not accept his ruling.

³⁸ The Sages taught in a baraita: If the priest who was married to an Israelite woman and died left children, both the slaves of usufruct property and the slaves of guaranteed investment may partake of teruma. The slaves of guaranteed investment are owned by the children, who are priests, and the slaves of usufruct property are owned by the woman, who partakes of teruma due to her children. If he left his wife pregnant and did not leave children, both these slaves and those slaves may not partake of teruma. If he left children and left her pregnant, the slaves of usufruct property who belong to her partake of teruma just as she partakes due to her children. However, the slaves of guaranteed investment, who are inherited by the children, may not partake, due to the fetus's share, as it too inherits them, as a fetus can disqualify one from partaking of teruma but it cannot not enable one to partake. This is the statement of Rabbi Yosei.

³⁹ Rabbi Yishmael, son of Rabbi Yosei, says in the name of his father: If the priest left behind a daughter, she enables the slaves to partake of teruma; however, a son does not enable them to partake. Rabbi Shimon ben Yoḥai says: If among the priest's children there are males, the slaves partake of teruma. But if they are all females, they do not partake, lest the fetus be found to be a male, and daughters do not receive any of the inheritance where there is a son. The male fetus would be the sole inheritor, and it does not enable slaves to partake of teruma.

⁴⁰ The Gemara asks: Why does Rabbi Shimon ben Yoḥai specifically explain that if the children are females, the slaves may not partake of teruma, lest the fetus be found to be a male? Derive the ruling that the slaves do not partake of teruma from the halakha that a female fetus also disqualifies its slaves from partaking of teruma. Since the priest has only daughters, they inherit from him, and the female fetus receives a share in the inheritance too. The Gemara answers: Rabbi Shimon ben Yoḥai stated one reason and another. One reason is that a female also disqualifies its slaves from partaking of teruma, and another reason is lest the fetus be found to be a male, and daughters have no share in the inheritance at all in a place where there is a son.

⁴¹ The Gemara asks with regard to the first clause of Rabbi Shimon's statement, that if among the priest's children there are males, the slaves may partake of teruma: But even though sons inherit from their father, isn't there a fetus to be accounted for, as perhaps he too is a male, and therefore has a share in the inheritance? The Gemara answers: Rabbi Shimon holds

⁴² that we are not concerned about the minority of cases. Only a minority of fetuses are male inheritors, as roughly half are female, and some are stillborn. Therefore, the majority of fetuses will not become male children. And if you wish, say that actually he holds that we are concerned about the minority. However, we make an arrangement for the slaves, in accordance with what Rav Naḥman said that Shmuel said.

⁴³ This is as Rav Naḥman said that Shmuel said: With regard to minor orphans who came to court to divide up their father's property, the court appoints for each of them a steward [apotropos], and he selects for them a fine share. When the orphans have grown up, they may object to the manner in which the property was divided and redistribute it. And Rav Naḥman himself said that when they have grown up they may not object, as, if they may object, what good is the power of the court? Here too, an appointed steward selects a share of the inheritance on behalf of the fetus, and this share does not include any of the slaves. Therefore, the slaves may partake of teruma. However, if all of the children are females, this arrangement is impossible because if the fetus is a son all the property belongs to him.

⁴⁴ Based on the use of Rav Naḥman's ruling to explain Rabbi Shimon's opinion, the Gemara suggests: Let us say that Rav Naḥman's opinion is corresponding to one side of a dispute between tanna'im, as the Rabbis disagree with Rabbi Shimon. The Gemara rejects this suggestion: No; it is possible that everyone in the dispute accepts Rav Naḥman's ruling, and here they disagree only with regard to whether we are concerned about the minority, as previously suggested, in a case where the arrangement was not made.

⁴⁵ It was taught in the previous clause of the baraita that Rabbi Yishmael, son of Rabbi Yosei, says in the name of his father: If the priest left behind a daughter, she enables the slaves to partake of teruma; however, a son does not enable them to partake of it. The Gemara asks: What is different about a son, who does not enable them to partake, due to the fetus's share, as it owns a share of the property if it is a male? A daughter should not enable them to partake either, due to the fetus's share.

⁴⁶ Abaye said: Here we are dealing with a case of an inheritance of insufficient property that is enough only to sustain the daughters until they come of age. With regard to this case, the Sages instituted that the daughters receive their sustenance while the sons get nothing. This is also a case where there is a surviving son together with the daughter.

⁴⁷ Therefore, no matter what, the slaves do not partake of teruma. If this fetus, with which she is pregnant, is a son, it is no better than this son who already exists. Just as the existing son does not inherit the insufficient property, the same applies to the male fetus. If it is a daughter, it does not yet receive a share of the inheritance. This can be explained: Why does the daughter partake of the inheritance? It is by virtue of a rabbinic ordinance. Therefore, as long as the fetus has not emerged into the atmosphere of the world, the Sages did not establish that it should receive the inheritance. Consequently, the slaves partake of teruma by virtue of the existing daughter, as only she inherits them.

⁴⁸ The Gemara asks: In what manner did you establish the baraita? You established it as referring to insufficient property. However, say the latter clause of the baraita: Lest the fetus be found to be a male, and daughters do not receive any of the inheritance where there is a son. Yet according to Abaye's explanation, on the contrary, the insufficient property is the daughters', whether or not there are any sons. The Gemara answers: In the latter clause we have come to a different case, in which there is sufficient property.

⁴⁹ The Gemara raises another objection to Abaye's explanation: Does an inheritance of insufficient property belong to the daughters? Didn't Rabbi Asi say that Rabbi Yoḥanan said: If the male orphans proceeded to sell the insufficient property, although by rabbinic ordinance it is designated for the daughters' sustenance, what they sold was sold. Apparently, the Sages did not expropriate the properties from the male inheritors, but merely designated them for the daughters' sustenance. How, then, can the sons' ownership be disregarded with regard to the slaves' partaking of teruma?

⁵⁰ Rather, what is the meaning of the word daughter in the context of the ruling that is taught by Rabbi Yishmael? It means female and is referring to the mother of the fetus. She enables her slaves of usufruct property to partake of teruma, as her husband's heirs have no share in them, whereas the son does not enable the slaves of guaranteed investment to partake, due to the fetus's share. The Gemara asks: If so, this is the same as Rabbi Yosei's statement in the first clause. What was added by Rabbi Yishmael? The Gemara answers: Indeed, the entire baraita is taught by Rabbi Yishmael, son of

Rabbi Yosei. There are not conflicting versions of Rabbi Yosei's opinion. Rather, Rabbi Yishmael is clarifying that he is the author of that baraita.

⁵¹ MISHNA: With regard to the fetus of a divorcée or a widow whose husband left her pregnant; and a man whose married brother died childless [yavam]; and betrothal; and a married deaf-mute; and a nine-year-and-one-day-old boy who engaged in intercourse with a woman; if any of these men are Israelites and the woman is the daughter of a priest, they disqualify her from partaking of teruma. But if she is an Israelite and they are priests, they do not enable her to partake of teruma.

⁵² Likewise, in the case of a boy with regard to whom there is uncertainty as to whether he is nine years and one day old and uncertainty whether he is not, who engaged in intercourse with a woman; and in the case of a boy who betrothed a woman, with regard to whom there is uncertainty as to whether he has grown two pubic hairs and is considered an adult and uncertainty whether he has not grown, they too can disqualify the woman from partaking of teruma and cannot enable her to partake, as in the previous cases.

⁵³ If the house fell upon a man and upon his brother's daughter, to whom he was married, and it is unknown which of them died first, her rival wife performs ḥalitza and does not enter into levirate marriage. Entering into levirate marriage is not possible, as, if the wife died after her husband, the surviving wife would be rendered the rival wife of a forbidden relative, since the yavam is the father of the wife who died. This status prevents the creation of a levirate bond between him and the surviving wife as well. On the other hand, ḥalitza is necessary in case the wife died before her husband, thereby allowing the creation of a levirate bond between her rival wife and her father, the yavam.

⁵⁴ GEMARA: It is taught in the mishna that the fetus disqualifies its mother from partaking of teruma and does not enable her to do so. The Gemara explains: If she is the daughter of a priest married to an Israelite, and her husband died and left her pregnant, the fetus disqualifies her from partaking of teruma, as it is stated: "But if a priest's daughter be a widow, or divorced, and have 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). The phrase "as in her youth" excludes a pregnant woman, whose body has changed from her youth. If she is an Israelite woman married to a priest, the fetus does not enable her to partake, as one who was born enables others to partake of teruma, whereas one who is not yet born does not enable others to partake.

⁵⁵ It is taught in the mishna that the same principle applies to a yavam. The Gemara explains: If she is the daughter of a priest who has a levirate bond to an Israelite, he disqualifies her, as it is stated in the verse cited above: "And is returned to her father's house," which excludes a widow waiting for her yavam, who has not returned to her father's house, as a levirate bond was created with her yavam. If she is an Israelite woman with a levirate bond to a priest, he does not enable her to partake of teruma, as the Merciful One states in the Torah: "The purchase of his money, he may eat of it" (Leviticus 22:11), and this woman is his brother's acquisition. The bond with her yavam ensued from his late brother's marriage to her, not through any action of his own.

⁵⁶ The mishna teaches that the same principle also applies to betrothal. The Gemara explains: If she is the daughter of a priest betrothed to an Israelite, he disqualifies her,

⁵⁷ as he acquired her by means of betrothal. And if she is an Israelite woman betrothed to a priest, he does not enable her to partake of teruma due to the reason given by Ulla: Although by Torah law a

priest's betrothed partakes of teruma, the Sages rendered it prohibited for her to do so, lest she allow other members of her family to eat it.

⁵⁸ It is also taught in the mishna that a deaf-mute disqualifies a woman from partaking of teruma and does not enable her to do so. The Gemara elaborates: If she is the daughter of a priest married to a deaf-mute Israelite, he disqualifies her, as he acquired her through marriage sanctioned by an ordinance of the Sages. Although the marriage of a deaf-mute is invalid by Torah law, the Sages instituted an ordinance validating this type of marriage. And if she is an Israelite woman married to a deaf-mute priest, he does not enable her to partake of teruma, as the Merciful One states in the Torah: "The purchase of his money, he may eat of it" (Leviticus 22:11), and this deaf-mute is not capable of acquisition by Torah law, as he is not legally competent.

⁵⁹ § It is also taught in the mishna that a nine-year-old boy disqualifies a woman from partaking of teruma and does not enable her to partake. It enters our mind that the mishna is referring to a widow waiting for her yavam, who is nine years and one day old. The Gemara therefore inquires: With regard to what is this taught? If it is with regard to disqualifying her from partaking of teruma, a younger yavam also disqualifies her, as a levirate bond was created and she cannot return to her father's house. And if it was with regard to enabling her to partake of teruma, an older yavam does not enable her to partake either, as discussed above.

⁶⁰ Abaye said: Here we are dealing with a nine-year-and-one-day-old yavam who already engaged in intercourse with his yevama, as she was thereby acquired by him by Torah law. It might enter your mind to say that since by Torah law she was acquired by him, as the legal status of his act of intercourse is that of intercourse, perhaps he enables her to partake of teruma. The mishna therefore teaches us that the Sages rendered the legal status of the intercourse of a nine-year-and-one-day-old boy like that of levirate betrothal by means of money or a document performed by an adult man, which is not sufficient for her to partake of teruma. Since levirate betrothal is effective only by rabbinic law, the yevama is not considered the acquisition of his money by Torah law and may not partake of teruma.

⁶¹ Rava said to him: If so, consider the latter clause of the mishna, which teaches that a boy with regard to whom there is uncertainty whether he is nine years and one day old and uncertainty whether he is not, disqualifies a woman from partaking of teruma, and he does not enable her to partake. Now that, according to your explanation, one who is definitely nine years old does not enable her to partake of teruma, is it necessary to teach the same concerning a boy with regard to whom there is uncertainty as to whether or not he reached that age?

⁶² Rather, Rava said that the mishna is teaching this halakha with regard to a nine-year-and-one-day-old boy who is one of those unfit males listed in a baraita, who disqualify a woman from marrying a priest by their intercourse, as they are unfit to enter the assembly of Israel through marriage, as it is taught in a baraita: A nine-year-and-one-day-old boy who is an Ammonite or a Moabite convert; or who is an Egyptian or an Edomite convert; or who is either a Samaritan [kuti], a Gibeonite, a ḥalal, or a mamzer, when he engaged in intercourse with a priestess, i.e., the daughter of a priest, a Levite, or an Israelite, he thereby disqualified her from marrying a priest, and, in the case of the daughter of a priest, from partaking of teruma.

⁶³ The Gemara raises a difficulty from the fact that the latter clause, the next mishna (69a), teaches that if men who are unfit to enter the assembly of Israel by marriage engage in extramarital

intercourse with women, they disqualify them from marrying into the priesthood: It may be inferred that in the first clause, the mishna above, we are dealing not with unfit individuals but with men fit to marry Jews of unflawed lineage. The Gemara answers: That inference is incorrect. The first clause of the mishna is dealing with those unfit to enter the assembly of Israel by marriage, while the latter clause is dealing with those who are merely unfit for the priesthood. That is why the mishna is referring to them separately. Accordingly, Rava's explanation that the mishna is referring to an unfit nine-year-old boy is viable.

⁶⁴ § The Gemara addresses the matter itself and cites the complete baraita. A nine-year-and-one-day-old boy who is an Ammonite or a Moabite convert; or who is an Egyptian or an Edomite convert; or who is either a Samaritan, a Gibeonite, a ḥalal, or a mamzer, when he engaged in intercourse with a priestess, or a Levite, or an Israelite, he thereby disqualified her from marrying into the priesthood.

⁶⁵ Rabbi Yosei says: Of the individuals mentioned above, anyone whose offspring is unfit to enter the assembly of Israel, disqualifies a woman with whom he engaged in intercourse from marrying into the priesthood. However, anyone whose offspring is not unfit does not disqualify a woman through intercourse. Rabban Shimon ben Gamliel says: Anyone whose daughter you may marry, you may marry his widow, even if you are a priest. Anyone whose daughter may marry a Jew of unflawed lineage does not disqualify a woman with whom he engaged in intercourse from marrying into the priesthood. And anyone whose daughter you may not marry, you may not marry his widow if you are a priest.

⁶⁶ The Gemara asks: From where are these matters derived, that intercourse with an unfit man renders a woman unfit to partake of teruma and marry a priest? Rav Yehuda said that Rav said: The verse states: "And if a priest's daughter be married to a common man [ish zar], she shall not eat of that which is set apart from the sacred" (Leviticus 22:12). It may be derived that since she engaged in intercourse with one who is unfit for her, he disqualified her from marrying into the priesthood, as the literal meaning of the expression *ish zar* is a man who is excluded.

⁶⁷ The Gemara asks: That verse is necessary to teach the halakha that the Merciful One says: The daughter of a priest who marries a non-priest, even one that she is permitted to marry, may not partake of teruma. Therefore, it cannot be the source for the halakha that intercourse with an unfit man renders a woman unfit to partake of teruma and marry a priest.

⁶⁸ The Gemara answers: That prohibition is derived from the verse "But if a priest's daughter be a widow, or divorced, and have 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). From the fact that the Merciful One says: "And is returned to her father's house...she may eat," it may be inferred that initially, while married to a non-priest, she was not permitted to eat. Therefore, the prohibition against a woman who engaged in intercourse with an unfit man partaking of teruma may be derived from the former verse, as it is not necessary for this halakha.

⁶⁹ The Gemara rejects this answer: If the prohibition against the daughter of a priest who married a non-priest partaking of teruma had been derived only from that latter verse, I would have said that it is a prohibition that stems from a positive mitzva, as it is stated in positive form, and according to the principle that a prohibition that stems from a positive mitzva is a positive mitzva, she would not be liable to receive a court-imposed punishment. The Merciful One therefore writes that former verse, to establish an explicit prohibition. The Gemara counters: The prohibition against the wife of a non-

priest partaking of teruma is derived from a different verse: “No common man may eat of the sacred” (Leviticus 22:10).

⁷⁰ The Gemara rejects this assertion: That verse is necessary to teach its own basic halakha, that a non-priest is prohibited from partaking of teruma. The Gemara responds: Two prohibitions with regard to a “common man” are written, one in the verse previously cited and the other in Leviticus 22:13: “But there shall no common man eat of it.” One of them prohibits a non-priest from partaking of teruma, while the other is referring to the daughter of a priest married to a non-priest.

⁷¹ The Gemara asks: One of these verses is still necessary to teach another halakha that is taught by Rabbi Yosei, son of Rabbi Ḥanina, as Rabbi Yosei, son of Rabbi Ḥanina, said that the phrase “no common man” indicates that I, God, said to you that commonness, i.e., non-priesthood, renders one unfit to partake of teruma, but acute mourning, i.e., mourning on the day when one’s close relative died, does not render one unfit to eat teruma. The Gemara answers: This teaching of Rabbi Yosei, son of Rabbi Ḥanina, is derived from a superfluous word in the verse, as it could have stated: A common man may not eat of the holy thing, and it actually states: “No common man.”

⁷² The Gemara asks: The verse “And if a priest’s daughter be married to a common man” (Leviticus 22:12), from which Rav derived the halakha being discussed, that intercourse with an unfit man renders a woman unfit to partake of teruma and marry a priest, is still necessary for that which is taught in a baraita: When a priest’s daughter returns to her father’s house after the death of her Israelite husband, she resumes partaking of teruma, but she does not resume partaking of the breast and the right hind leg of sacrificial offerings. And Rav Ḥisda said that Ravina, son of Rav Sheila, said: What is the verse from which this is derived? As it is written: “And if a priest’s daughter be married to a common man, she may not eat of that which is set apart from the sacred” (Leviticus 22:12). This implies that even after her husband’s death, she may not partake of the portion separated from consecrated offerings. Therefore, the verse cannot be the source for the above halakha.

⁷³ The Gemara answers: If so, if this is the only halakha derived from this verse, let the verse merely write: She may not eat of the sacred. What is the significance of the seemingly superfluous expression “that which is set apart from the sacred”? Conclude from this that the prohibition is referring to two deeds: The daughter of a priest who engaged in intercourse with an unfit man may not partake of teruma, and if she weds a non-priest she may not partake of the priestly portion of offerings, the breast and right hind leg.

⁷⁴ The Gemara asks: We found a source for a priestess; from where do we derive the same halakha with regard to a Levite or an Israelite woman who engaged in intercourse with an unfit man, i.e., that they do not partake of teruma even if they marry a priest? The Gemara answers that it is as Rabbi Abba said that Rav said: The verse states: “But if a priest’s daughter be a widow, or divorced” (Leviticus 22:13). It could have begun: If a priest’s daughter. The word “but,” the prefix vav, is seemingly superfluous, and therefore it may indicate the expansion of the prohibition to include additional women. Here too, it may be derived from the distinction between the phrase: If a priest’s daughter, and the phrase: “And if a priest’s daughter,” which utilizes the prefix vav, that Levite and Israelite women are subject to the prohibition as well.

⁷⁵ The Gemara asks: In accordance with whose opinion is this exposition possible? It is in accordance only with the opinion of Rabbi Akiva, as he derives halakhot from the prefix vav, which means “and” or “but.” The Gemara responds: Even if you say it is in accordance with the Rabbis,

who do not derive halakhot from the prefix vav, the entire phrase: “And if a priest’s daughter,” is superfluous in the verse, as the previous verse already mentioned the priest’s daughter. Therefore, the inclusion of Levite and Israelite women in the prohibition may be derived from the entire expression.

⁷⁶ The Gemara asks: We found a source for the woman’s disqualification from partaking of teruma; from where do we derive that she is disqualified from marrying into the priesthood? The Gemara counters: Is that to say that we did not include a Levite and an Israelite woman in the verse “But if a priest’s daughter be a widow, or divorced, etc.” (Leviticus 22:13), with regard to their marriage to a member of the priesthood? The derivation that a Levite and an Israelite woman are included in this verse was clearly with regard to their marriage to a priest; as if the inclusion was with regard to teruma, are these women fit to partake of teruma at all, regardless of their having engaged in intercourse with an unfit man? Clearly, their inclusion pertains to their marriage to a priest and their partaking of teruma as his wife.

⁷⁷ The Gemara rejects this assertion: Why not? Why can’t the inclusion be referring to the partaking of teruma exclusively? You find that possibility when she partakes of teruma due to her son. If an Israelite woman has a son from a priest, she may partake of teruma. Therefore, it is necessary to include a Levite or Israelite woman in the prohibition against partaking of teruma if she engaged in intercourse with an unfit man.

⁷⁸ The Gemara responds: The halakha that this woman does not partake of teruma due to her son is deduced through an a fortiori inference: If a priestess, who partakes of teruma by virtue of her own sanctity, is disqualified from partaking of teruma by an unfit man who engaged in intercourse with her, then with regard to a Levite or Israelite woman, who partakes of teruma only due to her son, is it not all the more so that it should be prohibited for her to partake of teruma after this act?

⁷⁹ The Gemara rejects that response: But that provides support for the contrary reasoning. It is logical that a priestess, who is herself sacred, is disqualified by intercourse with an unfit man. However, with regard to this woman, who is not sacred herself, and who eats teruma only due to her son, intercourse with an unfit man should not disqualify her. Rather, the prohibition against these women marrying into the priesthood is derived by an a fortiori inference from the case of a divorcée: If a divorcée who is the daughter of a priest, who is permitted to partake of teruma, is nevertheless prohibited from marrying into the priesthood, as is written in the Torah (Leviticus 21:7), then with regard to this woman, for whom it is prohibited to partake of teruma, is it not right that she should be disqualified from marrying into the priesthood?

⁸⁰ The Gemara raises an objection to that inference: But do we warn, i.e., do we deduce a prohibition through logical derivation? The Gemara answers: This is not a new prohibition; rather, it is merely a revelation of the above prohibition’s scope. In other words, the prohibition against marrying a priest is subsumed under the prohibition against partaking of teruma.

⁸¹ Now that the source has been established, the Gemara asks: And perhaps you should say that this halakha pertaining to a woman who engaged in intercourse with a man unfit for her applies only to those liable to receive karet for their act of intercourse, but not to intercourse with a man who is unfit to marry into the assembly of Israel. The Gemara answers that the Merciful One states in the Torah: “If a priest’s daughter be married” (Leviticus 22:12), indicating that this halakha is referring to those who can have a valid marriage, while those liable to receive karet for their act of intercourse are not fit for marriage.

⁸² The Gemara asks: If so, a gentile or a slave who engaged in intercourse with a Jewish woman should not have disqualified her from marrying into the priesthood, as they cannot marry her. The Gemara answers: These disqualify her, as derived by Rabbi Yishmael, as Rabbi Yoḥanan said in the name of Rabbi Yishmael: From where is it derived with regard to a gentile or a slave who engaged in intercourse with an Israelite woman, or with a priestess, or a Levite woman, that they have disqualified her? As it is stated: “But if a priest’s daughter be a widow, or divorced, and have 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).

⁸³ This verse is referring to a man who has potential widowhood and divorce with her, excluding a gentile and a slave, who do not have widowhood and divorce with her, as they cannot marry Jews at all. Therefore, they disqualify a woman from marrying into the priesthood through sexual intercourse, even if she does not have a child with them.

⁸⁴ The Gemara asks: We have found a source for the halakha that a gentile and a slave disqualify a priestess. From where do we derive this with regard to a Levite and an Israelite woman? The Gemara answers: It is as Rabbi Abba said that Rav said: The verse “But if a priest’s daughter be a widow, or divorced” (Leviticus 22:13) could have begun with the words: If a priest’s daughter. The word “but,” the prefix vav, expands the prohibition to include additional women. Here too, it may be derived from the distinction between the phrase: If a priest’s daughter, and the phrase as it actually appears in the verse: “But if a priest’s daughter,” that Levite and Israelite women are subject to the prohibition as well.

⁸⁵ The Gemara asks: In accordance with whose opinion is this exposition possible? It is in accordance only with the opinion of Rabbi Akiva, as he derives halakhot from the prefix vav. The Gemara responds: Even if you say it is accordance with the Rabbis, the entire phrase: “But if a priest’s daughter,” is superfluous in the verse, as the previous verses had already mentioned the priest’s daughter. Therefore, the inclusion of Levite and Israelite women in the prohibition may be derived from the entire expression.

⁸⁶ The Gemara suggests: But perhaps you should say a different interpretation of the mention of widowhood and divorce in the verse: In the case of one who has potential widowhood and divorce with her, if he does not have offspring from her she may partake of teruma upon her widowhood or divorce, whereas if he does have offspring from her she does not partake. However, in the case of one who does not have widowhood and divorce with her, even if she has offspring from him, she should be allowed to partake of teruma, as the offspring is not considered his.

⁸⁷ The Gemara answers: If so, why do I need to include a Levite and an Israelite woman? If the daughter of a priest is not disqualified from teruma due to intercourse with a gentile or slave, certainly a Levite or Israelite woman is not. The fact that the verse indicates inclusion of Levite and Israelite women proves that the halakha that is derived from it is a stringency and not a leniency.

⁸⁸ The Gemara asks: And according to Rabbi Akiva, who said that betrothal of those who may not engage in intercourse, as they are liable for violating a prohibition, does not take effect, and therefore the meaning of the phrase “And if a priest’s daughter be [tihye] to a common man” (Leviticus 22:12) is not: If she marries him, but rather: If she engages in intercourse with him, why do I need the Torah to mention the phrase “a widow, or divorced” in the verse: “But if a priest’s daughter be a widow, or divorced...she may eat of her father’s bread” (Leviticus 22:13)? It is not necessary for this phrase to

teach that a gentile and a slave disqualify a woman from marrying into the priesthood through sexual intercourse, as suggested by Rabbi Yishmael, as they are included in the prohibition proscribing a woman who engaged in intercourse with a man who is unfit for her.

⁸⁹ The Gemara answers: A widow is mentioned to be stringent with her, and a divorcée to be lenient with her, and both are necessary. As, had the Torah taught us only the case of a widow, you might have assumed that specifically if this daughter of a priest is a widow she partakes of teruma when she does not have offspring because she is fit for the priesthood, as she may marry a common priest, but with regard to a divorcée, who is not fit for the priesthood at all, you might say that even if she does not have offspring she does not partake of teruma. And had it taught us only the case of a divorcée, you might have assumed that only a divorcée does not partake of teruma when she has offspring from a non-priest because she is not fit for the priesthood, but with regard to a widow, who is fit for the priesthood, you might say that even if she has offspring she should also partake of teruma. It is therefore necessary for both cases to be stated.

⁹⁰ The Gemara asks: And perhaps you should say that the category of a woman who engaged in intercourse with a man who is unfit for her and is therefore disqualified from the priesthood applies even to the case of a man remarrying his divorcée after she had been married to another man in the meantime, which is prohibited. The Gemara answers: The Merciful One states in the Torah: “To a common man [ish zar],” literally, a man who is a stranger, “she shall not eat of that which is set apart from the sacred.” The Gemara understands the notion of a stranger to be one whom she was forbidden to marry and interprets homiletically: Only marriage to one who was a stranger, i.e., forbidden, to her from the outset precludes her from partaking of teruma, to the exclusion of one who was not a stranger to her from the outset, such as her ex-husband.

⁹¹ The Gemara asks: If so, a ḥalal, who was not excluded at the outset, as he may marry even the daughter of a priest, should not disqualify a woman from marrying into the priesthood. The Gemara answers that the verse states, with regard to a priest who marries a woman unfit for the priesthood: “He shall not profane his seed among his people” (Leviticus 21:15), thereby juxtaposing his seed to him. Just as he, a priest who married a woman forbidden to him, disqualifies her from the priesthood, so too, his seed, the ḥalal, also disqualifies a woman with whom he engaged in intercourse.

⁹² The Gemara asks: And perhaps you should say that a woman who engaged in intercourse with a man unfit for her is disqualified from the time of their betrothal, even before they engaged in intercourse. The Gemara answers that this is similar to a High Priest who engaged in intercourse with a widow: Just as a High Priest who engaged in intercourse with a widow has disqualified her through intercourse, not betrothal, so too, this unfit man has also disqualified her through intercourse.

⁹³ The Gemara asks: And perhaps you should say that he does not disqualify her until there is both betrothal and intercourse. The Gemara again answers that this is similar to a High Priest who engaged in intercourse with a widow: Just as a High Priest who engaged in intercourse with a widow disqualifies her through intercourse alone, so too, this man also disqualified her through intercourse alone.

⁹⁴ § It was taught in the baraita under discussion (68a) that Rabbi Yosei says: Of the men unfit to enter the assembly of Israel, anyone whose offspring are also unfit disqualifies a woman with whom he engaged in intercourse from the priesthood. However, anyone whose offspring are not unfit does

not disqualify her. The Gemara asks: What difference is there between the first tanna of the baraita and Rabbi Yosei?

⁹⁵ Rabbi Yoḥanan said: The practical difference between them pertains to a second-generation Egyptian and a second-generation Edomite. The children of these men, i.e., the third generation, may marry Jews of unflawed lineage. Therefore, according to Rabbi Yosei, they too do not disqualify a woman from the priesthood through intercourse with them. The first tanna, however, holds that they have the same status as a first-generation Egyptian or Edomite convert, in that they disqualify a woman from the priesthood through intercourse.

⁹⁶ And both tanna'im derived their respective opinions only from the case of a High Priest who engaged in intercourse with a widow, although they reached different conclusions. The first tanna reasoned: Just as with regard to a High Priest who engaged in intercourse with a widow, his act of intercourse with her is a transgression, and therefore he disqualifies her from the priesthood, so too, this man, a second-generation Egyptian or Edomite, also disqualifies her.

⁹⁷ And Rabbi Yosei also reasoned: This is like a High Priest who engaged in intercourse with a widow. Just as the High Priest's children are unfit for the priesthood, and he himself disqualifies the widow from marrying into the priesthood, so too, any man whose children are unfit to marry Jews of unflawed lineage disqualifies a woman with whom he engaged in intercourse from marrying into the priesthood. This inference comes to exclude a second-generation Egyptian, whose children are not unfit, as it is written: "The children of the third generation that are born to them may enter into the assembly of the Lord" (Deuteronomy 23:9).

⁹⁸ It is taught in the baraita under discussion that Rabban Shimon ben Gamliel says: Anyone whose daughter you may marry, you may marry his widow; anyone whose daughter you may not marry, you may not marry his widow. The Gemara asks: What difference is there between Rabbi Yosei and Rabban Shimon ben Gamliel? They appear to be stating the same principle, that a man disqualifies a woman from the priesthood only if his children are unfit to marry Jews of unflawed lineage as well.

⁹⁹ Ulla said: The practical difference between them is in the case of an Ammonite and a Moabite convert. And both of them derived their respective opinions from none other than the case of a High Priest with a widow. Rabbi Yosei reasoned: Just as with regard to a High Priest who engaged in intercourse with a widow, his children are unfit for the priesthood and he himself disqualifies the widow, so too, any man whose children are unfit disqualifies a woman with whom he engaged in intercourse.

¹⁰⁰ Rabban Shimon ben Gamliel reasoned: Just as in the case of a High Priest who engaged in intercourse with a widow, where all of his children from her are unfit for the priesthood and he disqualifies her as well, so too, in the case of a man all of whose children are unfit, he disqualifies a woman with whom he engaged in intercourse. This is to the exclusion of an Ammonite or a Moabite convert, as not all of his children are unfit to marry Jews of unflawed lineage, as the Master said: An Ammonite man is unfit to enter the assembly but not an Ammonite woman; a Moabite man is unfit but not a Moabite woman. Since only the sons of an Ammonite or Moabite convert are unfit, they do not disqualify a woman with whom they engaged in intercourse from marrying into the priesthood.

¹⁰¹ MISHNA: In the case of one who rapes a woman without marrying her; or one who seduces a woman without marrying her; or an imbecile who engages in intercourse with a woman, even if he did marry her, if they are non-priests they do not disqualify the daughter of a priest from partaking of

teruma, and if they are priests they do not enable an Israelite woman to partake of teruma. And if they are not fit to enter the assembly of Israel through marriage, they disqualify the daughter of a priest from partaking of teruma. How so? If it was an Israelite who engaged in extramarital intercourse with the daughter of a priest, she may partake of teruma, as this act of intercourse does not disqualify her.

¹⁰² If he impregnated her, she may not partake of teruma, as she is carrying an Israelite fetus. If the fetus was cut in her womb, i.e., she miscarried, she may partake of teruma. If the man was a priest who engaged in intercourse with an Israelite woman, she may not partake of teruma. If he impregnated her, she still may not partake of teruma, as a fetus does not enable its mother to partake. If she gave birth she may partake due to her child, a priest. It is therefore found in this case that the power of the son is greater than that of the father, as the father of this child does not enable the woman to partake of teruma, but the son does.

¹⁰³ A slave disqualifies a woman from partaking of teruma due to his engaging in intercourse with her, and he does not disqualify a woman because he is her offspring. How so? In what case would a slave theoretically disqualify a woman because he is her offspring? If an Israelite woman was married to a priest, or the daughter of a priest was married to an Israelite; and she bore him a son; and the son went and pressed himself onto a maidservant, an epithet for intercourse used in this context due to the shame involved in having intercourse with a maidservant; and she bore him a son, then this son is a slave. If the latter's father's mother was an Israelite who was married to a priest, and her husband died, she may not partake of teruma due to her grandson, as he is not a priest but a slave. On the other hand, if she was the daughter of a priest married to an Israelite, and he died, leaving only this grandson, she may partake of teruma, as the grandson is not considered his father's offspring.

¹⁰⁴ A mamzer disqualifies a woman from partaking of teruma, and he also enables a woman to partake of teruma. How so? If an Israelite woman was married to a priest, or the daughter of a priest was married to an Israelite, and she bore him a daughter, and the daughter went and married a slave or a gentile and bore him a son, this son is a mamzer. If his mother's mother was an Israelite woman married to a priest, even if her husband died, she may partake of teruma, as she has surviving offspring from a priest. Conversely, if she is the daughter of a priest married to an Israelite, she may not partake of teruma, even after her Israelite husband's death, as she has offspring from him.

¹⁰⁵ Even with regard to a High Priest, sometimes he disqualifies his grandmother from partaking of teruma. How so? If the daughter of a priest was married to an Israelite, and she bore him a daughter, and the daughter went and married a priest and bore him a son, this son is fit to be a High Priest, who stands and serves on the altar. This son enables his mother to partake of teruma, as he is a priest. And yet, he disqualifies his mother's mother from partaking of teruma, as he is her offspring from her Israelite husband. This grandmother can say in disapproval: Let there not be many like my daughter's son, the High Priest, as he disqualifies me from partaking of teruma.

¹⁰⁶ GEMARA: We already learned that the marriage of an imbecile is invalid, as the Sages taught in a baraita: With regard to an imbecile and a minor boy who married women and died, their wives are exempt from ḥalitza and from levirate marriage.

¹⁰⁷ § It is stated in the mishna: How so? If an Israelite engaged in extramarital intercourse with the daughter of a priest, she may partake of teruma. If he impregnated her, she may not partake of teruma. The Gemara asks: Since if he impregnated her she may not partake, let us be concerned in

any case of intercourse between an Israelite and the daughter of a priest lest he impregnated her, thereby rendering it prohibited for her to partake of teruma. Didn't we learn in a mishna that if two men betrothed two women, and then at the time that they entered the wedding canopy, they accidentally switched wives, and engaged in relations with each other's wives that night, in this case, after the accident is discovered, the court removes the wives from their husbands for three months, lest they are pregnant from the men they presumed to be their husbands and the fetus is therefore a mamzer, although they engaged in intercourse only once (33b)?

¹⁰⁸ The Gemara answers that Rabba, son of Rav Huna, said: About lineage the Sages were concerned, and they therefore decreed a three-month separation of the husbands and wives, to prevent the possibility of a child being of uncertain lineage. However, about the prohibition against a non-priest eating teruma they were not concerned. The Gemara asks: And for teruma were they not concerned? Isn't it taught in a baraita that if a husband says to his wife: This is your bill of divorce one hour before my death, if she is an Israelite woman married to a priest it is prohibited for her to partake of teruma immediately, as the Sages were concerned that her husband might die within the hour?

¹⁰⁹ Rather, Rabba, son of Rav Huna, said: About impregnation through an act of marriage they were concerned, but about impregnation through licentious intercourse they were not concerned, as the woman generally takes precautions to ensure that she will not become pregnant.

¹¹⁰ The Gemara asks: And about marriage were they concerned? Isn't it taught in a baraita: In the case of the daughter of a priest who married an Israelite and her husband died on that same day, she immerses to purify herself, as she is ritually impure due to their intercourse, and she may partake of teruma that same evening? Evidently, the Sages were not concerned that she became pregnant from the initial act of intercourse, even that of marriage.

¹¹¹ Rav H̥isda said: She immerses and partakes of teruma only until forty days after her husband's death, when there is still no reason for concern, as if she is not pregnant then she is not pregnant. And if she is pregnant, until forty days from conception the fetus is merely water. It is not yet considered a living being, and therefore it does not disqualify its mother from partaking of teruma.

¹¹² Abaye said to him: If so, say the latter clause of the baraita: Once her fetus in her womb is noticeable, she is ruined retroactively. Her prior consumption of teruma is retroactively prohibited. Evidently, pregnancy immediately disqualifies her from partaking of teruma. Therefore, the reason that she may partake of teruma immediately after her husband's death is that the Sages were not concerned that she became pregnant. Rav H̥isda responded: What is the period in which she is retroactively ruined? It is from the moment the fetus is noticeable and back in time until forty days from the beginning of her pregnancy. During the first forty days of the pregnancy, she is not retroactively ruined, as the fetus is not yet considered a living being.

¹¹³ It was stated: With regard to a man who engaged in intercourse with his betrothed in his father-in-law's house, i.e., before they got married, Rav said that the offspring is a mamzer, as the future husband is not considered his father. And Shmuel said that the offspring is a shetuki, a child of unknown paternity. Rava said: Rav's statement stands to reason in a case where she is rumored to have engaged in intercourse with others. However, if she is not rumored to have engaged in intercourse with others, we cast the child after him, i.e., we assume that the child is the betrothed's son.

¹¹⁴ Rava said: From where do I say that? What is the source for my assertion? The source is the mishna, which teaches that if a priest engaged in extramarital intercourse with an Israelite woman and she gave birth, she may partake of teruma due to her child, who is a priest. What are the circumstances? If we say that she is rumored to have engaged in intercourse with others, even if she gave birth, why may she partake of teruma? Shouldn't there be concern that the child's father is not the priest? Rather, is it not a case where she is rumored to have engaged in intercourse with him and is not rumored to have engaged in intercourse with others?

¹¹⁵ And if there, in the case of the mishna, where for her to engage in intercourse with this priest is a prohibition, and to engage in intercourse with that non-priest, with whom she is not rumored to have engaged in intercourse, is a prohibition of the same degree, nevertheless, we cast the child after the priest, then here, where for her to engage in intercourse with that man who is not her betrothed is a Torah prohibition, and to engage in intercourse with this man, her betrothed, is permitted by Torah law, is it not all the more so that her betrothed should be considered the father? Therefore, Rav's statement stands to reason only if the woman is rumored to have engaged in intercourse with others as well.

¹¹⁶ Abaye said to him in rejection of his proof: Actually, I could say to you that anywhere that she is rumored to have engaged in intercourse with him, her betrothed, even if she is not rumored to have engaged in intercourse with others, Rav said that the offspring is a mamzer. What is the reason? It is that we say that since she exposed herself to her betrothed, although they were not married yet, she apparently exposed herself to others as well. And the mishna that you cited as support for your assertion is referring to a situation where they were both incarcerated alone together in prison. Therefore, there is no concern that she engaged in intercourse with another man. This is one version of the dispute between Rav and Shmuel.

¹¹⁷ Some say that when the betrothed admits that he engaged in intercourse with her, everyone agrees that we cast the child after him. Rather, their dispute was stated as follows: In the case of a betrothed woman who became pregnant, if her betrothed denies that he engaged in intercourse with her, Rav said that the offspring is a mamzer, and Shmuel said that the offspring is a child whose father's identity is not known. Rava said: Rav's statement stands to reason in a case where the woman is not rumored to have engaged in intercourse with him and she is rumored to have engaged in intercourse with others. Therefore, it is assumed that the child is a mamzer.

¹¹⁸ However, if she is rumored to have engaged in intercourse with him, even if she is also rumored to have engaged in intercourse with others, we cast the child after him.

¹¹⁹ Rava said: From where do I say that? My source is the mishna that teaches that if a priest engaged in extramarital intercourse with an Israelite woman and she gave birth, she may partake of teruma due to her child. What are the circumstances? If we say that she is rumored to have engaged in intercourse with him and she is not rumored to have engaged in intercourse with others, need it be said that she may partake of teruma? It can easily be assumed that the priest is the father. Rather, is it not a case where she is rumored to have engaged in intercourse with others as well?

¹²⁰ And if there, where for her to engage in intercourse with this priest is in violation of a prohibition and to engage in intercourse with that non-priest is in violation of a prohibition of the same degree, and she is rumored to have engaged in intercourse with both, nevertheless, we cast the child after the priest, then here, where for her to engage in intercourse with that man who is not her betrothed is in

violation of a Torah prohibition and to engage in intercourse with this man, her betrothed, is permitted by Torah law, is it not all the more so that he should be considered the father?

¹²¹ Abaye said to him: Actually, I could say to you that anywhere that she is rumored to have engaged in intercourse with others, even if she is also rumored to have engaged in intercourse with him, Rav said that the offspring is a mamzer. And the mishna, which you cited as support for your claim, is referring to a situation where she is not rumored to have engaged in intercourse with anyone at all. Therefore, if they both concur that he is the father, the child is considered his.

¹²² § It is stated in the mishna that a slave disqualifies a woman from partaking of teruma due to his engaging in intercourse with her, but not due to his being her offspring. The Gemara asks: What is the reason that he does not disqualify a woman whose offspring he is? The verse states with regard to a maidservant married to a Hebrew slave, that when he is released, “the wife and her children shall be her master’s” (Exodus 21:4). This indicates that the maidservant’s children are considered her own and are not considered their father’s offspring at all. Therefore, a maidservant’s child does not disqualify his paternal grandmother from partaking of teruma.

¹²³ § It is stated in the mishna that a mamzer disqualifies a woman from partaking of teruma, and he also enables a woman to partake of teruma. The Sages taught: The Torah states, “But if a priest’s daughter be a widow, or divorced, and have no child...she may eat of her father’s bread” (Leviticus 22:13). I have derived only that her own child disqualifies her from partaking of teruma; from where do I derive that her child’s child disqualifies her as well? The verse states: “And she has no child [zera]” at all, indicating that even her grandchild disqualifies her, as zera means offspring.

¹²⁴ I have derived only that an unflawed child disqualifies her; from where do I derive that an unfit child disqualifies her as well? The verse states: “And she has no [ein la] child,” which can be homiletically interpreted as examine her [ayyein ala] to check if she has any offspring, fit or unfit.

¹²⁵ The Gemara asks: But didn’t you already derive from that phrase that her child’s child disqualifies her? The Gemara answers: To derive the halakha with regard to her child’s child, no verse was necessary, as the children of children are considered like children. The verse was therefore necessary for deriving the halakha of an unfit child.

¹²⁶ Reish Lakish said to Rabbi Yoḥanan: In accordance with whose opinion is the assumption of the mishna that the child of a Jewess and a slave or a gentile is a mamzer? Is it in accordance only with the opinion of Rabbi Akiva, who said that the offspring of relations for which one is liable for violating a prohibition is a mamzer? The Gemara answers: You can even say that it is in accordance with the Rabbis, who hold that the offspring is a mamzer only if the parents are liable to receive karet. This is because they concede with regard to a slave and a gentile, as when Rav Dimi came from Eretz Yisrael to Babylonia, he said that Rabbi Yitzḥak bar Avdimi said in the name of Rabbi Yehuda HaNasi: With regard to a gentile or a slave who engaged in intercourse with a Jewish woman, the offspring is a mamzer.

¹²⁷ § It was taught in the mishna that even a High Priest sometimes disqualifies his grandmother from partaking of teruma. The Sages taught that she can say in disapproval: I am hereby atonement for my daughter’s son, the small jug [kuza], i.e., the mamzer. He is dear to me and I am willing to suffer to atone for him, as he is my offspring from a priest and therefore enables me to partake of teruma. However, I am not willing to be atonement for my daughter’s son, the large jug [kada], the

High Priest, as he is my offspring from an Israelite and therefore disqualifies me from partaking of teruma.

Chapter 8

¹ MISHNA: An uncircumcised priest, e.g., one for whom circumcision was considered too dangerous, and all those who are ritually impure with any type of impurity, may not partake of teruma, the portion of produce that must be set aside for the priests. However, their wives and their slaves may partake of teruma.

² With regard to both a man with crushed testicles or with other wounds to his genitals [petzua dakka] and one whose penis has been severed [kerut shofkha], it is prohibited for them to marry a woman who was born Jewish. If they are priests they and their slaves may partake of teruma, as this condition does not disqualify them or their property. However, their wives may not partake of teruma, because if a priest has relations with his wife after suffering his injury, he renders her a ḥalala, a woman who is disqualified from marrying a priest, as he has engaged in forbidden sexual relations with her. If such a priest did not know his wife, i.e., did not engage in sexual relations with her, after his testicles were crushed or his penis was severed, she may partake of teruma, as she had married the priest in a permitted manner.

³ And who is deemed a man with crushed testicles? It is anyone whose testicles have been wounded, even one of them. And one whose penis has been severed is anyone whose sexual member has been cut off. As for the measure that renders him unfit, if there remains a portion of the corona, even as much as a hairsbreadth, he is still fit. However, if nothing at all is left of the corona, he is considered as one with a severed penis, for whom it is prohibited by Torah law to marry a Jewish woman.

⁴ GEMARA: It is taught in a baraita that Rabbi Elazar said: From where is it derived that an uncircumcised priest may not partake of teruma? It is stated: “A sojourner and a hired servant shall not eat thereof” (Exodus 12:45) with regard to the Paschal lamb, and it is stated: “A sojourner of a priest and a hired servant shall not eat of the holy thing” (Leviticus 22:10) with regard to teruma. Just as “a sojourner and a hired servant” stated with regard to the Paschal lamb indicates that an uncircumcised man is prohibited from eating it, so too, “a sojourner and a hired servant” stated with regard to teruma teaches that an uncircumcised man is prohibited from eating it.

⁵ Rabbi Akiva says: This proof is not necessary, as the verse states: “Any man [ish ish] from the seed of Aaron who is a leper or a zav shall not eat of the holy things until he be pure” (Leviticus 22:4). The repetition of the word ish, meaning man, comes to include an uncircumcised man, indicating that he is like one who is ritually impure and therefore may not partake of consecrated food.

⁶ The Gemara analyzes this baraita in detail. The Master said: Rabbi Eliezer says that it is stated: “A sojourner and a hired servant” with regard to the Paschal lamb, and it is stated: “A sojourner and a hired servant” with regard to teruma. Just as “a sojourner and a hired servant” stated with regard to the Paschal lamb indicates that an uncircumcised man is prohibited from eating it, so too, “a sojourner and a hired servant” stated with regard to teruma teaches that an uncircumcised man is prohibited from eating it.

⁷ With regard to this verbal analogy the Gemara comments: The phrase “a sojourner and a hired servant” must be available, i.e., superfluous in its context and therefore available for the purpose of establishing a verbal analogy. As, if it is not available, the verbal analogy can be refuted logically, as it is possible to say: What is unique to the Paschal lamb? It is that one is liable to receive karet for eating it due to its being piggul, an offering that was sacrificed with the intent to consume it after its appointed time, or due to its being notar, the flesh of an offering that is left over beyond its allotted time, or due to the one consuming it being ritually impure. Therefore, it could be argued that it is owing to the Paschal lamb’s special sanctity and severity that an uncircumcised man may not partake of it. But from where is it derived that an uncircumcised priest may not eat teruma? The Gemara concludes: This is not so [la’ei], as the phrase is in fact available for establishing the verbal analogy.

⁸ The Gemara asks: Which of the instances of the phrase “a sojourner and a hired servant” is not needed in its own context and is therefore available for establishing a verbal analogy? If one would claim that it is that which is stated with regard to teruma, certainly those words are necessary, as it is taught in a baraita: “A sojourner”; this is referring to a Hebrew slave who was acquired as a permanent acquisition until the Jubilee Year, i.e., a slave who did not wish to terminate his servitude and underwent a ceremony in which his ear was pierced with an awl. “A hired servant”; this is referring to a Hebrew slave who was acquired as an acquisition for a period of six years.

⁹ The baraita asks: And let the verse state only that “a sojourner” may not eat teruma, and not state anything about “a hired servant,” and I would say by way of an a fortiori inference: If a slave who was acquired as a permanent acquisition may not partake of teruma, then with regard to one who was acquired as an acquisition for only six years, all the more so is it not clear that he should be prohibited from eating it?

¹⁰ The baraita answers: If it was written so, I would have said with regard to “a sojourner” that this is referring to a slave who was acquired as an acquisition for a period of six years, as he may not eat teruma; but one who was acquired as a permanent acquisition may in fact partake of teruma. Therefore, the term “a hired servant” comes and teaches that “a sojourner” is referring to a slave who had his ear pierced and must now remain with his master until the Jubilee Year, and that although he was acquired as a permanent acquisition, he may not partake of teruma.

¹¹ The Gemara proposes: Rather, it is the phrase with regard to the Paschal lamb that is available for establishing a verbal analogy. This phrase: “A sojourner and a hired servant,” that the Merciful One writes with regard to the Paschal lamb, to what is it referring? If we say that the verse is referring to an actual sojourner and to a hired servant, i.e., a Hebrew slave who was acquired permanently or for a fixed number of years, can it possibly be that because he is a sojourner or a hired servant he is exempt from the mitzva of the Paschal lamb? If one answers in the affirmative and argues that a Hebrew slave, like his Canaanite counterpart, is considered his master’s property and is therefore no longer obligated in all the mitzvot like a freeman, this conclusion is difficult, as we maintain with regard to teruma that a Hebrew slave may not partake of it on account of his priestly master.

¹² Apparently his master does not acquire his body and thereby effect a change in his personal status; rather, he remains a Jew in every sense. Here too, then, with regard to the Paschal lamb, his master does not acquire his body as a slave, and so he is obviously obligated in the mitzva of the Paschal lamb. Rather, the phrase is superfluous and was written only to be available to teach a different matter.

¹³ The Gemara poses a question: And yet there is still a difficulty: The verbal analogy is available from only one side, as only the phrase with regard to the Paschal lamb is superfluous in its context, and we heard Rabbi Elazar, who said with regard to a verbal analogy available from only one side that one can derive from it, and one can also refute it logically if there is reason to distinguish between the two cases. Since there are grounds here for differentiating between the two halakhot in this case, why is the verbal analogy upheld?

¹⁴ The Gemara answers: Since the phrase “a sojourner and a hired servant” is not needed for its own matter, there are two superfluous terms, and one may cast one superfluous term on the halakha with regard to which it is learned that teruma may not be eaten by one who is uncircumcised, and one may cast the other one on the halakha with regard to the Paschal lamb that teaches this, and in this manner it is like a verbal analogy that is available from both sides, which cannot be refuted.

¹⁵ The Gemara raises a question: There is a principle that there cannot be half a verbal analogy. Consequently, if this verbal analogy is accepted, the following halakha that can be derived by way of the same analogy should be accepted as well: Just as with regard to the Paschal lamb, one who is an acute mourner, i.e., whose relative died that same day and has not yet been buried, is prohibited from eating it, so too, with regard to teruma, an acute mourner should be prohibited from eating it, but in fact this is not the case.

¹⁶ Rabbi Yosei bar Ḥanina said: The verse states: “No foreigner may eat of the holy thing” (Leviticus 22:10), which indicates: A disqualification stemming from foreignness I told you prevents one from eating teruma, but not a disqualification based on acute mourning. The Gemara asks: Say that the verse comes to teach that a disqualification stemming from foreignness prevents one from eating teruma, but not a disqualification based on a priest’s lack of circumcision, and so it should be permitted for an uncircumcised priest to partake of teruma. The Gemara answers: Isn’t it written with regard to both teruma and the Paschal lamb: “A sojourner and a hired servant”? From this it is derived by way of a verbal analogy that it is prohibited for an uncircumcised priest to eat teruma.

¹⁷ The Gemara asks: And what did you see that led you to include an uncircumcised priest in the prohibition against eating teruma and exclude an acute mourner? Perhaps just the opposite is true. The Gemara answers: It stands to reason that lack of circumcision should be included and should prevent a priest from eating teruma, as the halakhot governing an uncircumcised man are stringent in several respects, as alluded to by the following mnemonic of key words: Acts; karetim; the divine word; the slave. The Gemara spells out these stringencies: An uncircumcised man lacks the act of circumcision, and this act is performed on his body; the failure to perform circumcision is punishable by karet; circumcision existed before the divine word was spoken at Mount Sinai, as the mitzva of circumcision had already been given to Abraham; and the lack of circumcision of one’s male children and slaves precludes one’s eating the Paschal lamb, as is explicitly stated in the Torah (Exodus 12:48).

¹⁸ The Gemara counters: On the contrary, acute mourning should be included and should prevent a priest from eating teruma, as acute mourning is also subject to several stringencies: It is relevant at any time after the death of a close relative, unlike circumcision, which is performed only once in a lifetime; it applies to both men and women, unlike circumcision, which is restricted to men; and it is not in the mourner’s power to render himself fit until after the deceased is buried, unlike an uncircumcised man, who can render himself fit at any time by undergoing circumcision. The Gemara

responds: Even so, these arguments for including an uncircumcised priest in the prohibition are more numerous.

¹⁹ Rava said: Even without the rationale that these arguments are more numerous, you still could not say that the verbal analogy renders it prohibited for an acute mourner to eat teruma. As, is it possible to say that we should leave out the lack of circumcision from the prohibition against eating teruma even though it is written explicitly with regard to the Paschal lamb itself, and learn the halakha that acute mourning is included in the prohibition by way of a verbal analogy from the Paschal lamb when this halakha that an acute mourner is barred from bringing the Paschal lamb is never stated explicitly? As the prohibition against acute mourning with respect to the Paschal lamb itself we learn only from the halakha governing tithes.

²⁰ The Gemara raises another question: If the verbal analogy is valid, then the following halakha that can be derived by way of the same analogy should be accepted as well: Just as with regard to the Paschal lamb, the lack of circumcision of one's male children and slaves prevents one from eating of the offering until he ensures that all of the male members of his household have been circumcised, so too, with regard to teruma, the lack of circumcision of one's male children and slaves should prevent one from partaking of teruma. However, in reality this is not the halakha.

²¹ The Gemara rejects this argument: The verse states with regard to the Paschal lamb: "When you have circumcised him, then he shall eat from it" (Exodus 12:44). The words "from it" teach that the lack of circumcision of one's male children and slaves prevents one from eating the Paschal lamb, but the lack of circumcision of one's male children and slaves does not prevent one from eating teruma, if he himself is eligible to eat it.

²² The Gemara raises a difficulty: If so, that the words "from it" come to exclude any other case, say a similar exposition with regard to the uncircumcised. As it is stated with regard to the Paschal lamb: "No uncircumcised person shall eat from it" (Exodus 12:48), indicating that "from it," the Paschal lamb, an uncircumcised man may not eat, but he may eat from teruma. The Gemara answers: Isn't it written with regard to both teruma and the Paschal lamb: "A sojourner and a hired servant"? From this it is derived by way of a verbal analogy that an uncircumcised priest may not partake of teruma.

²³ The Gemara asks: And what did you see that led you to include an uncircumcised priest in the prohibition against eating teruma, and not one whose male children and slaves have not been circumcised? The Gemara answers: It stands to reason that one's own lack of circumcision should be included and should preclude his eating teruma, as an uncircumcised man lacks an act that is performed on his own body, and the failure to perform circumcision is punishable by karet. The Gemara counters: On the contrary, the lack of circumcision of one's male children and slaves should be included and should preclude a priest's eating teruma, as it is relevant at any time, since whenever one has a male child or slave under his authority he is commanded to circumcise him.

²⁴ The Gemara answers: These arguments for including one's own circumcision in the prohibition are more numerous. And if you wish, say: Even without the rationale that these arguments are more numerous, you still could not say that the verbal analogy comes to include in the prohibition against eating teruma one whose male children or slaves have not been circumcised. As, is there anything that his own lack of circumcision does not preclude him from doing but the lack of circumcision of others does preclude him from doing? Rather, it must be that the verbal analogy comes to teach that

the priest's own lack of circumcision precludes his eating teruma, while that of his male children and slaves does not.

²⁵ The Gemara poses a question: Now that you have said that the phrase "from it" used in this context comes for an exposition and serves to exclude other cases, with regard to the phrase "from it" in the verse "No stranger shall eat from it" (Exodus 12:43), why do I need it? The Gemara answers: This, too, teaches that it is only from it, eating the Paschal lamb,

²⁶ that apostasy [meshumadut] disqualifies, as the term "stranger" in this context is understood to refer to a Jew whose conduct makes him estranged from God, and he is disqualified from eating the Paschal lamb, but apostasy does not disqualify one from eating tithe.

²⁷ The Gemara asks further: If so, with regard to the phrase "from it" in the verse "No uncircumcised person shall eat from it" (Exodus 12:48), which again emphasizes "from it" and not from another item, why do I need it? The Gemara answers: This teaches that only from it, the Paschal lamb, one who is uncircumcised may not eat, but he eats matza and bitter herbs. One who is uncircumcised is obligated to eat matza and bitter herbs on Passover, just like any other Jew.

²⁸ The Gemara continues: And it was necessary for the Torah to write the prohibition with regard to an uncircumcised man, and it was necessary for the Torah to write a separate prohibition with regard to any stranger. As, if the Merciful One had written only about an uncircumcised man, one might have thought that only for him is it prohibited to eat from the Paschal lamb because the foreskin is repulsive, but with regard to a stranger, who is not repulsive, say that it is not prohibited. And if the Merciful One had written only about any stranger, one might have concluded that only for him is it prohibited to eat from the Paschal lamb because his heart is not directed toward Heaven due to his apostasy, but with regard to an uncircumcised man, whose heart is directed toward Heaven, and it is only on account of unavoidable circumstances that he has not undergone circumcision, say that there is no prohibition against his eating the Paschal lamb. Therefore, it is necessary to teach both cases.

²⁹ The Gemara asks: With regard to the phrase "of it" in the verse "Do not eat of it raw, nor boiled in water, but roasted in fire" (Exodus 12:9), and the phrase "of it" in the verse "And you shall let nothing of it remain until the morning" (Exodus 12:10), both of which are terms of exclusion, why do I need them? The Gemara answers that they are necessary for that which Rabba said that Rabbi Yitzhak said, as will be explained later (74a).

³⁰ The Master said above in the baraita: Rabbi Akiva says that it is not necessary to derive by way of a verbal analogy the halakha that an uncircumcised priest may not eat teruma, as the verse says: "Any man [ish ish] from the seed of Aaron who is a leper or a zav shall not eat of the holy things" (Leviticus 22:4). The repetition of the word ish comes to include an uncircumcised man and indicate that he too may not partake of consecrated food. The Gemara asks: But say that the verse comes to include an acute mourner in the prohibition against eating teruma. Rabbi Yosei, son of Rabbi Ḥanina, said: The verse states: "No foreigner may eat of the holy thing" (Leviticus 22:10), which indicates: A disqualification stemming from foreignness I told you prevents one from eating teruma, but not a disqualification based on acute mourning.

³¹ The Gemara asks: Say that the verse comes to teach that a disqualification stemming from foreignness prevents one from eating teruma, but not a disqualification based on the priest's lack of circumcision, and so it should be permitted for an uncircumcised priest to partake of teruma. The

Gemara answers: Isn't it written: "Any man [ish ish]," where the repetition of the word ish comes to include an uncircumcised priest in the prohibition?

³² The Gemara asks: And what did you see that led you to include an uncircumcised priest in the prohibition against eating teruma and exclude an acute mourner? The Gemara answers: It stands to reason that lack of circumcision should be included and should preclude a priest's eating teruma, as the halakhot governing an uncircumcised man are stringent in several respects, as alluded to by the following mnemonic of key words: Acts; karetim; the divine word; the slave. The Gemara explains: An uncircumcised man lacks the act of circumcision, and this act is performed on his body; the failure to perform circumcision is punishable by karet; circumcision existed before the divine word was spoken at Mount Sinai, as the mitzva of circumcision had already been given to Abraham; and the lack of circumcision of one's male children and slaves precludes one's eating the Paschal lamb.

³³ The Gemara counters: On the contrary, acute mourning should be included and it should prevent a priest from eating teruma, as acute mourning is relevant at any time, it applies to both men and women, and it is not in the mourner's power to render himself fit until after the deceased is buried.

³⁴ The Gemara answers: These arguments for including an uncircumcised priest in the prohibition are more numerous. Rava said: Even without the rationale that these arguments are more numerous, you still cannot say that an acute mourner should be included and an uncircumcised priest should be excluded, as the verse states: "Any man [ish ish]," emphasizing maleness. Now, what matter applies to a man and not to a woman? You must say that it is lack of circumcision, and therefore it cannot be that the phrase comes to include acute mourning in the prohibition.

³⁵ The Gemara asks: And what does Rabbi Akiva do with this phrase: "A sojourner and a hired servant," as it is not needed for the Paschal lamb? Rav Shemaya said: It serves to include a circumcised Arab and a circumcised Gibeonite in the prohibition against the eating of the Paschal lamb. Although they have been circumcised, it is prohibited for them to partake of the offering.

³⁶ The Gemara poses a question: And are these considered circumcised? But didn't we learn in a mishna (Nedarim 31b): If one vowed: The benefit that I might gain from the uncircumcised is konam to me, i.e., forbidden to me like consecrated property, then it is permitted for him to derive benefit from uncircumcised Jews, and it is prohibited for him to derive benefit from the circumcised of the nations of the world, as gentiles are considered uncircumcised even if they have their foreskins removed. And conversely, if he vowed: The benefit that I might gain from the circumcised is konam to me, it is permitted for him to derive benefit from the circumcised of the nations of the world, as they are not considered circumcised, and it is prohibited for him to derive benefit from uncircumcised Jews. This indicates that the circumcision of gentiles is disregarded.

³⁷ Rather, the phrase "a sojourner and a hired servant" comes to include in the prohibition against eating of the Paschal lamb a convert to Judaism who was circumcised but did not yet immerse in a ritual bath, and a child who was born circumcised, i.e., without a foreskin. Although he does not have a foreskin, he is still seen as lacking the act of circumcision. And he, Rabbi Akiva, maintains that it is necessary to drip covenantal blood from him, in lieu of circumcision, in order to usher him into the covenant of Abraham, even though he has no foreskin that can be removed.

³⁸ And Rabbi Eliezer, who uses the words "a sojourner and a hired servant" for a verbal analogy, conforms to his standard line of reasoning, as he said: A convert who was circumcised but did not yet immerse is a proper convert in every way. Therefore, the verse cannot come to exclude such an

individual. And he maintains that in the case of a child who was born circumcised, it is not necessary to drip covenantal blood from him. Since he was born without a foreskin, no additional procedure is necessary.

³⁹ The Gemara asks: And what does Rabbi Eliezer do with this inclusive phrase “any man [ish ish]”? The Gemara answers: He maintains that the Torah spoke in the language of men, meaning that no special halakha is derived from this expression, as it is common biblical vernacular.

⁴⁰ Rav Ḥama bar Ukva raises a dilemma: With regard to an uncircumcised child who is less than eight days old and not yet fit for circumcision, what is the halakha with respect to anointing him with oil of teruma? The Gemara explains the two sides of the question: Does lack of circumcision not at its appointed time, meaning before the obligation of circumcision goes into effect, preclude the infant’s benefiting from teruma, as he has the status of one who is uncircumcised, or perhaps it does not preclude his benefiting from teruma, as he is not considered uncircumcised until the mitzva of circumcision is applicable?

⁴¹ Rabbi Zeira said: Come and hear a proof from the following baraita: I have derived only the halakha concerning the circumcision of one’s male children at the time of the preparation, i.e., the slaughter, of the Paschal lamb, as it is stated: “Let all his males be circumcised, and then let him come near and keep it” (Exodus 12:48), and the halakha concerning the circumcision of one’s slaves at the time of the eating of the Paschal lamb, as it is stated: “But every man’s servant...when you have circumcised him, then shall he eat from it” (Exodus 12:44). From where do I derive that it is proper to apply the prohibition that was stated about this case to that case, and the prohibition that was said about that case to this case, i.e., that the circumcision of both one’s male children and one’s slaves is indispensable both at the time of the preparation of the Paschal lamb and at the time of its consumption? The tanna answers that the verse states the term “then” with regard to male children and the term “then” with regard to slaves as a verbal analogy.

⁴² The Gemara comments: Granted, with regard to one’s slaves you find a case where they are present at the time of eating but they were not present at the time of preparation; for example, if he purchased them in the meantime, i.e., they did not belong to him when the Paschal lamb was slaughtered but he bought them immediately afterward, before it was time to eat it.

⁴³ However, with regard to his male children, how can you find a case where they are present at the time of eating, but they were not present at the time of preparation? Does it not involve a situation where they were born between the time of the Paschal lamb’s preparation and the time of its eating? Learn from this that lack of circumcision, even not at, i.e., before, its appointed time, is nevertheless considered lack of circumcision that prevents the father from partaking of the offering.

⁴⁴ Rava said: And how can you understand it that way? How can you think that the lack of circumcision of a newborn child precludes his father’s eating from the Paschal lamb? Doesn’t the Merciful One state: “Let all his males be circumcised,” followed by “and then let him come near and keep it” (Exodus 12:48), and as this infant is not yet fit for circumcision he cannot possibly preclude the father’s partaking of the offering? Rather, with what case are we dealing here? With the case, for example, of a baby who was exempt from circumcision at the time of the preparation of the Paschal lamb because he was sick with a high fever, and subsequently the fever left him and he recovered. In such a case, failure to immediately circumcise his son precludes the father’s eating from the Paschal lamb.

⁴⁵ The Gemara raises a difficulty: If the case is one of a child recovering from an illness, let us give him the full seven days that he needs to recuperate properly. As Shmuel said: In the case of a baby that was sick with a high fever, and subsequently the fever left him, one gives him a full seven days to heal and only then is he circumcised, but not before. The Gemara answers: The case is in fact one where we already gave him a full seven days to heal, but they culminated on the eve of Passover. The Gemara asks: But if the seven-day recovery period ended on the eve of Passover, why did the father wait until the time of eating the Paschal lamb, i.e., the first night of Passover? He should have circumcised him already in the morning, before the time of the preparation of the Paschal lamb. The Gemara answers: We require

⁴⁶ that during the recovery period one must wait from the time the seven days began to the exact same time seven days later, i.e., seven complete twenty-four-hour periods. Therefore, if the child recovered in the afternoon of a particular day, one is required to wait until that same time of day a week later, and only then is he circumcised.

⁴⁷ The Gemara asks: Didn't the Sage from Lod teach that the day of his healing is like the day of his birth? What, is it not that just as with regard to the day of his birth we need not wait from the time he is born to the same time on the eighth day to circumcise him, so too, with regard to the day of his healing we need not wait from the time he heals to the same time seven days later?

⁴⁸ The Gemara refutes this argument: No, the day of his healing is superior to the day of his birth: While from the day of his birth until circumcision we need not wait from the time he is born to the same time on the eighth day to circumcise him, i.e., the child may be circumcised already at the start of the eighth day, from the day of his healing we need to wait seven complete days from the time he heals to the same time seven days later.

⁴⁹ The Gemara suggests other circumstances where a male child may be present at the time of the eating of the Paschal lamb but absent at the time of its preparation. Rav Pappa said: This would take place, for example, if the baby's eye hurt him on the eighth day following his birth, which occurred on the eve of Passover, and he recovered in the meantime between the time of the preparation of the Paschal lamb and the time of its eating. In the case of a minor ailment such as eye pain, circumcision is not performed as long as the pain persists, but it may be performed as soon as the child has recovered, without first waiting seven days.

⁵⁰ Rava said: This would occur, for example, if the infant's father and mother were incarcerated in a prison at the time of the preparation of the Paschal lamb, and they slaughtered their offering by way of an agent, and there was no one available to circumcise the infant, and the parents were released from prison before the time for eating the Paschal lamb arrived.

⁵¹ Rav Kahana, son of Rav Neḥemya, said: This would occur, for example, if the infant was a tumtum, one whose external sexual organs are indeterminate and it is unclear whether the infant is male or female, and in the meantime between the time of the preparation of the Paschal lamb and the time of its eating, he was torn open, his gender was revealed, and he was found to be a male, so that the obligation to circumcise him went into effect.

⁵² Rav Sherevyā said: This would occur, for example, if seven days earlier the baby had already extended his head, but not the rest of his body, out of the corridor to his mother's womb. In such a situation he is considered born, but he is fit for circumcision only after his entire body has emerged.

If this occurs between the time of the preparation of the Paschal lamb and the time of its eating, the child's father may not eat of the offering until he has circumcised his son.

⁵³ The Gemara poses a question: But in a case such as this, can the child live for such a long period with only his head outside? Isn't it taught in a baraita: Once a baby emerges into the air of the world, that which had been closed, the mouth and nostrils, open, and that which had been open, the umbilical cord, from which the child had previously received its sustenance, closes, as, if this did not occur it could not live for even an hour, as it has no other way to receive nutrition. If so, this child whose head alone emerged from his mother's womb would certainly starve, as it cannot take in any sustenance.

⁵⁴ The Gemara answers: With what case are we dealing here? It is, for example, a case where he was sustained by the heat of a fever and therefore did not need to eat. The Gemara asks: Whose fever? If we say it is his own fever, i.e., the baby himself had a fever, if so, it should be necessary to wait a full seven days after his entire body exits the womb before he can be circumcised, in accordance with the halakha governing an infant who was ill. Rather, it must be that he was sustained by his mother's fever. And if you wish, say that this principle that a child cannot survive in such conditions applies only when he does not cry, but when he cries he can live, as his crying indicates that he has already started to breathe.

⁵⁵ § Rabbi Yoḥanan said in the name of Rabbi Bena'a: An uncircumcised man may receive the sprinkling of the water mixed with the ashes of a red heifer in order to purify himself from ritual impurity imparted by a human corpse, as we do not say that this sprinkling is ineffective as long as he is uncircumcised. As we found that our forefathers received the sprinkling when they were uncircumcised, as it is stated: "And the people came up out of the Jordan on the tenth day of the first month" (Joshua 4:19), and the verses go on to relate that the men were all later circumcised before sacrificing the Paschal lamb on the fourteenth (see Joshua 5:10).

⁵⁶ The Gemara clarifies: On the tenth day itself they did not circumcise themselves due to the weariness caused by their journey. When, then, was the sprinkling done to them in order to remove the ritual impurity resulting from contact with a corpse, so that they would be fit to bring the Paschal lamb on the fourteenth? The first sprinkling must have taken place no later than the tenth, as there is a four-day waiting period between the first and second sprinklings. In that case, wasn't the initial sprinkling performed when they were still uncircumcised? This proves that one who is uncircumcised may receive the sprinkling of the purification waters.

⁵⁷ The Gemara counters: But perhaps they did not sacrifice the Paschal lamb at all. The Gemara answers: This cannot enter your mind, as it is written: "And they kept the Passover" (Joshua 5:10), meaning they brought the Paschal lamb.

⁵⁸ Mar Zutra strongly objects to this: But perhaps it was a Paschal lamb that comes in a state of impurity? If the majority of the community is ritually impure due to contact with a corpse, they may all sacrifice their Paschal lambs even though they are ritually impure, and there is no need for any sprinkling. Rav Ashi said to him: It is taught explicitly in a baraita that they circumcised themselves, immersed in a ritual bath, and performed the ritual of their Paschal lambs in a state of purity.

⁵⁹ Rabba bar Yitzḥak said that Rav said: The mitzva of uncovering the corona during circumcision was not given to our Patriarch Abraham. The command given to Avraham included only the mitzva of circumcision itself, i.e., the removal of the foreskin, but not the uncovering of the corona, i.e., the

folding back of the thin membrane that lies under the foreskin. As it is stated: “At that time the Lord said to Joshua: Make yourself knives of flint, and circumcise again the children of Israel a second time” (Joshua 5:2). Why was it necessary to circumcise them? Apparently, it is because before the Torah was given on Mount Sinai, some of them had been circumcised in the manner of Abraham, without uncovering the corona, and therefore they needed to be circumcised a second time in accordance with the Torah law that requires uncovering the corona.

⁶⁰ The Gemara asks: How may it be inferred that those who were already circumcised required a second circumcision? Perhaps the verse is referring to those who had not been circumcised at all, as it is written: “For all the people who came out were circumcised; but all the people who were born in the wilderness...had not been circumcised” (Joshua 5:5)?

⁶¹ The Gemara responds: If so, that it was only those who had never been circumcised who required circumcision, what is the meaning of “circumcise again,” which indicates that they had to be circumcised a second time? Rather, is it not referring to uncovering the corona? And what is the meaning of “a second time,” stated in the same verse? This phrase appears redundant, as the verse already stated: “Circumcise again.”

⁶² The Gemara explains: It comes to equate the end of circumcision, when it is necessary to circumcise a second time in order to correct an improperly performed circumcision, with the beginning of circumcision: Just as an incomplete performance at the beginning of circumcision invalidates the circumcision, so too, incomplete performance at the end of circumcision, i.e., the foreskin not being fully removed, invalidates the circumcision. As we learned in a mishna (Shabbat 137a): These are the shreds of flesh that invalidate the circumcision if they are not cut. The essential element of circumcision is the removal of the flesh that covers most of the corona, and a child who was not circumcised in this manner is considered uncircumcised, and he does not partake of teruma.

⁶³ With regard to this issue Ravina said, and some say it was Rav Yirmeya bar Abba who said that Rav said: When the mishna mentioned most of the corona, it meant the flesh that covers most of the height of the corona as well as most of its circumference.

⁶⁴ The Gemara returns to the incident involving Joshua. And what is the reason that they did not circumcise themselves in the wilderness after the Torah had already been given? The Gemara answers: If you wish, say it was due to the weariness caused by their journey. Since they were traveling continuously, they were too weak to undergo circumcision.

⁶⁵ And if you wish, say instead that it was because the north wind did not blow for them, and the hot weather was likely to lead to medical complications following the procedure. As it is taught in a baraita: All those forty years that the Jewish people were in the wilderness, the north wind did not blow for them.

⁶⁶ The Gemara asks: What is the reason that this wholesome wind did not blow all those years? If you wish, say it was because they were under censure following the sin of the spies and were therefore undeserving of this salutary wind. And if you wish, say instead that it was so that the clouds of glory covering the Tabernacle should not disperse.

⁶⁷ Rav Pappa said: Therefore, learn from here that on a cloudy day or on a day that a south wind [shuta] blows, we may neither circumcise nor let blood [mesokhrinan], owing to the danger involved.

But nowadays, when many are accustomed to ignoring these safeguards, the verse “The Lord preserves the simple” (Psalms 116:6) is applied, and it is assumed that they will come to no harm.

⁶⁸ The Sages taught in a baraita: All those forty years that the Jewish people were in the wilderness there was not a day in which the north wind did not blow at midnight, as it is stated: “And it came to pass at midnight, that the Lord smote all the firstborn in the land of Egypt” (Exodus 12:29). The Gemara asks: What is the biblical derivation? How is it derived from this verse that speaks of the exodus from Egypt that a north wind blew at midnight during the forty years that the Jewish people wandered in the wilderness? The Gemara answers: This comes to teach us that a time of favor is a significant matter. Since midnight had once been a time of divine favor at the beginning of the exodus from Egypt, it continued to be a time of favor throughout the forty years that the Jewish people sojourned in the wilderness.

⁶⁹ § Rav Huna said: By Torah law, if one had been circumcised, but subsequently the residual foreskin was drawn forward by itself or manually so that it covered the corona, he may partake of teruma, as he is considered circumcised. However, from the words of the Sages, they decreed that he must be circumcised again because he looks as if he were uncircumcised.

⁷⁰ The Gemara raises an objection based on the following baraita: One whose residual foreskin was drawn forward so that it covers the corona requires a second circumcision, indicating that he is not considered circumcised. The Gemara explains: This requirement is by rabbinic law, and by Torah law he is considered circumcised. The Gemara asks: And the amora who asked this question, why did he ask it in the first place? The baraita merely teaches that such an individual requires circumcision, and does not indicate that it is a Torah obligation.

⁷¹ The Gemara explains: The amora who raised the question erred due to the latter clause of that same baraita, which states: Rabbi Yehuda says: He should not be circumcised because it would be dangerous for him to do so. His colleagues said to him: But weren't there many who had drawn their residual foreskins forward and subsequently were circumcised a second time in the days of ben Koziva, otherwise known as bar Kokheva, and they fathered sons and daughters. Such re-circumcision is necessary, as it is stated: “He must surely be circumcised [himmol yimmol]” (Genesis 17:13), the double verb form indicating: Even one hundred times. And furthermore, it says: “He has broken My covenant” (Genesis 17:14), which comes to include one whose foreskin was drawn forward.

⁷² The Gemara comments: What is the meaning of: And furthermore, it says? Why was it necessary to cite two verses in support of the same halakha? The Gemara answers: The additional verse is necessary, lest you say that this first verse: “He shall surely be circumcised,” comes only to include the shreds of flesh that invalidate the circumcision if they are not cut and to indicate that they must be removed. If so, come and hear a second verse: “He has broken My covenant,” which comes to include one whose foreskin was drawn forward.

⁷³ Now he, the amora who raised an objection based on the first part of the baraita, thought that since at the end of the baraita the tanna brings a derivation from a verse, this halakha must be by Torah law. But in fact that is not so. It is only by rabbinic law, and the verse quoted is a mere support but not the source of the halakha.

⁷⁴ The Gemara raises an objection from a different source: A priest who is a tumtum may not partake of teruma, but his wives and slaves may partake of it. A priest who had been circumcised, but

subsequently the residual foreskin was drawn forward, and similarly one who was born circumcised, i.e., without a foreskin, may partake of teruma. A priest who is a hermaphrodite [androgynos], possessing both male and female genitals, and was circumcised may partake of teruma, as whether he is male or female he is entitled to eat teruma, but he may not partake of sacrificial food, which is permitted only to male priests, as he might not be a male. A priest who is a tumtum may not partake of teruma or sacrificial food, as he might be a male, and since his member is hidden he cannot be circumcised.

⁷⁵ In any event, this baraita teaches that a priest whose foreskin was drawn forward and one who was born circumcised may partake of teruma. This would seem to be a conclusive refutation of the opinion of Rav Huna that a priest whose foreskin was drawn forward may not eat teruma at least by rabbinic law. The Gemara concludes: This is in fact a conclusive refutation of his opinion.

⁷⁶ The Master said above in the baraita: A priest who is a tumtum may not partake of teruma, but his wives [nashav] and slaves may partake of it. The Gemara is puzzled by this teaching: From where does a tumtum have wives? If he does not have a visible male organ, how can he marry a woman? If we say that he merely betrothed a woman, as it is taught in another baraita: If a tumtum betrothed a woman his betrothal is considered a valid betrothal, as he might be a male, and similarly if he was betrothed by a man, his betrothal is deemed a valid betrothal as he might be a female, there is a difficulty.

⁷⁷ One could say that the tanna said that the betrothal of a tumtum is valid only as a stringency, i.e., out of concern that he might be a male, and therefore the woman cannot leave without a proper bill of divorce. But should we say that his betrothal is valid also as a leniency, to allow his wife to eat teruma? There is an uncertainty here that perhaps he is a woman, and one woman cannot betroth another woman.

⁷⁸ Abaye said: The tanna is referring to a tumtum whose male organ is hidden, but he is speaking of a situation where his testicles are visible externally. Since it is evident that he is a male, he can betroth a woman even though he cannot have relations with her.

⁷⁹ Rava said a different answer: What is meant here by the word nashav, which was translated earlier as his wives, but which can also be understood as his women? It refers here to the priest's mother, who, after her husband the priest has passed away, may continue to eat teruma by virtue of her son. The Gemara questions this interpretation of the baraita: His mother? It is obvious that she may eat teruma on his account, as he is her offspring by a priest. The Gemara explains: This statement is nevertheless necessary, lest you say that only if the priest is capable of having children does he enable his mother to eat teruma, but if he is incapable of having children he does not enable his mother to eat teruma, and therefore a tumtum, who cannot have children, should not enable his mother to eat teruma. Therefore, the tanna teaches us that this is not so, as a woman may eat teruma by virtue of the child she bore a priest, even if that child is incapable of having children.

⁸⁰ Come and hear a proof in support of Abaye's opinion from that which is taught in the latter part of the baraita: A priest who is a tumtum may not partake of teruma or sacrificial food. There is a difficulty here, as the halakha that a tumtum may not partake of teruma was already taught in the first part of the baraita. Granted, according to Abaye, the tanna teaches in the first clause of the baraita the halakha governing a tumtum who is definitely uncircumcised, i.e., one whose testicles are visible externally, so that he is definitely male but cannot undergo circumcision because his member itself is

hidden. And then he teaches in the latter clause of the baraita the halakha governing a tumtum about whom there is uncertainty as to whether he is uncircumcised, i.e., one whose genitalia are completely hidden, so that he might not even be a male.

⁸¹ But according to Rava, why do I need the repetition of the halakha governing a tumtum in the latter clause? The tanna already stated this halakha in the first part of the baraita. The Gemara answers: What is this tumtum referred to in the latter clause? It is a man who is definitely uncircumcised.

⁸² The Gemara asks: Now, if a tumtum, about whom there is uncertainty as to whether he is uncircumcised, may not partake of teruma, as stated in the first clause of the baraita, can it be supposed that a man who is definitely uncircumcised may eat teruma, so that it was necessary for the baraita to teach in the latter clause that he may not do so? The Gemara answers: He is saying: What is the reason. The baraita should be understood as follows: What is the reason that a tumtum may not partake of teruma? It is because there is uncertainty as to whether he is uncircumcised, and an uncircumcised priest may not partake of teruma or sacrificial food.

⁸³ The Gemara suggests: Let us say that this amoraic dispute as to whether or not one who had been circumcised but his residual foreskin was drawn forward is considered uncircumcised by Torah law is parallel to the following dispute between tanna'im. As it is taught in the Tosefta (Shabbat 16:7): One whose foreskin was drawn forward, and similarly, one who was born circumcised, and a convert who converted when he was already circumcised, and a child whose appropriate time for circumcision already passed and he was still uncircumcised, and all others who require circumcision, which, as the Gemara parenthetically adds, comes to include one who has two foreskins, both of which must be removed, may be circumcised only during the day. Rabbi Elazar bar Shimon says: If the circumcision is performed at its appropriate time, i.e., on the eighth day,

⁸⁴ they may be circumcised only during the day. However, if the circumcision is performed not at its appropriate time, they may be circumcised either during the day or at night. What, is it not the case that they disagree about the following: One Sage, the Rabbis, holds that the obligation to circumcise one whose foreskin was drawn forward is by Torah law, and therefore he must be circumcised during the day despite the fact that the procedure is not performed at the proper time, and one Sage, Rabbi Elazar bar Shimon, holds that the circumcision of one whose foreskin was drawn forward is by rabbinic law.

⁸⁵ The Gemara rejects this suggestion: And how can you understand the disagreement in that way? With regard to a child whose appropriate time for circumcision has already passed, is there anyone who says that the obligation to circumcise him is only by rabbinic law? Even after the eighth day, there is certainly a Torah obligation to circumcise him, and yet the tanna'im disagree about this case as well.

⁸⁶ Rather, everyone agrees that the obligation to circumcise one whose foreskin was drawn forward is by rabbinic law, and that the obligation to circumcise a child whose appropriate time for circumcision has already passed is by Torah law. And here they disagree with regard to the following: One Sage holds that we expound the phrase "and on the day" in the verse "And on the eighth day the flesh of his foreskin shall be circumcised" (Leviticus 12:3). The superfluous word "and" indicates that even if the child was not circumcised on the eighth day, the procedure must still be performed during the day. And one Sage, Rabbi Elazar bar Shimon, holds that we do not expound the phrase

“and on the day,” and therefore a circumcision must be performed during the day only when it takes place on the eighth day, but afterward it may be performed even at night.

⁸⁷ As in the case where Rabbi Yoḥanan was sitting and he expounded: Notar, the flesh of an offering that is left over beyond its allotted time, requires burning. If it is burnt at its appropriate time, i.e., on the same day that it became notar, it may be burned only during the day. If it is burnt not at its appropriate time, it may be burned either during the day or at night.

⁸⁸ And Rabbi Elazar raises an objection to the opinion of Rabbi Yoḥanan from the following baraita: I have derived only that a child who is circumcised on the eighth day may be circumcised only during the day. From where do I derive to include in this halakha a child who is circumcised on the ninth, tenth, eleventh, or twelfth day? From where is it derived that he, too, may be circumcised only during the day? Therefore, the verse states: “And on the day,” which teaches that the obligation to circumcise during the day extends beyond the eighth day itself.

⁸⁹ And even the Sage who does not expound the letter vav, meaning “and,” as superfluous, expounds the letters vav and heh when they come together and understands them as alluding to cases not explicitly mentioned in the biblical text. Regarding notar the verse states: “And that which remains [vehanotar] of the flesh of the offering on the third day shall be burnt with fire” (Leviticus 7:17), where the letters vav and heh teach that the obligation to burn notar during the day extends beyond the third day itself. Rabbi Yoḥanan was silent, as he had no response.

⁹⁰ After Rabbi Elazar left, Rabbi Yoḥanan, who was impressed with Rabbi Elazar’s exposition, said to Reish Lakish: I saw that Rabbi Elazar, son of Pedat, was sitting and expounding the Torah as Moses had received it directly from the mouth of the Almighty. Reish Lakish said to him: Was this exposition his own? It is a baraita. Rabbi Yoḥanan inquired: Where is this baraita taught? Reish Lakish replied: It is in Torat Kohanim, otherwise known as Sifra, a work of halakhic midrash on the book of Leviticus. Rabbi Yoḥanan went out and learned the entire Torat Kohanim in three days, and reached a full understanding of it in three months.

⁹¹ § Rabbi Elazar said: If an uncircumcised priest sprinkled the purification waters containing the ashes of a red heifer in order to purify someone who had contracted ritual impurity imparted by a corpse, his sprinkling is valid, just as it is in the case of a priest who immersed himself that day but does not become completely purified until nightfall. As, although such an individual is prohibited from eating teruma, he is fit for all the rites connected to the red heifer.

⁹² The Gemara raises a difficulty: If one who immersed himself that day is fit for all the rites connected to the red heifer, that is because he is at least permitted to eat tithes, and so he is treated more leniently than one who is uncircumcised, for whom it is prohibited to partake of second tithe. The Gemara answers: Is that to say that we are speaking about eating? We spoke in reference to touching, and the proof was as follows: If one who immersed himself that day and who is forbidden to touch teruma, as he invalidates teruma by touch, is nevertheless permitted to participate in all the rites connected to the red heifer; then with regard to one who is uncircumcised, who is permitted to touch teruma according to all opinions, is it not right that he should be permitted to participate in the rites connected to the red heifer?

⁹³ The Gemara comments: That opinion is also taught in a baraita: If an uncircumcised priest sprinkled the purification waters, his sprinkling is valid. And an incident occurred in which such an individual sprinkled the purification waters and the Sages validated his sprinkling.

⁹⁴ The Gemara raises an objection from that which was taught in the Tosefta (Para 5:5): If a tumtum sanctified the purification waters by placing a small amount of ashes from the red heifer into springwater that had been placed into a container for that purpose, his sanctification is invalid because there is uncertainty as to whether he is uncircumcised, and an uncircumcised man is disqualified from sanctifying the purification waters. But if a hermaphrodite sanctified the purification waters, his sanctification is valid. Rabbi Yehuda disagrees and says: Even if a hermaphrodite sanctified the purification waters, his sanctification is invalid, because there is uncertainty as to whether a hermaphrodite is a woman, and a woman is disqualified from sanctifying the purification waters. In any event, the baraita teaches that one who is definitely uncircumcised, and even one about whom there is uncertainty as to whether he is uncircumcised, is disqualified from sanctifying the purification waters.

⁹⁵ Rav Yosef said: This tanna of the baraita, who disqualifies one who is uncircumcised from sanctifying the purification waters, is a tanna from the school of Rabbi Akiva, who includes the uncircumcised in the same halakha as that which governs the ritually impure. As it is taught in a baraita: Rabbi Akiva says that the words “any man” in the verse “Any man from the seed of Aaron who is a leper or a zav shall not eat of the holy things until he be pure” (Leviticus 22:4), come to include one who is uncircumcised, and it is prohibited for him as well to partake of consecrated food. And so too, with regard to other matters as well, e.g., sanctifying the purification waters, one who is uncircumcised has the same status as one who is ritually impure.

⁹⁶ Rava said: I was sitting at the time before Rav Yosef, and I had the following difficulty: If so, according to Rav Yosef’s opinion that the uncircumcised and the ritually impure have the same status, should one not be able to find a tanna who teaches the halakha of the uncircumcised and that of the ritually impure together, and we should say that this is the opinion of Rabbi Akiva? There should be some source that reflects this view.

⁹⁷ The Gemara asks: And is there not such a source? But isn’t it taught in a baraita: One who is uncircumcised and one who is ritually impure are exempt from making an appearance in the Temple on each of the three pilgrim Festivals. The Gemara refutes this argument: This is no proof, as there it can be argued that one who is uncircumcised is exempt from appearing in the Temple because he is repulsive, and it is unbefitting that one who is uncircumcised appear in the Temple courtyard, but this does not mean that with regard to other matters as well he is treated like one who is ritually impure.

⁹⁸ The Gemara comments: And the Rabbis and Rabbi Yehuda follow their usual line of reasoning with regard to a hermaphrodite. As it is taught in a baraita: All are fit to sanctify the purification waters except for a deaf-mute, an imbecile, and a minor. Rabbi Yehuda deems a minor fit for the task, but deems a woman and a hermaphrodite unfit.

⁹⁹ The Gemara explains: What is the reasoning of the Rabbis? As it is written: “And they shall take for the impure of the ashes of the burning of the sin-offering, and he shall place on it running water in a vessel” (Numbers 19:17). The juxtaposition of the placement of the water to the gathering of the ashes indicates that they are governed by the same halakha. Therefore, those who are unfit for gathering the ashes are likewise unfit for sanctification, whereas those who are fit for gathering the ashes are likewise fit for sanctification. Since a woman is fit to gather the ashes of the red heifer, she may also sanctify its waters.

¹⁰⁰ And Rabbi Yehuda could have said to you: If so, then let the verse state: And he shall take. What is the significance of the shift to the plural form: “And they shall take”? It teaches that even those who are unfit there are fit here. As the halakhot of the two cases are not identical, Rabbi Yehuda deems a minor fit to perform the sanctification.

¹⁰¹ The Gemara raises a difficulty: If so, according to Rabbi Yehuda a woman should also be fit to sanctify the purification waters. The Gemara answers: Rabbi Yehuda reads the verse precisely. It says: “And he shall place on it,” and not: And she shall place on it. The Gemara asks: And how do the Rabbis respond to this claim? If the verse was written: And he shall take...and he shall place, I would say that one individual must take the ashes and the same one must also place the water on them. The Merciful One therefore writes: “And they shall take,” indicating that the ritual is valid even when performed by two different individuals.

¹⁰² And if the Merciful One had written: And they shall take...and they shall place, I would say that two people must take the ashes and two must place the water on them, but if these rites are performed by fewer than two people they are invalid. The Torah therefore states: “And they shall take...and he shall place,” to teach that even if two people take the ashes and one person places the water on them, the ritual is valid. Since the verse had to be formulated precisely in this manner in order to teach that halakha, the words “and he shall place” cannot be understood as coming to exclude a woman.

¹⁰³ It is further stated: “And the pure person shall sprinkle upon the impure” (Numbers 19:19). The verse states “pure”; this indicates by inference that he is in some way ritually impure. In other words, the verse speaks of one who is pure only in relation to one who is impure. Were this not the case, there would have been no need at all to mention his purity, as it would have been understood that since the red heifer is called a sin-offering, with regard to which purity is paramount, the one performing the ritual must be pure. Of necessity, then, this “pure” individual is not completely pure in all regards. This teaches that one who immersed himself that day is fit to perform the rites connected to the red heifer.

¹⁰⁴ The Gemara returns to the previous discussion. They raised a dilemma before Rav Sheshet: In the case of an uncircumcised man, what is the halakha with regard to his eating second tithe? Can one claim that just as the halakha governing the Paschal lamb is derived from the halakha governing second tithe with regard to acute mourning, in that an acute mourner, who may not eat second tithe, is likewise prohibited from partaking of the Paschal lamb, so too, the halakha concerning second tithe is derived from the halakha concerning the Paschal lamb with regard to lack of circumcision, in that an uncircumcised man, who may not partake of the Paschal lamb, is likewise prohibited from eating second tithe?

¹⁰⁵ Or perhaps the halakha governing the stringent case of the Paschal lamb is derived from the halakha governing the lenient case of second tithe, but the halakha concerning the lenient case of second tithe is not derived from the halakha concerning the stringent case of the Paschal lamb, and therefore it is prohibited for an uncircumcised man to partake of the Paschal lamb, but he may eat second tithe.

¹⁰⁶ Rav Sheshet said to them: You already learned the answer to this question in a mishna (Halla 1:9): The following halakhot apply to both teruma and the first fruits of the new harvest, which must be given to the priests: If a priest ate of them while in a state of ritual impurity, he is liable to the punishment of death at the hand of Heaven; and if a non-priest ate of them unintentionally, he must

restore the value of the produce he ate, adding one-fifth of its value as a fine; and they are both forbidden to non-priests.

¹⁰⁷ The mishna continues: And they are considered in all regards the private property of the priest to whom they were given; and they are nullified, i.e., rendered permitted for consumption by non-priests, in a mixture of one hundred and one, when there are at least one hundred parts of permitted food for each part of teruma or first fruits; and they both require washing of the hands before they may be eaten; and if a priest is ritually impure, he may not eat of teruma or first fruits, even after immersion, until after sunset on the day of his immersion. All of these halakhot apply to teruma and first fruits, which is not the case with regard to second tithe.

¹⁰⁸ Rav Sheshet resumes his argument: And if it is so that one who is uncircumcised may eat second tithe, let the tanna also teach: It is prohibited for an uncircumcised man to eat of teruma and first fruits, which is not the case with regard to second tithe.

¹⁰⁹ The Gemara rejects this argument: This is no proof, as the tanna of the mishna taught only some of the differences between teruma and first fruits on the one hand and second tithe on the other, and he omitted others. The Gemara asks: The mishna is sometimes not exhaustive, but it never omits only one case. What other difference did he omit that you say that he also omitted this difference?

¹¹⁰ The Gemara answers: He omitted the following, as he teaches in the latter clause of the mishna: There are halakhot that apply to second tithe and first fruits, which is not the case with regard to teruma. As second tithe and first fruits require that they be brought to a particular place, Jerusalem, where they must be eaten, whereas teruma may be consumed in all places; and they both require a declaration, as a declaration must be made on the last day of Passover in the fourth and seventh years of the Sabbatical cycle, stating that one's agricultural obligations with regard to tithes have been fulfilled properly, and so too a declaration must be made when first fruits are brought to the Temple; and they are forbidden to an acute mourner; and Rabbi Shimon permits an acute mourner to partake of first fruits. And they both require eradication before Passover in the fourth and seventh years of the Sabbatical cycle if one failed to bring them beforehand; and Rabbi Shimon exempts first fruits from the obligation of eradication.

¹¹¹ And yet second tithe and first fruits differ from teruma in that it is prohibited to burn the former and benefit from the burning, even when the produce is in a state of ritual impurity and therefore unfit to be eaten, e.g., one may not burn impure oil for light;

¹¹² and one who eats them when they themselves, the second tithe and first fruits, are ritually impure is flogged, even though he himself is ritually pure, which is not the case with regard to teruma; and these differences the tanna does not teach. Apparently, the tanna of the mishna taught certain differences between the cases and omitted others. Therefore, the omission of the halakha governing an uncircumcised man does not prove that it is permitted for him to eat second tithe.

¹¹³ § Having cited the mishna, the Gemara proceeds to discuss it. It was taught in the baraita that second tithe and first fruits are forbidden to an acute mourner; and Rabbi Shimon permits an acute mourner to partake of first fruits. The Gemara asks: From where do the Rabbis derive that first fruits are forbidden to one who is in acute mourning? As it is written: "You may not eat within your gates the tithe of your grain, or of your wine, or of your oil...nor the offering of your hand" (Deuteronomy 12:17), and the Master said: "The offering [teruma] of your hand," these are the first fruits. And first

fruits are juxtaposed in this verse to second tithe: Just as the second tithe is forbidden to an acute mourner, so too, first fruits are forbidden to an acute mourner.

¹¹⁴ And Rabbi Shimon counters that since the Merciful One calls first fruits “teruma,” the halakha governing them is similar to that which governs teruma: Just as teruma is permitted to an acute mourner, so too, first fruits are permitted to an acute mourner.

¹¹⁵ The baraita continues: And both second tithe and first fruits require eradication before Passover in the fourth and seventh years of the Sabbatical cycle; and Rabbi Shimon exempts first fruits from the obligation of eradication. One Sage, the Rabbis, juxtaposes first fruits to second tithe: Just as second tithe is subject to eradication, so too are first fruits. And one Sage, Rabbi Shimon, does not juxtapose the two halakhot and derive one from the other.

¹¹⁶ It was stated above that it is prohibited to burn second tithe and first fruits even when they are in a state of ritual impurity, and that one who eats them when they themselves, the second tithe and first fruits, are ritually impure is flogged, even though he himself is ritually pure. From where do we derive these halakhot? As it is taught in a baraita: Rabbi Shimon says: The verse with regard to the confession of tithes states: “I did not consume of it while impure” (Deuteronomy 26:14), a general statement that means whether I, the one who ate it, was ritually impure, and the tithe was ritually pure, or whether I was ritually pure and the tithe was ritually impure. Regardless, the tithe may not be consumed through burning or eating in a state of impurity.

¹¹⁷ The tanna adds: And where one is actually warned against eating second tithe in a state of impurity, this I do not know. Although it is obvious from the verse that this is prohibited, the source for the prohibition is unclear. The Gemara is puzzled by this last statement: The prohibition against eating second tithe when one is in a state of ritual impurity of the body is explicitly written, as it is stated with regard to the ritual impurity imparted by a creeping animal: “The soul that touches it shall be impure until the evening, and he shall not eat from the holy things unless he has washed his flesh in water” (Leviticus 22:6). This is referring to second tithe, as will be explained later (74b).

¹¹⁸ The Gemara explains: Rather, this is the dilemma he is raising: From where is it derived that one may not eat it when the tithe itself is in a state of ritual impurity? The verse states: “You may not eat within your gates the tithe of your grain” (Deuteronomy 12:17), and later it states with regard to offerings that have been disqualified: “You shall eat it within your gates, the impure and the pure alike, as the gazelle and as the hart” (Deuteronomy 15:22). And a Sage of the school of Rabbi Yishmael taught: Even a ritually impure and a ritually pure person may eat together on one table and out of one bowl without concern. And the Merciful One states: That which I said to you there, with regard to disqualified offerings: “You shall eat it within your gates,” means regardless of whether it is the individual or the meat that is impure; but here, with regard to second tithe, you may not eat it in that state. From here it is derived that one may not eat second tithe when the tithe itself is ritually impure.

¹¹⁹ It was stated above that one is prohibited from burning second tithe and first fruits even when they are ritually impure, which is not the case with regard to teruma. The Gemara asks: From where do we derive that this halakha does not apply to teruma? Rabbi Abbahu said that Rabbi Yoḥanan said: As the verse with regard to the declaration of tithes states: “I did not consume of it while impure” (Deuteronomy 26:14), and the words “of it” teach that of it, i.e., tithe, you may not burn

when it is impure, but you may burn and derive benefit from the oil of teruma that has become ritually impure.

¹²⁰ The Gemara asks: But say perhaps as follows: Of it you may not burn, but you may burn and derive benefit from consecrated oil that became ritually impure. The Gemara refutes this suggestion: That possibility is unacceptable. Is it not an a fortiori inference? If with regard to the tithe, which is lenient, the Torah said: “I did not burn of it while impure,” then with regard to consecrated oil, which is more stringent, is it not all the more so prohibited to burn them while ritually impure?

¹²¹ The Gemara retorts: If so, then with regard to teruma as well, say that it is an a fortiori inference, as teruma is certainly more sacred than tithes. If it is prohibited to benefit from second tithe while it is burning, all the more so would it be prohibited to benefit from teruma while it is burning. The Gemara answers: Isn’t it written “of it”? From there it is derived that there is an item excluded from the prohibition against burning in a state of ritual impurity.

¹²² The Gemara asks: And what did you see that led you to conclude that “of it” comes to exclude teruma? Perhaps it comes to exclude consecrated items. The Gemara replies: It is reasonable that I do not exclude consecrated items from the prohibition against benefiting from their burning, as with regard to consecrated items there are many stringent elements. Their Hebrew acronym is peh, nun, kuf, ayin, kaf, samekh, which is a mnemonic for the following stringencies that apply to consecrated items and not to teruma:

¹²³ Piggul: If, during one of the rites involved in the sacrifice of an offering, i.e., slaughter, receiving the blood, bringing it to the altar, or sprinkling it on the altar, the priest or the one bringing the offering entertains the thought of eating the offering at a time that is unfit for eating, the offering is thereby invalidated. Notar: Meat of an offering that remained beyond its allotted time may not be eaten and must be burned. Offering [korban]: It is an offering to God. Misuse of consecrated objects [me’ila]: One who unwittingly derives benefit from consecrated items is required to bring a guilt-offering for misuse of consecrated objects. Karet: The punishment of one who eats consecrated items while ritually impure is karet. Forbidden to an acute mourner [asur le’onen]: An acute mourner is prohibited from eating consecrated items. None of these halakhot apply to teruma. Therefore, consecrated items are more stringent than teruma, and accordingly they are not excluded from the prohibition against deriving benefit while ritually impure.

¹²⁴ The Gemara rejects this argument. On the contrary, it is teruma that I would not exclude from the prohibition, as with regard to teruma there are many stringent elements, represented by the acronym mem, het, peh, zayin, which is a mnemonic for the following: Death [mita]: One who is prohibited from eating teruma but ate it intentionally is liable to the punishment of death at the hand of Heaven. One-fifth [homesh]: A non-priest, to whom teruma is forbidden, who unwittingly ate teruma is obligated to pay its value to the priest plus one-fifth of the sum. And teruma does not have the possibility of redemption [pidyon]: Once it is sanctified, teruma may not be redeemed and rendered non-sacred. And it is forbidden to non-priests [zarim]. These stringencies do not apply to consecrated items.

¹²⁵ The Gemara answers: Those stringencies that apply to consecrated items are more numerous than those that apply to teruma. Therefore, it is appropriate to be more stringent with consecrated items and exclude impure teruma from the prohibition against deriving benefit from it while it is burned. And if you wish, say instead a different reason, without counting the number of stringencies:

Consecrated items are more stringent because one who eats them while ritually impure is liable to receive karet, which is more severe than death at the hand of Heaven, the punishment in the case of teruma.

¹²⁶ It was further stated above that one who eats second tithe and first fruits when they themselves, the second tithe and first fruits, are ritually impure is flogged, which is not the case with regard to teruma. The Gemara infers from this that it is lashes that he does not receive when he eats teruma that is ritually impure; however, the transgression of a prohibition is involved. From where do we derive that this is prohibited? The verse referring to offerings that have been disqualified states: “You shall eat it within your gates” (Deuteronomy 15:22). The word “it” indicates that it is only this, disqualified offerings, that may be eaten in a state of impurity, but not another type of consecrated food. This is a prohibition that is derived by inference from a positive mitzva, i.e., it is not stated in the Torah in the form of a prohibition. And there is a principle that a prohibition that stems from a positive mitzva is classified as a positive mitzva, for which no lashes are administered.

¹²⁷ The Gemara demonstrated earlier that no proof can be adduced from the mishna cited by Rav Sheshet, as the tanna of that mishna taught only some of the differences between second tithe and teruma. Rav Ashi said: From the first part of the mishna as well, you can conclude that he taught certain differences and omitted others, from the fact that he does not teach the following additional difference:

¹²⁸ Teruma and first fruits apply in all the years of the seven-year Sabbatical cycle, including the third and the sixth years, and they do not have the possibility of redemption, as once they are sanctified they may not be redeemed and rendered non-sacred. This is not the case with regard to second tithe, which applies only in the first, second, fourth, and fifth years of the cycle and which can be redeemed. The Gemara concludes: Learn from here that the tanna did not list all of the differences between second tithe and teruma.

¹²⁹ The Gemara resumes its discussion of whether or not an uncircumcised man is prohibited from eating second tithe. Come and hear a proof with regard to this question from the following baraita: If shreds of flesh that invalidate the circumcision remain after the foreskin was removed, one may not eat teruma, nor the Paschal lamb, nor sacrificial food, nor tithe. What, is it not referring to tithe of produce, and so the dilemma is resolved? The Gemara refutes this suggestion: No, the tithe mentioned in this baraita is animal tithe. The baraita teaches that the meat of the animal tithe was forbidden to one who is uncircumcised.

¹³⁰ The Gemara expresses surprise: Animal tithe is the same as sacrificial food, as it too is an offering the meat of which is eaten by the animal’s owner; why would the tanna single it out? The Gemara counters: And according to your reasoning that the baraita would not have singled out specific offerings, didn’t we learn in the baraita that an uncircumcised man may not eat the Paschal lamb, and yet it also teaches that the same halakha applies to sacrificial food?

¹³¹ The Gemara rejects this argument: Granted, it is necessary to mention both the Paschal lamb and sacrificial food. As, if the baraita had taught only the halakha in the case of the Paschal lamb, one might have said that an uncircumcised man may not eat the Paschal lamb because the disqualification resulting from lack of circumcision is written explicitly with regard to the Paschal lamb, but with regard to other sacrificial food, concerning which the Bible says nothing about circumcision, one might say that there is no such prohibition. And conversely, if the baraita had taught only the halakha

with respect to sacrificial food, I would say: What is meant here by sacrificial food? This is referring specifically to the Paschal lamb, concerning which the prohibition with regard to an uncircumcised man is stated explicitly, but other sacrificial food is permitted to him. But why do I need animal tithe to be mentioned at all? It is no different than any other sacrificial food. In that case, the tithe mentioned in the baraita is referring to second tithe.

¹³² The Gemara suggests a different refutation of this proof: Rather, the tithe mentioned in the baraita is referring to first tithe, the one-tenth of the produce that is given to the Levites, and the baraita is in accordance with the opinion of Rabbi Meir, who said that first tithe is forbidden to common Israelites. Since first tithe is forbidden to an ordinary Israelite, it may similarly be forbidden to an uncircumcised man. However, there is no proof from here that second tithe is forbidden to one who is uncircumcised, as second tithe is permitted even to ordinary Israelites.

¹³³ The Gemara suggests: Come and hear a different proof from that which Rabbi Ḥiyya bar Rav of Difti taught in the following baraita: An uncircumcised man is prohibited from eating of two different tithes. What, is it not that one is the tithe of produce and one is animal tithe? The Gemara refutes this argument: Here, too, the baraita is referring to first tithe, and the baraita is in accordance with the opinion of Rabbi Meir.

¹³⁴ Come and hear a proof from yet another baraita: It is prohibited for an acute mourner to eat second tithe, but it is permitted for him to eat teruma and to participate in the preparation of the red heifer. It is prohibited for one who immersed himself that day but does not become completely purified until nightfall to eat teruma, but it is permitted for him to participate in the preparation of the red heifer and to eat second tithe. It is prohibited for one who lacks atonement, e.g., a zav or leper who immersed at the conclusion of his period of impurity but has not yet brought an offering for his atonement, to participate in the preparation of the red heifer, but it is permitted for him to eat teruma and second tithe. And if it is so that an uncircumcised man may eat second tithe, let the baraita also teach: It is prohibited for an uncircumcised man to eat teruma, but it is permitted for him to participate in the preparation of the red heifer and to eat second tithe. The fact that the baraita omits this ruling proves that an uncircumcised man is in fact prohibited from eating second tithe.

¹³⁵ The Gemara rejects this argument: No proof can be adduced from here, as this baraita was taught by a tanna from the school of Rabbi Akiva, who includes an uncircumcised man in the same halakha as that which governs one who is ritually impure. As it is taught in a baraita, Rabbi Akiva says: The words “any man” in the verse “Any man from the seed of Aaron who is a leper or a zav shall not eat of the holy things until he be pure” (Leviticus 22:4) come to include one who is uncircumcised; he, too, is prohibited from partaking of consecrated food or participating in the preparation of the red heifer.

¹³⁶ With regard to the issue itself, the Gemara inquires: And who is the tanna who disagrees with Rabbi Akiva? It is the tanna who disagrees with Rabbi Yosef the Babylonian. As it is taught in a baraita: The burning of the red heifer by an acute mourner or by one who lacks atonement is valid. Rabbi Yosef the Babylonian says: If the burning is performed by an acute mourner, it is valid; but if it is performed by one who lacks atonement, it is invalid. The anonymous first tanna clearly disagrees with Rabbi Akiva, as the previous baraita, which was attributed to Rabbi Akiva, states that one who lacks atonement is prohibited from participating in the preparation of the red heifer. It may be

presumed that this tanna disagrees with Rabbi Akiva with respect to one who is uncircumcised as well.

¹³⁷ The Gemara further comments on this issue. And Rabbi Yitzḥak, too, maintains that an uncircumcised man is prohibited from eating second tithe, as Rabbi Yitzḥak said: From where is it derived that an uncircumcised man is prohibited from eating second tithe? It is stated: “And I did not consume of it while impure” (Deuteronomy 26:14) with regard to second tithe, and it is stated: “Do not eat of it raw” (Exodus 12:9) with regard to the Paschal lamb. Just as in the case of the Paschal lamb, with regard to which “of it” is stated, an uncircumcised man is prohibited from eating it, so too, in the case of second tithe, with regard to which “of it” is stated, an uncircumcised man is prohibited from eating it.

¹³⁸ With regard to this verbal analogy, the Gemara comments: It must be that this phrase “of it” is available, i.e., it is superfluous in its own context and therefore available for the purpose of establishing a verbal analogy. As, if it is not available, the verbal analogy can be refuted logically, as it is possible to say: What is unique to the Paschal lamb? It is that one is liable to receive karet for eating it due to it being piggul or notar, or due to him being ritually impure. It could therefore be argued that it is owing to the Paschal lamb’s special sanctity and severity that an uncircumcised man may not partake of it. But from where is it derived that an uncircumcised man may not eat second tithe? The Gemara concludes: This is not so, as the phrase “of it” is indeed available for establishing the verbal analogy.

¹³⁹ The Gemara asks: Which of the phrases “of it” is not needed in its own context and is therefore available for establishing a verbal analogy? Rava said that Rabbi Yitzḥak said: “Of it” is written three times with regard to the Paschal lamb: “Do not eat of it raw... And you shall not leave any of it until morning, and that which remains of it until the morning you shall burn with fire” (Exodus 12:9–10). The three instances of “of it” are expounded as follows: One for itself, to teach that the prohibition relates to the Paschal lamb; and one for the verbal analogy; and one for another purpose.

¹⁴⁰ According to the one who says that the verse comes to provide you with a positive mitzva to burn that which is left over after it has taught the prohibition against leaving it over until the morning, to teach that one is not flogged for violating the prohibition, because any prohibition that can be rectified by the performance of a positive mitzva does not carry a punishment of lashes; since “that which remains [notar]” is written, “of it” is also written. And according to the one who says that the verse comes to provide him with the second morning for burning, i.e., to teach that the leftover meat of the Paschal lamb is not burned on the following morning, which is a Festival, but rather on the following morning, the first of the intermediate days of the Festival; since “until morning” is written, “of it” is also written.

¹⁴¹ Similarly, “of it” is written three times with regard to second tithe: “I did not eat of it in my mourning, and I did not consume of it while impure, and I did not give of it for the dead” (Deuteronomy 26:14). The three instances of “of it” are expounded as follows: One for itself; and one for that which Rabbi Abbahu said that Rabbi Yoḥanan said, that the verse comes to permit a priest to burn impure teruma oil and derive benefit from its light; and one for the following teaching of Reish Lakish.

¹⁴² As Reish Lakish said that Rabbi Samya said: From where is it derived that if the second tithe became ritually impure, it is permitted for one to anoint one’s body with it? As it is stated: “Nor did I

give of it for the dead.” It is for the dead that I did not give of it, but for the living in a manner similar to the way it is given for the dead, I gave of it. Now, what usage of tithe is the same for the living and the dead? You must say it is anointing.

¹⁴³ Mar Zutra strongly objects to this: But say that the verse is referring not to anointing but to purchasing a coffin and shrouds for one who is deceased with money received in exchange for the second tithe; this is prohibited, but buying clothing and the like for one who is living is permitted. Rav Huna, son of Rav Yehoshua, said: “Of it” indicates benefit derived from the tithe itself and not from the money acquired in exchange for the tithe. Rav Ashi said a different answer: “I did not give” must be similar to “I did not eat”; just as there, eating is from the tithe itself, so too here, giving is from the tithe itself. In any event, the three instances of “of it” written with regard to second tithe are required for different expositions.

¹⁴⁴ The Gemara asks: And yet there is still a difficulty, as the verbal analogy is available only from one side, since only the verse with regard to the Paschal lamb is superfluous in its own context. Granted, this works out well according to the one who says that one can derive from a verbal analogy that is available only from one side and one cannot refute it logically, even if there are valid counterarguments. But according to the one who said that one can derive from such an analogy and one can also refute it logically, if there are grounds to distinguish between the two cases, what can be said? As explained above, the analogy between the Paschal lamb and second tithe can be refuted.

¹⁴⁵ The Gemara answers: This halakha of Rabbi Abbahu with regard to the burning of impure teruma oil is derived from what Rav Nahman said that Rabba bar Avuh said. As Rav Nahman said that Rabba bar Avuh said: What is the meaning of that which is written: “And I, behold, I have given you the charge of My terumot” (Numbers 18:8)? From the amplification of the plural “My terumot,” it is derived that the verse is speaking of two terumot, one teruma that is ritually pure and one teruma that is ritually impure. And the Merciful One states: “I have given you,” i.e., it shall be yours, and you may derive benefit from it. Since there is a stringent prohibition against eating impure teruma, the benefit that is permitted is to burn it beneath your cooked dish. As the allowance to benefit from the burning of impure teruma is derived from here, the phrase “of it” is available on both sides.

¹⁴⁶ § It is taught in the mishna that all those who are ritually impure with any type of ritual impurity may not eat teruma. The Gemara asks: From where are these matters derived? Rabbi Yoḥanan said in the name of Rabbi Yishmael: The verse states: “Any man from the seed of Aaron who is a leper or a zav shall not eat of the holy things until he be pure” (Leviticus 22:4). Now, what matter is the same

¹⁴⁷ for all the seed of Aaron, both sons and daughters? You must say it is teruma. The Gemara raises a difficulty: But say that perhaps the verse is referring to the breast and thigh of a peace-offering, which also may be eaten by all the seed of Aaron, both male and female? The Gemara answers: The breast and thigh are not permitted to males and females in equal manner, as they are not permitted to the daughter of a priest who returns to the home of her father. If the daughter of a priest marries a non-priest, it is prohibited for her to partake of teruma or sacrificial food. If she is widowed or divorced and has no living descendants by her non-priest husband, it is once again permitted for her to eat teruma, but she may not partake of the breast and thigh of the offerings.

¹⁴⁸ The Gemara asks: If so, the same may be said about teruma as well, as it is not permitted to a ḥalala, a woman who is disqualified from marrying a priest, even though she is the daughter of a priest. The Gemara answers: A ḥalala is not considered the seed of Aaron.

¹⁴⁹ The Gemara challenges the halakha recorded in the baraita that one who lacks atonement may eat teruma. And from where do you know that this verse: “Any man from the seed of Aaron who is a leper or a zav shall not eat of the holy things until he be pure,” means that he may not eat of the holy things until sunset? Say that perhaps it means that he may not eat of them until he brings his atonement offering and is entirely pure.

¹⁵⁰ The Gemara answers: This cannot enter your mind, as a tanna of the school of Rabbi Yishmael taught that the verse is speaking of a zav who experienced only two sightings of an emission, and of a quarantined leper, i.e., a suspected leper who has not yet been declared conclusively ritually impure by a priest. Both of these individuals are ritually impure, but they need not bring an offering as part of the purification process. When understood in this way, the leper and zav are similar to one who touches any object that is impure with ritual impurity imparted by a corpse, mentioned later in the verse: Just as one who touches anything that is impure with ritual impurity imparted by a corpse does not require an atonement offering for his impurity, these too, the zav and leper referred to in this verse, do not require an atonement offering; rather, they achieve complete purification at sunset.

¹⁵¹ The Gemara raises a question: But say that this halakha that sunset alone suffices to permit the eating of teruma applies only to one who does not require an atonement offering but merely has to wait until sunset to achieve complete purification. However, with regard to one who does require an atonement offering, perhaps he may not eat teruma until he brings his atonement offering.

¹⁵² And furthermore, the Gemara raises a question with regard to that which we learned in a mishna (Nega'im 14:3): When the period of ritual impurity of a zav or a leper has been completed and he immersed during the day and emerged, he may immediately partake of second tithe; once the sun has set for him, he may partake of teruma; once he has brought his atonement offering, he may eat sacrificial food. From where do we derive these different halakhot?

¹⁵³ Rava said that Rav H̥isda said: Three verses are written with regard to purity for eating sacred food. It is written: “And he shall not eat of the holy things, unless he has bathed his flesh in water” (Leviticus 22:6); but if he has bathed, i.e., immersed, he is immediately pure and may partake of sacred food. And it is written: “And when the sun has set, he shall be pure, and afterward he may eat from the holy things” (Leviticus 22:7), which indicates that he must wait until sunset. And it is further written: “And the priest shall make atonement for her, and she shall be pure” (Leviticus 12:8), which indicates that following childbirth a woman is not completely pure until she has brought her offering. How so? How can the apparent discrepancy between these three verses be resolved? Here, in the first verse, it is referring to second tithe; there, in the second verse, it is referring to teruma; and here, in the third verse, it is referring to sacrificial food.

¹⁵⁴ The Gemara asks: But I can reverse this construct and apply the more stringent condition to tithe. The Gemara answers: It is reasonable to say that teruma is subject to the more stringent condition, as it is already subject to many stringent elements represented by the acronym mem, het, peh, zayin, which is a mnemonic for the following: One who is prohibited from eating teruma but ate it intentionally is liable to the punishment of death [mita] at the hand of Heaven; a non-priest who unwittingly ate teruma is obligated to pay its value to the priest plus one-fifth [homesh] of the sum; teruma does not have the possibility of redemption [pidyon]; and it is prohibited to non-priests [zarim]. These stringencies do not apply to second tithe.

¹⁵⁵ The Gemara counters: On the contrary, second tithe should be governed by the more stringent condition, as it has the stringencies represented by the acronym heh, dalet, samekh, tet, beit, which is a mnemonic for the following: Second tithe must be brought [hava'a] to Jerusalem; it requires that a declaration [viddui] be made on the last day of Passover in the fourth and seventh year of the Sabbatical cycle, stating that one's agricultural obligations with regard to tithes have been properly fulfilled; it is prohibited [asur] to be eaten by one in acute mourning; it may not be burned in a state of impurity [tuma]; and it must be removed [biur] from one's house before Passover in the fourth and seventh years of the Sabbatical cycle, if one failed to do so beforehand.

¹⁵⁶ The Gemara responds: Even so, the punishment of death is a greater stringency, and therefore it is appropriate that teruma should be subject to the additional stringency of waiting until sunset.

¹⁵⁷ Rava said: Even without the rationale that the punishment of death is a greater stringency, you still could not say that the first verse that speaks only of immersion is referring to teruma. As the verse states in the continuation: "The soul that touches it" (Leviticus 22:6). Now, what matter is the same for every soul? You must say it is tithe, as teruma may be eaten only by priests.

¹⁵⁸ The Gemara raises a difficulty with the mishna: But still, say that this halakha that sunset alone is enough for the eating of teruma applies only to one who does not require an atonement offering but merely has to wait until sunset when he is completely purified. However, with regard to one who does require an atonement offering, such as a confirmed leper, perhaps he may not eat teruma until he brings his atonement offering.

¹⁵⁹ Abaye said: Two verses are written with regard to a woman after childbirth: It is written: "She shall touch no hallowed thing, nor come into the Sanctuary, until the days of her purification are completed" (Leviticus 12:4), which suggests that once her days are completed and the sun has set on the last day, she is completely pure and requires nothing more. And elsewhere it is written: "And the priest shall make atonement for her, and she shall be pure" (Leviticus 12:8), which indicates that following childbirth a woman is not completely pure until she has brought her offerings. How so? Here, in the first verse, it is referring to teruma; there, in the second verse, it is referring to sacrificial food. A woman following childbirth falls into the category of one who lacks atonement, but nevertheless the verse teaches that if she has immersed, she may eat teruma after sunset. The same is true of a confirmed leper and all others who lack atonement.

¹⁶⁰ The Gemara asks: But I can reverse this construct and apply the more stringent condition to teruma. The Gemara answers: It is reasonable to say that sacrificial food is subject to the more stringent condition, as it is already subject to many stringent elements represented by the acronym, peh, nun, kuf, ayin, kaf, samekh, which is a mnemonic for the following stringencies that apply to sacrificial food and not to teruma: An offering is disqualified by improper intention during one of the rites involved in its sacrifice with regard to the time it will be eaten [piggul]; meat of an offering that remained beyond its allotted time [notar] may not be eaten and must be burned; it is an offering [korban] to God; one who unwittingly derives benefit from sacrificial food is required to bring a guilt-offering for misuse of consecrated items [me'ila]; the punishment of one who eats sacrificial food while ritually impure is excision [karet]; sacrificial food is prohibited [asur] to an acute mourner.

¹⁶¹ The Gemara challenges this argument: On the contrary, teruma should be subject to the more stringent condition, as, with regard to teruma, there are many stringent elements represented by the

acronym mem, het, peh, zayin. The Gemara answers: Those stringencies that apply to sacrificial food are more numerous than those that apply to teruma.

¹⁶² Rava said: Even without the rationale that those stringencies that apply to sacrificial food are more numerous, you still could not say that the verse that renders a woman pure at sunset refers to sacrificial food, as the verse states: “And the priest shall make atonement for her, and she shall be pure,” which indicates by inference that she remains ritually impure to some degree until she has sacrificed her offerings. And if it enters your mind that she may eat sacrificial food immediately after sunset, you should apply here what is stated in a different verse: “And the flesh that touches anything impure shall not be eaten” (Leviticus 7:19), which indicates that one who is impure with any type of ritual impurity is prohibited from eating sacrificial food. Rather, learn from this that the verse is referring to teruma.

¹⁶³ Rav Sheisha, son of Rav Idi, strongly objects to this argument: And how can you say that a halakha governing teruma is written here, in the verse: “Until the days of her purification are completed” (Leviticus 12:4)? Isn’t it taught in a baraita: The section dealing with a woman following childbirth opens with the verse: “Speak to the children of Israel, saying: If a woman delivers and bears a male, then she shall be unclean seven days; as in the days of the impurity of her menstrual affliction shall she be unclean” (Leviticus 12:2). From this verse I have derived only that the children of Israel are included in this halakha; from where do I derive that a convert and an emancipated maidservant are also included? Therefore, the verse states: “A woman,” which includes other women. And if it enters your mind that the verse is speaking of teruma, are a convert and a maidservant eligible to eat teruma? It is prohibited for them to marry priests, so there can be no possibility of their eating teruma.

¹⁶⁴ Rava said: And is the verse not referring to teruma as well?

¹⁶⁵ But isn’t it written in that same section dealing with a woman after childbirth: “She shall touch no hallowed thing, nor come into the Sanctuary, until the days of her purification are completed” (Leviticus 12:4), which comes to include teruma? Rather, the Torah considers several distinct matters separately, and not all the verses refer to teruma.

¹⁶⁶ The Gemara asks: And why do I need three verses with regard to teruma? The Gemara answers: They are all necessary, as, had teruma been derived solely from the verse: “He shall not eat of the holy things until he be pure” (Leviticus 22:4), I would not have known by what means ritual purity is achieved, whether by immersion alone or in some other way. Therefore, the Merciful One writes: “And when the sun has set he shall be pure, and afterward he may eat from the holy things” (Leviticus 22:7), to teach that he must also wait for sunset.

¹⁶⁷ And had the Merciful One written only: “And when the sun has set,” I might have said that this applies only to one who does not require an atonement offering, but as for one who requires an atonement offering, one might say that he may not eat teruma until he brings his atonement offering. Therefore, the Merciful One writes: “She shall touch no hallowed thing, nor come into the Sanctuary, until the days of her purification are completed” (Leviticus 12:4), which indicates that she may eat teruma as soon as her days of purification are completed, and she need not wait until after she has brought her atonement offering.

¹⁶⁸ And had the Merciful One written only: “Until the days of her purification are completed,” I would say that upon the completion of the purification period she is immediately purified even without immersion. Therefore, the Merciful One writes: “Until he be pure.”

¹⁶⁹ The Gemara asks: And according to that tanna who disagrees with the tanna of the school of Rabbi Yishmael and says that the verse “Any man from the seed of Aaron who is a leper or a zav shall not eat of the holy things until he be pure” (Leviticus 22:4) is speaking of a zav who already experienced three sightings of an emission, and of a confirmed leper, both of whom must bring an offering as part of their purification process; and, this being the case, that phrase “until he be pure” must mean until he brings his atonement offering; then why do I need two verses with regard to sacrificial food, this verse and the verse with regard to a woman after childbirth: “And the priest shall make atonement for her, and she shall be pure” (Leviticus 12:8), to teach us that sacrificial food may not be eaten until after the atonement offering has been brought?

¹⁷⁰ The Gemara answers: They are both necessary, as had the Merciful One written this halakha only with regard to a woman after childbirth, one might have said that it applies only to her because her period of ritual impurity is so long, as she may not return to eating teruma or sacrificial food for either forty days, in the case of a male child, or eighty days, in the case of a female. But with regard to a zav, say that this is not the case. And had the Merciful One written this halakha only with regard to a zav, one might have said that it applies only to him, as no exemption is ever made from its general prohibition and he is always impure. But as for a woman after childbirth, who is permitted to her husband for thirty-three or sixty-six days of that period, say that this is not the case. Both verses are therefore necessary.

¹⁷¹ The Gemara asks: As for the verse stated with regard to a vessel that contracted ritual impurity through contact with a creeping animal: “It must be put into water, and it shall be impure until the evening; then shall it be pure” (Leviticus 11:32), why do I need it? Rabbi Zeira said: It is necessary in order to teach about touching. An impure vessel, even after it has been immersed, still imparts ritual impurity to the teruma that it touches until nightfall. The same applies to an impure individual who has already undergone immersion; not only is it prohibited for him to eat teruma, but also he renders it impure if he touches it.

¹⁷² As it is taught in a baraita: Had the verse stated only: “It must be put into water, and it shall be impure until the evening,” one might have thought that it remains ritually impure until the evening in all regards. Therefore, the verse states: “Then shall it be pure,” indicating that it is pure following immersion, even before sunset. And had it stated only: “Then shall it be pure,” one might have thought that it is pure following immersion in all regards. Therefore, the verse states: “And it shall be impure until the evening.” How so; how can the apparent contradiction between the two parts of the verse be resolved? Here, the verse is referring to second tithe, for which immersion alone suffices; and there it is referring to teruma, for which sunset is required.

¹⁷³ The Gemara asks: But I can reverse this construct and say that the greater stringency should be applied to second tithe. The Gemara answers: It is reasonable to say that teruma is subject to the greater stringency; just as the eating of teruma is subject to greater stringency than the eating of second tithe, so too, the touching of teruma should be subject to greater stringency than the touching of second tithe.

¹⁷⁴ And if you wish, say that the prohibition with regard to the touching of teruma is derived from here: “She shall touch no hallowed thing, nor come into the Sanctuary, until the days of her purification are completed” (Leviticus 12:4); this is a warning with respect to one who eats teruma after having immersed but before sunset. Or, perhaps, it is nothing other than a warning with respect to one who touches teruma before sunset, as is implied by the plain reading of the verse?

¹⁷⁵ Therefore, the verse states: “She shall touch no hallowed thing, nor come into the Sanctuary, until the days of her purification are completed” (Leviticus 12:4), thereby juxtaposing consecrated food to the Sanctuary. Just as the prohibition against entering the Sanctuary is a matter that involves the taking of life, as one who enters the Sanctuary while impure is liable to receive karet, so too, the prohibition against touching consecrated food must be a matter that involves the taking of life, e.g., eating teruma in a state of ritual impurity; but the prohibition against touching teruma in a state of impurity does not involve the taking of life, as there is no punishment of karet for mere touching.

¹⁷⁶ And as for the fact that the verse expressed this halakha in terms of touching, this is what it is saying: The halakha governing touching is like that of eating, as they are both prohibited to an impure person, even after immersion, until sunset. But the verse is actually speaking of the prohibition against eating teruma in a state of impurity.

¹⁷⁷ § It is taught in the mishna that the wife of a priest with crushed testicles or a severed penis may eat teruma on his account, provided that they have not engaged in sexual relations since his injury. The Gemara asks: Who is the tanna who taught with regard to a woman awaiting intercourse that would disqualify her from marrying into the priesthood by Torah law, as in this case, where the woman would become disqualified from marrying into the priesthood if she had relations with her injured husband, that such a woman may eat teruma? Rabbi Elazar said: This halakha is subject to dispute, and it is taught in the mishna in accordance with the opinion of Rabbi Elazar and Rabbi Shimon, who similarly stated that a widow betrothed to a High Priest may eat teruma on his account, provided that he has not engaged in sexual relations with her.

¹⁷⁸ Rabbi Yoḥanan said: The mishna can be understood even if you say that it is in accordance with the opinion of Rabbi Meir, who maintains that a widow betrothed to a High Priest may not eat teruma on his account, as it is different here, as she had already eaten teruma on her husband’s account before his injury. Since she has done nothing to disqualify herself, she retains her presumptive status as one for whom it is permitted to eat teruma.

¹⁷⁹ And how does Rabbi Elazar counter this argument? He maintains that we do not say that since she had already eaten teruma on her husband’s account she continues to do so, as, if you do not say that this argument must be rejected, then it should be permitted for an Israelite woman who married a priest and her husband died without children to continue eating teruma on his account, as she had already eaten teruma because of him during his lifetime. However, such a conclusion is clearly incorrect. This halakha indicates that the fact that she had already eaten teruma is irrelevant.

¹⁸⁰ And Rabbi Yoḥanan holds that the two cases are not comparable, as there, where the husband died, his acquisition of his wife has lapsed, i.e., they are no longer married, and therefore she cannot continue to eat teruma on his account, whereas here, where his genitals were injured, his acquisition has not lapsed. While sexual relations between them are forbidden, their marriage remains intact.

¹⁸¹ § It is taught in the mishna: Who is deemed a man with crushed testicles? The Sages taught in a baraita: Who is deemed a man with crushed testicles? It is anyone whose testicles have been

wounded, even if only one of them. Furthermore, a man is considered to have crushed testicles not only if they have been wounded, but even if they have been punctured, or have decayed as the result of an injury, or are partly deficient for some other reason. Rabbi Yishmael, son of Rabbi Yoḥanan ben Beroka, said: I heard from the Sages in the vineyard in Yavne that anyone who has only one testicle is nothing other than a eunuch by natural causes, and he is fit.

¹⁸² The Gemara is puzzled by the wording of this last teaching: Can it enter your mind that he is a eunuch by natural causes, i.e., from birth? That designation refers to one who was born without testicles, whereas the reference here is to one who lost a testicle as the result of an injury. Rather, say that he resembles a eunuch by natural causes, and he is fit.

¹⁸³ The Gemara asks: As for one whose testicles were punctured, is he incapable of having children, so that he should have the status of one whose testicles were crushed? Wasn't there an incident where a certain man was climbing up a palm tree,

¹⁸⁴ and a thorn [silva] from the tree punctured him in the testicles, and semen resembling a thread of pus issued from him, as the thorn had perforated his testicle, and yet he later had children. The Gemara answers: Didn't Shmuel send this case before Rav, who said to him: Go out and inquire about his children where they come from, as he doubted that this man could father children, and therefore his wife must have committed adultery.

¹⁸⁵ Rav Yehuda said that Shmuel said: A man wounded with crushed testicles at the hand of Heaven, e.g., from birth or as the result of an illness, is fit to marry a woman who was born Jewish. Rava said: This is the reason that we read in the Torah: "A man wounded with crushed testicles," and we do not read: The man wounded with crushed testicles. In the Hebrew text, the latter phrase: The man wounded, can be understood to include one whose testicles have always been crushed, whereas "a man wounded" indicates that he was wounded, i.e., his disability is the result of injury.

¹⁸⁶ A similar idea was taught in a baraita. It is stated: "A man wounded [petzua] with crushed testicles [dakka] or a severed [kerut] penis shall not enter into the congregation of the Lord" (Deuteronomy 23:2), and it is stated in the very next verse: "A mamzer shall not enter into the congregation of the Lord" (Deuteronomy 23:3). Just as there, with regard to a mamzer, his blemish was created at the hands of man, i.e., by his parents who sinned, so too, here, with regard to one with crushed testicles, the verse must be speaking about one whose mutilation was at the hands of man.

¹⁸⁷ Rava said: The verse dealing with injured genitals speaks of three types of injury: Wounded [petzua], crushed [dakka], and severed [kerut]. Wounded applies to all of them; crushed applies to all of them; and severed applies to all of them, as will immediately be explained. Wounded applies to all of them, whether the member was wounded, or the testicles were wounded, or the spermatic cords were wounded. Similarly, crushed applies to all of them, whether the member was crushed, or the testicles were crushed, or the spermatic cords were crushed. And severed also applies to all of them, whether the member was severed, or the testicles were severed, or the spermatic cords were severed.

¹⁸⁸ § One of the Sages said to Rava: From where is it derived that this phrase "petzua dakka," literally meaning wounded by crushing, is referring to a man who suffered an injury in that place, i.e., his genitals? Say that perhaps it is referring to one who was injured on his head. Rava said to him: From the fact that the verse does not mention the number of generations of his descendants that may not enter into the congregation, as do the verses with regard to a mamzer or an Ammonite or Moabite, learn from this that it is referring to a man who suffered an injury in that place. The blemish

is evidently one that prevents him from having children, and therefore he has no generations of descendants.

¹⁸⁹ The Gemara asks: But perhaps the fact that the Torah does not mention the number of generations of his descendants that may not enter into the congregation is due to a halakhic reason rather than a biological one, i.e. that only he is prohibited from entering into the congregation, whereas his son and his son's son are fit to do so?

¹⁹⁰ The Gemara explains that the identity of a petzua dakka is derived in a different way: The case of a petzua dakka is similar to that of one whose penis has been severed, mentioned immediately afterward: Just as one whose penis has been severed suffered an injury in that place, so too, this man was injured in that place.

¹⁹¹ The Gemara asks: As for the one whose penis has been severed [kerut shofkha] himself, from where is it derived that the phrase kerut shofkha, literally meaning severed emission, is referring to a man who suffered an injury in that place, i.e., his genitals? Say that perhaps it is referring to one who was injured to his lips, from where spittle is discharged. The Gemara answers: It is written "shofkha," which indicates that the injury was in a place that pours out [shofekh], whereas spittle is spat out.

¹⁹² The Gemara asks further: But say that perhaps it is referring to one who suffered an injury to his nose. The Gemara answers: Is it written bishpokh, which would indicate a place from which there is a discharge even if nothing was severed? Rather, it is written "kerut shofkha," implying something that pours out as a result of an organ having been severed. But in the absence of an organ having been severed, the semen does not pour out; rather, it is ejected out. This comes to exclude this possibility of the nose, as whether it is in this state or that state, i.e., severed or not, the mucus pours out.

¹⁹³ With regard to this issue, it was taught in a baraita as follows: It is stated: "A man wounded with crushed testicles shall not enter into the congregation," and it is stated: "A mamzer shall not enter into the congregation." Just as there, the blemish of a mamzer comes from that place, through sexual misconduct, so too, here, a man with crushed testicles is one who suffered an injury in that place that is connected to cohabitation.

¹⁹⁴ § The Gemara considers the following case: If a man's member was punctured from one side below the corona, i.e., at the corona itself, and the puncture ended on the opposite side above the corona which is nearer the body, Rabbi Ḥiyya bar Abba thought to render him fit for marriage on the grounds that on one side the puncture was below the corona. Rabbi Asi said to him: This is what Rabbi Yehoshua ben Levi said: A puncture in the corona of any size impedes the man's fitness, even if one end of the puncture is below the corona, as any puncture in the corona affects his fertility.

¹⁹⁵ It is taught in the mishna that if there remains a portion of the corona, even as much as a hairsbreadth, he is still fit. Ravina sat and raised the following dilemma: This hairsbreadth of which they spoke, must it surround the entire member or only a majority of it? Rava Tosfa'a said to Ravina: A hairsbreadth of the corona must surround a majority of the member, and toward its head, that is, in the portion closer to the body.

¹⁹⁶ Rav Huna said: If a man's member was cut like a quill [kulmus], which is sharp on all sides, he is fit; but if it was cut like a gutter, which is partly open, he is unfit. He explains: In this case, where it

was cut like a gutter, he is unfit because the air penetrates and this interferes with the proper flow of his semen; whereas in that case, where it was cut like a quill, he remains fit because the air does not penetrate and the semen is unaffected. And Rav H̥isda said the reverse: If a man's member was cut like a gutter, he is fit; but if it was cut like a quill, he is unfit. This is because in this case, where it was cut like a gutter, the member rubs against the woman's sexual organ and becomes aroused, whereas in that case, where it was cut like a quill, it does not rub against it, as it is too thin and insubstantial.

¹⁹⁷ Rava said: It stands to reason in accordance with the opinion of Rav Huna, that in this case the air penetrates, whereas in that case the air does not penetrate. With respect to the rubbing, this is just as it is in the case of a stopper of a barrel. Although one end of the stopper tapers to a sharp point, the stopper nevertheless closes the hole when it is jammed inside and its other end makes contact with the sides of the hole. Here, too, sufficient contact and friction can be created by the upper end of the man's member.

¹⁹⁸ Ravina said to Mareimar that Mar Zutra said in the name of Rav Pappa as follows: The halakha is that whether the man's member was cut like a quill or like a gutter, he is fit. However, he raised a dilemma as to whether this is referring to a cut below the corona, i.e., on the corona itself, or above it, on that part of the penis that is closer to the body. The Gemara answers: It is obvious that this is referring to a cut above the corona, as, if it enters your mind that it is referring to below the corona, i.e., on the corona itself, this would be difficult because even if the end of the member was completely severed, he would also be fit, provided that a hairsbreadth of the corona remained. The Gemara adds: And Ravina asked this question only because he wanted to mislead Mereimar and test his understanding of the issue.

¹⁹⁹ The Gemara relates: A certain incident actually occurred in the town of Mata Meḥasya, where a man's member was cut like a gutter. Mar bar Rav Ashi cut back the flesh on all sides until it was like a quill and thereby rendered him fit to enter into the congregation. A certain incident occurred in Pumbedita, where the seminal duct of a certain man became blocked, and he emitted semen through the urinary duct. Rav Beivai bar Abaye thought to render him fit, as his genitals were neither crushed nor severed. Rav Pappi said: Because you come

²⁰⁰ from truncated [mimula'ei] people, as Rav Beivai's family traced their lineage to the house of Eli, all of whose descendants were destined to be short-lived (see I Samuel 2:31), you speak truncated [mulayata] and unsound matters. When the semen passes through its proper place, it fertilizes; but if it does not pass through its proper place, it does not fertilize. Since he cannot father children, he is like one whose testicles have been crushed, and therefore he may not enter into the congregation.

²⁰¹ Rav Yehuda said that Shmuel said: If a man's member had been punctured and it later healed and the hole closed up with flesh, in any case where, if he would emit semen, it would tear open again, he is unfit to enter into the congregation; but if not, he is fit. Rava discussed this ruling and raised a question: Where is this perforation? If we say it is below the corona, at the end of the man's member, why should this perforation render him unfit? Even if the member was entirely severed, he would also be fit. Rather, the hole is in the corona itself, that is, at the point where the corona meets the rest of the member. It was also stated explicitly that this is the case, as Rav Mari bar Mar said that Mar Ukva said that Shmuel said: If a man's member had been punctured in the corona itself, and it later

healed and the hole closed up with flesh, in any case where if he would emit semen it would tear open again, he is unfit; but if not, he is fit.

²⁰² With regard to this issue, Rava, son of Rabba, sent the following question to Rav Yosef: Let our teacher teach us, what should we do to verify whether or not the perforation was adequately closed? Rav Yosef said to him: We bring warm barley bread and place it upon his anus [bei pukrei], and owing to the heat he emits semen, and we observe what happens and see whether or not the perforation remains closed.

²⁰³ Abaye said: Is that to say that everyone is like our Patriarch Jacob, with regard to whom it is written: "Reuben, you are my firstborn, my might and the first fruits of my strength" (Genesis 49:3), implying that Jacob never experienced an emission of semen in all his days, so that his eldest son Reuben was conceived from his first drop of seed, i.e., "the first fruits of my strength." The implication is that there is certainly no need for such measures in order to bring a man to ejaculate.

²⁰⁴ Rather, Abaye said that a different method is used: We pass before him colorful garments of a woman, and thereby bring him to arousal, so that he will experience an emission. Rava said: Is that to say that everyone is like Barzilai the Gileadite, traditionally known for his licentious character? Not all men are brought to excitement when they merely see such clothes. Rather, the Gemara rejects this proposal and states that it is clear as we initially answered, that we follow the former procedure even though not all men require it.

²⁰⁵ The Sages taught in a baraita: If a man's member was punctured, he is unfit to enter into the congregation of Israel because his semen is discharged gently and does not fertilize; if the perforation later closed up with flesh, he is fit, because now he can father children. And this is an instance of one who is unfit who returns to his previous state of fitness. The Gemara asks: What does the word this come to exclude? The Gemara explains that it comes to exclude a case involving an entirely different matter, that of a membrane that formed on the lung of an animal in the wake of a wound, which is not considered a proper membrane, as it is likely to rupture. If a puncture in the lung became covered with such a membrane the animal does not regain its former kosher status.

²⁰⁶ With regard to this issue, Rav Idi bar Avin sent the following question to Abaye: What should we do to expedite the healing of such a perforation? Abaye answered: We bring a sharp-edged grain of barley and lacerate the area around the hole with it. We then bring fat and rub it on the spot, and afterward we bring a large ant [shumshena] and let it bite inside the hole. This leads to bleeding and the formation of a scab, which eventually heals as new flesh grows there. We also cut off the ant's head so that it should remain in place until the wound is fully healed. The Gemara comments: And this procedure must be done specifically with a grain of barley, but an iron tool would cause inflammation [zareif]. The Gemara adds: And this applies only to a small perforation, but a large one will eventually peel off and reopen.

²⁰⁷ Rabba bar Rav Huna said: One who passes water from two places, so that he appears to have a hole or some other blemish in his member, is unfit to enter into the congregation of Israel, as is a man with crushed testicles. Rava said: With regard to these matters, the halakha is in accordance neither with the opinion of the son nor with that of the father. The son, this refers to that opinion of Rabba bar Rav Huna, which we just stated. As for the ruling of the father, this is referring to that which Rav Huna said: Women who rub against one another motivated by sexual desire are unfit to marry into

the priesthood, as such conduct renders a woman a zona, whom a priest is prohibited from marrying. It was about this that Rava said that the halakha is not in accordance with Rav Huna's opinion.

²⁰⁸ And even according to the opinion of Rabbi Elazar, who said that an unmarried man who has intercourse with an unmarried woman not for the sake of marriage renders her a zona, a woman who has had sexual relations with a man forbidden to her by the Torah, this applies only to intercourse with a man, but lewd behavior with another woman is mere licentiousness that does not render her a zona, and therefore she is still permitted to marry into the priesthood.

²⁰⁹ MISHNA: A man with crushed testicles or with other wounds to his genitals and one whose penis has been severed are permitted to marry a female convert or an emancipated maidservant, and they are prohibited only from entering into the congregation and marrying a woman who was born Jewish, as it is stated: "A man wounded with crushed testicles or a severed penis shall not enter into the congregation of the Lord" (Deuteronomy 23:2).

²¹⁰ GEMARA: They raised a dilemma before Rav Sheshet: What is the halakha governing a priest with crushed testicles with respect to a female convert or an emancipated maidservant? The Gemara clarifies the two sides of this dilemma: Does he retain his state of sanctity like any other priest and is therefore prohibited from marrying either one of these women, or perhaps he does not retain his state of sanctity and therefore is permitted to marry a convert, like an ordinary Israelite with crushed testicles?

²¹¹ Rav Sheshet said to them: You already learned the answer to this question in the following baraita: It is permitted for an ordinary Israelite with crushed testicles to marry a Gibeonite woman. Now, if it enters your mind that he retains his sanctity as a Jew, one should apply here the prohibition stated with regard to Canaanites: "You shall not marry them" (Deuteronomy 7:3). Apparently, then, one whose testicles have been crushed loses his former sanctity, and the same should apply to a priest.

²¹² Rava said: This is no proof, as is that to say that the prohibition there against marrying Canaanites is due to sanctity or lack of sanctity? Rather, the reason for the prohibition is that perhaps one will father a child from his Canaanite wife and that child will later go off and engage in idolatrous worship. Now, this concern applies only when they are still gentiles, but when they convert, as did the Gibeonites, they are permitted to Jews. And it is the Sages who decreed that Gibeonites are forbidden like mamzerim even after their conversion. And when the Sages decreed that one may not marry them, the decree was limited to those who are capable of having children, but with regard to this one, a man with crushed testicles who is incapable of having children, the Sages did not issue a decree.

²¹³ The Gemara raises an objection against Rava: However, if that is so, then with regard to a mamzer, who is capable of having children, so too one would say that he is prohibited from marrying a Gibeonite. But didn't we learn otherwise in a mishna (Kiddushin 69a): Mamzerim and Gibeonites are permitted to marry one another. Rather, retract this explanation and replace it with the following: When the Sages decreed that one may not marry a Gibeonite, they limited their decree to those who are fit, so as to prevent them from mingling with Gibeonites; but with regard to those who are unfit to enter into the congregation, the Sages did not issue a decree.

²¹⁴ Rava then reconsidered and said that what he had previously argued, that the prohibition against marrying them applies only when they are gentiles, is not correct. The prohibition cannot be referring

to gentiles, as when they are gentiles there can be no valid marriage with them at all. It is only after they have converted that there can be valid marriage with them, and therefore the prohibition against entering into marriage with them applies. Nevertheless, it is permitted for a man with crushed testicles to marry a Gibeonite woman.

²¹⁵ Rav Yosef raised an objection from the verse that states: “And Solomon married the daughter of Pharaoh, king of Egypt” (I Kings 3:1), which indicates that there can, in fact, be valid marriage even with gentiles. The Gemara answers: Before Solomon took Pharaoh’s daughter as his wife, he converted her. The Gemara asks: But isn’t it so that they did not accept converts, neither in the days of David nor in the days of Solomon? The Gemara answers: But isn’t the reason that they did not accept converts during those periods only due to concern that the converts were not acting for the sake of Heaven but in fact desired the power of the table of kings, David and Solomon?

²¹⁶ But this one, Pharaoh’s daughter, did not require such things, as she herself was the daughter of royalty, and therefore there would have been no reason to doubt the sincerity of her conversion.

²¹⁷ The Gemara asks: But let him derive that Pharaoh’s daughter was forbidden to Solomon for a different reason, as she was a first-generation Egyptian convert. Even if she converted, she would still have been an Egyptian convert of the first generation, and as such neither she nor her children would have been permitted to marry a Jew by birth (Deuteronomy 23:8–9). And if you would say that those whom the Torah rendered forbidden have already left Egypt and are now living elsewhere in the world, and those currently living in Egypt are others, there is a difficulty.

²¹⁸ As, isn’t it taught in a baraita that Rabbi Yehuda said: Minyamin, an Egyptian convert, was a friend of mine from among the students of Rabbi Akiva, and he said: After I converted I was a first-generation Egyptian convert, and so I married another first-generation Egyptian convert. I will marry off my son, who is a second-generation Egyptian convert, to another second-generation Egyptian convert, so that my grandson will be fit to enter into the congregation. This indicates that first- and second-generation converts of Egyptian extraction were prohibited from entering into the congregation even during the period of the Mishna.

²¹⁹ Rav Pappa said: Shall we stand up and raise an objection from Solomon? Solomon did not marry anyone, as it is written in his regard: “Of the nations concerning which the Lord said to the children of Israel, You shall not go among them, neither shall they come among you; for surely they will turn away your heart after their gods; Solomon cleaved to these in love” (I Kings 11:2). Solomon cleaved to these women in love, but was not legally married to them. As Solomon had other forbidden wives, the case of Pharaoh’s daughter presents no special difficulty. In fact, none of these marriages were valid at all. But the phrase “and Solomon married” (I Kings 3:1) that appears in connection with Pharaoh’s daughter is difficult, as it indicates that this marriage was in fact valid.

²²⁰ The Gemara answers: Due to the extraordinary love that he had for her, the verse relates to him as if he had married her through a legally valid marriage, even though this was not the case.

²²¹ Ravina said to Rav Ashi: But didn’t we learn in the mishna that a man with crushed testicles and one whose penis has been severed are permitted to marry a female convert and an emancipated maidservant? That indicates that it is only these women whom they are permitted to marry, but they are prohibited from marrying a Gibeonite woman. This appears to contradict the baraita that permits a man with crushed testicles to marry a Gibeonite.

²²² Rav Ashi said to Ravina: And according to your line of reasoning, say the latter clause of the mishna as follows: And they are prohibited only from entering into the congregation, and infer just the opposite, that it is only a woman who was born Jewish whom they are prohibited from marrying, but they are permitted to marry a Gibeonite woman, as she is not part of the congregation of the Lord. Rather, no inference is to be learned from this mishna, as the possible inferences are contradictory, and one must therefore rely on the halakha that was expressly taught.

²²³ MISHNA: Ammonite and Moabite converts are prohibited from entering into the congregation and marrying a woman who was born Jewish, and their prohibition is eternal, for all generations. However, their female counterparts, even the convert herself, are permitted immediately.

²²⁴ Egyptian and Edomite converts are prohibited from entering into the congregation only for three generations, both males and females. Rabbi Shimon renders permitted Egyptian and Edomite females immediately. Rabbi Shimon said: The matter may be derived by way of an a fortiori inference: If in a place where the Torah rendered prohibited the males with an eternal prohibition, i.e., Ammonites and Moabites, it rendered permitted the females immediately, then in a place where it rendered prohibited the males for only three generations, i.e., Egyptians and Edomites, is it not right that we should render permitted the females immediately?

²²⁵ Rabbi Shimon's colleagues said to him: If you are reporting a halakha that you received from your teachers, we will accept it from you. But if you merely wish to prove your case with an a fortiori inference based on your own reasoning, there is a refutation of your argument. Rabbi Shimon said to them: That is not so. I disagree with your claim that the a fortiori inference can be refuted, but in any case I am stating a halakha handed down to me by my teachers.

²²⁶ GEMARA: The Gemara asks: From where are these matters derived that female Ammonites and Moabites are permitted immediately? Rabbi Yoḥanan said: As the verse states: "And when Saul saw David go forth against the Philistine, he said to Abner, the captain of the host: Abner, whose son is this youth? And Abner said: As your soul lives, O king, I cannot tell" (I Samuel 17:55). This verse is puzzling: Did Saul really not recognize him? But isn't it previously written: "And David came to Saul, and stood before him; and he loved him greatly; and he became his armor-bearer" (I Samuel 16:21)? Rather, it must be that he was asking about David's father.

²²⁷ The Gemara is still puzzled by this verse: And did Saul not recognize David's father? But isn't it written with regard to Jesse, David's father: "And the man in the days of Saul was old, and came among men" (I Samuel 17:12), and Rav, and some say Rabbi Abba, said: This is referring to Jesse, father of David, who always entered with multitudes [ukhlusa] and left with multitudes. As he was clearly a man of importance, everyone must have known who he was.

²²⁸ Rather, this is what Saul was saying, in his attempt to clarify David's lineage: Does he come from the descendants of Perez, or does he come from the descendants of Zerah? What is the significance of this question? If he comes from Perez he will be king, as a king may breach [poretz] a way for himself and no one can stop him. And if he comes from Zerah he will be merely a man of importance, but not a king.

²²⁹ The Gemara continues with its explanation: For what reason did Saul say to Abner that he should inquire about David? As it is written: "And Saul clad David with his apparel [maddav]" (I Samuel 17:38), which indicates that the clothes were of David's size [kemiddato]. And it is written with regard to Saul: "From his shoulders and upward he was higher than any of the people" (I Samuel

9:2). Upon seeing that his clothes fit David, Saul began to fear that it might be David who was destined for the throne, and he therefore inquired into his background. At that point, Doeg the Edomite said to Saul: Before you inquire as to whether or not he is fit for kingship, inquire as to whether or not he is even fit to enter into the congregation. What is the reason for such doubts? It is that he descends from Ruth the Moabite, and Moabites are permanently barred from entering the congregation.

²³⁰ Abner said to him: We already learned that there is no room for such concern. As the verse states: “An Ammonite or a Moabite shall not enter into the congregation of the Lord” (Deuteronomy 23:4), teaching that an Ammonite man is barred from entering into the congregation, but not an Ammonite woman; and similarly, a Moabite man is barred from entering into the congregation, but not a Moabite woman. Doeg said to him: However, if that is so, say that the verse that renders it prohibited for a mamzer to enter the congregation renders prohibited only a male mamzer, but not a female mamzer. Abner replied: It is written: “A mamzer,” which should be understood not as a noun but as an adjective, denoting a strange blemish [mum zar], one who is defective due to a forbidden relationship, and this applies to males and females alike.

²³¹ Doeg retorted: If so, say that it is prohibited for only an Egyptian man to enter into the congregation, but not an Egyptian woman. Abner answered: Here it is different, as the reason for the prohibition recorded in this verse with regard to Ammonites is explicit: “Because they did not meet you with bread and with water on the way, when you came forth out of Egypt” (Deuteronomy 23:5). Since it is the way of a man to go forth to meet guests but it is not the way of a woman to go forth, females were not included in this prohibition. Doeg countered: Still, the men should have gone forth to meet the men, and the women to meet the women. Abner was silent, as he did not know how to respond to this objection.

²³² Immediately: “And the king said, inquire you whose son is this lad” (I Samuel 17:56). The Gemara comments: There, in the previous verse, Saul calls him youth [na’ar], and here he calls him lad [elem]. This change in the wording hints at the following discussion. Saul said to Doeg as follows: The halakha is hidden [nitalma] from you, and you are ignorant of the law. Go and inquire about the matter in the study hall. He went to the study hall and asked. They said to him: The halakha is: An Ammonite man is forbidden, but not an Ammonite woman; a Moabite man is forbidden, but not a Moabite woman.

²³³ Doeg raised before them all those objections from the others who are disqualified from entering into the congregation, and they were silent, not knowing how to respond. Doeg then wanted to proclaim that David was disqualified from entering into the congregation. He was immediately answered. Here it says: “Now Amasa was the son of a man, whose name was Jithra the Israelite, that went into Abigail the daughter of Nahash” (II Samuel 17:25), and yet elsewhere it is written that Amasa’s father was named “Jether the Ishmaelite” (I Chronicles 2:17). Rava said: This teaches that he girded his sword like Ishmael, i.e., like an Arab, and said: Whoever does not accept this halakha and act accordingly shall be stabbed with the sword. This is the tradition that I received from the court of Samuel from Rama: An Ammonite man is prohibited from entering into the congregation, but not an Ammonite woman; a Moabite man is prohibited from entering into the congregation, but not a Moabite woman.

²³⁴ The Gemara asks about this incident: And is he trusted to offer such testimony? But didn't Rabbi Abba say that Rav said: With regard to every Torah scholar who issues a halakhic ruling based on a tradition he claims to have received from his teacher, and that ruling has practical ramifications for himself as well, if he stated the ruling already before the incident, i.e., before it had a bearing on his own case, one listens to him; but if not, if he reported the tradition only after it was personally relevant to him, one does not listen to him, as he is an interested party. Since Amasa was the son of Jesse's daughter Abigail, as stated in the aforementioned verse in Chronicles, the matter certainly affected his own status. The Gemara answers: Here it is different, as Samuel and the other members of his court were still living, and the truth of Amasa's report could be easily verified.

²³⁵ The Gemara asks: In any case, the unanswered question raised by Doeg is difficult. The Gemara answers: Here, in Babylonia, they explained the matter based on the verse: "The king's daughter is all glorious within" (Psalms 45:14), which indicates that it is unbefitting for a woman to venture outside at all, and therefore the Ammonite women would not have been expected to go forth to meet the Jewish women. In the West, Eretz Yisrael, they say, and some say it was Rabbi Yitzhak who said: The verse states: "And they said to him: Where is Sarah your wife? And he said: Behold, in the tent" (Genesis 18:9), which teaches that it is praiseworthy for a woman to remain inside her home.

²³⁶ The Gemara comments that this disagreement with regard to the source of the halakha that it is permitted for an Ammonite or Moabite woman to enter into the congregation is like the following dispute between tanna'im: The verse states: "An Ammonite or a Moabite" (Deuteronomy 23:4); an Ammonite man is barred from entering into the congregation, but not an Ammonite woman, and similarly, a Moabite man is barred from entering into the congregation, but not a Moabite woman. This is the statement of Rabbi Yehuda, who derives the halakha from the masculine form of these two terms. Rabbi Shimon says: The verse states: "Because they did not meet you with bread and with water on the way" (Deuteronomy 23:5). Since it is the way of a man, but not the way of a woman, to go forth to meet guests, females were not included in the prohibition.

²³⁷ With regard to the same issue, Rava taught: What is the meaning of that which is written: "You have loosened my bands" (Psalms 116:16)? David said before the Holy One, Blessed be He: Master of the Universe, You have loosened the two bands that were on me, on account of which I and my entire family might have been disqualified, i.e., Ruth the Moabite woman and Na'ama the Ammonite woman. Owing to the allowance granted to Moabite and Ammonite women, we are permitted to enter the congregation.

²³⁸ Rava further taught: What is the meaning of that which is written: "Many things have You done, O Lord my God, Your wonders and Your thoughts are upon us" (Psalms 40:6)? Upon me is not stated, but rather "upon us," which teaches that Rehoboam, son of Solomon and grandson of David, was sitting on the lap of David, who said to him: These two verses were stated about me and about you, as Rehoboam's mother was Na'ama the Ammonite.

²³⁹ With regard to the same issue, Rava also taught: What is the meaning of that which is written: "Then I said: Behold, I have come; in the scroll of a book it is written about me" (Psalms 40:8)? David said: I had said that I have come only now; my life was created only recently, at the time of my birth. But I did not know that it was already written about me in the scroll of a book, that an ancient text already hints at my existence. There, with regard to the daughters of Lot, it is written: "And your two daughters that are found here" (Genesis 19:15), and here, with regard to David, it is

written: "I have found David, My servant; I have anointed him with My holy oil" (Psalms 89:21). The lost article that was found among the daughters of Lot, the mothers of Ammon and Moab, is David and his royal house.

²⁴⁰ Ulla said that Rabbi Yoḥanan said: The daughter of an Ammonite convert is fit not only to marry an ordinary Israelite, but even to marry into the priesthood. Rava bar Ulla said to Ulla: In accordance with whose opinion did you state this halakha? If it is in accordance with the opinion of Rabbi Yehuda, didn't he say that the daughter of a male convert is like the daughter of a male ḥalal, one rendered unfit for the priesthood, which means that the daughter of any convert should be disqualified from the priesthood? And if you spoke in accordance with the opinion of Rabbi Yosei, it is obvious that this is the case, as he said that even if a male convert marries a female convert, his daughter is fit to marry into the priesthood.

²⁴¹ And if you would say that Rabbi Yosei spoke only of those converts who are fit to enter into the congregation, but with regard to this one, an Ammonite convert, who is not fit to enter into the congregation, his daughter is not fit to marry a priest, there is a difficulty: From where does he derive this distinction?

²⁴² The Gemara answers: He derives this from the case of a High Priest who married a widow, a woman whom he is prohibited from marrying. Just as his daughter is disqualified from marrying into the priesthood, so too is the daughter of an Ammonite convert disqualified from marrying into the priesthood. However, an objection may be raised: What comparison can be made to a High Priest who married a widow, which is a stringent prohibition, as his intercourse involves a transgression? Can one say the same with regard to the daughter of an Ammonite convert, who could be born from a permitted relationship, e.g., from a male Ammonite convert who married a female Ammonite convert?

²⁴³ The Gemara answers: Let the case of a ḥalal prove that this is not relevant, as his intercourse does not involve a transgression and yet his children are also ḥalalim, who are prohibited from marrying into the priesthood. However, another objection may be raised: What comparison can be made to a ḥalal, seeing that his essential formation involved a transgression, and therefore it is understandable that his disqualification extends to his offspring. Can one say the same with regard to the daughter of an Ammonite convert who was not the product of a forbidden union?

²⁴⁴ The Gemara answers: Let the case of a High Priest who marries a widow prove that this is not relevant, as he was not the product of a forbidden union but nevertheless his daughter is disqualified from marrying into the priesthood. And the derivation has reverted to its starting point, and the discussion can go back and forth.

²⁴⁵ At this point, however, the halakha can be derived from a combination of the two sources: The aspect of this case, that of a High Priest, is not like the aspect of that case, that of a ḥalal, and the aspect of that case is not like the aspect of this case; their common denominator is that he is not included in the majority of the congregation, i.e., the man is governed by a halakha that differs from that of most Jews. The High Priest's intercourse with a widow involves a transgression, and the ḥalal is the product of a forbidden union. And in each case, the man's daughter is disqualified from marrying into the priesthood. So too, an Ammonite convert is not included in the majority of the congregation, as it is prohibited for him to enter the congregation of Israel, and so his daughter is also disqualified from marrying into the priesthood.

²⁴⁶ The Gemara objects: What is the common denominator between the case of the High Priest and that of the ḥalal that prevents one from utilizing it as a paradigm for other cases? Both of those cases include an aspect of transgression; the High Priest engaged in a forbidden act of intercourse, and the ḥalal is the product of a forbidden union. Perhaps that is the reason that the daughter in each of these cases is prohibited from marrying into the priesthood. In the case of the Ammonite convert, however, there is no transgression.

²⁴⁷ The Gemara answers: Perhaps you spoke of an Ammonite convert who married the daughter of a Jew, and Rabbi Yoḥanan wished to teach that although his intercourse involves a transgression, as it is prohibited for him to enter into the congregation, his daughter is nevertheless fit to marry into the priesthood. Ulla said to him: Yes, this was Rabbi Yoḥanan's teaching.

²⁴⁸ As, when Ravin came from Eretz Yisrael to Babylonia, he said that Rabbi Yoḥanan said: With regard to the daughter of an Ammonite convert who is the offspring of his forbidden marriage with a woman of Jewish birth, and similarly, with regard to the daughter of a second-generation Egyptian convert from his forbidden marriage with a woman of Jewish birth, Rabbi Yoḥanan said that she is fit to marry into the priesthood, whereas Reish Lakish said that she is disqualified from marrying a priest. Reish Lakish said she is disqualified, as he derives from the halakha governing a High Priest who married a widow that the daughter of any forbidden union is disqualified from the priesthood. Rabbi Yoḥanan said she is fit,

²⁴⁹ as Rabbi Zakkai taught the following baraita before Rabbi Yoḥanan: That which is stated with regard to a High Priest: "But a virgin of his own people shall he take to wife" (Leviticus 21:14), comes to include an established female convert, one who was a convert from birth, i.e., who was born to a father and mother who converted after their marriage but prior to her birth, and this indicates that she is fit to marry into the priesthood. And Rabbi Yoḥanan said to him: I teach that the words "his own people" and the more inclusive phrase "of his own people" come to include a virgin who comes from two peoples, from a union of converts hailing from two different peoples, and you say only an established female convert and no more?

²⁵⁰ The Gemara asks: What are these two peoples? If we say this is referring to an Ammonite man who married an Ammonite woman, and what is the meaning of "from two peoples," that they are legally considered like two separate peoples, as their males are prohibited from entering into the congregation, whereas their females are permitted to do so, there is a difficulty. In that case, this is the same as an established female convert, as the daughter of such a union is a proper convert in all regards. Rather, it must refer to an Ammonite man who married the daughter of a Jew, as they belong to two separate peoples.

²⁵¹ And there are those who say an alternative version of this discussion. Rabbi Yoḥanan said to Rabbi Zakkai: I teach that the words "his own people" and the more inclusive phrase "from his own people" come to include a virgin who comes from two peoples, i.e., whose mother was Jewish from birth and whose father was a convert, and that convert is from a people that itself consists of two peoples, i.e., an Ammonite or a Moabite, who hail from peoples whose males are prohibited from entering into the congregation, while it is permitted for their females to do so, and you say only an established female convert and no more?

²⁵² The Gemara asks: And according to this second version, from where does Rabbi Yoḥanan derive that the daughter of a second-generation Egyptian convert who had entered into a forbidden marriage

with a woman of Jewish birth is fit to marry into the priesthood, as with respect to Egyptian converts, there is no difference between males and females? And if you would say that he derives this from the case of an Ammonite convert who married the daughter of a Jew, the following difficulty arises: What comparison can be made to an Ammonite convert who married the daughter of a Jew and had a daughter, who is permitted to enter the congregation although she is an Ammonite, as female Ammonite converts are entirely permitted? Perhaps for this reason it is permitted for the daughter to marry into the priesthood as well. Can one say the same with regard to the daughter of a second-generation Egyptian convert who had entered into a forbidden marriage with a woman of Jewish birth, when it is prohibited for female Egyptian converts, like their male counterparts, to enter into the congregation until the third generation?

²⁵³ The Gemara responds: Let the case of a second-generation male Egyptian convert who married a second-generation female Egyptian convert prove that this is not relevant, as it is permitted for their daughter, a third-generation Egyptian convert, to enter the congregation, even though she belongs to the Egyptian people, whose female converts are prohibited in the same manner as their male converts.

²⁵⁴ The Gemara refutes this proof: What comparison can be made to a second-generation male Egyptian convert who married a second-generation female Egyptian convert, seeing that his intercourse does not involve a transgression, as it is permitted for him to marry her? Can one say the same with regard to a second-generation Egyptian convert who entered into a forbidden marriage with the daughter of a Jew?

²⁵⁵ This leads back to the first proof: Let an Ammonite man who married the daughter of a Jew prove that this is not irrelevant, as they too entered into a forbidden union, and yet it is permitted for the daughter of that marriage to marry into the priesthood. And the derivation has reverted to its starting point, and the discussion can go back and forth. The two cases differ in their particular aspects, but their common denominator is that it is permitted for the daughter to marry into the priesthood. So too, it is permitted for the daughter of a second-generation Egyptian convert who married a woman who was born Jewish to marry into the priesthood.

²⁵⁶ Rav Yosef said: This is what I heard Rav Yehuda say in his lecture about the phrases “his own people” and “from his own people,” and at the time I did not know what he was saying. Now I understand that he was saying that it is permitted for the daughter of an Ammonite convert who married a Jewish woman to marry into the priesthood, as taught by Rabbi Yoḥanan.

²⁵⁷ When Rav Shmuel bar Yehuda came from Eretz Yisrael to Babylonia, he said that Rabbi Zakkai taught before Rabbi Yoḥanan as follows: An Ammonite woman is fit, her son from an Ammonite is unfit, and her daughter from an Ammonite is fit. In what case is this statement said? It is said with regard to an Ammonite man and an Ammonite woman who converted, but her daughter from an Ammonite who did not convert is unfit.

²⁵⁸ Rabbi Yoḥanan said to him: Go out and teach it outside, i.e., this baraita is not in accordance with the accepted halakha, and therefore it should not be made part of the regular learning in the study hall. What you said, that an Ammonite woman is fit, is well known and need not be taught because it is just another way of saying that a male Ammonite is barred from entering the congregation but not a female Ammonite. As for the teaching that her son from an Ammonite is unfit, this too is unnecessary, as he is an Ammonite.

²⁵⁹ But that which you said: Her daughter from an Ammonite is fit, with regard to what issue did you teach this? If we say that she is fit to enter into the congregation, this too is redundant: Now that it was taught that even her mother is fit to enter the congregation, is it necessary to say that she herself, the daughter, is fit to do so? Rather, you must mean to say that she is fit to marry into the priesthood.

²⁶⁰ The baraita continues: In what case is this statement said? It is said with regard to an Ammonite man and an Ammonite woman who converted, but her daughter from an Ammonite man is unfit. What is meant here by her daughter from an Ammonite? If we say it means an Ammonite man who married an Ammonite woman, and they converted prior to the birth of their daughter, this is an established female convert, who was previously declared fit to marry into the priesthood. Rather, it must mean an Ammonite convert who unlawfully married the daughter of a Jew, and according to what is stated here, their daughter is unfit to marry a priest. Rabbi Yoḥanan, however, ruled that such a woman is fit, and therefore he said to Rabbi Zakkai: Go out and teach it outside, as this baraita is unreliable.

²⁶¹ It is taught in the mishna that Egyptian and Edomite converts are prohibited from entering into the congregation only for three generations, both males and females, while Rabbi Shimon permits females immediately based on the following a fortiori inference. If regarding Ammonites and Moabites, where the Torah prohibited the males with an eternal prohibition, it permitted the females immediately, then regarding Egyptians and Edomites, where it prohibited the males for only three generations, the females should certainly be permitted immediately. Rabbi Shimon's colleagues informed him that there is a refutation of his argument. The Gemara asks: What is this refutation mentioned by the mishna?

²⁶² Rabba bar bar Ḥana said that Rabbi Yoḥanan said: It is because it may be said that those with whom relations are forbidden, i.e., incestuous relationships, prove that the above-mentioned factor is irrelevant, as the Torah prohibits them only for up to three generations, i.e., up to his granddaughter, and yet it prohibits both males and females, i.e., the daughter of his son and the daughter of his daughter.

²⁶³ The Gemara rejects this proof: What comparison can be made to those with whom relations are forbidden, which involve stringent prohibitions, as they entail the punishment of karet? The Gemara answers: Let the prohibition with regard to a mamzer prove that this is not relevant, as its violation does not involve the punishment of karet and yet it applies equally to males and females.

²⁶⁴ The Gemara rejects this argument: What comparison can be made to a mamzer, seeing that he is governed by the stringency that he is forever unfit to enter into the congregation for all generations? The Gemara counters: Let those with whom relations are forbidden prove that this is not relevant, as the Torah prohibits them only for up to three generations. And the derivation has reverted to its starting point, and the discussion can go back and forth.

²⁶⁵ However, the halakha with regard to an Egyptian can be derived from a combination of the two sources. The aspect of this case, that of incestuous relationships, is not like the aspect of that case, that of a mamzer, and the aspect of that case is not like the aspect of this case; their common denominator is that their prohibition applies to both males and females. I will also bring the additional halakha of a male Egyptian convert and a female Egyptian convert that they are forbidden, both males and females.

²⁶⁶ The Gemara objects: What is unique about the common denominator between the cases of incestuous relationships and a mamzer that prevents utilizing it as a paradigm for other cases? Both include an aspect of karet, either with respect to the act of incestuous intercourse itself or with respect to the conception of the mamzer, as a mamzer is the offspring of a union punishable by karet. However, the prohibition concerning an Egyptian, which does not include an aspect of karet, may apply only to males, but not females.

²⁶⁷ And the Rabbis, who reject Rabbi Shimon's proof, derive the prohibition applying to female Egyptians from the halakha governing a ḥalal, one rendered unfit for the priesthood. A ḥalal is the child of a union for which the parties involved are liable to receive punishment for the transgression of a positive mitzva, e.g., the child of a High Priest and a woman who was not a virgin when he married her, and this status applies to males and females alike. And this is in accordance with the opinion of Rabbi Eliezer ben Ya'akov, who ruled that the child of such a relationship is a ḥalal.

²⁶⁸ The Gemara asks: And what did Rabbi Shimon mean when he responded: Not so? The Gemara explains that this is what he said to them: According to my own opinion, I do not hold in accordance with the opinion of Rabbi Eliezer ben Ya'akov, and therefore your refutation is not valid for me. But even according to you, who do maintain in accordance with the opinion of Rabbi Eliezer ben Ya'akov, I am nevertheless stating a halakha handed down to me by my teachers that female Egyptians and Edomites are permitted.

²⁶⁹ It is taught in a baraita that Rabbi Shimon said to them: I am stating a traditional halakha, and furthermore a verse supports me, as the verse with regard to Edomites and Egyptians states: "The sons of the third generation that are born to them may enter to them, the congregation of the Lord" (Deuteronomy 23:9), teaching that the prohibition applies to their sons, but not to their daughters.

²⁷⁰ The Sages taught a baraita that further clarifies the matter: The prohibition with regard to Egyptians and Edomites applies only to their sons, but not to their daughters; this is the statement of Rabbi Shimon. Rabbi Yehuda said: The verse states: "The sons of the third generation that are born to them may enter to them, the congregation of the Lord," and the phrase "born to them" indicates that the verse made their prohibition dependent on birth, with regard to which there is no difference between males and females.

²⁷¹ Rabbi Yoḥanan says: Had Rabbi Yehuda not said that the verse made their prohibition dependent on birth, so that females are also included in the prohibition, he would not have found his hands and feet in the study hall, i.e., he would have been caught in a self-contradiction. Why? Since the Master said that according to Rabbi Yehuda a congregation of converts is also called a congregation of the Lord,

²⁷² how could a second-generation Egyptian convert ever achieve purity, so that it is permitted for his offspring, the third generation, to enter into the congregation? He may marry neither a Jew nor a female Egyptian convert. The Gemara answers: Perhaps it means that if he transgressed and married a convert or a Jewish woman, his seed will be purified. The Gemara rejects this suggestion: A case of: That if, is not written in the verse. In other words, the Bible does not speak of situations that can arise only through the commission of a transgression.

²⁷³ The Gemara asks: But isn't there the halakha of a mamzer, which is a case of that if, as a mamzer is the child of a forbidden union, and yet the verse writes it? The Gemara answers: A case of that if that results in a prohibition, the Torah writes, but a case of that if that leads to an allowance, the

Torah does not write. The Torah teaches the halakha of a mamzer, whose very existence is the result of his parents having engaged in forbidden relations, in order to render it prohibited for him to enter into the congregation. However, it would not teach the halakha of a second-generation Egyptian convert who transgressed and married a woman who was forbidden to him, in order to permit his offspring to enter into the congregation.

²⁷⁴ The Gemara raises an objection: But isn't there the halakha governing one who remarries his divorcée after she had been married to another man? This is a case of that if that leads to an allowance, and yet the Torah writes it. The words "It is an abomination before the Lord" (Deuteronomy 24:4) stated with regard to this case teach that although the woman herself is forbidden to her first husband, if she nevertheless remarried him, their children are fit to enter into the congregation. The Gemara answers: There, the Torah writes that case due to the basic prohibition, i.e., that a man may not remarry his divorced wife after she has been married to another man, and the allowance with regard to their children is learned incidentally.

²⁷⁵ The Sages taught in a baraita: The verse states with respect to Egyptian and Edomite converts that "the sons of the third generation that are born to them may enter to them, the congregation of the Lord" (Deuteronomy 23:9). If it is stated "sons" why is it also stated "generation," and if it is stated "generation" why is it also stated "sons"? One of these terms seems superfluous. The baraita explains: If it had stated only "sons" and not stated "generation," I would say that the prohibition depends on the number of the son, meaning that the first and second sons of an Egyptian convert are forbidden, whereas the third is permitted. Therefore, it is stated "generation" to indicate that the prohibition depends not on the number of the son but on his generation.

²⁷⁶ And conversely, if it had stated only "generation" and not stated "sons," I would say that the generations are counted from those standing on Mount Sinai, so that any Egyptian born after three generations have passed from the time of the giving of the Torah would be permitted. Therefore, it is stated "sons" to indicate that certain sons are prohibited in later generations as well.

²⁷⁷ The verse states: "The sons of the third generation that are born to them may enter to them, the congregation of the Lord." The Sages expounded each of the two instances of the words "to them": The first mention of "to them" teaches that from them you should count. The count of generations begins with the converts themselves, as they are considered the first generation, and therefore their grandchildren are permitted. The second mention of "to them" teaches that you should follow their disqualification. If a male Egyptian convert married a Jewish woman, or if a female Egyptian convert married a Jewish man, the halakha with regard to the offspring born to them is that although one of the parents is not disqualified from entering into marriage, the status of the child follows the unfit parent, who disqualifies his or her offspring until the third generation.

²⁷⁸ The Gemara comments: And it is necessary to write "to them," and it is also necessary to write "that are born." As, if the Merciful One had written only "that are born," I would say that one should count the generations from the converts' sons. Therefore, the Merciful One writes "to them" to teach that the converts themselves are counted as the first generation. And if the Merciful One had written only "to them," I would say that in the case of a pregnant Egyptian woman who converted, she and her child, i.e., the fetus, are considered one generation, as the fetus is deemed to be a part of its mother. Therefore, the Merciful One writes "that are born," to indicate that each birth marks a new generation, and accordingly the fetus is regarded as a second-generation Egyptian convert.

²⁷⁹ The verse concerning a mamzer states: “A mamzer shall not enter into the congregation of the Lord; even to the tenth generation shall none of his [lo] enter into the congregation of the Lord” (Deuteronomy 23:3). And it is necessary to write “to them” here, with regard to an Egyptian convert, to teach that the child’s status follows the disqualified parent in his case, and it is also necessary to write “to him [lo]” with regard to a mamzer, to teach that a similar halakha applies to a mamzer. In the translation of the verse, lo is translated as: Of his, i.e., of his ilk. However, lo can also be translated as: To him.

²⁸⁰ Lo is written with regard to both the Egyptian and the mamzer, as, if the Merciful One had written it only here, with regard to an Egyptian, one might have said that only in this case does the child’s status follow the disqualified parent, because the Egyptian comes from an unfit drop of semen, that of a gentile. But as for a mamzer, who comes from a fit drop of semen, as his parents were proper Jews despite their grave sin, one might say that there is no room for such stringency. Therefore, the Torah teaches that the same halakha applies to a mamzer.

²⁸¹ And conversely, if the Merciful One had written this stringent halakha only with regard to a mamzer, one might have said that this is because he is forever unfit to enter into the congregation, but here, with regard to an Egyptian convert, I might say that this is not the case. Therefore, both verses are necessary.

²⁸² Rabba bar bar Ḥana said that Rabbi Yoḥanan said: If a second-generation male Egyptian convert married a first-generation female Egyptian convert, her child is considered a third-generation convert for whom it is permitted to enter the congregation. The Gemara comments: Apparently Rabbi Yoḥanan maintains that we assign the child to him, the father, and not to the mother.

²⁸³ Rav Yosef raised an objection from the following mishna (Kiddushin 69a): Rabbi Tarfon says: Mamzerim can purify themselves over the course of the generations. How so? If a mamzer married his non-Jewish maidservant, the child born to them is a slave. If the slave’s master, the mamzer who owns the maidservant, subsequently freed the child, he becomes a free man and is fit to enter into the congregation. Apparently we assign the child to her, the mother, and not to the father, as the child is deemed a slave rather than a mamzer. The Gemara answers: It is different there, in the case of the slave, as the verse states: “The wife and her children shall be her master’s” (Exodus 21:4). The words “her children” indicate that the children born to a non-Jewish maidservant are assigned to her.

²⁸⁴ Rava raised an objection from a previously mentioned baraita: Rabbi Yehuda said: Minyamin, an Egyptian convert, was a friend of mine from among the students of Rabbi Akiva, and he said: Following my conversion I was a first-generation Egyptian convert, and so I married another first-generation Egyptian convert. I will marry off my son, who is a second-generation Egyptian convert, to another second-generation Egyptian convert, so that my grandson will be fit to enter into the congregation. Now, if it enters your mind to say that we assign the child to the father, even if he marries off his son to a first-generation Egyptian convert his grandson should be permitted. The Gemara answers: Didn’t Rabbi Yoḥanan already say to the tanna reciting the baraita: You should teach that Minyamin sought to marry off his son to a first-generation Egyptian convert.

²⁸⁵ When Rav Dimi came from Eretz Yisrael to Babylonia, he said that Rabbi Yoḥanan said just the opposite: If a second-generation male Egyptian convert married a first-generation female Egyptian convert, her son is considered a second-generation convert who is prohibited from entering the

congregation. Apparently, Rabbi Yoḥanan maintains that we assign the child to the mother and not to the father.

²⁸⁶ Abaye said to him: But what, then, will you say about that which Rabbi Yoḥanan said: If one set aside a pregnant animal as a sin-offering, and the animal later gave birth to a female, if he wishes he may gain atonement with the mother itself, in which case the young is left to graze until it develops a blemish that renders it unfit for sacrifice, whereupon it is sold and the proceeds are used for a gift offering; and if he wishes he may gain atonement with the animal's young, and the mother is left to graze until it develops a blemish.

²⁸⁷ Granted, if you say that a fetus is not considered the thigh, i.e., a part, of its mother but rather a separate creature, despite the fact that it is still attached to her, then an individual in this situation is like one who sets aside two sin-offerings as a guarantee, i.e., one who, owing to his concern that his sin-offering might become lost, sets aside two animals from the outset with the intention of using whichever one he chooses. And Rav Oshaya said with regard to such a case: If one set aside two sin-offerings as a guarantee, so that if one is lost he may gain atonement with the other, he gains atonement with one of them, and the second is left to graze until it develops a blemish and can be redeemed.

²⁸⁸ But if you say that a fetus is considered the thigh of its mother and is regarded as part of her, it is the young of a sin-offering, and the young of a sin-offering goes to its death. Such an animal is not left to graze. Rather, it is put into isolation and caused to die, as it has been sanctified as a sin-offering through its mother but cannot be sacrificed on the altar and used to gain atonement. In summary, it would appear that Rabbi Yoḥanan himself maintains that a fetus is not considered a part of its mother. Why, then, in the case of the Egyptian convert is the child assigned to the mother and not to the father?

²⁸⁹ Rav Dimi was silent, momentarily unable to find an answer. Abaye said to him: Perhaps it is different there, with regard to Egyptian converts, as it is written with regard to them: "The sons of the third generation that are born to them may enter to them, the congregation of the Lord" (Deuteronomy 23:9), indicating that the verse made their prohibition dependent on birth, and therefore the child of Egyptian converts is assigned to the mother. Rav Dimi said to him: Man of great skull, i.e., man of distinction, I saw your head between the pillars of the study hall when Rabbi Yoḥanan taught this halakha. In other words, you grasped the meaning as though you were actually present in the study hall and heard the statement from Rabbi Yoḥanan himself.

²⁹⁰ The Gemara draws an inference: The reason that the child is assigned to its Egyptian mother is that it is written: "That are born to them." But generally, with regard to others for whom it is prohibited to enter into the congregation, we assign the child to the father. The Gemara asks: But what about that which Rava said: If a pregnant gentile woman converted, then her son, who was a fetus at the time of the conversion, does not require immersion after he is born. But if the child is not assigned to its mother, why should he not require immersion?

²⁹¹ And if you would say that this is because of a statement of Rabbi Yitzḥak, there is still a difficulty. As Rabbi Yitzḥak said: By Torah law, if some substance is found on a person's body during immersion, and it covers the majority of his body, and he is particular and wants the substance removed, only then is it considered an interposition that invalidates immersion in a ritual bath. If, however, the substance covers the majority of his body, but he is not particular about that substance,

it is not considered an interposition. Accordingly, it may be argued that although the fetus is covered by its mother, since it is not particular about this necessary covering, the fetus itself is regarded as having undergone valid immersion.

²⁹² However, this is difficult, as didn't Rav Kahana say that they taught this halakha that if one is not particular about the substance it is not considered an interposition only when the substance covers just a majority of his body; but if it covers all of it, it is considered an interposition by Torah law, even if he is not particular about it. The Gemara answers: A fetus is different, as this is its natural manner of growth. Its mother's womb cannot be considered an interposition, as it is the fetus' natural place of development, and therefore the fetus itself is regarded as having undergone immersion.

²⁹³ When Ravina came from Eretz Yisrael to Babylonia, he said that Rabbi Yoḥanan said: With respect to lineage, among the other nations of the world, i.e., while they are still gentiles, follow the male, but if they married after they converted, follow the more flawed in lineage of the two. The Gemara explains: Among the nations, follow the male, as it is taught in a baraita: From where is it derived that if one from the other nations had relations with a Canaanite woman and had a son from her, you are permitted to purchase him as a slave, and he is not considered a Canaanite who may not be allowed to remain in Eretz Yisrael? As it is stated: "And also from the children of the strangers that dwell among you, of them may you buy, and of their families that are with you, which they have begotten in your land; and they may be your possession" (Leviticus 25:45).

²⁹⁴ One might have thought that even if one from the Canaanite nations had relations with a woman from one of the other nations and had a son from her, you are permitted to purchase him as a slave. Therefore, the same verse states: "Which they have begotten in your land," which indicates that slaves may be bought only from those begotten in your land, i.e., from those whose father was a non-Canaanite and whose mother was a Canaanite. It is the way of women to remain in their own land, and so a child born in Eretz Yisrael was certainly born to a Canaanite mother. But slaves may not be bought from those dwelling in your land. If a child is born to a Canaanite man and a non-Canaanite woman outside of Eretz Yisrael, and that offspring later returns to dwell in Eretz Yisrael, the offspring may not be acquired as a slave, because his lineage follows his father. He is regarded as a Canaanite, who may not be allowed to remain in Eretz Yisrael.

²⁹⁵ It was taught above in the name of Rabbi Yoḥanan that if they married after they converted, follow the more flawed in lineage of the two. The Gemara asks: To what circumstances is this referring? If we say it is referring to a male Egyptian convert who married a female Ammonite convert, what is the meaning of: More flawed in lineage of the two, in this case? The halakha is that an Ammonite man is barred from entering into the congregation, but not an Ammonite woman, and so she is not flawed at all. Rather, it must be referring to a male Ammonite convert who married a female Egyptian convert. If the child is male, assign him to his Ammonite father, so that he is permanently barred from entering the congregation. If it is a female, assign her to her Egyptian mother, so that she is treated like a second-generation Egyptian convert.

²⁹⁶ MISHNA: Mamzerim and the Gibeonites who converted to Judaism in the days of Joshua are prohibited from entering into the congregation and marrying a woman who was born Jewish. Their prohibition is eternal, for all generations, and it applies to both males and females.

²⁹⁷ GEMARA: Reish Lakish said: A mamzeret, a female mamzer, is permitted after ten generations. Why? He derived this halakha by way of a verbal analogy between the word "tenth" stated in relation

to an Ammonite and a Moabite in the verse “An Ammonite or a Moabite shall not enter into the congregation of the Lord; even to the tenth generation shall none of them enter into the congregation of the Lord forever” (Deuteronomy 23:4), and the word “tenth” stated in relation to a mamzer in the verse “A mamzer shall not enter into the congregation of the Lord; even to the tenth generation shall none of his enter into the congregation of the Lord” (Deuteronomy 23:3) He explained the analogy as follows: Just as below, with regard to an Ammonite and a Moabite, females are permitted, so too here, with regard to a mamzer, females are permitted.

²⁹⁸ The Gemara raises a difficulty: Or perhaps one should say that just as below, with regard to an Ammonite and a Moabite, their females are permitted immediately, so too here, a mamzeret is permitted immediately. The Gemara answers: The verbal analogy is effective only from the tenth generation and onward.

²⁹⁹ The Gemara raises another difficulty: But didn’t we learn in the mishna that mamzerim and Gibeonites are prohibited, and their prohibition is eternal for all generations, and it applies to both males and females? The Gemara answers: This is not difficult for Reish Lakish, as he understands that there is a dispute in this regard: This opinion, that of Reish Lakish, is in accordance with the tanna who said that the application of a verbal analogy is extended by way of the principle: Infer from it, and again from it. In other words, after deducing case B from case A, all of the characteristics of case A are applied to case B. In the case discussed here, although the verbal analogy comes primarily to render a mamzer permanently forbidden, it is extended and understood to mean that a mamzeret is permitted after ten generations.

³⁰⁰ That other opinion, i.e., the mishna, is in accordance with the tanna who said that the application of a verbal analogy is limited, according to the principle: Infer from it, and then leave it in its place. That is to say, after the main provision of case A is applied to case B, case B is recognized as having its own character and specific rules that apply to it. Accordingly, in the case discussed here, the verbal analogy teaches one specific halakha that a mamzer is prohibited permanently, but nothing else.

³⁰¹ The Gemara relates that the students asked Rabbi Eliezer: With regard to a mamzeret after ten generations, what is the halakha? He said to them: Who will give me a third-generation mamzer so that I will declare him pure? The Gemara comments: Apparently he maintains that a mamzer does not survive. Mamzerim perish at the hand of Heaven, and therefore this question is not a practical one. And similarly, Rav Huna said that a mamzer does not survive.

³⁰² The Gemara raises a difficulty: But didn’t we learn in the mishna that mamzerim are prohibited from entering into the congregation, and their prohibition is eternal for all generations? How is this possible if they do not even live long enough to produce three generations? Rabbi Zeira said: This matter was explained to me by Rav Yehuda himself: One who is known to be a mamzer will survive, as there is no concern that there will be any mingling of his seed. On the other hand, one who is not known as a mamzer will not survive, as he will die at the hand of Heaven so that there will be no mingling of his seed. As for one who is known and not known, i.e., one who is under suspicion, but it is unclear whether or not he is actually a mamzer, his descendants will survive for three generations, but more than this they will not survive.

³⁰³ It is related that a certain person lived in Rabbi Ami’s neighborhood, and following an investigation Rabbi Ami declared him to be a mamzer. The man went about weeping until Rabbi Ami

said to him: You should not be upset, as now I have given you life. As explained above, once one is publicly known as a mamzer, he and his descendants may survive.

³⁰⁴ § Rav Ḥana bar Adda said: As for the Gibeonites, it was King David who decreed that they may not enter into the congregation, as it is stated: “And the king called the Gibeonites and said to them. Now the Gibeonites are not of the children of Israel, but of the remnant of the Amorites” (II Samuel 21:2). This verse indicates that it was David who ruled that they are not part of the Jewish people and that they are barred from the congregation even though they converted.

³⁰⁵ The Gemara asks: What is the reason that David decreed that they may not enter into the congregation? In order to answer this question, the Gemara recounts all the relevant background events. As it is written: “And there was a famine in the days of David three years, year after year” (II Samuel 21:1). In the first year David said to the Jewish people: Perhaps there are idol worshippers among you, this being a sin that can lead to drought, as it is written: “Take heed to yourselves, lest your heart be deceived, and you turn aside, and serve other gods, and worship them; and the anger of the Lord be kindled against you, and He shut up the heaven, so that there shall be no rain, and the ground shall not yield her fruit” (Deuteronomy 11:16–17). They examined the matter but did not find sinners of this kind.

³⁰⁶ In the second year of the drought David said to them: Perhaps there are transgressors in sexual matters among you, as this too can lead to drought, as it is written: “Therefore the showers have been withheld, and there has been no latter rain; yet you had a harlot’s forehead, you refused to be ashamed” (Jeremiah 3:3), which indicates that licentious behavior can lead to a cessation of rainfall. Again they examined the matter, but did not find sinners of this kind either.

³⁰⁷ In the third year he said to them: Perhaps there are among you those who pledge money to charity in public, but do not actually give any charity. As it is written: “As vapors and wind without rain, so is he that boasts himself of a false gift” (Proverbs 25:14), teaching that one who falsely boasts of making a gift prevents the rain from falling. Once again they examined the matter, but could not find such sinners.

³⁰⁸ Having unsuccessfully searched the Jewish people for sins that cause drought, David said: The matter depends on nothing other than myself. Immediately it is stated: “And David sought the presence of the Lord” (II Samuel 21:1). The Gemara asks: What is this? How did David seek God? Reish Lakish said: He inquired through the Urim VeTummim, the stones embedded in the High Priest’s breastplate, which served as a means of communicating with God.

³⁰⁹ The Gemara asks: From where may it be inferred that David’s seeking was by way of the Urim VeTummim? Rabbi Elazar said: This is derived by way of a verbal analogy between the word “presence” used here and the word “presence” used elsewhere. It is written here: “And David sought the presence of the Lord,” and it is written there: “And he shall stand before Eleazar the priest, who shall inquire for him by the judgment of the Urim in the presence of the Lord” (Numbers 27:21). Consequently, the “presence of the Lord” sought by David must have involved the Urim VeTummim.

³¹⁰ The verse continues: “And the Lord said: It is for Saul, and for his bloody house, because he put to death the Gibeonites” (II Samuel 21:1). The Gemara explains: “For Saul” means that the Jewish people were punished because he was not eulogized properly. “And for his bloody house” is “because he put to death the Gibeonites.” The Gemara is puzzled by this explanation: Now, where do we find that Saul put to death the Gibeonites? The Gemara clarifies: Rather, because he killed the

people of Nob, the city of priests, who would provide the Gibeonites with water and food in exchange for their services, the verse ascribes to him as if he himself had killed them.

³¹¹ The Gemara questions this understanding: On one hand, God demands retribution because Saul was not eulogized properly, while on the other hand, He demands retribution because Saul himself put to death the Gibeonites. The Gemara answers: Yes, this is how it should be. As Reish Lakish said: What is the meaning of that which is written: “Seek the Lord, all the humble of the earth, that have executed [pa’alu] His justice” (Zephaniah 2:3)? Where mention is made of the justice to be carried out against a person, his good deeds [pa’alo] should be mentioned there as well.

³¹² David said: With regard to the eulogy for Saul, there have already passed

³¹³ the twelve months of the year of mourning, i.e., several years have elapsed since the twelve-month mourning period for Saul, and it is not the proper way to eulogize after such a long time.

³¹⁴ As for the Gibeonites, let us call them and appease them. Consequently, the verse states: “And the king called the Gibeonites and said to them...What shall I do for you, and with what shall I make atonement that you may bless the inheritance of the Lord? And the Gibeonites said to him: It is not a matter of silver or gold between us and Saul or his house; neither is it for us to put any man to death in Israel...Let seven men of his sons be delivered to us, and we will hang them up to the Lord...” (II Samuel 21:1–6). He tried to appease them in other ways, but they would not be appeased.

³¹⁵ David said: There are three distinguishing marks of this nation, the Jewish people. They are merciful, they are shamefaced, and they perform acts of kindness. They are merciful, as it is written: “And He will give you mercy, and have mercy upon you and multiply you” (Deuteronomy 13:18); not only will God have mercy upon you, but He will bestow the attribute of mercy upon you. They are shamefaced, as it is written: “And that His fear shall be upon your faces” (Exodus 20:17), and the fear that is on one’s face is his shame. They perform acts of kindness, as it is written: “For I have known him, to the end that he may command his children and his household after him, that they may keep the way of the Lord, to practice righteousness and justice” (Genesis 18:19), i.e., to perform acts of kindness. Whoever has these three distinguishing marks is fit to cleave to this nation. Those who lack these qualities, however, are unfit to be part of the Jewish people. When David saw the cruelty of the Gibeonites, he decreed that they may never enter into the congregation of Israel.

³¹⁶ The Gemara continues with its understanding of the incident: “And the king took the two sons of Rizpah, daughter of Aiah, whom she bore unto Saul, Armoni and Mephibosheth, and the five sons of Michal, daughter of Saul, whom she bore to Adriel the son of Barzillai the Meholathite” (II Samuel 21:8). The Gemara asks: What is different about these sons that David chose them from among all the descendants of Saul? Rav Huna said: He passed all of Saul’s descendants before the Ark of the Covenant. Whoever was held back by the Ark, so that he could not move on, was condemned to death; whoever was not held back by the Ark was set apart for life.

³¹⁷ Rav Hana bar Ketina raised an objection: The verse states: “And the king had pity on Mephibosheth, son of Jonathan, son of Saul, because of the Lord’s oath that was between them, between David and Jonathan, son of Saul” (II Samuel 21:7). If the seven men were condemned by the Ark, how did the king’s pity affect their sentence? The Gemara answers: It means that he did not pass Mephibosheth before the Ark at all, so that he would not be in danger of being held back at all.

³¹⁸ The Gemara questions this behavior: May favoritism be shown in this matter? Once the decision was placed in the hand of Heaven, how could David have intervened in matters of life and death and not pass Mephibosheth before the Ark? Rather, what happened was that David passed Mephibosheth before the Ark and the Ark held him back, but David immediately asked for mercy on his behalf, and the Ark released him. The Gemara asks: But the difficulty still remains: May favoritism be shown in this matter? Once the Ark condemned Mephibosheth to death, how could David have intervened so that another would have to die in his place? Rather, David asked for mercy on his behalf, that the Ark should not hold him back and performed no other action.

³¹⁹ The Gemara raises a difficulty with regard to the story as related by the Bible: But isn't it written: "The fathers shall not be put to death for the children; neither shall the children be put to death for the fathers" (Deuteronomy 24:16)? As Saul's sons had not sinned, why were they put to death? Rabbi Hiyya bar Abba said that Rabbi Yoḥanan said: It is better that one letter and one mitzva be uprooted from the Torah in this manner and thereby the name of Heaven not be desecrated in public [parhesya]. The killing of the Gibeonites by the Jewish people constituted a desecration of God's name. In order to repair the damage, David acquiesced to the Gibeonites' demands, even though they contradicted Torah law.

³²⁰ The Gemara continues with its analysis of the incident. The verse states: "And Rizpah, daughter of Aiah, took sackcloth and spread it for her upon the rock, from the beginning of harvest until water was poured upon them from heaven; and she allowed neither the birds of the air to rest on them by day, nor the beasts of the field by night" (II Samuel 21:10). The Gemara raises a difficulty: How could they have left Saul's executed sons unburied all that time? Isn't it written: "His body shall not remain all night upon the tree; but you shall surely bury him the same day" (Deuteronomy 21:23)?

³²¹ Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yehotzadak: It is better that one letter be uprooted from the Torah and thereby the name of Heaven be sanctified in public. How so? As the gentile passersby would say: What is the nature of these people who have been left hanging here for so long? They were told that these are sons of kings. And what did they do to deserve such a fate? They had laid their hands upon and caused harm to calculating converts who had converted for personal gain and were never permitted to enter into the congregation. Those passersby said: There is no nation as worthy of cleaving to it as this one. If the sons of kings who harmed converts are treated in this manner, all the more so would the sons of ordinary people [hedyotot] be. And if calculating converts are related to in this way, all the more so would this apply to members of the Jewish people themselves.

³²² Immediately, one hundred and fifty thousand converts joined the Jewish people, as it is stated: "And Solomon had seventy thousand that bore burdens and eighty thousand that were hewers in the mountains" (I Kings 5:29), all of whom were converts. The Gemara asks: But perhaps these carriers and hewers were Jews? The Gemara answers: This cannot enter your mind, as it is written: "But of the children of Israel Solomon made no slaves" (I Kings 9:22).

³²³ The Gemara raises another difficulty: But from where may it be inferred that these men were slaves? Perhaps they were merely workers employed [dogzar] in the ranks of public service, in which case they could have been born Jews and not converts. Rather, the matter is derived from here: "And Solomon counted all the converted men that were in Eretz Yisrael...and they were found to be one hundred and fifty thousand...and he made seventy thousand of them to bear burdens, and eighty

thousand to be hewers in the mountains” (II Chronicles 2:16–17). It is apparent from here that these carriers and hewers were in fact converts. These large numbers of converts had been influenced by the sanctification of God’s name in the wake of the punishment meted out to the descendants of Saul.

³²⁴ The Gemara returns to the main issue under discussion. As for the Gibeonites, was it David who issued a decree against them that they may not enter the congregation? Wasn’t it Moses who issued a decree against them, as it is written: “From the hewer of your wood to the drawer of your water” (Deuteronomy 29:10), which indicates that there was a distinct class of wood hewers and water drawers already in the time of Moses. This class must have been composed of insincere converts who constituted a separate group unto themselves, apart from the rest of the Jewish people. The Gemara answers: Moses issued a decree only with regard to that generation that they must remain separate, whereas David decreed for all generations.

³²⁵ The Gemara raises another difficulty: But still, it was Joshua who issued a decree against the Gibeonites, as it is written: “And Joshua made them that day hewers of wood and drawers of water, for the congregation and for the altar of the Lord” (Joshua 9:27). The Gemara answers: Joshua issued a decree for the period when the Temple is standing, as indicated by the phrase “for the altar of the Lord,” whereas David issued a decree even for the period when the Temple is not standing.

³²⁶ It is related that in the days of Rabbi Yehuda HaNasi the Sages sought to permit the Gibeonites and treat them like Jews in all regards, thereby allowing them to enter into the congregation. Rabbi Yehuda HaNasi said to them: Even if we permit our share and say that the court nullifies the Jewish people’s right to enslave the Gibeonites, and so they should be treated like emancipated slaves, who can permit the altar’s share? Do they not belong to the Temple and the altar as well?

³²⁷ The Gemara comments: And Rabbi Yehuda HaNasi disagrees with the teaching of Rabbi Ḥiyya bar Abba. As Rabbi Ḥiyya bar Abba said that Rabbi Yoḥanan said: The share in the enslavement of the Gibeonites that belongs to the congregation of Israel is forbidden forever and can never be permitted. However, with regard to the share belonging to the altar, when the Temple is standing it is forbidden, but when the Temple is not standing it is permitted.

³²⁸ MISHNA: Rabbi Yehoshua said: I heard two rulings from my teachers. One ruling is that a eunuch performs ḥalitza with his yevama, and his brothers perform ḥalitza with his wife, and the other ruling is that a eunuch does not perform ḥalitza with his yevama, and his brothers do not perform ḥalitza with his wife. And I cannot explain these two rulings, as I do not remember the circumstances to which each ruling applies.

³²⁹ Rabbi Akiva said: I will explain. A eunuch caused by man, i.e., one who became emasculated after birth, performs ḥalitza with his yevama and his brothers perform ḥalitza with his wife, because he had an hour of fitness, a time when he was fertile. On the other hand, a eunuch by natural causes, i.e., who was entirely lacking in sexual capacity from birth, does not perform ḥalitza with his yevama and his brothers do not perform ḥalitza with his wife, because he did not have an hour of fitness, as he never had the potential to father children.

³³⁰ Rabbi Eliezer says: No; rather, the opposite is the case: A eunuch by natural causes performs ḥalitza with his yevama and his brothers perform ḥalitza with his wife because he can be cured, whereas a eunuch caused by man does not perform ḥalitza with his yevama and his brothers do not perform ḥalitza with his wife because he cannot be cured.

³³¹ Rabbi Yehoshua ben Beteira testified about a man named ben Megusat, who lived in Jerusalem and was a eunuch caused by man, that his brothers nevertheless entered into levirate marriage with his wife, in order to fulfill and confirm the statement of Rabbi Akiva.

³³² A sexually underdeveloped man does not perform ḥalitza or enter into levirate marriage with his yevama. And similarly, a sexually underdeveloped woman [aylonit], who is incapable of bearing children, does not perform ḥalitza or enter into levirate marriage with her yavam.

³³³ If a sexually underdeveloped man performed ḥalitza with his yevama, he has not thereby disqualified her from marrying into the priesthood, as his ḥalitza is invalid. However, if he had intercourse with her, he has disqualified her. This is because it is considered licentious sexual intercourse, since such intercourse does not fulfill the mitzva of levirate marriage and is therefore categorized as forbidden relations with one's sister-in-law. And similarly, with regard to a sexually underdeveloped woman, if one of the brothers performed ḥalitza with her he has not thereby disqualified her from marrying into the priesthood. However, if he had intercourse with her, he has disqualified her because the intercourse is considered licentious sexual intercourse.

³³⁴ GEMARA: Now, we learned that Rabbi Akiva said: Those liable for violating a prohibition are like those liable to receive karet with regard to the validity of their marriage and all its ramifications, and those liable to receive karet are not eligible to perform ḥalitza or levirate marriage. A eunuch caused by man has the status of a man with crushed testicles, and is therefore prohibited by a standard negative mitzva from marrying a Jewish woman. If he violated the prohibition and married her, his marriage is invalid according to Rabbi Akiva, just as if he had married a woman who is forbidden to him by a prohibition punishable by karet. Why, then, should his ḥalitza be valid?

³³⁵ Rabbi Ami said: With what are we dealing here? We are dealing with a case where the eunuch's brother had married a convert, and Rabbi Akiva holds in accordance with the opinion of Rabbi Yosei, who said that the congregation of converts is not called a congregation of the Lord. Consequently, it is permitted even for those for whom it is prohibited to enter into the congregation, e.g., a eunuch, to marry converts.

³³⁶ The Gemara raises a difficulty: If so, the eunuch should also be able to perform levirate marriage with the convert. The Gemara answers: Yes, it is indeed so, but since Rabbi Yehoshua said that a eunuch performs ḥalitza with his yevama, Rabbi Akiva as well said that he performs ḥalitza with her, while in fact he may enter into levirate marriage with her if he so chooses.

³³⁷ The Gemara adds: The language of the mishna is also precise in this regard, as it teaches: Rabbi Yehoshua ben Beteira testified about a man named ben Megusat, who lived in Jerusalem and was a eunuch caused by man, that his brothers entered into levirate marriage with his wife, to fulfill the statement of Rabbi Akiva. This indicates that according to Rabbi Akiva, not only ḥalitza but even levirate marriage is permitted. The Gemara concludes: Learn from this that this is the correct understanding of the mishna.

³³⁸ Rabba raised an objection from the following baraita: A man with crushed testicles, and one whose penis has been severed, and a eunuch caused by man, and an elderly man who is no longer capable of fathering children, may either perform ḥalitza or enter into levirate marriage. The baraita clarifies the matter: How so? If these men died and they had wives and they also had brothers, and the brothers proceeded to perform levirate betrothal with their wives, or gave them a bill of divorce,

or performed ḥalitza with them, what they did is done, i.e., it is a valid act. And if the brothers had intercourse with the wives, they acquired them in levirate marriage, like any other yevama.

³³⁹ If the brothers of these sexually impaired men died, and the sexually impaired men proceeded to perform levirate betrothal with their brothers' wives, or gave them a bill of divorce, or performed ḥalitza with them, what they did is done, i.e., it is a valid act. And if they had intercourse with their brothers' wives they acquired them in levirate marriage, but they are prohibited from maintaining them as their wives because it is stated: "A man with crushed testicles or a severed penis shall not enter into the congregation of the Lord" (Deuteronomy 23:2). Apparently, we are dealing with a case where the eunuch's brother had married a woman who is in the congregation of the Lord, i.e., a Jew from birth who is governed by this prohibition, and not a convert.

³⁴⁰ Rather, Rabba said that the case here is one where one's brother died and his yevama happened before him for levirate marriage, and he was injured only afterward. Since the mitzva of levirate marriage had initially applied to him, he performs ḥalitza with her.

³⁴¹ Abaye said to him: If so, let the prohibition applying to a man with crushed testicles come and override the positive mitzva of levirate marriage. Didn't we learn in a mishna (109a) as follows: With regard to a case of two brothers who were married to two sisters, one of whom was a minor married off by her brothers in a marriage valid only by rabbinic decree, and the brother who was married to the adult sister passed away, Rabban Gamliel says: If the minor sister refuses her husband, declaring that she does not desire the marriage, she has refused him. Since the marriage is valid only by rabbinic decree, the girl may terminate it before she reaches the age of twelve by declaring that she does not wish to remain in the marriage, and no bill of divorce is required. In such a case the marriage is nullified retroactively, and so her former husband, the yavam, may perform levirate marriage with her sister.

³⁴² The mishna continues: But if she does not refuse him, the minor must wait and her husband must not have relations with her until she reaches adulthood and their marriage is valid by Torah law, since in the meantime she is forbidden to him as the sister of a woman awaiting levirate marriage with him. At that point, when the minor reaches adulthood, this one, the adult sister, goes out free from the yavam without levirate marriage or ḥalitza as his wife's sister. Apparently, the prohibition with regard to a wife's sister comes and overrides the mitzva of levirate marriage that had previously been in effect. Here too, then, let the prohibition applying to a man with crushed testicles come and override the positive mitzva of levirate marriage.

³⁴³ Rather, Rav Yosef said: This tanna of our mishna is the tanna of the school of Rabbi Akiva, who said that only the child born of a union between those who are liable for violating prohibitions involving incestuous relationships is a mamzer, but the child born of a union between people who are liable for violating ordinary prohibitions is not a mamzer. The prohibition applying to a man with crushed testicles falls into the latter category, and therefore his marriage is valid and he may perform ḥalitza.

³⁴⁴ The Gemara asks: Why does the mitzva of levirate marriage apply at all to a eunuch? Read here the verse with regard to levirate marriage: "To establish a name for his brother in Israel" (Deuteronomy 25:7), and this one is no longer capable of this, even if previously he had an hour of fitness when he was fertile earlier in his life.

³⁴⁵ Rava said: If it is so that anyone who cannot presently father children is exempt from levirate marriage even if he had previously been capable of doing so, there is no instance of a woman who is fit for the yavam, as even if her husband died of natural causes it is impossible that he did not become like a eunuch by natural causes an hour before his death. He had certainly lost his fertility before dying, and therefore he has the status of a eunuch, which means that the mitzva of levirate marriage should not apply in his case at all. Rather, it must be that a man who had previously been capable of fathering children is considered fit for the purposes of levirate marriage.

³⁴⁶ The Gemara comments: According to the opinion of Rabbi Eliezer in the mishna that a eunuch caused by man does not perform ḥalitza and his marriage is invalid even though he had an hour of fitness when he was fertile, Rava's answer, his proof from the fact that all men on their deathbeds lack sexual capacity, is undoubtedly a refutation.

³⁴⁷ The Gemara answers: Rabbi Eliezer maintains that a man who is about to die cannot be compared to a eunuch, as there, he can no longer father children due to the general weakness that begins to take over his body as death approaches, which prevents him from engaging in relations with a woman, but his basic ability to father children remains unimpaired.

³⁴⁸ The Gemara raises a practical question: What are the circumstances of a eunuch by natural causes? Rav Yitzḥak bar Yosef said that Rabbi Yoḥanan said: Anyone

³⁴⁹ who never saw a single hour of life in a state of fitness, as he was born infertile. The Gemara asks: How do we know that one was born this way and was never capable of having children? Abaye said: Anyone who passes water and does not form an arch with his urine, but rather his urine dribbles out downward, never had sexual capacity.

³⁵⁰ Incidentally, the Gemara inquires: From what does this defect arise? What is its cause? The Gemara answers: It results from his mother baking bread at noon and drinking strong beer [shikhra marka] while pregnant. The excessive heating of the mother's body causes her child to be born with defective reproductive organs. Rav Yosef said: This is the meaning of that which I heard Rabbi Ami say: Anyone who is impaired from his mother's womb, and at the time I did not know what he was referring to. Now I understand that he was speaking about a man who was infertile from birth.

³⁵¹ The Gemara asks: Let us be concerned that perhaps he was cured for some period in the meantime, without our having known about it, in which case he would have had an hour of fitness at some point. The Gemara answers: Since both his beginning and his end are impaired, i.e., he was born with a defect and he presently suffers from the same condition, we are not concerned about such a possibility.

³⁵² Rav Mari raised an objection from the following mishna (Bekhorot 38b): Rabbi Ḥanina ben Antigonus says: One examines a firstborn animal that developed a blemish in its eye three times within eighty days to see whether the defect is permanent. This shows that no presumptions are made in such a case; rather, there is concern that the animal may have been cured in the meantime, even if it had the defect at the beginning and at the end of the period.

³⁵³ The Gemara answers: With respect to a blemish affecting a single organ, e.g., an eye, we are concerned that the blemish might have passed and then later redeveloped, but with regard to a defect affecting the entire body, we are not concerned about such a possibility. A eunuch is not impaired in a single organ; rather, he has a defect that affects his entire body. Consequently, there is no concern

that, though he was born with the defect and presently suffers from it, he might have regained his potency for some time in the middle.

³⁵⁴ § It is taught in the mishna that Rabbi Eliezer says: No; rather, a eunuch by natural causes performs ḥalitza, whereas a eunuch caused by man does not perform ḥalitza. The Gemara raises a contradiction from the following mishna (Nidda 47b): If a twenty-year-old man has not grown two pubic hairs, a sign of sexual maturity, the relatives of the widow who wish to exempt her from ḥalitza and levirate marriage must bring proof that he is twenty years old, and he, having been established as a sexually underdeveloped man, does not perform ḥalitza or levirate marriage with his yevama. If a twenty-year-old woman has not grown two pubic hairs, the relatives of her deceased husband's brother must bring proof that she is twenty years old, and she, having been established as a sexually underdeveloped woman, does not perform ḥalitza or enter into levirate marriage with her yavam. This is the statement of Beit Hillel. And Beit Shammai say: With regard to both this and that, males and females, the relevant age is eighteen years old, not twenty.

³⁵⁵ The mishna continues: Rabbi Eliezer says that for a male the halakha is in accordance with the statement of Beit Hillel, and for a female the halakha is in accordance with the statement of Beit Shammai, because a woman reaches maturity more quickly than does a man, and therefore, if she fails to develop the signs of maturity by the age of eighteen it is assumed that she is a sexually underdeveloped woman. In any case, it is clear from this mishna that even Rabbi Eliezer agrees that one who lacks sexual capacity from birth may neither perform ḥalitza nor enter into levirate marriage.

³⁵⁶ Rami bar Dikulei said that Shmuel said: Rabbi Eliezer retracted his opinion. A dilemma was raised before the Sages: Which statement did he retract? Did he retract what he said here in the mishna, that a eunuch by natural causes performs ḥalitza with his yevama and his brothers perform ḥalitza with his wife? Alternatively, perhaps the mishna here reflects his final view, after he retracted what he said in the other mishna. The Gemara suggests: Come and hear a resolution to this question, as it is taught in a baraita that Rabbi Eliezer says: A eunuch by natural causes performs ḥalitza with his yevama and his brothers perform ḥalitza with his wife, as such type of men are cured in Alexandria of Egypt. This additional source and its reasoning suggest that Rabbi Eliezer did not retract what he said in the mishna here. Rather, he retracted his statement with regard to the dispute between Beit Hillel and Beit Shammai in the other mishna.

³⁵⁷ Rabbi Elazar says: Actually, he did not retract anything at all. And when we learned Rabbi Eliezer's ruling in that mishna with regard to the age of a sexually underdeveloped individual, that ruling was stated with regard to punishments, i.e., the age at which such an individual is considered an adult so that he is liable to receive punishment, and not with regard to ḥalitza or levirate marriage.

³⁵⁸ And it was stated that the amora'im disagreed on this issue: With regard to one who ate forbidden fats or performed any other transgression for which one is liable to receive lashes or karet, when he was between the age of twelve years and one day and the age of eighteen years, and he developed the signs of one who was a eunuch by natural causes, as explained below, and afterward he grew two pubic hairs, Rav said: He is retroactively considered a eunuch by natural causes. In other words, these hairs are not viewed as a sign of maturity. Rather, he lacked sexual capacity from the outset, which means he became an adult at the standard age of thirteen and is held liable for his actions from

that point in time. And Shmuel said: No, he was a minor at the time he committed his offense, as the two hairs are a sign of his maturity, albeit delayed.

³⁵⁹ Rav Yosef strongly objects to this: If so, according to Rav, a sexually underdeveloped woman according to Rabbi Meir should be entitled to the fine paid by a rapist. Rabbi Meir maintains that a rapist is liable to be fined only if he raped a young woman between the ages of twelve and twelve and a half, but not if he raped a minor. And furthermore, a sexually underdeveloped woman is not entitled to the fine because she is considered a minor, as she never showed the signs of maturity. But according to Rav she should retroactively be viewed as an adult and would therefore be entitled to the fine.

³⁶⁰ Abaye said to him: A sexually underdeveloped woman passes directly from minority to full adulthood. In other words, she is first considered a minor and then immediately an adult, without passing through the intermediate stage of young womanhood, and an adult woman is not entitled to the rapist's fine.

³⁶¹ Greatly impressed with this answer, Rav Yosef said to Abaye: Would that all such excellent matters be stated in my name. As it is taught in a baraita: A sexually underdeveloped man is not judged as a stubborn and rebellious son, as a boy is judged as a stubborn and rebellious son only when he has the mark of his lower beard, i.e., when his pubic hair begins to grow in. At that point he has reached the age of maturity but is not yet a fully developed man, a stage that parallels young womanhood for women. A sexually underdeveloped man never passes through this intermediate stage between minority and full adulthood. And similarly, a sexually underdeveloped woman who was betrothed and raped is not judged in accordance with the laws governing a betrothed young woman (see Deuteronomy 22:23–27), as she passes directly from minority to full adulthood without the intermediate stage of young womanhood. Therefore, the baraita fully corroborates Abaye's view.

³⁶² Rabbi Abbahu said: If one has the signs of a sexually underdeveloped man; or the signs of a sexually underdeveloped woman; or the signs of a child born during the eighth month of pregnancy, whose survival is uncertain; no action is taken in their regard, i.e., the sexually underdeveloped male or female is not treated as an adult and the child born during the eighth month is not deemed viable, until they are twenty years old.

³⁶³ The Gemara asks: Can a child born during the eighth month of pregnancy survive? But isn't it taught in a baraita: A child born during the eighth month is like a stone with regard to the halakhot of set-aside [muktze] on Shabbat, and therefore it is prohibited to move him on Shabbat, as it may be presumed that he is not viable at all. However, his mother may bend over him and nurse him,

³⁶⁴ due to the danger, both to the baby, who might in fact be viable, as well as to the mother, who might suffer fatal complications if she has to retain all her milk. The Gemara answers: With what are we dealing here? We are dealing with a case where his signs of viability are fully developed, and he has the appearance of a viable child. As it is taught in a baraita: Who is a baby born during the eighth month? It is anyone whose months of gestation have not been completed, i.e., a baby that was born prematurely. Rabbi Yehuda HaNasi says: The signs that prove that the child falls into this category are that his hair and nails are not fully developed. Now, the reason is that they are not fully developed; but if his hair and nails are fully developed, we say that this fetus was fit to be born after seven months but for some reason was delayed in its mother's womb.

³⁶⁵ But if so, with regard to the action taken by Rava Tosfa'a concerning a woman whose husband went overseas and her baby was delayed in her womb for the twelve months of the year following her husband's departure, and Rava Tosfa'a rendered the child fit, arguing that the husband is presumed to be the father and the child is not a mamzer, according to whose opinion did he issue this ruling? It must have been in accordance with the opinion of Rabbi Yehuda HaNasi, who says that a baby can be delayed for an extended period of time in its mother's womb even after it is fully developed and ready to be born. But how could Rava Tosfa'a have ruled in accordance with the minority opinion of Rabbi Yehuda HaNasi, against the majority opinion of his colleagues?

³⁶⁶ The Gemara answers: Since there is also Rabban Shimon ben Gamliel, who says that a baby can be delayed in its mother's womb, Rava Tosfa'a in fact acted in accordance with the majority, as Rabbi Yehuda HaNasi's opinion is not that of a lone dissenting scholar. As it is taught in a baraita that Rabban Shimon ben Gamliel says: Any human child who stays alive for thirty days is not a stillborn. Even if the child was not carried for a full nine months, once he has survived for thirty days he is no longer treated like an infant whose viability is in doubt. The reason is that he is presumed to be a child that was fit to be born after seven months but for some reason was delayed in his mother's womb and not born immediately upon reaching full development.

³⁶⁷ § The Sages taught: Who is considered a eunuch by natural causes? It is anyone who is twenty years old and has not yet grown two pubic hairs. And even if he grows pubic hairs afterward, he is still considered a eunuch by natural causes with regard to all his matters. And his signs are as follows: Whoever does not have a beard, and his hair is defective, unlike that of ordinary individuals, and his skin is smooth, i.e., hairless. Rabban Shimon ben Gamliel says in the name of Rabbi Yehuda ben Ya'ir: It is anyone whose urine does not raise foam.

³⁶⁸ And some say: It is anyone who urinates without forming an arch. And some say: It is anyone whose semen dissipates and fails to congeal in the proper manner. And some say: Anyone whose urine does not ferment. Others say: It is anyone who bathes in the rainy season and his flesh does not give off steam. Rabbi Shimon ben Elazar says: It is anyone whose voice is defective, so that it is not evident from it whether he is a man or a woman.

³⁶⁹ And who is a sexually underdeveloped woman [aylonit]? It is anyone who is twenty years old and has not yet grown two pubic hairs. And even if she grows pubic hairs afterward, she is still considered a sexually underdeveloped woman with regard to all her matters. And her signs are as follows: A sexually underdeveloped woman is anyone who does not have breasts and experiences pain during intercourse. Rabban Shimon ben Gamliel says: It is anyone whose lower abdomen is not formed like that of other women, as she lacks the cushion of flesh that is usually situated above a woman's genitals. Rabbi Shimon ben Elazar says: It is anyone whose voice is deep, so that it is not evident from it whether she is a woman or a man.

³⁷⁰ It was stated that amora'im disagreed over the signs of a eunuch. Rav Huna said that one is not categorized as a eunuch unless all these signs are present; Rabbi Yoḥanan said: He is categorized as such even if only one of them is present. The Gemara comments: In a case when he has grown two hairs in his beard, everyone agrees that he is not considered sexually impotent unless all the signs are present. When they disagree, it is with regard to a case when he has not grown two hairs.

³⁷¹ The Gemara asks: But if so, with regard to that which Rabba bar Avuh said to the Sages: Examine Rav Naḥman when he bathes and if his flesh gives off steam I will give him my daughter

for a wife, in accordance with whose opinion did he issue these instructions? Is it not in accordance with the opinion of Rav Huna, who maintains that all the signs must be present, as presumably he could see that Rav Naḥman did not have a beard? The Gemara answers: No, Rav Naḥman had wisps of a beard, and therefore Rabba bar Avuh wanted to know whether he displayed the other signs of sexual incapacity.

³⁷² § It is taught in the mishna that a sexually underdeveloped man does not perform ḥalitza or enter into levirate marriage with his yevama, and similarly, a sexually underdeveloped woman does not perform ḥalitza or enter into levirate marriage with her yavam. The Gemara comments that the tanna teaches the case of a sexually underdeveloped man similarly to that of a sexually underdeveloped woman, from which it can be inferred: Just as in the case of a sexually underdeveloped woman, her disability is by the hand of Heaven, so too, in the case of a sexually underdeveloped man, his disability must be by the hand of Heaven. And this unattributed view in the mishna is in accordance with the opinion of Rabbi Akiva, who said: With regard to one whose incapacity was brought about by the hands of man, yes, he is considered like any other man and performs ḥalitza, whereas one who suffers his condition by the hand of Heaven does not do so.

³⁷³ § It is further taught in the mishna that if a eunuch performed ḥalitza with his yevama, he has not thereby disqualified her from marrying into the priesthood, but if he had intercourse with her, he has disqualified her. The Gemara infers from this wording that the reason for her disqualification is that he, the yavam, had intercourse with her, as she had intercourse with her yavam outside the framework of permitted levirate marriage. But if a different individual had relations with her she would not be disqualified.

³⁷⁴ Shall we say that this is a conclusive refutation of the opinion of Rav Hamnuna, who said: A widow waiting for her yavam, who engaged in an act of licentious relations, is disqualified from entering into levirate marriage with her yavam, like an ordinary married woman who committed adultery? The Gemara rejects this argument: No, this presents no difficulty for Rav Hamnuna, as it is possible that the same is true even in a case where she had relations with a different man, that she too would be disqualified from marrying into the priesthood. But since the tanna taught the first clause with regard to the yavam himself, he also taught the latter clause with regard to the yavam himself, even though the same halakha applies if she cohabitated with another.

³⁷⁵ It is taught in the mishna: And similarly, with regard to a sexually underdeveloped woman, if one of the brothers performed ḥalitza with her he has not disqualified her, but if he engaged in intercourse with her he has disqualified her. The Gemara infers from this wording that the reason for her disqualification is that he had intercourse with her; but if he did not have intercourse with her she is not disqualified. According to whose opinion was this clause of the mishna taught? One must say that it was not taught in accordance with the opinion of Rabbi Yehuda. As, if one would claim that this teaching is in accordance with the opinion of Rabbi Yehuda, didn't he say that a sexually underdeveloped woman is considered like a woman who has had sexual relations with a man forbidden to her by the Torah [zona], and so she is in any case disqualified from marrying into the priesthood?

³⁷⁶ MISHNA: If a priest who is a eunuch by natural causes married an Israelite woman, he enables her to eat teruma. Rabbi Yosei and Rabbi Shimon say: If a priest who is a hermaphrodite, possessing both male and female genitals, married an Israelite woman, he enables her to eat teruma.

³⁷⁷ Rabbi Yehuda says: If a tumtum, whose external sexual organs are indeterminate, was torn open so that his genitals were exposed, and he was found to be a male, he must not perform ḥalitza, because he is treated like a eunuch. A hermaphrodite may marry a woman but he may not be married by a man, as he is considered a man. Rabbi Eliezer says: If one had intercourse with a hermaphrodite, he is liable to receive the punishment of stoning on his account as if he had had relations with a male.

³⁷⁸ GEMARA: The Gemara questions the mishna's teaching concerning a priest who was sexually impotent from birth: This is obvious; why should such a priest not enable his wife to partake of teruma? The Gemara answers: This halakha is necessary lest you say that since the verse states: "And such as are born in his house, they eat of his bread" (Leviticus 22:11), the allowance to eat teruma depends on the priest's capacity to father children, i.e., that only one who can father children enables his wife to eat teruma, but one who cannot father children does not enable his wife to eat teruma. Therefore, the tanna teaches us that the priest's capacity to have children is irrelevant.

³⁷⁹ It is taught in the mishna that Rabbi Yosei and Rabbi Shimon say: If a priest who is a hermaphrodite married an Israelite woman, he enables her to eat teruma. Reish Lakish said: He enables her to eat teruma, but he does not enable her to eat the breast and thigh of peace-offerings. Rabbi Yoḥanan says: He even enables her to eat the breast and thigh of peace-offerings. The Gemara asks: And according to Reish Lakish, what is different about the breast and thigh of peace-offerings? If you say it is that they are by Torah law, teruma is also by Torah law. Why, then, is it permitted for her to eat teruma, but not the breast and thigh of peace-offerings?

³⁸⁰ The Gemara answers: With what are we dealing here? We are dealing with teruma in the present, after the destruction of the Temple, when teruma is in effect only by rabbinic law. The Gemara asks: But when the Temple is standing, what is the halakha? He does not enable his wife to eat teruma. But if so, there is a difficulty. Instead of teaching that he does not enable her to eat the breast and thigh of peace-offerings, let him distinguish and teach it within the case of teruma itself as follows: In what case is this statement said? It is said with regard to teruma that is in effect only by rabbinic law, but with regard to teruma that is in effect by Torah law this ruling does not apply.

³⁸¹ The Gemara answers: That is also what he is saying. In other words, this is actually what Reish Lakish means, as his statement should be understood as follows: When he enables her to eat, he enables her to eat teruma in the present, when teruma is in effect only by rabbinic law, but he does not enable her to eat teruma at a time that the breast and thigh are given to the priests, i.e., when the Temple is standing, not even teruma that is in effect only by rabbinic law. This is due to the concern that perhaps he will bring her to eat teruma that is in effect by Torah law.

³⁸² However, Rabbi Yoḥanan disagrees and says that he even enables her to eat the breast and thigh of peace-offerings. With respect to this dispute, Rabbi Yoḥanan said to Reish Lakish: Since you distinguish between teruma and the breast and thigh, do you maintain that teruma in the present is mandated only by rabbinic law? He said to him: Yes, and the proof is that I teach that a cake of dried figs that became intermingled with other cakes is nullified. If a cake of teruma figs became intermingled with one hundred ordinary cakes, the cake is nullified and it is not necessary to treat them all as teruma. If the cake, which is a food of importance in its own right, is nullified, this must be because the teruma is only by rabbinic law.

³⁸³ Rabbi Yoḥanan said to him: But don't I teach that even a piece of a sin-offering that became intermingled with other pieces of meat is nullified, as I maintain that the halakha of nullification

applies even to Torah prohibitions? Do you maintain that we learned that any object that it is usual to count, i.e., any object that is even occasionally sold by unit, rather than by weight or measure, is considered to be important and therefore cannot be nullified? This is not so, as in fact we learned that only that which it is usual to count, i.e., an object that is always sold by unit and in no other manner, is considered to be important and is therefore not subject to nullification; and cakes of dried figs are not always sold by unit.

³⁸⁴ The Gemara asks: What is this halakha to which Rabbi Yoḥanan alludes? As we learned in a mishna (Orla 3:6–7): In the case of one who had bundles of clover, a type of legume, of a forbidden mixture of food crops in a vineyard, i.e., clover plants that grew in a vineyard, these bundles must be burned, as it is prohibited for one to derive benefit from a forbidden mixture of food crops in a vineyard. If the forbidden bundles became intermingled with others that are permitted,

³⁸⁵ they must all be burned; this is the statement of Rabbi Meir. And the Rabbis say: They are nullified in a mixture of one part forbidden food to two hundred parts permitted food. As Rabbi Meir would say: Any object that it is usual to count renders a mixture prohibited. In other words, objects that are counted and sold by the unit, rather than by weight or estimation, are considered of special importance, and so they cannot be nullified by any majority and therefore must be burned. But the Rabbis say: Only six objects are important enough that they cannot be nullified and therefore render their mixtures forbidden. Rabbi Akiva says: There are seven such objects.

³⁸⁶ They are as follows: Perekh nuts, high-quality nuts from a place called Perekh; Badan pomegranates, pomegranates from a place called Badan; sealed barrels of wine; shoots of beet; cabbage stalks; and Greek gourd. Rabbi Akiva adds, as his seventh item, a homeowner's loaves. Different prohibitions apply to these seven items: Those that are fit for the prohibition of orla, fruit that grows in the first three years after a tree has been planted, i.e., the nuts and pomegranates, render the entire mixture orla. Those that are fit for the prohibition proscribing a mixture of food crops in a vineyard, i.e., the beets, cabbage, and gourd, render the entire mixture a mixture of food crops in a vineyard.

³⁸⁷ And it was stated that amora'im disagreed about the precise wording of this mishna: Rabbi Yoḥanan holds that we learned: That which it is usual to count, i.e., Rabbi Meir's stringent ruling is limited to objects that are sold exclusively by unit. And Reish Lakish holds that we learned: Any object that it is usual to count, i.e., even items that are only sometimes sold by unit are considered important and cannot be nullified.

³⁸⁸ The Gemara further explains: What is the case of a piece, referred to by Rabbi Yoḥanan? As it is taught in a baraita: If a piece of a ritually impure sin-offering became intermingled with one hundred pieces of ritually pure sin-offerings, and similarly, if a slice of ritually impure shewbread became intermingled with one hundred slices of ritually pure showbread, the impure piece of a sin-offering or slice of shewbread is nullified in its respective mixture. Rabbi Yehuda says: It is not nullified.

³⁸⁹ However, if a piece of a ritually pure sin-offering became intermingled with one hundred pieces of ritually pure non-sacred meat, and similarly, if a slice of ritually pure shewbread became intermingled with one hundred slices of ritually pure non-sacred bread, everyone agrees that the pure piece of sin-offering or slice of shewbread is not nullified in its respective mixture.

³⁹⁰ The Gemara asks: In any event, the first clause of this baraita teaches that a piece of ritually impure sin-offering can be nullified. This poses a difficulty with respect to the opinion of Reish

Lakish, as such a piece of meat is an item that is sometimes counted and considered important in its own right, and it is forbidden by Torah law, but nevertheless it can still be nullified. Rabbi Ḥiyya, son of Rav Huna, said: This baraita is referring not to a whole piece of meat but to one that had been crushed and broken into small parts. Once it is no longer a whole piece, it loses its importance and can be nullified.

³⁹¹ The Gemara asks: If it is so that the piece has been crushed, what is the reason for Rabbi Yehuda's opinion that the piece is not nullified?

³⁹² The Gemara answers: Rabbi Yehuda conforms to his standard line of reasoning, as he stated a principle that if a particular type of food is mixed with food of its own type, it cannot be nullified under any circumstances.

³⁹³ The Gemara asks further: But had the piece of meat not been crushed, what would the halakha be? Presumably, it would not be nullified. If so, there is a difficulty, as instead of teaching a case involving non-sacred meat in the second half of the baraita, as follows: However, if a piece of a ritually pure sin-offering became intermingled with one hundred pieces of ritually pure non-sacred meat, the impure piece of a sin-offering is not nullified; let the tanna distinguish and teach it in the case involving only sacred meat, as follows: In what case is this statement said? It is in a case where the piece of meat has been crushed and broken into small parts, but if it has not been crushed, it is not nullified.

³⁹⁴ The Gemara answers: Even so, the tanna prefers to address the case of an intermingling of ritually pure items with other ritually pure items and thereby teach a novel halakha, notwithstanding the fact that he could have made a distinction within the case of a ritually impure piece itself.

³⁹⁵ The Gemara asks: And according to Reish Lakish, who establishes the baraita as referring to a piece of meat that has been crushed, what is different in the first clause of the baraita and what is different in the latter clause? Why is nullification possible in the case of impure pieces, but not in the case of pure ones? Rav Sheisha, son of Rav Idi, said: The first clause is dealing with a piece of a sin-offering that contracted ritual impurity due to liquids, which is imparted by rabbinic law. Since the sacred food contracted impurity that is only rabbinic in origin, it may be nullified rather than allowed to go to waste. The latter clause, on the other hand, deals with sacred food that became intermingled with ordinary non-sacred food. The sacred food is forbidden to non-priests by Torah law, and therefore it is not nullified.

³⁹⁶ The Gemara asks: But had the piece of meat mentioned in the first clause of the baraita contracted ritual impurity through contact with a creeping animal, which is imparted by Torah law, what would the halakha be? Presumably, it would not be nullified.

³⁹⁷ If so, there is a difficulty, as instead of teaching a case involving non-sacred meat in the latter clause of the baraita, as follows: However, if a piece of a ritually pure sin-offering became intermingled with one hundred pieces of ritually pure non-sacred meat, the impure piece of a sin-offering is not nullified; let the tanna distinguish and teach it in the case involving only sacred meat, as follows: In what case is this statement said? It is said in a case where the piece of meat contracted ritual impurity due to liquids, but where it contracted ritual impurity through a creeping animal it is not nullified. The Gemara answers: Even so, the tanna prefers to address the novel case of an intermingling of ritually pure items with other ritually pure items.

³⁹⁸ Rabba said that an alternative explanation may be suggested for the difference between the two clauses of the baraita: In the first clause of the baraita, which deals with the intermingling of impure sacred meat with pure sacred meat, there is concern about the violation of a standard prohibition, i.e., the prohibition against eating impure sacred meat; therefore, the piece of meat is nullified. In the latter clause of the baraita, which deals with the intermingling of sacred meat and non-sacred meat, there is concern about the violation of a prohibition that bears the punishment of karet, which bars a non-priest from eating pure sacrificial food; therefore, the piece of meat is not nullified.

³⁹⁹ The Gemara asks: But wasn't it Rabba himself who said: With regard to the nullification of any item forbidden by Torah law that became intermingled with a permitted substance, there is no difference between that which is forbidden due to a standard prohibition and that which is forbidden due to a prohibition that entails the punishment of karet. The Gemara concludes: This is difficult for Rabba.

⁴⁰⁰ Rav Ashi said yet another explanation: In the latter clause, where ritually pure sacred meat became intermingled with ritually pure non-sacred meat, the sacred meat does not become nullified because it is an object whose prohibition is temporary. The piece of sacred meat is not absolutely forbidden, as it is permitted for a priest to eat it. And the halakha is that any object whose prohibition is temporary cannot be nullified, no matter how great the amount of permitted substance, even in a mixture of one to one thousand.

⁴⁰¹ The Gemara comments: Now, that teaching ascribed to Rav Ashi is certainly a mistake [beduta], as the application of this principle to the case at hand can easily be shown to be erroneous. With regard to whom is the prohibition temporary? If one would say that it is for a priest, the sacred meat was always permitted to him, even before it became intermingled, as a priest may eat both sacred and non-sacred food, and therefore it was never a forbidden mixture with respect to him. And if one would say that it is for an Israelite, the meat will always be forbidden to him. Rather, that teaching attributed to Rav Ashi is clearly a mistake.

⁴⁰² The Gemara raises a question with regard to Rabbi Yoḥanan's opinion: And does Rabbi Yoḥanan maintain that teruma in the present applies by Torah law? But isn't it taught in a baraita: There were two large baskets, one filled with non-sacred produce and the other one filled with teruma, and before them were two one-se'a vessels, one filled with non-sacred produce and the other one filled with teruma. And these, the contents of each of the se'a vessels, fell into those, each of the baskets. It is possible that the teruma fell into the non-sacred produce, and it is prohibited for non-priests to eat a mixture of teruma and non-sacred produce. Nevertheless, the produce found in the basket containing the non-sacred produce is permitted, as I say that the teruma fell into the teruma and the non-sacred produce fell into the non-sacred produce.

⁴⁰³ And Reish Lakish said that this is only the case if the non-sacred produce in the basket was greater in quantity than the teruma in the one-se'a vessel, so that even if the teruma fell into the non-sacred produce, it is nullified. And Rabbi Yoḥanan said: The mixture is permitted even if the non-sacred produce was not greater in quantity than the teruma, as one may rely on the assumption that each type of produce fell into its own type.

⁴⁰⁴ Granted, according to Reish Lakish, who maintains that teruma nowadays applies by rabbinic law, this is logical, as he maintains that even with regard to teruma that is in effect only by rabbinic law, we also require the permitted portion of the mixture to be greater in quantity so that it can nullify

the forbidden part. But according to Rabbi Yoḥanan, it is difficult because if he maintains that even nowadays teruma is mandated by Torah law, how can one disregard the concern and permit the mixture based merely on the assumption that the events occurred in a way that preserves the produce in its permitted state?

⁴⁰⁵ The Gemara answers that Rabbi Yoḥanan can say: In accordance with whose opinion is this baraita taught? It is in accordance with the opinion of the Rabbis, who maintain that teruma nowadays is in effect only by rabbinic law.

⁴⁰⁶ But I, Rabbi Yoḥanan, said what I said in accordance with the opinion of Rabbi Yosei that a priest who is a hermaphrodite enables his wife to eat teruma, and Rabbi Yosei himself maintains that even nowadays the halakha of teruma is in effect by Torah law. Accordingly, I argued that a hermaphrodite enables his wife to eat not only teruma, but even the breast and thigh of peace-offerings.

⁴⁰⁷ As it is taught in a baraita in the anthology called Seder Olam, with regard to a verse that speaks of the Jewish people's return to Eretz Yisrael following their exile: "And the Lord your God will bring you into the land that your fathers inherited, and you shall inherit it" (Deuteronomy 30:5). These two expressions of inheritance teach that they had a first inheritance of Eretz Yisrael in the days of Joshua and a second inheritance at the time of the return from the Babylonian exile. That is to say, since the sanctity of the land had lapsed when the First Temple was destroyed and the Jewish people exiled to Babylonia, a second sanctification was necessary when they returned to their land. But they will not have a third inheritance. In other words, it will never be necessary to sanctify the land for a third time, as the second sanctification was permanent.

⁴⁰⁸ And Rabbi Yoḥanan said: Who is the tanna who taught Seder Olam? It is Rabbi Yosei. Since Rabbi Yosei maintains that the second sanctification of Eretz Yisrael never lapsed even after the destruction of the Second Temple, he also holds that teruma nowadays is in effect by Torah law.

⁴⁰⁹ The Gemara raises another objection to Rabbi Yoḥanan's opinion: But does Rabbi Yoḥanan maintain that with regard to a mixture containing an item that is forbidden by rabbinic law, we do not require the permitted portion of the mixture to be greater in quantity so that it can nullify the prohibited part? Didn't we learn otherwise in a mishna (Mikvaot 7:2): With regard to a ritual bath that contains exactly forty se'a of water, the minimal measure of a fit ritual bath, and one added to it a se'a of liquid other than water, and then removed from it a se'a of the mixture, the ritual bath remains fit, as the liquid that was added was nullified in the forty se'a of water, so that when one se'a of the mixture was removed there still remained the requisite forty se'a of fit water. And Rabbi Yehuda bar Sheila said that Rabbi Asi said that Rabbi Yoḥanan said that this halakha applies up to the greater part of the ritual bath.

⁴¹⁰ The Gemara clarifies the opinion of Rabbi Yoḥanan: What, is it not that its greater part must remain, i.e., that most of the original forty se'a of water must remain in the ritual bath? In other words, up to nineteen se'a of other liquids may be added to the ritual bath, with an equal quantity of the mixture then removed from it, and these other liquids are nullified by the ritual bath water. But if twenty se'a are removed, so that fit water no longer constitutes the majority, the ritual bath is no longer fit for use. Since certain liquids are unfit for a ritual bath only by rabbinic law, this shows that even with respect to rabbinic prohibitions the permitted portion of a mixture must be greater in quantity, so that it can nullify the prohibited part. The Gemara refutes this proof: No, it means that its

greater part must not be removed, but if the water and other liquids are present in equal proportion, the ritual bath remains fit.

⁴¹¹ And if you wish, say an alternative explanation of Rabbi Yoḥanan's opinion: It is different here, with regard to the case of two baskets, one of which contains teruma, since it may be said: As I say that the teruma fell into the teruma and the non-sacred produce fell into the non-sacred produce, it is therefore assumed that that is what actually took place, and therefore the permitted portion need not be the greater part of the mixture.

⁴¹² § We learned in the mishna: A hermaphrodite may marry a woman. This formulation indicates that he may do so *ab initio*, as he is considered a full-fledged male. Accordingly, a hermaphrodite who is a priest should enable his wife to eat the breast and thigh of peace-offerings, as is maintained by Rabbi Yoḥanan, and against the opinion of Reish Lakish. The Gemara rejects this argument and suggests that the text be emended: Teach in the mishna: If he married. That is to say, if he married a woman, the marriage is valid and a bill of divorce is required, as it is possible that he is a male. But even if he married, he does not enable his wife to eat teruma, as he may be a female.

⁴¹³ The Gemara raises a difficulty: But doesn't the mishna teach that he may marry a woman, which indicates that he may do so *ab initio*? The Gemara rejects this argument: And according to your reasoning, what is the meaning of the next clause: But he may not be married to a man? This teaching is certainly referring to a case after the fact, as, if he is a full-fledged male there would be no reason to say that he may not be married to a man *ab initio*. Rather, what is the meaning of: He may not be married to a man? It means that even after the fact the marriage is not valid. This being the case, when the mishna states that a hermaphrodite may marry a woman, it is also speaking after the fact.

⁴¹⁴ It may be said in response: No; the words: May marry, indicate that a hermaphrodite may marry a woman *ab initio*, whereas the words: But he may not be married, mean that his marriage to a man is not valid even after the fact. Accordingly, the difficulty raised against Reish Lakish remains.

⁴¹⁵ The Gemara challenges this understanding: But from the fact that the mishna teaches in the latter clause: Rabbi Eliezer says that if a man had intercourse with a hermaphrodite, he is liable to receive the punishment of stoning on his account as if he had relations with a male, this proves by inference that the first tanna is uncertain as to whether or not a hermaphrodite is considered a full-fledged male, and this presents a difficulty to Rabbi Yoḥanan's opinion.

⁴¹⁶ The Gemara answers: No, it is obvious both to this Master and to that Master that a hermaphrodite is deemed a full-fledged male. The practical difference between them relates to the question of whether one is liable to receive the punishment of stoning for intercourse with him at only one place or at two places. As one Sage, the first tanna, holds that one is liable to be punished with stoning on a hermaphrodite's account for intercourse at two places, whether he penetrated him anally, in the manner of homosexual intercourse, or through his female organ. Since the hermaphrodite is deemed a male, one is liable to be punished with stoning for intercourse at either place. And one Sage, Rabbi Eliezer, holds that one is liable to be punished with stoning for relations with a hermaphrodite only if he penetrated him anally, as if he were a male.

⁴¹⁷ Rav said:

⁴¹⁸ The mishna here, which states that according to Rabbi Yosei a priest who is a hermaphrodite enables his wife to eat teruma, is not to be relied upon in the presence of a baraita that teaches otherwise. As it is taught in a baraita that Rabbi Yosei says: A hermaphrodite is a creature unto himself, and the Sages did not determine whether he is a male or a female. He is consequently prohibited from marrying a woman, and if he does so he does not enable her to eat teruma.

⁴¹⁹ The Gemara asks: On the contrary, say that the baraita is not to be relied upon in the presence of the mishna here, as baraitot are generally considered less authoritative than mishnayot. The Gemara answers: From the fact that Rabbi Yosei left his colleague, Rabbi Shimon, as the mishna's ruling is attributed to both Rabbi Yosei and Rabbi Shimon whereas the teaching of the baraita is reported only in the name of Rabbi Yosei, learn from this that Rabbi Yosei retracted his original opinion that he had maintained together with Rabbi Shimon and reached a different conclusion.

⁴²⁰ And Shmuel said the reverse: The baraita is not to be relied upon in the presence of the mishna here. The Gemara asks: On the contrary, say that the mishna here is not to be relied upon in the presence of the baraita, as we have heard that Shmuel takes into consideration even an individual dissenting opinion appearing in a baraita. The Gemara answers: This applies only when the mishna itself is not thereby uprooted, as the baraita merely adds to it. But when the mishna is uprooted by a contrary statement taught in a baraita, he does not take it into consideration.

⁴²¹ The Sages of the school of Rav said in the name of Rav that the halakha is in accordance with the opinion of Rabbi Yosei, both with regard to the halakha of a hermaphrodite and with regard to the halakha of grafting. And Shmuel says: The halakha is in accordance with his opinion with regard to the laws of protracted labor and forfeiture.

⁴²² The Gemara clarifies: The halakha of a hermaphrodite is that which we just said, that he is considered a creature unto himself (Rabbeinu Ḥananel). The halakha of grafting is as we learned in a mishna (Shevi'it 2:6): One may not plant, or sink the shoot of a vine into the ground, or graft a shoot onto a tree on the eve of the Sabbatical Year less than thirty days before Rosh HaShana, lest it take root in the seventh year. And if he planted or sank or grafted, he must uproot it. Rabbi Yehuda says: Any graft that does not take root in three days will never take root, and therefore it is prohibited to plant only for three days before the start of the Sabbatical Year. Rabbi Yosei and Rabbi Shimon say that it takes two weeks for a plant to take root.

⁴²³ And Rav Naḥman said that Rabba bar Avuh said: According to the first tanna, who says thirty days, he means that thirty days are required for the tree to take root and another thirty days are required for the addition to the Sabbatical Year, as the prohibitions of the Sabbatical Year apply already during the last thirty days of the sixth year. It is consequently prohibited to plant sixty days before Rosh HaShana. And similarly, according to Rabbi Yehuda, who says three days, he means that three days are required for the tree to take root and another thirty days are required for the addition to the Sabbatical Year. And so too, according to Rabbi Yosei and Rabbi Shimon, who say two weeks, they mean that two weeks are required for the tree to take root and another thirty days are required for the addition to the Sabbatical Year. Rav rules on this matter in accordance with the opinion of Rabbi Yosei.

⁴²⁴ And Shmuel said that the halakha is ruled in accordance with the opinion of Rabbi Yosei with regard to protracted labor and proscription as well. The Gemara explains: What is the case of protracted labor? As we learned in a mishna (Nidda 36b): Ordinarily a woman who experiences a

flow of blood on three consecutive days during a time of the month when she does not expect to experience menstrual bleeding is rendered ritually impure as a zava. However, if she experiences such bleeding while she is in protracted labor, the bleeding is attributed to her labor, and she is governed by the halakhot of a woman after childbirth.

⁴²⁵ The tanna'im disagree about the question: How long is a woman's period of protracted labor? For what period of time prior to her giving birth is the bleeding attributed to her labor? Rabbi Meir says: It is up to forty or fifty days before she delivers. Rabbi Yehuda says: Her month suffices for her, i.e., it is from the beginning of the month in which she gives birth. Rabbi Yosei and Rabbi Shimon say: Protracted labor does not last for more than two weeks. Shmuel rules in accordance with Rabbi Yosei in this case.

⁴²⁶ What is this halakha of proscription? As we learned in a mishna (Kilayim 7:4): If one causes his grapevine to overshadow the grain of another, he has proscribed it, rendering it forbidden as a food crop in a vineyard, and he bears financial responsibility for it, i.e., he must compensate the other individual for the loss of the produce that has been rendered forbidden. This is the statement of Rabbi Meir. Rabbi Yosei and Rabbi Shimon say:

⁴²⁷ A person cannot render forbidden an item that is not his. Since the grain does not belong to him, he cannot render it forbidden. According to Shmuel, the halakha is in accordance with Rabbi Yosei in this case as well.

⁴²⁸ A dilemma was raised before the Sages: As for a hermaphrodite, what did Shmuel say? It was stated in the name of Rav that the halakha is ruled in accordance with the opinion of Rabbi Yosei with regard to a hermaphrodite, but no ruling was attributed to Shmuel concerning this case. The Gemara suggests: Come and hear, as Shmuel said to Rav Anan: The baraita is not to be relied upon in the presence of the mishna. This indicates that Shmuel rejects Rabbi Yosei's opinion as stated in the baraita that a hermaphrodite is considered a creature unto himself.

⁴²⁹ The Gemara asks further: Concerning grafting, what did Shmuel say? The Gemara suggests: Come and hear, as Shmuel said to Rav Anan that he should teach in accordance with the opinion of the one who said that it is prohibited to plant for thirty-three days before Rosh HaShana of the Sabbatical Year. Evidently, he ruled on this matter in accordance with the opinion of Rabbi Yehuda, and not that of Rabbi Yosei.

⁴³⁰ The Gemara continues to ask along these lines: With regard to the case of protracted labor, what did Rav say? Does he accept Rabbi Yosei's opinion, as does Shmuel? No resolution was found for this question, and the Gemara concludes that this dilemma shall stand unresolved.

⁴³¹ The Gemara further inquires: With regard to proscription, what did Rav say? Rav Yosef said: Come and hear, as Rav Huna said that Rav said that the halakha is not in accordance with the opinion of Rabbi Yosei. Abaye said to him: What did you see that led you to rely on that source? Rely on this source; as Rav Adda said that Rav said that the halakha is in fact in accordance with the opinion of Rabbi Yosei. There is, then, a tradition that Rav accepted Rabbi Yosei's view. The Gemara responds: When it is stated that the Sages of the school of Rav said a teaching, to whom is it referring? The reference is to Rav Huna. And it was Rav Huna who said that the halakha is not in accordance with the opinion of Rabbi Yosei. It may be presumed, then, that Rav Adda's version of Rav's ruling is in error, as preference is given to the report of Rav's preeminent disciple, Rav Huna.

⁴³² § It is taught in the mishna that Rabbi Yehuda says: If a tumtum, whose external sexual organs are indeterminate, was torn open so that his genitals were exposed, and he was found to be a male, he must not perform ḥalitza because he is treated like a eunuch. Rabbi Ami said: What would Rabbi Yehuda do with the tumtum living in the town of Biri, who was placed in a seat for an operation, and the tissue covering his genitals was torn open and he later fathered seven children? Evidently, a tumtum who was torn open is not necessarily sexually impotent. The Gemara answers that Rabbi Yehuda could have said to you: Go and inquire about his children and find out from where they came. He did not believe that they were fathered by this man but rather by someone else.

⁴³³ It is taught in a baraita: Rabbi Yosei, son of Rabbi Yehuda, says: A tumtum must not perform ḥalitza, as perhaps he will be torn open and found to be a eunuch by natural causes. The Gemara asks: Why did he formulate his teaching in this manner? Is that to say that every tumtum who is torn open is a male? It is certainly possible for a tumtum to be found to be a female. The Gemara explains: This is what he said: A tumtum must not perform ḥalitza, as perhaps he will be torn open and found to be a female, who certainly cannot perform ḥalitza, and even if he is found to be a male, perhaps he will be found to be a eunuch by natural causes.

⁴³⁴ The Gemara asks: What is the practical halakhic difference between the opinions of Rabbi Yehuda and Rabbi Yosei? Rava said: There is a practical difference between them as to whether the ḥalitza performed by a tumtum disqualifies the brothers in a case where there are other brothers in addition to the tumtum. According to Rabbi Yehuda, a tumtum is regarded as definitely sexually impotent, and therefore his ḥalitza is of no consequence. Therefore, if the tumtum went ahead and performed ḥalitza, he has not disqualified the other brothers from performing levirate marriage. According to Rabbi Yosei, however, he is only doubtfully sexually impotent, and therefore he has disqualified the other brothers from performing levirate marriage. And there is also a difference between them as to whether the tumtum must perform ḥalitza where there are no other brothers besides him. According to Rabbi Yehuda he need not do so, whereas according to Rabbi Yosei he must perform ḥalitza owing to his uncertain status.

⁴³⁵ § Rav Shmuel bar Yehuda said that Rabbi Abba, brother of Rabbi Yehuda bar Zavdi, said that Rav Yehuda said that Rav said: With regard to a hermaphrodite, one is liable to receive the punishment of stoning on his account for intercourse at two places, whether one penetrated him anally, in the manner of homosexual intercourse, or through his female organ. The Gemara raises an objection against this from the following teaching. Rabbi Eliezer said: If one had intercourse with a hermaphrodite, he is liable to be punished with stoning on his account as if he had relations with a male. In what case is this statement said? It is if he had relations with him through his male organ, i.e., in the manner of homosexual intercourse, but if he engaged in intercourse with him through his female organ, he is exempt.

⁴³⁶ The Gemara answers that Rav stated his opinion in accordance with the opinion of this tanna, as it is taught in the following baraita: Rabbi Simai says: With regard to a hermaphrodite, one is liable to be punished with stoning on his account for intercourse at two places. The Gemara asks: What is the reasoning of Rabbi Simai? Rava said: The Sage bar Hamedurei explained the matter to me, based on an allusion to this halakha found in the Bible. The verse states: “And you shall not lie with a male as with a woman [mishkevei isha]” (Leviticus 18:22). The phrase *mishkevei isha*, referring to lying with a woman, appears in the plural. Now, what male has two manners of lying? You must say that

this is referring to a hermaphrodite, and the plural form *mishkevei*, meaning: Lyings, indicates that there is liability for both manners of intercourse with him.

⁴³⁷ The Gemara asks: And how do the Rabbis who disagree with Rabbi Simai counter this argument? The Gemara explains: Although he has two manners of lying, it is nevertheless written: “With a male,” indicating that one is liable to be stoned on a hermaphrodite’s account only if he had relations with him in the manner of a male.

⁴³⁸ The Gemara asks: And the Rabbis, who explain this entire verse as referring to a hermaphrodite, from where do they derive that a man is prohibited from engaging in relations with an ordinary male? The Gemara answers: They derive it from the words “a woman.” The Gemara asks further: And from where do the Rabbis derive that one is liable to be punished for engaging in intercourse with a woman who is forbidden to him even if he engaged in relations in an unnatural manner, i.e., anal intercourse? The Gemara responds: They derive it from the inclusive “and” in “and...with a woman.”

⁴³⁹ § Rav Shezvi said that Rav Ḥisda said: Not in all regards did Rabbi Eliezer say that a hermaphrodite is a proper male. As, if you say so, that a hermaphrodite is a proper male in every aspect, then with regard to consecrated animals an animal that is a hermaphrodite should become sacred if one consecrated it.

⁴⁴⁰ And from where do we derive that it does not become sacred? As the Sages taught in a baraita: With regard to a bird used for sexual relations with a human being, and one set aside for idolatrous purposes, and one that itself was worshipped as an idol, and one given as payment to a prostitute (see Deuteronomy 23:19), and one that was the price of a dog received in exchange for the sale of a dog (see Deuteronomy 23:19), and similarly, a bird that is a *tumtum* or a hermaphrodite, if one killed any of these birds by pinching their necks in the manner of an offering rather than by ritual slaughter, the birds render him and the garments he is wearing ritually impure, when the birds are eaten and come into contact with his throat. The reason is that pinching is valid only for sacrificial birds; any other bird that is killed by pinching is deemed an unslaughtered carcass. Since none of these birds are fit to be sacrificed, pinching their necks renders them unslaughtered carcasses, and the unslaughtered carcass of a clean bird imparts ritual impurity when it is eaten and reaches the individual’s throat.

⁴⁴¹ Rabbi Eliezer says: If one pinched the neck of a bird that is a *tumtum* or a hermaphrodite, it does not render him and the garments he is wearing ritually impure when it is eaten and comes into contact with his throat, as the sanctity of an offering does in fact apply to it. As Rabbi Eliezer would say: Wherever it is explicitly stated in the Torah “male” and “female,” you are to remove a *tumtum* and a hermaphrodite from among them, as their gender status is in doubt. This is true of animal offerings, with regard to which the Torah uses the terms male and female. In the case of a bird-offering, however, since male and female are not stated with regard to it, but instead the Torah simply mentions turtledoves and young pigeons, you are not to remove a *tumtum* and a hermaphrodite from among them, as they are fit for the altar. It is evident then that Rabbi Eliezer maintains that a hermaphrodite is not considered a proper male with respect to offerings.

⁴⁴² Rav Naḥman bar Yitzḥak said: We too learned this explicitly in a baraita that states: Rabbi Eliezer says:

⁴⁴³ Forbidden crossbred livestock, an animal with a condition that will cause it to die within twelve months [*tereifa*], an animal delivered through the abdominal wall, and an animal that is a *tumtum* or a hermaphrodite do not become sacred and do not render another animal sacred in their place.

⁴⁴⁴ And Shmuel said: They do not become sacred by way of substitution, i.e., if one had an animal that had been designated as an offering, and he wished to substitute one of these animals for it, the substituted animal does not become sacred. And they themselves do not render another animal sacred when it is made a substitute for them. If one designated one of these animals as an offering and he wished to substitute another animal for it, it does not become sacred. The Gemara concludes: Learn from this that Rabbi Eliezer does not consider a hermaphrodite to be a proper male.

⁴⁴⁵ It is taught in the mishna that Rabbi Eliezer says: If one had intercourse with a hermaphrodite, one is liable to be punished with stoning on his account as if one had relations with a male. It is taught on this matter in a baraita that Rabbi Yehuda HaNasi says: When I went to learn Torah from Rabbi Elazar ben Shamua, his students joined together against me like the roosters of Beit Bukya, highly aggressive animals that do not allow other creatures to remain among them, and they did not let me learn there. Therefore, I managed to learn only one thing in our mishna, which is that Rabbi Eliezer says: If one had intercourse with a hermaphrodite, one is liable to be punished with stoning on his account as if one had relations with a male.

Chapter 9

¹ MISHNA: There are women who are permitted to their husbands and forbidden to their yevamin, while others are permitted to their yevamin and forbidden to their husbands. Certain women are permitted both to these and to those, and others are forbidden to both these and to those.

² The mishna elaborates: And these are cases of women who are permitted to their husbands and forbidden to their yevamin: In the case of a common priest who married a widow, and he has a brother who is the High Priest, the widow, who was permitted to her husband, is forbidden to her yavam, as it is prohibited for the High Priest to marry a widow. The same is true in the case of a priest disqualified due to flawed lineage [ḥalal], e.g., the son of a priest and a divorcée, who married a woman fit to marry a priest, and he has a brother who is a priest fit for service. That woman was permitted to marry the ḥalal but is forbidden to his brother. Having engaged in intercourse with the ḥalal, she is rendered a ḥalala, a woman disqualified from marrying a priest.

³ Another example is the case of an Israelite of unflawed lineage who married an Israelite woman of similar lineage, and he has a brother who is a son born from an incestuous or adulterous relationship [mamzer]; or a mamzer who married a daughter born from an incestuous or adulterous relationship [mamzeret], and he has a brother who is an Israelite of unflawed lineage. A mamzer is permitted to marry a mamzeret, but neither is permitted to a Jew of unflawed lineage. In each of these cases, these women are permitted to their husbands and forbidden to their yevamin.

⁴ And these are cases of women who are permitted to their yevamin and forbidden to their husbands: For example, there is the case of a High Priest who betrothed a widow, and he has a brother who is a common priest, whom she is permitted to marry. This is true only if the High Priest merely betrothed her. However, if he consummated the marriage, he rendered her a ḥalala forbidden to all priests, including her yavam. The additional cases are a priest fit for service who married a ḥalala and he has a brother who is a ḥalal; an Israelite of unflawed lineage who married a mamzeret, and he has a brother who is a mamzer; and a mamzer who married an Israelite woman of unflawed lineage, and he

has a brother who is, similarly, an Israelite of unflawed lineage. All of these women are permitted to their yevamin and forbidden to their husbands.

⁵ And these are cases where women are forbidden both to these and to those: A High Priest who married a widow, and he has a brother who is a High Priest or a common priest; a priest fit for service who married a ḥalala, and he has a brother who is a priest fit for service; an Israelite of unflawed lineage who married a mamzeret, and he has a brother who is similarly an ordinary Israelite, or a mamzer who married an Israelite woman of unflawed lineage, and he has a brother who is a mamzer. All of these women are forbidden both to these and to those. And all other women are permitted to their husbands and to their yevamin.

⁶ With regard to secondary relatives, who are forbidden by rabbinic law, if the woman is a secondary relative to the husband but not a secondary relative to the yavam, she is forbidden to the husband and permitted to the yavam. Conversely, if she is a secondary relative to the yavam but not a secondary relative to the husband, she is forbidden to the yavam and permitted to the husband. If she is a secondary relative both to this man and to that man, she is forbidden to this one and to that one.

⁷ Furthermore, if a man marries a woman forbidden to him as a secondary relative, she does not have the right to receive payment for her marriage contract if divorced or widowed, nor is she entitled to payment from her husband for the produce of her property that he used, nor is she entitled to provisions for her sustenance from his estate, nor does she get back her worn clothes or other objects she brought with her to her marriage. And the lineage of the offspring is unflawed, and the court forces him to divorce her.

⁸ In contrast, a widow married to a High Priest, a divorcée or a yevama who performed ḥalitza [ḥalutza] married to a common priest, a mamzeret or a Gibeonite woman married to an Israelite of unflawed lineage, and an Israelite woman of unflawed lineage married to a Gibeonite or to a mamzer all have the right to receive payment for their marriage contract, although it was prohibited for them to marry.

⁹ GEMARA: As an example of a woman who is permitted to her husband and forbidden to her yavam, the mishna cites the case of a widow married to a common priest whose brother was a High Priest. The Gemara asks: Why does the tanna specifically teach a case where the priest married the widow? Let him teach that he betrothed her, as even if she is widowed after betrothal she requires levirate marriage or ḥalitza.

¹⁰ And if you would say: The reason that the tanna cited the case where they were married is that in this case there is a positive mitzva that the High Priest marry a virgin and also a prohibition to marry a widow, and therefore she is forbidden to him. However, if he betrothed her, the positive mitzva of levirate marriage comes and overrides the prohibition against marrying a widow. To counter this argument, the tanna states: But that cannot be the case, as the entire chapter discusses cases involving the positive mitzva of levirate marriage and prohibitions, and in all those cases, the positive mitzva does not come and override the prohibition, even in the absence of an additional positive mitzva.

¹¹ The Gemara answers: The mishna could have cited a case where the priest betrothed the widow. Instead, the mishna cites a case where the priest married a widow, due to the fact that the tanna wants to teach in the latter clause of the mishna the case of a High Priest who married a widow who has a brother who is a common priest. That case is specifically if he married her, because he thereby rendered her a ḥalala. However, if he only betrothed her, she is permitted to his brother who is a

common priest, as it is permitted for him to marry a widow. Therefore, the tanna also taught in the first clause the case where the priest married her.

¹² The Gemara asks: But rather than teaching a case where she was married in the first clause due to the latter clause of the mishna, let him teach a case where she was betrothed in the first clause due to the middle clause, which speaks of a High Priest who betrothed a widow, and he has a brother who is a common priest. The Gemara concludes: Rather, the reason the tanna taught the case where the priest married the widow is due to the halakha that is its neighbor [bat bukta], i.e., due to the fact that in the adjacent case he wants to teach the case of a ḥalal who married a woman fit to marry a priest. There, the reason that the woman is forbidden to his brother is specifically that the ḥalal married her, as he rendered her a ḥalala by consummating the marriage. However, if the ḥalal merely betrothed her, she is permitted to him. Due to that reason, the tanna teaches the case where the priest married the widow.

¹³ The Gemara asks: And why does the tanna specifically teach the case of a common priest who married a widow? Let him teach that the priest married a virgin. Since in any case she becomes a widow upon his death, what difference is there whether she was previously a widow?

¹⁴ And if you would say that this tanna holds that it is her status at the time of the first marriage that determines her status when she happens before the yavam for levirate marriage, and not her status at the time of her husband's death, and therefore if she had been a virgin when she married she would have been permitted to enter into levirate marriage with a High Priest, that cannot be so, as the mishna cites the case of a ḥalal who married a woman fit to marry a priest, in which case the woman is permitted to her husband and forbidden to her yavam. And in that case, we do not say that the first marriage determines her status when she happens before him for levirate marriage, as the woman was fit to marry the brother when she married the ḥalal and was rendered a ḥalala only as a result of her marriage.

¹⁵ The Gemara answers: That fact, that the mishna cited a case where the priest married a widow, is certainly due to the latter clause of the mishna, i.e., due to the fact that the tanna wants to teach in the latter clause: A High Priest who married a widow, and he has a brother who is the High Priest or a common priest. In the case where the yavam is a common priest, the widow is forbidden to him specifically if the High Priest married a widow, as by consummating the marriage he rendered her a ḥalala. However, had she been a virgin when the High Priest married her, he would not render her a ḥalala, and when the High Priest dies she would be fit for his brother. It is due to that reason that the tanna teaches the case of a widow in the first clause as well.

¹⁶ § Rav Pappa objects to the mishna: If it is so, that the halakha is in accordance with Rabbi Yoḥanan's opinion, as when Rav Dimi came from Eretz Yisrael he reported that Rabbi Yoḥanan said that in the case of a second-generation Egyptian who married a first-generation Egyptian woman, her son is considered a second-generation Egyptian, as the child's status in this matter is determined according to the mother, then let the tanna of the mishna also teach the following case:

¹⁷ With regard to a second-generation Egyptian who married two Egyptian women, one of whom was a first-generation Egyptian convert and one of whom was from the second generation, and he had sons from both the first and second women, if these two sons married in their proper way, meaning that the third-generation Egyptian married an ordinary Jewish woman, and the second-generation convert married another second-generation Egyptian, then it is also true of these women

that they are permitted to their husbands and forbidden to their yevamin. The second-generation Egyptian is forbidden to his Jewish yevama, while the third-generation Egyptian is an ordinary Jew and therefore prohibited to marry his yevama, who is a second-generation Egyptian woman.

¹⁸ And if they married in the reverse manner, i.e., the third-generation convert married a second-generation Egyptian woman, and the second-generation man married an ordinary Jewish woman, they are permitted to their yevamin and forbidden to their husbands. Similarly, they are permitted both to these and to those if these sons married converts, for an Egyptian convert is permitted to marry a convert of a different nationality. And there is also a case in which they are forbidden to these and to those, namely if they married sexually underdeveloped women [ayloniot]. If an Egyptian married an aytonit, she is forbidden to him as a Jewish woman, and she is forbidden to his brother, a third-generation Egyptian convert who is permitted to marry a Jewish woman, because levirate marriage is prohibited with an aytonit. The fact that the mishna omits these cases appears to indicate that the halakha is not in accordance with Rabbi Yoḥanan.

¹⁹ The Gemara answers: There is no proof from here with regard to the halakha, as the tanna of the mishna did not mention all possible examples. Rather, he taught certain cases and omitted others. The Gemara asks: What else did he omit that he omitted this? The tanna would not have omitted only one example. The Gemara answers: He omitted the case of a man with crushed testicles or with other wounds to his genitals. If the husband is such a man, the wife is forbidden to her husband and permitted to her yavam. If the yavam is such a man, the opposite is true.

²⁰ The Gemara asks: If this mishna is determined to have taught certain cases and omitted others due to the omission of the case of a man with crushed testicles or other wounds to his genitals, this is not an omission, as in this mishna the tanna taught a principle that applies to all forbidden relationships for which one is liable for violating a prohibition. This category includes such a case, and therefore it was not omitted.

²¹ The Gemara answers: Is that to say that with regard to those relationships for which one is liable for violating a prohibition, he does not teach a principle and again teach them in detail? But this is not the case. He teaches the case of a common priest who married a widow and he had a brother who was a high priest, and the case of a ḥalal who married a woman fit to marry a priest and he had a brother who was a priest fit for service, both of whom are forbidden as they are liable for violating a prohibition. Therefore, since the tanna did not specifically teach the case of the man with crushed testicles, this constitutes an omission.

²² The Gemara responds: That clause of the mishna is not merely a specification of the previous general halakha, as it was necessary for the tanna to mention these cases individually in order to teach us another halakha that Rav Yehuda said that Rav said, as Rav Yehuda said that Rav said: It is not prohibited for daughters of priests who are fit to marry priests to marry men who are disqualified from the priesthood, although this marriage disqualifies them from subsequently marrying a priest.

²³ The Gemara challenges that answer: But the mishna also teaches these cases: A ḥalal who married a woman fit to marry a priest; and an Israelite of unflawed lineage who married an Israelite woman of unflawed lineage, and he has a brother who is a mamzer. These are specifications that do not teach additional halakhot. The Gemara answers: This too is not a case of the tanna going back and teaching additional examples of the same halakha without adding anything, as he teaches us something new through each of these two examples. The first example is referring to a prohibition that is not equally

applicable to all, such as one concerning priests, and the second example is referring to a prohibition that is equally applicable to all, such as one involving a mamzer.

²⁴ The Gemara further challenges the answer: But the mishna also teaches the case of an Israelite of unflawed lineage who married a mamzeret and who has a brother who is an Israelite of similar lineage, and the example of a mamzer who married a mamzeret and he has a brother who is an Israelite of unflawed lineage. Consequently, the tanna does in fact teach the same halakha several times with regard to a prohibition that is equally applicable to all. Rather, isn't it correct to conclude from it that he taught and omitted certain cases and did not list all possible examples? The Gemara concludes: Indeed, conclude from it that this is the case, and therefore there is no proof from here that the halakha is not in accordance with Rabbi Yoḥanan.

²⁵ § The Gemara returns to a statement cited incidentally above, in order to discuss the matter itself: Rav Yehuda said that Rav said: It is not prohibited for daughters of priests who are fit to marry priests to marry men who are disqualified from the priesthood, although this marriage would disqualify them from subsequently marrying a priest, and they may do so even ab initio. The Gemara suggests: Let us say that the following statement of the mishna supports his opinion: A ḥalal who married a woman who is fit, and he has a brother who is a priest fit for service, this woman is permitted to her husband and forbidden to her yavam. What, is it not referring to a priestess, i.e., a priest's daughter, who is appropriate to marry him? And what is the meaning of: Fit? This means that she is fit for the priesthood, and yet the mishna says she is permitted to her husband, the ḥalal.

²⁶ The Gemara rejects this suggestion: No, it is possible that the mishna is speaking of an Israelite woman. And what is the meaning of: Fit? It means that she is fit to enter the congregation of the Jewish people, through marriage. According to this explanation, there is no proof from the mishna about daughters of priests.

²⁷ The Gemara raises a difficulty: If so, consider the phrase: A ḥalal who married a woman fit to marry a priest, and he has a brother who is also fit. Consistency demands that here too it means that the brother is fit to enter the congregation. Can it not therefore be deduced by inference that he, the deceased ḥalal, was unfit to enter the congregation? But such an inference would be an error, as a ḥalal is disqualified only from the priesthood. Rather, is it not referring to a priest, and from the fact that he must be a priest, she too must be a priestess? The Gemara rejects this claim: Are the cases comparable? This case, of the ḥalal, is as it is, i.e., he is fit for the priesthood. And that case, of the woman, is as it is, i.e., she is fit to enter the congregation.

²⁸ Ravin bar Naḥman raised an objection against Rav's ruling from the following baraita: The verse states about priests: "They may not take a woman who is a harlot [zona], or profaned [ḥalala]" (Leviticus 21:7). The same verse says: "They also may not take a woman divorced from her husband." This repetition of "they may not take" teaches us that the woman is also prohibited by means of the prohibition addressed to the man. Therefore, we can conclude that there is a prohibition for a daughter of a priest to marry a ḥalal.

²⁹ Rava said: Ravin bar Naḥman's objection is not valid. All that the baraita teaches is that anywhere that a prohibition of sexual intercourse applies to him, i.e., to a man, the same prohibition applies to her, his female partner. And anywhere that a prohibition does not apply to him, the prohibition does not apply to her either. It does not, however, indicate that since it is prohibited for a priest to marry a ḥalala it is also prohibited for the daughter of a priest to marry a ḥalal.

³⁰ The Gemara asks with regard to the baraita itself: And is this matter derived from here? It is derived from a different statement that Rav Yehuda said that Rav said, as Rav Yehuda said that Rav said, and the school of Rabbi Yishmael similarly taught: The verse states: “When a man or woman shall commit any sin that people commit” (Numbers 5:6). The verse here equates a woman to a man with regard to all punishments of the Torah. Consequently, the halakhot of forbidden marriages apply equally to women and to men. Why then do we need to learn the same thing from the repetition of “they may not take”?

³¹ The Gemara answers: If it was derived only from that verse, I would say that this principle is true of a prohibition that is equally applicable to all, but with regard to a prohibition that is not equally applicable to all, such as the prohibitions pertaining to priests, this is not the case. Since these prohibitions only apply to priests, we might have thought that they do not extend to women. The verse therefore teaches that the prohibition applies to women in the same manner as men.

³² The Gemara asks: But there is the prohibition for priests to contract ritual impurity from a corpse, which is a prohibition that is not equally applicable to all, as only priests are bound by this prohibition, and the reason that this command applies only to male priests is that the Merciful One writes: “Speak to the priests the sons of Aaron, and say to them: None shall defile himself” (Leviticus 21:1), from which it is inferred: The sons of Aaron and not the daughters of Aaron. Therefore, were it not for this specific derivation, I would say that women from priestly families are also obligated to avoid becoming ritually impure. What is the reason for this? Is it not due to the principle that Rav Yehuda said that Rav said, that women are equated to men with regard to all punishments in the Torah, including those that are not equally applicable to all?

³³ The Gemara rejects this proof: No, that initial assumption, that the daughters of priests might be obligated to avoid ritual impurity, is not due to the halakha that Rav Yehuda said that Rav said, but rather it is something that we learn through tradition from the words “they may not take.” This phrase teaches that women are included in the marital prohibitions of the priesthood, and we might therefore have thought that they are included in all halakhot pertaining to priests.

³⁴ There are those who say a different version of this answer: With regard to that verse about taking, it was necessary for him to mention this explicitly, for it might enter your mind to say: We should learn this halakha from the prohibition of impurity and conclude that just as only male descendants of Aaron are prohibited from contracting ritual impurity, the restrictions of marriage also apply only to men. The verse therefore teaches us, with the words “they may not take,” that this is not the case.

³⁵ The Gemara relates: Rav Pappa and Rav Huna, son of Rav Yehoshua, arrived at the town of Hintzevu, to the place of Rav Idi bar Avin. The townspeople asked them: Is it prohibited for daughters of priests who are fit to marry priests to marry men disqualified from the priesthood or not?

³⁶ Rav Pappa said to them: You learned it in a mishna (Kiddushin 69a): People of ten types of lineages ascended from Babylonia: Priests, Levites, and Israelites, ḥalalim, converts, and freed slaves, and mamzerim, Gibeonites, children of unknown paternity [shetukim], and foundlings. With regard to Priests, Levites, and Israelites, they are permitted to marry into one another’s families; Levites, Israelites, ḥalalim, converts, and freed slaves are permitted to marry into one another’s families; converts, freed slaves, and mamzerim, Gibeonites, shetukim, and foundlings are permitted

to marry into one another's families; whereas the tanna does not teach that priestesses, i.e., daughters of priests, are permitted to marry a ḥalal. This must mean they are forbidden to them.

³⁷ Rav Huna, son of Rav Yehoshua, said to him: There is no proof from here, for he teaches the halakha anywhere that these men may marry those women, and there is also a parallel case where these women may marry those men. With regard to the case of a priest, however, since if he wants to marry a ḥalala this is prohibited to him, the tanna does not teach this halakha. Consequently, there is no proof from this mishna that daughters of priests who are fit to marry priests are warned against marrying men disqualified from the priesthood. They came before Rav Idi bar Avin and told him about the question and their debate about the matter. He said to them: Children, this is what Rav Yehuda said that Rav said: Daughters of priests who are fit to marry priests are not warned against marrying men disqualified from the priesthood.

³⁸ § We learned in the mishna that secondary forbidden relatives, whose status is established by rabbinic law, are sometimes forbidden to the husband and sometimes to the yavam. The residents of the town of Biri inquired of Rav Sheshet: Is a woman who is a secondary forbidden relative of the husband but not a secondary forbidden relative of the yavam entitled to a marriage contract from the yavam or not? The Gemara clarifies the sides of the dilemma: Perhaps, since the Master said that in a levirate marriage, the payment of her marriage contract is due from the property of her first husband, and this woman, who was a secondary relative of her first husband, does not receive a marriage contract from him, she consequently does not have the right to one from the yavam either.

³⁹ Or perhaps, since there is a principle in levirate marriage that if she does not have a marriage contract from the first husband, e.g., he died without leaving behind any property, the Sages instituted a marriage contract for her from the second one, we should say that she has a marriage contract from the yavam?

⁴⁰ Rav Sheshet said to them: You learned it in a baraita: Payment of her marriage contract is due from the property of her first husband, and if she was a secondary forbidden relative of the husband, she does not have one even from the yavam. This baraita clearly answers the question.

⁴¹ The Gemara asks: Can it be concluded by inference from the baraita that there is a case of a woman in a levirate marriage who does have a marriage contract from the yavam? The Gemara answers: The baraita is incomplete and this is what it is teaching: Payment of her marriage contract is due from the property of her first husband, and if she does not have anything from the first husband because he died without property, they instituted a marriage contract for her from the second one. And if she was a secondary forbidden relative of the husband, she does not have one even from the yavam.

⁴² Rabbi Elazar inquired of Rabbi Yoḥanan: Do women in cases like a widow married to a High Priest and a divorcée or a ḥalutza married to a common priest have rights to payment for their sustenance from their husbands, or do they not have a right to sustenance? The Gemara asks: What are the circumstances of the case under discussion? If we say that she is dwelling under his roof, he stands in a position where he is obligated to arise and divorce her. In such a situation, does she have a right to sustenance? It is obvious that she does not. The Gemara clarifies: No, it is necessary to ask this question with regard to a case where he went overseas and therefore is not present to divorce her, and in the meantime she borrowed money for her sustenance and ate. What is the halakha in that case?

⁴³ Is it correct to say that sustenance is a stipulation in the marriage contract, and since she has a marriage contract she also has a right to sustenance, and therefore the husband must pay her debt? Or perhaps there is a difference between the cases: Concerning a marriage contract, which gives her motivation to take the money and leave him, she has rights to it, as the Sages wanted to motivate her to seek divorce and end the prohibited marriage. However, with regard to sustenance, we are worried that if he provides for her sustenance, perhaps she might tarry with him, as she would have no reason to rush the divorce, and consequently she does not have rights to it. He said to him: She does not have a right to sustenance.

⁴⁴ The Gemara raises a difficulty: But isn't it taught in a baraita that she does have a right to sustenance? The Gemara answers: When that baraita is taught, it is referring to sustenance she receives after his death. At that point, she is no longer in violation of a prohibition, while the obligation to sustain her remains intact.

⁴⁵ Some say a different version of the discussion, which is that he said to him: It is taught in a baraita that she has a right to sustenance. He replied: He stands in a position where he is obligated to arise and divorce her. He should not be required to provide for her sustenance. He again asked: But isn't it taught in a baraita that she has a right to sustenance? He responded: When that baraita is taught it is referring to the period after his death.

⁴⁶ The Sages taught: A widow married to a High Priest, or a divorcée or a ḥalutza married to a common priest has the right to receive payment for her marriage contract; and for the produce of her property that her husband used; and sustenance; and she gets back her worn clothes and other objects she brought to the marriage; and she is disqualified as a ḥalala from marrying a priest; and her offspring is disqualified from the priesthood as a ḥalal; and the court forces him to divorce her. A woman who is a secondary relative prohibited by rabbinic law has neither a marriage contract; nor payment for the produce of her property; nor sustenance; nor does she get back her worn clothes; and she is fit to marry a priest and her offspring is fit for the priesthood; and the court forces him to divorce her.

⁴⁷ Rabbi Shimon ben Elazar said: For what reason did they say that a widow married to a High Priest has a marriage contract? Because he is disqualified from the priesthood by his marriage to her, as a priest who marries a woman forbidden to him is barred from the Temple service until he divorces her and agrees not to remarry her, and she is rendered a ḥalala and disqualified from the priesthood by intercourse with him, and any place where he is disqualified and she is disqualified,

⁴⁸ they penalized him through the marriage contract. In other words, the Sages did not exempt him from payment of the marriage contract in that case. Since he is disqualified from the priesthood until he divorces her, the marriage will not last, and they did not force her to forfeit her marriage contract. And for what reason did they say that women forbidden as secondary relatives by rabbinic law do not have a marriage contract? Because he is fit for the priesthood and she is similarly fit, the couple therefore sees no need to divorce, and any place where he is fit and she is fit they penalized her by exempting him from payment of the marriage contract, in order to speed up the divorce.

⁴⁹ Rabbi Yehuda HaNasi says a different reason: These cases, a widow married to a High Priest and a divorcée married to a common priest, are prohibited by Torah law, and Torah law does not require strengthening by means of additional enactments. But those secondary relatives are forbidden by rabbinic law, and rabbinic law does require strengthening. Alternatively, the Gemara presents a

second explanation: In this case, when they are both disqualified, it is he who encourages her to live with him despite the deleterious effect the prohibition will have on her and her offspring. Therefore, they penalized him by making him pay the marriage contract. But in that case, when they both remain fit for the priesthood despite the prohibited nature of their marriage, it is she who encourages him, and they consequently penalized her.

⁵⁰ The Gemara asks: Who teaches the alternative explanation; whose opinion does it follow? Some say that Rabbi Shimon ben Elazar teaches it and is saying: What is the reason? In other words, the latter part of the baraita provides the rationale for the previous statement: What is the reason that they said that if he is disqualified from the priesthood and she is similarly disqualified, they penalized him through the marriage contract? It is because in such a case he primarily encourages her to violate the prohibition, as the main disqualification concerns her, so they penalize him for enticing her to sin. And for what reason did they say that when he is fit and she is fit they penalized her through the marriage contract? It is because in such a case she encourages him, since she is not disqualified and therefore may care less about the sin. The Sages therefore penalized her.

⁵¹ Conversely, some say that Rabbi Yehuda HaNasi is the one who teaches it, and the case of a ḥalutza poses a difficulty to his opinion, as it seems to contradict his principle that rabbinic law requires strengthening: A ḥalutza is forbidden to a priest by rabbinic law, and yet she does have a marriage contract. In response, he then said an additional explanation: Since he disqualifies her from the priesthood by rabbinic law, in this case it is he who encourages her, and in that case of secondary relatives, when neither of them is disqualified, she encourages him.

⁵² The Gemara asks: Practically speaking, what difference is there between the explanations of Rabbi Yehuda HaNasi and Rabbi Shimon ben Elazar? Rav Ḥisda said: The practical difference between them concerns the cases of a mamzeret or a Gibeonite woman married to a Jew of unflawed lineage.

⁵³ According to the one who says that the reason the marriage contract is not revoked from a widow who is married to the High Priest is because this relationship is prohibited by Torah law, which doesn't require strengthening, this too is by Torah law, and therefore she receives her marriage contract. But according to the one who says it is because he encourages her, in this case she encourages him, as the woman is disqualified regardless, and she wants to marry a Jew because there is a way for her descendants to be fit to enter the congregation: If her mamzer son marries a maidservant and has children, they will be slaves who can then be freed and enter the congregation.

⁵⁴ The Gemara asks: But according to Rabbi Eliezer, who said in a mishna (Kiddushin 69a) that if a mamzer marries a maidservant and they have a child, their son is both a slave and a mamzer, since she has no hope of her descendants being fit to enter into the congregation, she does not encourage him at all. Rather, Rav Yosef said: The practical difference between them is with regard to one who remarries his divorcée after she has married another man. According to the one who says that it depends on whether the prohibition is by Torah law, this too is prohibited by Torah law. And according to the one who says it is because he encourages her, in this case she encourages him, as she and her children are unaffected by this marriage.

⁵⁵ The Gemara raises a difficulty: But according to Rabbi Akiva, who said that offspring from forbidden intercourse for which one is liable for violating a prohibition is a mamzer, she does not encourage him at all, because according to this opinion her children would be adversely affected by

the marriage. Rather, Rav Pappa said: The practical difference between them involves a non-virgin married to a High Priest. According to the one who says that it depends on whether the prohibition is by Torah law, this too is prohibited by Torah law. And according to the one who says it is because he encourages her, in this case she encourages him, as the marriage merely violates a positive mitzva, which does not disqualify her children.

⁵⁶ The Gemara asks: But according to Rabbi Eliezer ben Ya'akov, who said that offspring conceived through intercourse with a priest for which one is liable for violating a positive mitzva is a *ḥalal*, she does not encourage him at all. Rather, Rav Ashi said: The practical difference between them is with regard to the case of one who remarries his wife when there is an uncertainty if she is an adulteress. If a married woman was in seclusion with another man after her husband had become suspicious and had warned her concerning that man, and the husband did not subsequently bring her to be examined by the bitter waters as a *sota*, but rather continued to live with her, he has acted contrary to Torah law, as she is forbidden to him.

⁵⁷ In this case, according to the one who says that it depends on whether the prohibition is by Torah law, this too is prohibited by Torah law. And according to the one who says it is because he encourages her, in this case she encourages him, as her children are not disqualified by such a relationship. The Gemara asks: But according to Rabbi Matya ben Ḥarash, who said that even if her husband went to cause her to drink the bitter waters and had intercourse with her on the way, he has thereby rendered her a *zona* and disqualified her from the priesthood, she does not encourage him at all. Rather, Mar bar Rav Ashi said: The practical difference between them is with regard to the case of a definite adulteress. In such a case, all agree that their children are not *mamzerim*, despite the prohibition against their cohabitation. Consequently, she encourages him to sin.

⁵⁸ MISHNA: If there is an Israelite woman betrothed to a priest or pregnant from a priest, and he died; and a widow awaiting her *yavam*, who is a priest; and similarly, the daughter of a priest who is betrothed, pregnant from, or is a widow waiting for her *yavam*, who is an Israelite, she may not partake of *teruma*. If there is an Israelite woman betrothed to a Levite or pregnant from a Levite; and a widow awaiting her *yavam*, who is a Levite; and similarly the daughter of a Levite who is betrothed, pregnant from, or a widow waiting for her *yavam*, who is an Israelite, she may not partake of tithes.

⁵⁹ If there is a daughter of a Levite betrothed to a priest or pregnant from a priest; and a widow awaiting her *yavam*, who is a priest; and similarly a daughter of a priest who is betrothed to or pregnant from a Levite, or is a widow waiting for her *yavam*, who is a Levite, she may partake of neither *teruma* nor tithes. This follows the *halakha* that betrothal, pregnancy, and waiting for a *yavam* disqualify the daughter of a priest from eating *teruma*, but they do not enable an Israelite woman to partake of *teruma*.

⁶⁰ GEMARA: The mishna states that an Israelite woman betrothed to a Levite may not partake of tithes. The Gemara is puzzled by this ruling: And let her even be a complete foreigner who is not a Levite; may a foreigner not partake of tithes? In contradistinction to *teruma*, no special sanctity pertains to tithes; they are merely the possession of the Levite. What difference does it make, then, whether she is a Levite or not? Rav Naḥman said that Shmuel said: In accordance with whose opinion is this mishna? It is in accordance with the opinion of Rabbi Meir, who said that the first tithe is forbidden to foreigners, i.e., non-Levites, as it is taught in a *baraita*:

⁶¹ Teruma is for a priest and the first tithe is for a Levite; this is the statement of Rabbi Meir. Rabbi Elazar ben Azarya permits it, i.e., the first tithe, to a priest, as he too is from the tribe of Levi. The Gemara is puzzled by this last statement: It says: Permits it. Does this prove by inference that there is one tanna that prohibits a priest from partaking of tithes? But a priest is also a Levite and cannot be considered a foreigner. Rather, say that Rabbi Elazar ben Azarya meant that one may give it even to a priest. The tithe does not have to be handed to a Levite; one may choose to give it to a priest instead.

⁶² The Gemara inquires: What is the reason for Rabbi Meir's opinion? Rav Aḥa, son of Rabba, said in the name of tradition that the verse states: "For the tithe of the children of Israel that they set apart as a teruma to the Lord, I have given to the Levites for an inheritance" (Numbers 18:24). From the fact that this verse calls the tithe "teruma," we learn: Just as teruma is forbidden to foreigners, so too is the first tithe forbidden to foreigners, i.e., non-Levites. The Gemara asks: If so, is it true that just as with teruma, a foreigner who eats it is liable to receive the punishment of death at the hand of Heaven and to pay the additional fifth for it, so too, with regard to tithes, a foreigner who eats it should be liable for it to receive the punishment of death at the hand of Heaven and to pay the additional fifth?

⁶³ The Gemara answers that the verse states: "They will die through it if they profane it" (Leviticus 22:9), and a different verse states: "Then he shall add the fifth part thereof unto it" (Leviticus 22:14). A close reading of these verses shows that the Torah is emphasizing that the death penalty comes through it, teruma, and not through tithes, and that a fifth must be added to it, but not to tithes. The Gemara asks: And the Rabbis, who disagree with Rabbi Meir, how do they account for the comparison in the above verse? The Gemara answers: They would say it teaches that just as the requirement to separate teruma produces the status of forbidden untithed produce, so too the requirement to separate the first tithe also produces the status of forbidden untithed produce.

⁶⁴ And this is as it is taught in a baraita: Rabbi Yosei says: One might have thought a person should be liable only for untithed produce from which no terumot or tithes have been separated at all, but if the great teruma has been separated from it and the first tithe has not been separated from it; or if the first tithe has been separated from it and the second tithe has not; or even if the poor man's tithe, which is merely given to the poor and has no sanctity, has not been separated, from where is it derived that such produce also has the status of untithed produce?

⁶⁵ The verse states: "You may not eat within your gates the tithe of your grain" (Deuteronomy 12:17), and below, with regard to the poor man's tithe, it states: "That they may eat within your gates and be satisfied" (Deuteronomy 26:12). Just as "your gates" stated below is referring to the poor man's tithe, so too "your gates" stated here is referring to the poor man's tithe, and the Merciful One states in the Torah "you may not eat," implying that it may be eaten only after separation.

⁶⁶ And if we had learned it only from there, I would say that it merely teaches a prohibition against partaking of untithed produce of this type, but the death penalty is not warranted. The comparison to teruma consequently teaches us that eating this type of untithed produce is also punishable by death at the hand of Heaven.

⁶⁷ A different version of this discussion presents it in the form of a question: Isn't it the case that the halakha that failure to separate the first tithe creates the status of untithed produce is derived from the halakha that Rabbi Yosei taught? If so, there is no need for the exposition of the verse referring to tithes as teruma. The Gemara answers: If the proof was from that source alone, I would say that it is

only prohibited by a prohibition but the death penalty is not warranted. He therefore teaches us that all the stringencies of untithed produce are in force.

⁶⁸ § The Gemara asks: In what manner did you establish the mishna? In accordance with the opinion of Rabbi Meir. But if so, say the latter clause: The daughter of a Levite betrothed to a priest and the daughter of a priest betrothed to a Levite may eat neither teruma nor tithe. Here, what foreignness is there that prohibits her from partaking of the tithe? Even according to the opinion that prohibits the first tithe to foreigners, this woman is a Levite on both sides. Rav Sheshet said: What is the meaning of: She may not eat, that the mishna teaches? It means that she may not give permission to others to separate the teruma from the tithe. As long as she is merely betrothed to a Levite, she may not appoint a messenger to set aside the teruma from the tithe on behalf of the Levite, as she is not yet his wife.

⁶⁹ The Gemara asks: Is it to be concluded by inference that a married woman may give permission to separate teruma from the tithe? The Gemara answers: Yes, and isn't it taught: "And you may eat it in any place, you and your households" (Numbers 18:31)? This teaches that an Israelite woman married to a Levite may give permission to another to separate teruma from the Levite's tithe.

⁷⁰ The baraita continues to discuss this halakha: Do you say she may give permission to separate teruma from the tithe, or perhaps it is only referring to eating? Say in response: If an Israelite woman married to a priest may partake of teruma, which is stringent, is it not all the more so true for tithe, which is lenient? Consequently, there is no need to teach us this halakha. Rather, the verse teaches that an Israelite woman married to a Levite may give permission to another to separate teruma from the tithe.

⁷¹ Mar, son of Rabbana, said: The mishna is not teaching that the daughter of a Levite who was betrothed to a priest may not partake of tithe, but rather it is coming to say that we do not distribute tithe to her in the granary. The Gemara asks: This works out well according to the one who says that the reason for the decree against distributing teruma to a woman in the granary is due to the prohibition (Yevamot 100a) against a woman being alone with a strange man in the granary, which is a secluded place, as this concern applies equally to the case here. But according to the one who says that the Sages prohibited this practice due to concern that the woman might be a divorcée, who is no longer entitled to teruma, this concern should not apply to the daughter of a Levite. Does she not partake of tithe on her own account, even after she is divorced?

⁷² The Gemara refutes this argument: And according to your reasoning that rejects the explanation of Mar, son of Rabbana, with regard to the daughter of a Levite, does a divorcée who is the daughter of a priest not partake of teruma? Why should the daughter of a priest married to a priest not receive teruma in a granary? Rather, this is a rabbinic decree that was enacted primarily due to a priest's divorcée who is the daughter of a non-priest, as she may no longer partake of teruma after her divorce. They also applied this decree to the daughter of a priest divorced from a priest. For this reason, they also decreed against a Levite woman receiving a portion in the granary.

⁷³ The Gemara raises a difficulty: If so, why specifically one who was betrothed; the same would hold true even for a married woman as well. The Gemara answers: There is no difference between them in this regard, but since the tanna taught in the first clause of the mishna: Betrothed, he also taught in the latter clause: Betrothed, although the halakha in the latter clause does not apply exclusively to a betrothed woman.

⁷⁴ § The Sages taught: Teruma is given to a priest, and the first tithe is given only to a Levite; this is the statement of Rabbi Akiva. Rabbi Elazar ben Azarya says:

⁷⁵ The first tithe is given to a priest. The Gemara is puzzled: To a priest and not to a Levite? But the Torah expressly states that the first tithe is for Levites. The Gemara answers: Say he means it can be given also to a priest. The Gemara clarifies: What is the reason for Rabbi Akiva's opinion? As it is written: "You shall speak to the Levites, and you shall say to them" (Numbers 18:26). Clearly, the verse speaks of Levites, not priests. And the other tanna, Rabbi Eliezer, maintains in accordance with the opinion of Rabbi Yehoshua ben Levi, as Rabbi Yehoshua ben Levi said: In twenty-four places in the Bible the priests are called Levites. And this is one of those verses: "And the priests the Levites, the sons of Zadok" (Ezekiel 44:15).

⁷⁶ And Rabbi Akiva replies: Here you cannot say the verse is referring to priests, as it is written: "And you may eat it in any place" (Numbers 18:31), from which we learn that the tithe is given to one who can eat it in any place. This excludes a priest, who cannot eat it in a cemetery, as he is prohibited from entering such a place. Consequently, the verse cannot be referring to priests. And the other Sage, Rabbi Eliezer, how does he respond to this claim? He explains the verse as follows: He may eat it anywhere that he wishes, that is, in any city, as it does not require the wall of Jerusalem, like the second tithe. And we further learn from here that if he eats it in a state of bodily impurity he is not flogged. Consequently, we can say that tithe may be eaten by priests in any place.

⁷⁷ The Gemara relates: There was a certain garden from which Rabbi Elazar ben Azarya, a priest, would take the first tithe, in accordance with his opinion that priests are also entitled to this tithe. Rabbi Akiva went, closed up the garden, and changed its entrance so that it would be facing toward the cemetery, to prevent Rabbi Elazar ben Azarya from entering the garden. Rabbi Elazar said in the form of a lighthearted exaggeration: Akiva, a former shepherd, comes with his satchel, but I have to live; from where will I receive my livelihood if I cannot claim the first tithe? Rabbi Elazar was actually a very wealthy man and did not need the produce from this garden. However, his point was that Rabbi Akiva acted in order to stop him from receiving something that he felt was rightfully his.

⁷⁸ § It was stated that amora'im disagreed about the following question: For what reason did the Sages penalize the Levites with regard to their tithe, by declaring that it may be given to priests as well? Rabbi Yonatan and the Elders who were with him disagree with regard to this matter. One said it was because they did not ascend, i.e., immigrate to the land of Israel, in the days of Ezra. And one said that it was not a penalty at all, but they gave the first tithe to the priests so that they could rely on it during their days of impurity. Because it is prohibited for priests to consume teruma while in a state of impurity, they would have had nothing to eat if they were dependent exclusively on teruma. It is permitted, however, to eat the tithe while impure.

⁷⁹ The Gemara asks: Granted, according to the one who says it was because they did not ascend, we can understand that due to that reason they penalized the Levites by forcing them to share their tithe with the priests. But according to the one who says it was done so that the priests could rely on it during their days of impurity, should we penalize the Levites for the benefit of priests? Rather, everyone agrees that it was a penalty for the fact that they did not ascend in the days of Ezra, and here they disagree about this: One Sage holds that the penalty is that the tithe must be given to the poor, and one Sage holds that priests are classified as poor in the days of their impurity.

⁸⁰ The Gemara asks: Granted, according to the one who says that the penalty imposed on the Levites is that the tithe must be given to the poor, due to that reason Rabbi Akiva changed the garden entrance so that it would be facing toward the cemetery, as Rabbi Elazar ben Azarya was a wealthy man. But according to the one who says the tithe was given to the priests, why did he change the entrance so that it would be toward the cemetery? The Gemara answers: This is what he said to him, i.e., this is what he meant: If you come to receive the tithe by virtue of the penalty imposed on the Levites, you may have it, but if you come by the standard halakha of distribution, demanding your share with the Levites, you may not have the tithe. If the owner of the garden chooses to give it to you, you may accept it, but you may not take it yourself.

⁸¹ The Gemara asks with regard to the penalty imposed on Levites: And from where do we derive that the Levites did not ascend in the days of Ezra? As it is written: “And I gathered them together to the river that runs to Ahava; and we encamped there for three days; and I viewed the people, and the priests, and found there none of the sons of Levi” (Ezra 8:15). With regard to this, Rav Ḥisda said: Initially they would establish officers over the people only from among the Levites, as it states: “And the officers, the Levites, before you” (II Chronicles 19:11), but now they establish officers only from among the Israelites, as it is stated: And the officers of the many at your heads. This indicates that officers were appointed from: The many, meaning the largest group, ordinary Israelites.

⁸² MISHNA: An Israelite woman married to a priest may partake of teruma. If the priest died and she had a child from him, she may continue to partake of teruma. If she subsequently married a Levite, she may no longer partake of teruma but she may partake of the first tithe on his account. If he, too, died and she had a child from him, she may continue to partake of tithe on account of the child. If she then married an Israelite, she may partake of neither teruma nor tithe. If her Israelite husband died and she had a child from him, she still may partake of neither teruma nor tithe.

⁸³ If her child from the Israelite also died, while her son from the Levite remained alive, she may partake of tithe on account of the Levite’s child. If her child from the Levite died, leaving her with a son from the priest, she may once again partake of teruma. If her child from the priest died as well, she may no longer partake of either teruma or tithe.

⁸⁴ The daughter of a priest married to an Israelite may not partake of teruma. If the Israelite died and she has a son from him, she may not partake of teruma as long as that son is alive. If she subsequently married a Levite she may partake of tithe. If he died, and she had a son from him, she may still partake of tithe. If she subsequently married a priest, she may partake of teruma. If the priest died and she had a son from him, she may partake of teruma.

⁸⁵ If her son from the priest also died, she may not partake of teruma, but she may partake of tithe, as she has a son from a Levite. If her son from the Levite died, she may no longer partake of tithe. If her son from the Israelite died, she returns to her father’s house and may once again partake of teruma. And with regard to this woman, it is stated: “And she is returned unto her father’s house, as in her youth; she may eat of her father’s bread” (Leviticus 22:13).

⁸⁶ GEMARA: We learned in the mishna: If her son from the Levite died she may partake of teruma. The Gemara asks: This halakha with regard to a woman previously married to a priest, who had a child from the priest and was then married to a Levite and separated from him, that she once again may partake due to her son from the priest, from where do we derive it? Rabbi Abba said that Rav said: It states: “But if a priest’s daughter be a widow, or divorced, and have no child, and is returned

unto her father's house, as in her youth" (Leviticus 22:13). The verse could have stated: If a priest's daughter. Instead, it states: "But if a priest's daughter," with an extra word, represented by the single Hebrew letter vav, to include this case.

⁸⁷ The Gemara asks: In accordance with the opinion of which Sage is this exposition? Is it only in accordance with Rabbi Akiva, who expounds the additional letter vav, representing the word "and," as an inclusive term? The Gemara refutes this suggestion: It can be understood even if you say it is in accordance with the Rabbis, who do not usually derive halakhot from an additional vav, as in this case the entire phrase: "But if a priest's daughter," is superfluous, as the previous verse had already specified that we are dealing with "the daughter of a priest." Therefore, everyone agrees that in this context the additional letter in the text comes to include the additional case.

⁸⁸ § The Sages taught: With regard to the daughter of a priest, when she returns to her father's house after having been married to a non-priest and then separated from her husband, she returns to partaking of teruma but she does not return to partake of the breast and right hind leg of peace-offerings. Rav Ḥisda said that Ravina bar Sheila said: What is the verse that teaches us this halakha? "She may not eat of that which is set apart from the sacred things" (Leviticus 22:12). This verse indicates: From that which is separated from the sacred things, i.e., offerings, and given to a priest, she may not eat. Rav Naḥman said that Rabba bar Avuh said that this halakha comes from a different source: We infer from the words "she may eat of her father's bread" (Leviticus 22:13), that she may not eat all bread; this comes to exclude the breast and right hind leg.

⁸⁹ Rami bar Ḥama objects to this: But we can say that the verse comes to exclude nullification of vows. The Torah would consequently be teaching us that even after she "is returned unto her father's house, as in her youth" (Leviticus 22:13), she does not return to her youth in all ways, as her father may not nullify her vows. Rava said: The connection between her and her father's house with regard to vows has already been severed, as taught by the school of Rabbi Yishmael, as the school of Rabbi Yishmael taught: "But the vow of a widow, or of a divorcée...shall stand against her" (Numbers 30:10). What is the meaning when the verse states this? She was removed from the category of one who is under the authority of her father when she married, and she has likewise been removed from the category of one who is under the authority of her husband, as she is no longer married to him.

⁹⁰ Rather, the verse is referring to a case where the father transferred his daughter to the husband's agents for the purpose of marriage, and she consequently left her father's house. Or, it is referring to a case where the father's agents transferred her to the husband's agents and she was widowed or divorced on the way, before she arrived at her husband's house. How shall I consider her? Is she in the house of this one, her father, or is she in the house of that one, her husband? Rather, this comes to tell you: Since she has entirely left her father's jurisdiction when she was transferred to the husband's agents, even if for just one moment, her father is no longer able to nullify her vows. We learn from here that a father cannot annul his daughter's vows after she has been married, and there is no need for an additional verse to teach this halakha.

⁹¹ Rav Safra said: The halakha that she does not return to her father's house with regard to the breast and the right hind leg is derived from the verse: "From her father's bread she may eat," which indicates that she partakes of the "bread" of teruma but not of the meat of the breast and hind leg. Rav Pappa said a different interpretation: "From her father's bread she may eat" is referring to bread owned by her father, such as teruma, which is the property of the priest, which excludes the breast

and right hind leg, as the priests receive their portion from the table of the Most High. Unlike teruma, the breast and right hind leg do not belong to the priests. Rather, after the offering is sacrificed to God, they eat these portions but are not considered to own them.

⁹² And Rava said: It states: “And the breast of waving and the hind leg of heaving you shall eat... you, and your sons and your daughters with you” (Leviticus 10:14). This indicates that daughters of priests may eat at a time when they are “with you,” but once they have left the priest’s domain, e.g., by marrying an ordinary Israelite, they may no longer partake of these gifts even if they subsequently return to his household.

⁹³ Rav Adda bar Ahava said: It was taught: With regard to the daughter of a priest, when she returns to her father’s house, after marrying and separating from her husband without a child, she returns for the purposes of eating teruma, but she does not return for the purposes of eating the breast and right hind leg. By contrast, if an Israelite woman ate on account of her son from a priest, if she later married an Israelite and he died, she returns to partake even of the breast and right hind leg.

⁹⁴ Rav Mordekhai went and stated this halakha before Rav Ashi, who said to him: From where does he include the case of a woman who partakes of teruma on account of her son? From the verse “but if a priest’s daughter” (Leviticus 22:13). Is the Israelite woman preferable to her, the daughter of a priest herself, who does not return to eating the breast and hind leg? The Gemara answers: There, the Torah writes exclusions, as we learned above, which teach us that she does not return in all regards, whereas here it does not write exclusions. Consequently, although the halakha of a woman who has a son from a priest is itself derived from the case of the daughter of a priest returning to her father’s house, she has more abilities than the latter.

⁹⁵ § The Gemara returns to the mishna. The mishna taught: The daughter of a priest married to an Israelite may not partake of teruma. The Sages taught: “And she is returned unto her father’s house” (Leviticus 22:13); this excludes a widow awaiting her yavam, for she cannot go back to her father’s house as long as she is still waiting for the yavam to perform levirate marriage. “As in her youth”; this excludes a pregnant woman, as her pregnancy has changed her, and she is no longer as she was in her youth.

⁹⁶ But could this not be derived through an a fortiori inference, without the need for a special exposition of a verse? If in a place, i.e., a case, where the Torah did not make the halakha pertaining to a child from the first husband like the halakha pertaining to a child from the second husband to exempt her from levirate marriage; this is the case of a woman who married a man, had a son with him, was widowed, remarried, and her second husband died childless. She requires levirate marriage despite the fact that she has a child, as the first husband’s child is irrelevant with regard to her need for levirate marriage for the second husband. Despite this limitation, the Torah made the status of a fetus like that of a child who was born, as a pregnant woman does not perform levirate marriage.

⁹⁷ If this is so, then in a place where the Torah did make the halakha pertaining to a child from the first husband like the halakha pertaining to a child from the second husband to disqualify her from teruma; this is the case of a daughter of a priest who married an Israelite, had a son with him, was widowed, and afterward married another Israelite, who died childless. She may not partake of teruma on account of her son from the first husband. Is it not, therefore, right that we should make a fetus like a child who was born with regard to teruma, that would prevent her from returning to partake of teruma if she is pregnant? If this reasoning is correct, there is no need for the biblical exposition.

⁹⁸ However, this proof can be refuted: No, what I should say is that the Torah made a fetus like a child who was born with regard to levirate marriage, because with regard to levirate marriage the Torah made the dead like the living: If the woman had a child at the time of her husband's death she is entirely exempt from levirate marriage, even if her son subsequently died. The deceased child is like a living one in the sense that he continues to exempt his mother from the requirement of levirate marriage. Shall we then make a fetus like a child who was born with regard to teruma, where the Torah did not make the dead like the living? In the case of teruma, as long as the daughter of a priest has a living son from her Israelite husband, she is disqualified from teruma, but if he dies she may partake of teruma again, as we do not consider him like a living son. Consequently, we cannot learn the halakha of teruma from levirate marriage with regard to the status of a fetus. Therefore, the verse states "as in her youth" to exclude a pregnant woman.

⁹⁹ The Gemara comments: And it was necessary to write this verse that teaches the halakha of a pregnant woman, and it was necessary also to write "and she have no child" (Leviticus 22:13) because had the Merciful One written only: "And she have no child," I would have said that at the outset she was only one body when she ate teruma, and now, upon her return, there are two bodies, and that is why she is no longer "as in her youth." But a pregnant woman, who at the outset was one body and now is still one body, one might say that she may partake of teruma until the birth of her son. Consequently, it is necessary for a verse to teach the halakha. And vice-versa, had the Merciful One written the halakha with regard to a pregnant woman, I might have said that this is true only of a pregnant woman because at the outset her body

¹⁰⁰ was empty, and now her body is full with the child, and therefore she is no longer "as in her youth." But in a situation where "she has no child," when at the outset her body was empty and now her body is also empty, as she has given birth, you might say that she should not be disqualified. Therefore, it is necessary to write both verses.

¹⁰¹ Parenthetically, the Gemara lists terms signifying the following discussions, to serve as a mnemonic device: Said to him, we should not make, by death, we should make and not make, by a child, yavam and teruma, levirate marriage and teruma. This list of terms, taken from the introductions or key phrases in each of the ensuing discussions, is the mnemonic.

¹⁰² Rav Yehuda from De'iskarta said to Rava, in continuation of the discussion of the baraita: Should we not make the halakha concerning dead children like the halakha concerning living children with regard to levirate marriage by an a fortiori inference, and say: And if in a place where the Torah made the halakha with regard to a child from the first husband like the halakha with regard to a child from the second husband, to disqualify her from teruma, for as long as she has a child who is not a priest she is prohibited from partaking of teruma, the Torah nevertheless did not make dead children like living ones; therefore, in a place where the Torah did not make a child from the first husband like a child from the second to exempt her from levirate marriage, is it not right that we should not make the dead like the living? Why, then, is a yevama exempt from levirate marriage if her late husband's only child dies?

¹⁰³ The verse states: "Her ways are the ways of pleasantness, and all her paths are peace" (Proverbs 3:17). In other words, since the ways of Torah are those of pleasantness, the Torah would not obligate a woman who has married in the meantime to subsequently perform ḥalitza, as this might demean her in her husband's eyes.

¹⁰⁴ The Gemara inquires: And let us make the halakha with regard to dead children like the halakha with regard to living ones with regard to teruma, from an a fortiori inference: And if in a place where the Torah did not make a child from the first husband like a child from the second to exempt her from levirate marriage, it nevertheless made the living like the dead, as a woman whose husband died and left a child is exempt from levirate marriage even if that child subsequently dies; then, in a place where the Torah made a child from the first like a child from the second to disqualify her from teruma, is it not right that we should make the living like the dead? The Gemara responds: Therefore, the verse states “and she have no child, she is returned unto her father’s house, as in her youth” (Leviticus 22:13), and here she does not currently have children.

¹⁰⁵ The Gemara further suggests: And let us make her child from the first husband like her child from the second one with regard to levirate marriage, again from an a fortiori inference: And if in a place where the Torah did not make the living like the dead with regard to teruma, it still made a child from the first husband like a child from the second, then in a place where it made the living like the dead, with regard to levirate marriage, is it not right that we should make a child from the first husband like a child from the second, and thereby exempt her from levirate marriage? The Gemara answers: The verse states about levirate marriage: “And he has no child” (Deuteronomy 25:5), and in fact he had none at the time of his death.

¹⁰⁶ The Gemara offers another possibility: And should we make a child from the first husband not like a child from the second one with regard to teruma, from an a fortiori inference: If in a place where the Torah made the living like the dead to exempt her from levirate marriage, it still did not make a child from the first husband like a child from the second, then in a place where the Torah did not make the living like the dead, with regard to teruma, is it not right that we should not make the child from the first husband like the child from the second? The Gemara responds: Therefore, the verse states: “And she have no child,” but in fact this woman has children.

Chapter 10

¹ MISHNA: With regard to a woman whose husband went overseas, and witnesses came and they said to her: Your husband is dead, and she married another man on the basis of this testimony, and afterward her husband came back from out of the country, she must leave both this man and that one, as they are both forbidden to her. And she requires a bill of divorce from this one and that one.

² And furthermore, she has a claim to neither payment of her marriage contract, nor the profits of her property used by either of them, nor sustenance, nor the worn clothes she brought to the marriage. She has rights to these claims neither against this man nor against that one, i.e., she cannot collect these payments from either her first or second husband. And if she took any of these items from this man or from that one, she must return them to him.

³ And the offspring is a mamzer from this one and from that one. Her child from the second husband is a definite mamzer, as she was never divorced from her first husband, and the Sages decreed that if she returned to her first husband, a child born later from him is also a mamzer. And neither this man nor that man may become impure for her upon her death, if they are priests. And neither this one nor

that one is entitled to the rights that stem from the marriage bond: Neither to her found articles, nor to her earnings, nor to the nullification of her vows.

⁴ If she was a regular Israelite woman, she is disqualified from marrying into the priesthood, as her intercourse with the second husband is considered an act of illicit sexual relations, and the daughter of a Levite is disqualified from partaking of the first tithe, and the daughter of a priest is disqualified from partaking of teruma. And neither the heirs of this man nor the heirs of that one inherit her marriage contract, as she is not considered married to either of them. This clause will be explained in the Gemara. And if they both died childless, the brothers of this one and the brothers of this one must perform ḥalitza and they do not enter into levirate marriage.

⁵ Rabbi Yosei disagrees with the first tanna and says that she does receive payment of her marriage contract, and the obligation of her marriage contract is upon the property of her first husband. Rabbi Elazar says: The first husband is entitled to her found articles, to her earnings, and to the nullification of her vows. Since her second marriage was an error, the first husband does not forfeit his rights. Rabbi Shimon says an even more far-reaching ruling: Her sexual relations or her ḥalitza with the brothers of the first husband exempts her rival wife, as it is considered a proper levirate marriage or ḥalitza, and certainly she does not require ḥalitza from the brother of the second husband. And if she returns to her first husband, the child from him is not a mamzer.

⁶ All these halakhot refer to a situation when she married with the permission of the court, after hearing that her husband had died. But if she married without the consent of the court, basing herself entirely on the testimony she heard, and her husband returned, it is permitted for her to return to her first husband. The mishna adds another difference between these two scenarios: If she married by permission of the court, she must leave both of them and she is exempt from bringing the offering, i.e., the sin-offering for her unwitting adultery, as she had the authorization of the court and is therefore considered to have acted under duress.

⁷ If, however, she did not marry by permission of the court, she must leave her second husband and is liable to bring an offering for mistakenly having relations with a man forbidden to her. In this regard, the power of the court is greater, as she is exempt from bringing an offering. If the court instructed her to marry on the basis of inaccurate testimony, and she went and ruined herself by engaging in licentious relations outside matrimony, she is liable to bring an offering, as they permitted her only to marry, and not to engage in licentious relations.

⁸ GEMARA: From the fact that the latter clause of the mishna teaches: If she married without the consent of the court she is permitted to return to him, this indicates that she did so not by the consent of the court, but rather by witnesses, i.e., as there are two witnesses, she does not require special permission from the court. With this in mind, it may be inferred that the first clause of the mishna, which speaks of one who acted with the consent of the court, is referring to a situation when there was one witness. Apparently, one witness is deemed credible when he testifies about a husband's death, i.e., the court will permit a wife to marry on the basis of the testimony of a lone witness.

⁹ And we also learned in a mishna (122a): They established that they would allow a woman to marry if her husband was reported dead by one witness, based solely on what he learned from the mouth of another witness, i.e., hearsay testimony, and also the testimony of a woman who heard from another woman, and even the testimony of a woman who heard from a slave or from a maidservant.

Apparently, one witness is deemed credible in this regard, as whenever hearsay testimony is accepted, the testimony of one witness is also valid.

¹⁰ And we also learned in a mishna (Karetot 11b) that if one witness says to someone: You ate forbidden fat, and the accused says: I did not eat it, the accused is exempt from bringing an offering. The Gemara infers: The reason he is exempt is that the individual in question said: I did not eat it, which indicates that if he had been silent and failed to deny the accusation, the lone witness is deemed credible. Apparently, one witness is deemed credible by Torah law with regard to certain issues.

¹¹ § The Gemara asks: From where do we derive this? The Gemara answers: As it is taught in a baraita that the verse states: “Or if his sin be known to him” (Leviticus 4:23, 28). This indicates that he himself must be aware of his sin, and not if it was made known to him by others. In other words, one is not obligated to bring an offering due to the testimony of others, even if they testify that he had transgressed. I might have thought he should be exempt even though he does not contradict the witness’s claim. Therefore, the verse states: If his sin be known to him, which indicates that in any case, however he comes by this knowledge, he is liable.

¹² The Gemara clarifies this halakha. What are the circumstances? If we say that two witnesses came and informed him and he does not contradict them, why do I need a verse to teach this ruling? After all, the testimony of two witnesses is always accepted. Rather, is it not referring to one witness, and yet if he does not contradict the sole witness, that witness is deemed credible? One can learn from this that one witness is deemed credible with regard to prohibitions. The Gemara refutes this claim: And from where do you infer that the reason is due to the fact that the one witness is deemed credible? Perhaps the accused must bring an offering because he remains silent, as there is a principle that silence is considered like an admission.

¹³ And you should know that this is the reason, as the latter clause of that same baraita teaches that if two witnesses said to him: You ate forbidden fat, and he says: I did not eat it, he is exempt, and Rabbi Meir obligates him to bring an offering. Rabbi Meir said that this is an a fortiori inference: If two witnesses can bring him to the severe penalty of death by testifying that he had committed a transgression for which one is liable to receive the death penalty, should they not bring him to the more lenient obligation of an offering?

¹⁴ The Rabbis said to him: There is a difference between the two cases, as with regard to an offering, what is the halakha if he would choose to say: I was an intentional sinner? One who sins intentionally is not liable to bring an offering. Since the accused in the latter clause of the baraita can negate the testimony that would have rendered him liable to bring an offering, he can likewise deny the act itself, whereas if witnesses testify that he performed an action that incurs the death penalty, his denial has no bearing on the case. The Gemara clarifies: In the first clause

¹⁵ of the mishna, what is the reason that when he remains silent, the Rabbis obligate him to bring to an offering based on the testimony of one witness? If we say it is because the witness is deemed credible, but there is the case of an ordinary pair of witnesses, where even though he contradicts their claim they are deemed credible, and yet the Rabbis exempt him from bringing an offering. If so, they would certainly not obligate him to bring an offering due to the testimony of a lone witness. Rather, is it not because he remained silent, and silence is considered like an admission? If this is the reason why he brings an offering, there is no proof from here that the testimony of one witness is accepted.

¹⁶ Rather, this is evidently based on logical reasoning: Just as it is in the case of a piece of meat about which it is uncertain if it is forbidden fat and uncertain if it is of permitted fat, and there is no way of clarifying which it is, and one witness comes and says: It is clear to me that it is permitted fat, the halakha is that he is deemed credible. Here too, the testimony of a single witness can resolve the uncertainty.

¹⁷ The Gemara raises a difficulty: Is it comparable? There, the presumption of a prohibition has not been established, as there is no proof that the piece was ever forbidden, and one can therefore rely on the witness who permits it, whereas here, the presumption of the prohibition with regard to a married woman is established, and there is a principle that nothing involving those with whom relations are forbidden can be determined by fewer than two witnesses.

¹⁸ In fact, this is comparable only to a case involving a piece of meat that is definitely forbidden fat, and one witness comes and says: It is clear to me that it is permitted fat, as the halakha is that he is not deemed credible. The Gemara refutes this claim: Is it comparable? There, when it is established as forbidden fat, even if one hundred witnesses come they are not deemed credible. Here, since if two witnesses come and say the husband is dead they would be deemed credible, let us also deem one witness credible. This is just as it is in the case of untithed produce, i.e., produce from which neither teruma nor tithe has been separated, consecrated property, and konamot, an alternative term for offerings [korbanot] used in vows creating prohibitions. Such vows are called by the generic term: Konamot.

¹⁹ The Gemara asks: With regard to this case of untithed produce, what are the circumstances? If it is his, and he testifies that terumot and tithes have been separated from it, he should be deemed credible because it is within his power to prepare the produce for consumption by separating tithes whenever he wishes. Rather, you must say that he testifies with regard to untithed produce of another, but if so, what does the anonymous Sage who cited this example hold in this case?

²⁰ The Gemara elaborates: If he holds that one who separates tithes from his produce for that of another does not require the owner's knowledge, and he can prepare his friend's produce for consumption whenever he chooses, in this case too his testimony is deemed credible because it is within his power to prepare it. And if he holds that the owner's knowledge is required before someone else can separate the gifts, and this is referring to a situation where the witness comes and says: I know with regard to it that it is prepared, in that case, it itself, this very halakha, from where do we derive it? Why is the case of untithed produce more obvious than the testimony with regard to a missing husband?

²¹ Similarly, with regard to consecrated property too, if it is merely sanctity that inheres in its value, i.e., it is not an actual offering but an item that has been dedicated to the Temple upkeep, then the reason why the testimony of one witness who says it is not consecrated is accepted is due to the fact that it is within his power to redeem it. And if this is referring to inherent sanctity, the matter still remains to be clarified: If it is his offering, then the reason is due to the fact that it is within his power to request from a Sage that the vow be dissolved, like any other vow. Rather, you must say that it is referring to the offering of another, and he said: I know with regard to it that its owner requested from a Sage that his vow be dissolved. However, here too, in this case itself, from where do we derive that he is deemed credible?

²² In the case of konamot too, if he holds that there is misuse of consecrated objects with regard to konamot, i.e., he holds that articles sanctified by a konam have the status of consecrated property, and that the sanctity that inheres in its value applies to them, then his claim is accepted because it is within his power to redeem it. And if he maintains that there is no misuse of consecrated objects in the case of konamot, and it is an ordinary prohibition that rides on its shoulders, i.e., it is forbidden due to its similarity to consecrated property despite the fact that it is not fully sacred, even in this case the above argument applies: If the property in question is his, it is permitted because it is within his power to request from a Sage that his vow be dissolved.

²³ Rather, you will say that the konam must belong to another, and he said: I know with regard to it that its owner requested from a Sage that his vow be dissolved. However, with regard to this halakha itself, that one witness is deemed credible in this case, from where do we derive it? Consequently, after the Gemara has refuted these attempts to explain why one witness should be deemed credible, the question remains: Why is the testimony of a single witness accepted in the case of a missing husband?

²⁴ Rabbi Zeira said: Due to the stringency that you were stringent with her, the woman who married on the basis of a single witness, at the end, i.e., if it turns out that the testimony was incorrect and the husband is still alive, the halakha is very severe with her and she loses out in all regards, you are lenient with her at the beginning, by accepting the testimony of a single witness to enable the woman to marry. The Gemara suggests: If so, let us not be stringent at the end and not be lenient at the beginning.

²⁵ The Gemara answers: Due to the case of a deserted wife, the Sages were lenient with her. Since it is not always easy to find two witnesses to attest to a husband's death, the Sages realized that if the testimony of one witness were not accepted, the woman would be likely to remain a deserted wife, unable to remarry. However, to prevent this leniency from causing mistakes and licentiousness, they were very stringent with her in a case where the testimony is found to be erroneous, to ensure that she is very careful not to accept untrustworthy accounts.

²⁶ § The mishna teaches that if she was informed that her husband was dead and she married another man, and her husband later returned, she must leave this one and this one. Rav said: They taught this halakha only if she married by virtue of the testimony of one witness, but if she married on the basis of the testimony of two witnesses, she does not have to leave him. They laughed at him in the West, Eretz Yisrael: The man, the first husband, has come and stands before us, and yet you say she does not have to leave her second husband. The Gemara explains: No, it is necessary in a situation when we do not know the man who comes before us claiming to be the first husband.

²⁷ The Gemara asks: If we do not know him, even if she married by one witness, why should she leave? The testimony of the witness who says the husband is dead should be accepted. The Gemara answers: No, it is necessary for a case when two others came and said: We were with him from when he left until now, and it is you who do not recognize him, as his appearance has changed over the course of time. This is as it is written: "And Joseph recognized his brothers but they did not recognize him" (Genesis 42:8), and Rav H̥isda said that this verse teaches that Joseph left his brothers without a full beard, and he came with a full beard, which is why they failed to recognize him. This shows that one's appearance can change so much over time that even his own family members are unable to identify him.

²⁸ The Gemara asks: Even in this case, ultimately they are two against two. Initially, two witnesses testified that the man was dead, and now another pair arrives saying he is alive. Why should the testimony of the witnesses who say he is dead be accepted, allowing her to remain with the second husband, while other witnesses claim he is still alive?

²⁹ And as this is an uncertain case, one who has intercourse with her stands obligated to bring an uncertain guilt-offering. Since before she remarried some witnesses say she is a married woman while others claim she is now a widow, her relations with her second husband involve a possible prohibition that entails karet, and whoever mistakenly performs an action of this kind is liable to bring an uncertain guilt-offering. If so, this second husband must certainly divorce her. Rav Sheshet said: We are dealing with a case where that woman married one of her witnesses, who testified that her husband had died. Since the witness himself has no doubt as to the truth, he is not liable to bring an uncertain guilt-offering.

³⁰ The Gemara asks: Even so, she herself stands obligated to bring a uncertain guilt-offering, as she has no personal knowledge of the matter and relied on the witness. The Gemara answers: It is referring to a case where she says: It is clear to me. For whatever reason, she is certain that this is not her husband and that he is dead, and therefore she too is not liable to bring an uncertain guilt-offering. The Gemara asks: If so, what is the purpose of stating this? That is, if Rav is referring only to this particular case, he has not taught anything new, as even Rabbi Menahem, son of Rabbi Yosei, stated his opinion only with regard to a case where witnesses came and afterward she married, but in the case where she married and afterward witnesses came, he did not state his halakha with regard to this case.

³¹ To what ruling is the Gemara referring? As it is taught in a baraita: If two witnesses say that the husband is dead and two say he is not dead, or if two say that this woman was divorced and two say she was not divorced, this woman may not marry; and if she married regardless, she need not leave her new husband, as there is no uncontroverted testimony that she is forbidden to him. Rabbi Menahem, son of Rabbi Yosei, said: She must leave him. Rabbi Menahem, son of Rabbi Yosei, further said: When do I say she must leave him? When the witnesses who contradicted the first pair by claiming she is still married came and afterward she married, despite their testimony. However, if she married and afterward the second pair of witnesses came, this woman need not leave her second husband.

³² The Gemara answers: When Rav spoke too, he was referring to a case when the second pair of witnesses came and testified that this is her husband, and afterward she married. Rav claims that even in that case she need not leave her second husband. His ruling serves to exclude the opinion of Rabbi Menahem, son of Rabbi Yosei, in favor of that of the first tanna. And some say that Rav's teaching should be understood as follows: The reason is that she married and afterward witnesses came; however, if witnesses came and afterward she married, she must leave him. According to whose opinion is this ruling of Rav? It is in accordance with the opinion of Rabbi Menahem, son of Rabbi Yosei.

³³ Rava raised an objection from a baraita: From where is it derived that if a priest does not want to observe the strictures against disqualified women, that the court forces him [dafno] by flogging him, and it sanctifies him despite his wishes? The verse states, at the end of the chapter that deals with the

prohibitions of the priesthood: “And you shall sanctify him...he shall be sacred for you” (Leviticus 21:8), which indicates that this is performed even against his will.

³⁴ Rava analyzes this baraita: What are the circumstances? Assuming that this is referring to a priest who married a woman whose status as a divorced woman or a zona is uncertain, if we say that she did not marry one of her witnesses and did not say: It is clear to me, that the opposing witnesses were speaking the truth, need this be said that the court forces him? Since both of them are clearly in violation of a transgression, it is obvious that they must be separated. Rather, is it not referring to a case when she married one of her witnesses and she says: It is clear to me, and even so the baraita is teaching that the court forces him? Apparently, the halakha is that they remove her from him, which contradicts Rav’s opinion that one who married based on the testimony of two witnesses need not leave her second husband.

³⁵ The Gemara answers: A prohibition with regard to the priesthood is different, as uncertainties with regard to priests are treated stringently, as though they were definite. And if you wish, say: What is the meaning of the phrase: The court forces him? It means that it forces him by witnesses. In other words, only if another pair of witnesses comes and clarifies the matter does the court prevent the marriage *ab initio*. However, if she has already married she need not leave her husband. And if you wish, say instead that it is referring to a situation when witnesses came and afterward she married, and this baraita, which claims that the court forces him to divorce her in that case, is in accordance with the opinion of Rabbi Menahem, son of Rabbi Yosei.

³⁶ Rav Ashi said: What is the meaning of the phrase: She need not leave him, that Rav said? It means that she need not leave her state of being permitted to her first husband. Since she married according to halakha, on the basis of witness testimony, she is considered to have acted under duress. Like any other woman not married to a priest who was unfaithful against her will, she may return to her first husband upon his return.

³⁷ The Gemara asks: If that is what he meant, Rav already said it once. As we learned in the mishna: If she married without the consent of the court, but rather by witnesses’ testimony, it is permitted for her to return to him. And Rav Huna said that Rav said: That is the halakha. Evidently, Rav already ruled that she does not forfeit her original permitted status. The Gemara answers: One ruling was stated by inference from the other. In other words, Rav did not state both halakhot explicitly, but only one of them, from which his other statement was inferred.

³⁸ Shmuel said: They taught that she must leave her second husband only if she does not contradict the witness who claims her first husband is alive. However, if she contradicts him, she need not leave her second husband. The Gemara inquires: With what are we dealing here? If we say we are dealing with two witnesses who testified that her husband is still alive, even if she contradicts him, what of it? The testimony of the two witnesses is fully accepted. Rather, it must be referring to one witness, from which it may be inferred that the reason that she need not leave her second husband is that she contradicts him, which indicates that if she remains silent and does not contradict his testimony, she must leave him.

³⁹ The Gemara asks: But didn’t Ulla say that wherever you find that the Torah relies on one witness, this is a full testimony equal to that of two witnesses, and the statement of one witness has no bearing in a place where it is contradicted by two witnesses? If so, there is no difference between one witness and two witnesses in this case. The Gemara answers: With what are we dealing here? With a case

where the pair who said he was alive were disqualified from giving testimony, and this is in accordance with the opinion of Rabbi Neḥemya.

⁴⁰ As it is taught in a baraita that Rabbi Neḥemya says: Wherever you find that the Torah relies on one witness, follow the majority of opinions. If the testimony is valid, the account of two witnesses is the same as one hundred, as no greater credence is granted to the larger number. However, when the testimony is invalid the majority opinion is accepted. And in these cases they established the testimony of two women against one man like the testimony of two men against one man, whose claim is not considered equivalent to two. In this case, if the wife also contradicts their account she joins the single witness, and therefore the testimony of the disqualified witnesses is not accepted.

⁴¹ And if you wish, say instead that anywhere that one valid witness came initially and testified that the husband was dead, even one hundred women claiming that he is alive are considered like one witness, and their contrary account is not accepted. And with what are we dealing here? In a case where a woman came and testified initially.

⁴² And you must accordingly amend the statement of Rabbi Neḥemya so that it reads as follows: Rabbi Neḥemya says: Wherever you find that the Torah relies on one witness, follow the majority of opinions, and they established two women against one woman like two men against one man. However, in a case involving two women against one man who is a valid witness, this is like half against half, i.e., they are equal. With regard to Shmuel's statement, if the wife herself remains silent, the testimony of the first woman that the husband is dead has been negated, as her account was contradicted by two women. But if the claim of the wife is joined to that of the first woman she need not leave her second husband.

⁴³ § The mishna teaches that if she remarried as the result of an error, then when her first husband returns she requires a bill of divorce from this one and from that one. The Gemara asks: Granted, from the first husband she requires a bill of divorce, as she is his actual wife. But from the second, why does she need a bill of divorce? Surely their relationship is merely licentious. Since her first husband was alive at the time, her marriage to the second is entirely invalid, as one cannot betroth a married woman. A woman does not require a bill of divorce for engaging in sexual relations.

⁴⁴ Rav Huna said: It is a rabbinic decree lest those who are unaware of the entire story say that this first husband divorced her and afterward this second man married her. And if she subsequently leaves him without a bill of divorce, they will claim that we find a married woman leaving her husband without a bill of divorce. The Gemara asks: If so, consider the latter clause of the mishna (92a), that teaches that if they said to her: Your husband is dead, and she became betrothed to another, and afterward her husband came, it is permitted for her to return to her first husband. There too, let us say that people might think that this one divorced her and that one betrothed her, and we find a married woman leaving her husband, i.e., her second husband, without a bill of divorce.

⁴⁵ The Gemara answers: Actually, even if she was merely betrothed she requires a bill of divorce from the second man before she can return to her first husband. The Gemara raises a difficulty: If so, people will say that we find this one remarrying his divorcée after she was betrothed to another. The Gemara answers: In this regard the tanna holds in accordance with the opinion of Rabbi Yosei ben Keifar, who stated a principle with regard to a divorcée who formed a relationship with another man, that if she came from marriage it is prohibited for her to return to her first husband, but if she came

from betrothal it is permitted. Consequently, even if people do claim as above, there is no cause for concern.

⁴⁶ The Gemara raises a further difficulty: From the fact that the latter clause of the mishna (92a) teaches: Even though

⁴⁷ the last one gave her a bill of divorce, he has not disqualified her from marrying into the priesthood, as she is not considered a divorcée at all, this proves by inference that she does not require a bill of divorce from him. The reason is that if she requires a bill of divorce, even if it is only due to uncertainty, why has he not disqualified her from marrying into the priesthood? A bill of divorce of any validity would bar her from marrying a priest. Rather, a bill of divorce given by a man to a woman who is not his wife is clearly of no account, and the reason for the ruling in the latter clause, with regard to betrothal, is that people will say there was no need for a bill of divorce because it was a mistaken betrothal.

⁴⁸ The Gemara asks: If so, in the first clause too, they will say it was a mistaken marriage. The Gemara answers: The Sages penalized her by requiring her to receive a bill of divorce, lest people say she divorced this man and went back and married the first one. The Gemara counters: If so, in the latter clause of the mishna let us also penalize her. The Gemara responds: The first clause involves a situation where she violated a prohibition through her intercourse, and therefore the Sages penalized her. Conversely, in the latter clause, when she did not violate a prohibition, as she simply became betrothed, the Sages did not penalize her.

⁴⁹ § The mishna taught that this woman does not have, i.e., she is not entitled to, the payment of her marriage contract. The Gemara explains: What is the reason that the Sages instituted a marriage contract in general, for an ordinary woman? So that she will not be demeaned in his eyes such that he will easily divorce her. The necessity to find money for her marriage contract will prevent a hasty decision to divorce her. However, in the case of this woman, on the contrary, the Sages actually prefer that she will be demeaned in his eyes such that he will easily divorce her, as the marriage was forbidden and she may not remain with him. Consequently, they eliminated her marriage contract to encourage him to divorce her.

⁵⁰ § The mishna further states that she does not have claim to profits, or sustenance, or worn clothes. Why not? Because the stipulations in the marriage contract, i.e., all the rights of a wife stemming from the stipulations that are part of a marriage contract, are considered like the marriage contract itself. Since she has no marriage contract, she does not have the stipulations in a marriage contract either.

⁵¹ § The mishna also teaches that if she took any of the above from this man or from that one she must return anything she took. The Gemara comments: This is obvious. Since she is not entitled to these articles, of course she must give them back. The Gemara explains: It is necessary, lest you say that since she has already taken hold of them we do not remove them from her possession, as this is merely a penalty and she obtained nothing that did not legally belong to her. The tanna therefore teaches us that the court requires her to return even these items.

⁵² § The mishna taught that the child of either of the men is a mamzer. To clarify this issue, the Gemara cites a different discussion. We learned in a mishna elsewhere (Terumat 2:2): One may not separate teruma from ritually impure produce in order to exempt ritually pure food, and if he separated teruma from impure food unwittingly, his teruma is considered teruma. If he acted

intentionally, he has done nothing, that is, his action is of no effect. The Sages debated: What is the meaning of the expression: He has done nothing? Rav Hisda said: He has done nothing at all, meaning that even that griva of produce he set aside as teruma returns to its former untithed state, as his entire act is completely disregarded.

⁵³ Rav Natan, son of Rabbi Oshaya, said: He has done nothing with regard to preparing the remaining produce from which he separated teruma, but the fruit he separated is itself teruma. Although the portion he set aside is sanctified as teruma, this does not exempt him from separating more teruma from ritually pure produce. The Gemara clarifies the two opinions: Rav Hisda did not say his opinion in accordance with the opinion of Rav Natan, son of Rabbi Oshaya, as, if you say it is teruma, on occasion he will be negligent and not separate anything more, assuming that if the portion he set aside has the status of teruma he must certainly have done everything required.

⁵⁴ The Gemara asks: In what way is this case different from that which we learned in a mishna (Terumot 3:1): With regard to one who separates teruma from a serpent melon [kishut] and it was discovered to be bitter, or from a watermelon and it was discovered to be spoiled, it is teruma, and yet he must go back and separate teruma from another serpent melon or watermelon. No concern is expressed in this mishna that one might neglect to set aside teruma a second time. The Gemara answers: Are you raising a contradiction between the case of an unwitting sinner and that of an intentional sinner? There is a difference between them, as one who was unwitting did not commit a transgression and consequently does not deserve to be penalized, whereas one who was an intentional sinner did commit a transgression.

⁵⁵ And the Gemara raises a contradiction between this ruling involving an unwitting sinner and another halakha of an unwitting sinner: Here, it is taught that if the one who separated ritually impure produce instead of ritually pure produce was unwitting, his teruma is teruma, which indicates that he does not have to separate teruma again. However, there, with regard to rotten fruit, it is taught that it is teruma and yet he must separate teruma again.

⁵⁶ The Gemara explains: There, his was an unwitting act that is close to an intentional one, as he should have tasted it first to ensure that he was separating quality fruit. His failure to do so renders him virtually a willful sinner, and therefore the Sages penalized him by obligating him to set aside teruma again. In the case of impure teruma, in contrast, he may not have been able to investigate the matter when he separated the portion.

⁵⁷ And the Gemara also raises a contradiction between one case involving an intentional sinner and another case of an intentional sinner. Here, it is taught that in the case of an intentional sinner who separates teruma, he has done nothing. There, we learned in a mishna (Demai 5:10), that with regard to one who separates teruma from produce growing in a vessel that is not perforated, for produce that grew in a perforated vessel, which is considered connected to the ground, it is teruma, but he must go back and separate teruma a second time. This ruling is based on the principle that anything that grew in a pot without a hole does not require separation of teruma by Torah law. In this case, the fact that he must again set aside teruma does not mean that the portion he separated is not consecrated at all.

⁵⁸ The Gemara answers: In a case involving two vessels he will listen. Since the difference between the two vessels is clear to the eye, if the owner is told he must separate teruma again, it can be assumed that he will comply. In contrast, in the case of one vessel he will not listen, as ritually impure and pure produce look the same to him. Consequently, if he is informed that he must set aside

teruma a second time despite the fact that the produce he already set aside has the status of teruma, he will take no notice.

⁵⁹ The Gemara asks another question: And according to the opinion of Rav Natan, son of Rabbi Oshaya, who said that he has done nothing with regard to preparing the remaining produce but it is nevertheless teruma,

⁶⁰ in what way is this case different from that which we learned in a mishna (Demai 5:10): If one separates teruma from that which grew in a perforated pot for that which is from a non-perforated pot, his teruma is teruma, but it may not be eaten until he removes on behalf of that portion itself teruma and tithe from another place? In other words, the portion he separated as teruma is not entirely consecrated, as it too is considered untithed produce in the sense that teruma must be separated for it. In contrast, one who sets aside impure teruma does not have to separate teruma from that portion itself.

⁶¹ The Gemara answers: Here, with regard to ritually impure teruma, it is different, as by Torah law it is in fact full-fledged teruma, but the Sages penalized him by making him separate teruma again. This is in accordance with the opinion of Rabbi Elai, as Rabbi Elai said: From where is it derived with regard to one who separates teruma from poor-quality produce for superior-quality produce that his teruma is teruma? As it is written with regard to teruma: “And you shall bear no sin by reason of it, seeing that you have set apart from it its best” (Numbers 18:32). This verse states that if one separated teruma from inferior-quality produce he has committed a sin, which shows that his action is effective, as Rabbi Elai proceeds to explain.

⁶² Rabbi Elai elaborates: And if this inferior portion is not sanctified as teruma at all, why is there a bearing of sin? If the produce does not have the status of teruma he has not done anything, which means that his action cannot be considered a transgression. From here we learn with regard to one who separated from the bad for the good that his teruma is teruma after the fact. Similarly, the teruma of one who separates ritually impure food for pure food is valid teruma by Torah law.

⁶³ After clarifying the opinions themselves, the Gemara analyzes the case in greater detail. Rabba said to Rav Ḥisda: According to your opinion, that you said he has done nothing at all, meaning that even that se’a he set aside returns to its former untithed state, what is the reason for this? It is a rabbinic decree, as perhaps he will be negligent and will not separate teruma a second time. However, is there anything that by Torah law is teruma, as stated by Rabbi Elai, and yet due to the concern: Perhaps he will be negligent, the Sages removed its status as sacred and gave to it the status of non-sacred food? And can the court stipulate and enact a decree to uproot something that applies by Torah law?

⁶⁴ Rav Ḥisda said to Rabba: And you, do you not hold that the Sages have the power to do so? But didn’t we learn in the mishna that the child is a mamzer from this one and from that one? Granted, the child from the second man is a mamzer, as he was born to a married woman from a man who was not her husband. However, with regard to the child from the first husband, why is he a mamzer? After all, she is his wife, and by Torah law their son is a full-fledged Jew. And the Sages’ declaration that he is a mamzer cannot be seen as a mere stringency, as they thereby permit him to a mamzeret. This shows that a rabbinical decree can uproot a Torah prohibition.

⁶⁵ Rabba said to Rav Ḥisda that Shmuel said as follows: It is forbidden for the child of the first husband to marry a mamzeret. And similarly, when Ravin came from Eretz Yisrael, he said that

Rabbi Yoḥanan said that the child is forbidden to a mamzeret. And if so, why does the mishna call him a mamzer? This is to teach us that the Sages are stringent and render it prohibited for him to marry a regular Jewish woman. With regard to the issue at hand, as he may not marry a mamzeret, the Sages did not in fact uproot a mitzva that applies by Torah law.

⁶⁶ Rav Ḥisda sent a proof to Rabba, in the hand of Rav Aḥa bar Rav Huna: And can the court not stipulate to uproot something prohibited by Torah law? But isn't it taught in a baraita: From when does a man inherit from his minor wife, who was married off by her mother or brother, as enacted by the Sages, a marriage that is not valid by Torah law? Beit Shammai say: From when she stands at her fully developed height, i.e., when she grows up and reaches the age of maturity. And Beit Hillel say: From when she enters the wedding canopy. Rabbi Eliezer says: From when she has sexual relations. As soon as she is considered his wife, all the halakhot of a wife apply to her. And he inherits from her and becomes impure for her if she dies, even if he is a priest, and she eats teruma on his account if he is a priest.

⁶⁷ The Gemara first clarifies various details of this baraita. Beit Shammai say: From when she stands at her height. The Gemara expresses surprise at this statement: Is this the case even though she has not yet entered the wedding canopy? Betrothal alone, without the marriage canopy, is not enough to enable a man to inherit from an adult woman, let alone a minor. The Gemara answers: You must say that Beit Shammai meant from when she stands at her fully developed height and enters the wedding canopy. And Beit Shammai said to Beit Hillel as follows: That which you said, that he inherits her from when she enters the wedding canopy, is not enough. Rather, if she stands at her fully developed height, the wedding canopy is effective for bringing about her marriage, and if not, the wedding canopy is not effective for bringing about her marriage.

⁶⁸ The Gemara continues its analysis of the baraita. Rabbi Eliezer says: From when she has sexual relations. The Gemara again expresses surprise: But didn't Rabbi Eliezer say that the actions of a minor girl are nothing, which indicates that marriage and intercourse with her are not considered an act of acquisition. Rather, we must say that he meant from when she matures and has sexual relations.

⁶⁹ The Gemara returns to the issue at hand, whether the court can stipulate to uproot something prohibited by Torah law. In any event the baraita is teaching that he inherits from her. But here is a case where by Torah law her father, i.e., his relatives, as he is dead, inherits from her, as a minor orphan cannot marry by Torah law, and yet by rabbinic law the husband inherits from her. This shows that the Sages can uproot a Torah mitzva. The Gemara answers: This is no proof, as in monetary matters property declared ownerless by the court is ownerless, and therefore the court can allocate her inheritance as they see fit.

⁷⁰ As Rabbi Yitzḥak said: From where is it derived that property declared ownerless by the court is ownerless? As it is stated: "And whoever does not come within three days, according to the council of the princes and the Elders, all his property should be forfeited, and himself separated from the congregation of the captivity" (Ezra 10:8). This verse indicates that the court can confiscate anyone's possessions.

⁷¹ Rabbi Elazar says that the proof that the court can declare property ownerless is from here: "These are the inheritances that Elazar the priest, and Joshua, son of Nun, and the heads of the fathers' houses of the tribes of the children of Israel distributed for inheritance" (Joshua 19:51). What do

heads have to do with fathers? The expression “the heads of the fathers’ houses of the tribes” is unusual and vague. Rather, this comes to tell you: Just as fathers bequeath to their sons anything they want to, so too, the heads, i.e., the leaders and judges of the people, bequeath to the people anything they want to. This shows that the leaders can take property from one individual and give it to another.

⁷² It was stated that the husband of a minor becomes impure for her, even if he is a priest. The Gemara asks: But here is a case where by Torah law her father, not the man she married, is obligated to become impure for her, as the latter is not his wife by Torah law, and yet by rabbinic law her husband defiles himself for her. The Gemara answers: This is because she is considered like a corpse with no one to bury it [met mitzva], for which even a priest must become impure. Once she is married, her relatives from her father’s family no longer care for her welfare, which means her husband is the only one who is entrusted with her burial.

⁷³ The Gemara asks: And is she in fact a met mitzva? But isn’t it taught in a baraita: Which corpse is a met mitzva? Any corpse that does not have anyone to bury it. If it was in a place where if one calls and others would answer him, this is not a met mitzva. In contrast, this girl does have relatives who can bury her, if necessary. The Gemara answers: Here too, since the members of her father’s family do not inherit from her, she would call and they would not answer her, as they have no desire to go to any trouble for her. Since her husband inherits from her, it is his duty to tend to her burial, and he must therefore become impure for her, as she has the status of a met mitzva.

⁷⁴ It was further taught: And she eats teruma on his account. The Gemara explains: This is referring to teruma that applies by rabbinic law, not by Torah law. The Gemara attempts to offer a proof for this claim. Come and hear a baraita: If a non-priest ate ritually impure teruma of a priest, he must pay him with ritually pure, non-sacred produce. In a case where he paid with impure, non-sacred food, Sumakhos says in the name of Rabbi Meir that if he did so unwittingly, his payment is considered payment, but if he acted intentionally, his payment is not payment at all. And the Rabbis say: Both in this case and that one his payment is a valid payment, and the food has the sanctity of teruma, although it is ritually impure, and he must also go back and pay him again with pure, non-sacred food.

⁷⁵ And we discussed this baraita with regard to the following question: Why is it that according to the opinion of Rabbi Meir, when the non-priest pays the priest with ritually impure, ordinary food intentionally, his payment is not considered payment? On the contrary, the non-priest should be blessed, as he ate something of his that is not fit for him even during the priest’s days of impurity, as impure teruma must be burned, and he pays him with impure, ordinary food, which is something that is fit for him during his days of impurity. Admittedly, once he gives it to him, the produce becomes impure teruma, but at the time of his payment the food was available to be eaten.

⁷⁶ And Rava said, and some say this statement unattributed to any particular Sage: The baraita is incomplete, and this is what it is teaching: If he ate ritually impure teruma, he pays with anything, even impure, non-sacred produce. If he ate pure teruma he pays with pure, non-sacred food, and if he paid with impure, non-sacred produce, the Sages disagreed about this case: Sumakhos says in the name of Rabbi Meir: If done unwittingly, his payment is payment; if intentionally, his payment is not payment. And the Rabbis say: Whether unwittingly or intentionally, his payment is payment, and he must go back and pay with pure, non-sacred produce.

⁷⁷ The Gemara returns to the issue at hand, whether the court can stipulate to uproot something prohibited by Torah law. And here it is a case where by Torah law the produce he gave him is proper payment, and is fully owned by the priest, to the extent that if a priest betroths a woman with them, the betrothal with her is valid. And yet the Sages said, i.e., it is a rabbinic law, according to Sumakhos in the name of Rabbi Meir, that his payment is not payment. And this means that we permit a married woman to all men, as she is betrothed by Torah law but in practice she is treated as an unmarried woman. Evidently, a rabbinical prohibition overrides a betrothal that is effective by Torah law.

⁷⁸ The Gemara answers: What is the meaning of the phrase: His payment is not payment, that Rabbi Meir said? It means that he is required to go back and pay with ritually pure, non-sacred produce. However, the food he initially gave is also consecrated. The Gemara asks: If so, the opinion of Sumakhos is the same as that of the Rabbis.

⁷⁹ The Gemara answers that Rav Aḥa, son of Rav Ika, said: The practical difference between them is whether they decreed against an unwitting sinner due to an intentional sinner. According to Sumakhos, if he unwittingly paid with impure, non-sacred produce his payment is valid and the Sages did not penalize him with a second payment, whereas the Rabbis maintain that even if his sin was accidental he must repay the priest, as the Sages issue the decree in a case of a mistaken transgression due to the case of one who sinned intentionally.

⁸⁰ The Gemara further suggests: Come and hear another proof. With regard to blood that became ritually impure, and a priest sprinkled it on the altar, the following distinction applies: If he did so unwittingly, the offering is accepted. If he sprinkled the blood intentionally, the offering is not accepted.

⁸¹ And here it is a case where by Torah law the blood effects acceptance, as it is taught in a baraita: For what does the High Priest's frontplate effect acceptance? For blood, for meat, and for fat that became impure, whether unwittingly or intentionally, whether by unavoidable accident or willingly, whether in the case of an individual offering or an offering of the community. And the Sages said that if a priest sprinkled impure blood intentionally the frontplate does not effect acceptance, and its owner must bring another offering. The Gemara infers: Since he is not obligated to bring this extra offering by Torah law, in essence he subsequently brings in a non-sacred animal to the Temple courtyard.

⁸² Rabbi Yosei bar Ḥanina said that there is no proof from here, as what is the meaning of the phrase: Does not effect acceptance, that the tanna of the baraita said? It means that it does not effect acceptance in the sense that it permits the meat of the offering to be eaten. However, the owners themselves attain atonement through it, and they do not have to bring another offering.

⁸³ The Gemara raises a difficulty: Ultimately, the Torah mitzva of eating the meat of this offering is uprooted, and it is written: "And they shall eat those things with which atonement was made" (Exodus 29:33). This verse teaches that the priests eat the offering and the owner thereby gains atonement. He said to him: The case of sit and refrain from action [shev ve'al ta'aseh] is different. In other words, the Sages can uproot a Torah mitzva by instructing one to sit and refrain from action, i.e., to remain passive and do nothing. They cannot, however, uproot a mitzva by telling him to perform an action.

⁸⁴ Rav Ḥisda said to Rabba: I wanted to raise a difficulty against you from the halakha of an uncircumcised man. The Sages decreed that one who converts on the eve of Passover may not partake of the Paschal lamb, due to his ritual impurity. According to Beit Hillel, one who separates from the foreskin by being circumcised is ritually impure like one who separates from the grave (Pesahim 92a). This is the halakha despite the fact that by Torah law he is obligated to bring the offering. Rav Ḥisda continued: And I also thought of asking from the case of sprinkling the waters of a purification offering for one who became ritually impure through contact with a corpse, as the Sages rendered it prohibited for one who is impure to receive the sprinkling on the eve of Passover that occurred on Shabbat, although this prevents him from partaking of the Paschal lamb.

⁸⁵ And I was likewise going to raise a question from the case of a circumcision knife, which the Sages decreed may not be carried on Shabbat, despite the fact that this entails the neglect of a Torah mitzva. And I also wanted to raise a question from the case of a linen cloak, on which the Sages did not allow one to place ritual fringes made of wool. This is a decree that was issued lest he do the same with a garment worn only at night, which is exempt from fringes, and therefore this would be a mixture of wool and linen that is forbidden, although this means that he is unable to fulfill the mitzva of ritual fringes.

⁸⁶ And likewise I wanted to mention a difficulty from the case of the lambs sacrificed on Shavuot. When the festival of Shavuot occurs on Shabbat, the Sages rendered it prohibited to sprinkle the blood of its sacrificial lambs if the offerings had not been slaughtered with the proper intention, despite the fact that the sprinkling itself is not prohibited by Torah law. And similarly, there is a difficulty with regard to the halakha of the shofar, which is sounded on Rosh HaShana, and yet the Sages rendered it prohibited for it to be blown on Shabbat, lest one carry it four cubits in the public domain.

⁸⁷ And finally I wished to raise a difficulty from the case of a lulav, which may not be carried on the first day of Sukkot that occurred on Shabbat, for the same reason the Sages rendered it prohibited to sound the shofar on Rosh HaShana that occurs on Shabbat. However, now that you have resolved for us that an action defined as a case of: Sit and refrain from action, is not considered uprooting, all these are also cases of sit and refrain from action.

⁸⁸ The Gemara suggests: Come and hear another proof. The verse states with regard to a true prophet: “To him you shall listen” (Deuteronomy 18:15). From here it is derived that even if the prophet says to you: Transgress one of the mitzvot of the Torah, for example, as in the case of Elijah at Mount Carmel, who brought an offering to God on that mountain during a period when it was forbidden on pain of karet to sacrifice offerings outside the Temple, with regard to everything that he permits for the requirement of the hour, you must listen to him. This indicates that a Torah mitzva can indeed be uprooted in an active manner.

⁸⁹ The Gemara answers: There it is different, as it is written: “To him you shall listen,” which means that it is a positive mitzva to obey a prophet, and a positive mitzva overrides a prohibition. The Gemara asks: And let him derive from this case a principle that the Sages have the same power as a prophet. The Gemara answers: Safeguarding a matter is different. Since Elijah acted with the aim of preventing the Jewish people from worshipping idols, it was temporarily permitted for him to override a mitzva, in order to strengthen Torah observance with regard to a particular matter in which the people are lax.

⁹⁰ The Gemara suggests another proof. Come and hear: The Sages rendered it prohibited for a man who has sent a bill of divorce to his wife to cancel it in the presence of a court without her knowledge after he has given the bill of divorce to his messenger but before she gets the document. The prohibition was instituted to prevent a situation where the messenger, who is unaware of the cancellation, gives her the bill of divorce and she marries another man under the mistaken impression that she is divorced. If he proceeded to nullify it regardless, it is nullified; this is the statement of Rabbi Yehuda HaNasi. Rabban Shimon ben Gamliel says: He cannot nullify or add to its condition in a case where the bill of divorce included a stipulation. For if so, i.e., if he has the ability to cancel the bill of divorce, what good is the power of the court in their decree that one may not do so?

⁹¹ The Gemara explains the proof from this source: And here it is a case where by Torah law, the bill of divorce is nullified, and yet due to the reason of: What good is the power of the court, his nullification is ineffective, which means that we permit a married woman to all men. The Gemara answers: The halakhot of marriage afford no proof, as with regard to one who betroths a woman, he betroths on the authorization of the Sages, and in this case the Sages nullified the betrothal, which they can do because their consent was required for the betrothal to be effective in the first place.

⁹² Ravina said to Rav Ashi: This works out well in a case when he betrothed with money, as it can be explained that the Sages declared the money ownerless, thereby negating the betrothal. However, if he betrothed by means of sexual relations, what can be said? The Gemara answers: The Sages equated his relations with this woman with licentious sexual intercourse. Since in this situation as well the acquisition of betrothal is effective only by authorization of the Sages, they have the power to declare it invalid.

⁹³ The Gemara cites yet another relevant source. Come and hear, as Rabbi Elazar ben Ya'akov said: I have heard that the reason why the court may administer lashes and punish not by Torah law, i.e., in response to actions for which one is not liable to receive punishment by Torah law, is not so as to transgress matters of Torah, but to establish a safeguard for the Torah. And an example of this is an incident involving a certain person who rode on a horse on Shabbat in the days of the Greeks, an act that is prohibited by rabbinic law, and they brought him to the court and they stoned him as a desecrator of Shabbat. They did so not because he was deserving of this, as riding a horse is not punishable by stoning by Torah law, but because the hour required it, as at that time Jews were negligent with regard to Shabbat observance.

⁹⁴ And again, an incident occurred involving a certain person who cohabited with his own wife under a fig tree in plain view, and they brought him to the court and flogged him, not because this punishment was fitting for him, as it is not prohibited by the Torah for one to engage in relations with his wife wherever he chooses, but because the hour required it, to discourage others from engaging in licentious behavior. This shows that the court can uproot a Torah mitzva even by means of a positive action such as stoning. The Gemara answers: Safeguarding a matter is different. As stated above, the court may uproot a Torah mitzva so as to strengthen Torah observance in general, as was the case with the prophet Elijah.

⁹⁵ § The mishna taught: Neither this one, her first husband, nor that one, her second, may become impure for her, if they were priests. The Gemara asks: From where do we derive this halakha? The Gemara explains that it is written: "But to his relative, who is close to him, for her he may defile himself" (Leviticus 21:2), and the Master said: "His relative" is his wife.

⁹⁶ And it is further written: “He shall not defile himself, a husband among his people, to profane himself” (Leviticus 21:4). It may be inferred from this apparent contradiction between the verses that there is a husband who becomes impure for his wife, and there is a husband who does not become impure. How so? He becomes impure for his fit wife, but he does not become impure for his disqualified wife. Since in the case of the mishna, the woman in question is disqualified with regard to both men, neither of them may become impure for her.

⁹⁷ § The mishna further taught: Neither this one nor that one is entitled to her found articles. The Gemara explains: What is the reason that the Sages said that the found object of a wife belongs to her husband? So that he should not harbor enmity toward her, due to her refusal to give him the item she found. Here, however, let him harbor much enmity toward her, as the Sages want him to divorce her.

⁹⁸ § And the mishna also taught that neither man is entitled to her earnings. The Gemara explains: What is the reason that the Sages said that a wife’s earnings belong to her husband? Because she eats his food. In this case here, since she does not have rights to his food, her earnings are not his either.

⁹⁹ § And the mishna further taught that they may not nullify her vows. The Gemara similarly explains: What is the reason that the Merciful One states that a husband may nullify his wife’s vows? So that she should not have to fulfill a vow that will cause her to become repulsive to him, such as refraining from washing or from applying cosmetics. Here, let her be highly repulsive, as the Sages want their relationship to end.

¹⁰⁰ § The mishna taught that if she was an Israelite woman, she is disqualified from marrying into the priesthood.

¹⁰¹ The Gemara asks: It is obvious that she is disqualified, as she is a zona, a woman who has had sexual relations with a man forbidden to her by the Torah and with whom she cannot establish a marital bond. The Gemara answers: Since it was necessary for the tanna to mention the disqualification of a daughter of a Levite from partaking of the tithe, he added that an Israelite woman is likewise disqualified from marrying into the priesthood.

¹⁰² The Gemara asks: And a daughter of a Levite, is she disqualified from partaking of the tithe by licentiousness? But isn’t it taught in a baraita: In the case of a Levite woman who was captured, who may have had intercourse with one of her captors, or even in a case where a Levite woman definitely engaged in licentious sexual relations, we nevertheless give her first tithe and she may eat it? This indicates that an act of fornication does not disqualify a woman from partaking of the tithe. Rav Sheshet said: The disqualification is a penalty imposed by the Sages on this particular woman for not taking sufficient care, as she married without witness testimony as to her first husband’s death.

¹⁰³ § The mishna further taught that the daughter of a priest in this situation is disqualified from partaking of teruma. The Gemara explains: This statement does not refer to teruma by Torah law, as it is obvious that she is prohibited to eat this produce. Rather, she is barred even from teruma that applies by rabbinic law.

¹⁰⁴ § And the mishna also taught: Neither the heirs of this one nor the heirs of that one inherit her marriage contract. The Gemara asks: A marriage contract, what is its purpose; why mention the inheritance of a marriage contract after the mishna has just said that she is not entitled to the payment of a marriage contract at all? The Gemara answers: Rav Pappa said: This is referring to the marriage contract payment of the male sons. One of the conditions of a marriage contract is that any male

children born to this woman who inherit from their father will receive the sum of her marriage contract in addition to their share of the inheritance with their other paternal brothers.

¹⁰⁵ The Gemara asks: This is obvious. Since she does not have a claim for the payment of her marriage contract, she is not entitled to the other conditions of a marriage contract either. The Gemara answers: It is necessary. Lest you say that with regard to the woman herself, who committed a prohibition, the Sages penalized her, but with regard to her offspring the Sages did not penalize them, as they did nothing wrong, the tanna therefore teaches us that the entire marriage contract is canceled, along with all its conditions.

¹⁰⁶ § The mishna further taught that the brothers of this one and the brothers of that one all perform ḥalitza, and they do not consummate levirate marriage. The Gemara explains: The brother of the first one performs ḥalitza by Torah law, as that woman is legally the wife of the first husband and therefore requires ḥalitza. But he does not consummate levirate marriage by rabbinic law, as the Sages penalized her and prohibited her from returning to the first husband. Conversely, the brother of the second one performs ḥalitza by rabbinic law, so that people do not say that a childless woman can leave her yavam without ḥalitza. But he does not consummate levirate marriage, neither by Torah law nor by rabbinic law, as her marriage to the second man was an error.

¹⁰⁷ § The mishna taught: Rabbi Yosei says that the obligation of her marriage contract is upon the property of her first husband. Rav Huna said: The last Sages in the mishna, Rabbi Elazar and Rabbi Shimon, concede to the first ones, and merely add to their statement. However, the first ones do not concede to the last Sages. In other words, the second set of Sages extend the rulings of the first Sages beyond the cases to which they specifically referred.

¹⁰⁸ The Gemara clarifies this statement: Rabbi Shimon concedes to Rabbi Elazar. How so? For if with regard to sexual relations, which is the main prohibition, Rabbi Shimon did not penalize her, as he claims that the intercourse of the yavam, her first husband's brother, acquires her and exempts her rival wife, all the more so her first husband should be entitled to her found objects and her earnings, which are merely money. And yet Rabbi Elazar does not concede to Rabbi Shimon, as he claims that in the case of her found objects and her earnings, which are only money, the Sages did not penalize her, but with regard to sexual intercourse, which is a prohibition, they did penalize her.

¹⁰⁹ And Rabbi Shimon and Rabbi Elazar both concede to Rabbi Yosei with regard to a marriage contract. If in the case of these matters discussed above, which are relevant when she is living under her husband's authority and is treated as a married woman, the Sages did not penalize her, but allowed him to retain her found articles and earnings as though she were a full-fledged wife, all the more so they did not make her forfeit the marriage contract, which is designed for her to take and then leave the marriage. And by contrast, Rabbi Yosei does not concede to them. He maintains that in the case of a marriage contract, which is for her to take and leave, the Sages did not penalize her, but with regard to these other conditions, which take effect when she is still living under his authority, they did penalize her.

¹¹⁰ In contrast to Rav Huna, Rabbi Yoḥanan said: The first Sages concede to the last ones, but the last ones do not concede to the first Sages. According to Rabbi Yoḥanan, the statements of the first Sages are more inclusive, whereas the second Sages restrict and limit the previous rulings. How so? Rabbi Yosei concedes to Rabbi Elazar, as he reasons as follows: If with regard to a marriage contract, which is given from him to her, the Sages did not penalize her, as Rabbi Yosei maintains that since she did

not sin willfully she is entitled to her marriage contract, all the more so they did not enforce a penalty with regard to her found objects and her earnings, which are from her to him. The Sages certainly did not cause him to forfeit something he has the right to claim from her.

¹¹¹ And Rabbi Elazar does not agree with Rabbi Yosei with regard to a marriage contract. He claims that it is concerning her found objects and her earnings, which are from her to him, that the Sages did not penalize her. However, as pertains to the marriage contract, which is from him to her, the Sages did penalize her, as a punishment.

¹¹² And Rabbi Yosei and Rabbi Elazar both concede to Rabbi Shimon, for the following reason: And if with regard to these, i.e., her found objects and earnings or her marriage contract, which are given in his lifetime, the Sages did not penalize her, then with regard to the sexual relations of the yavam, which occur after the death of the husband, is it not all the more so that they should not penalize her, and she should remain permitted? And Rabbi Shimon does not concede to them, as it is only in the case of sexual relations, which occur after his death, that the Sages did not penalize her. However, with regard to these other matters, which apply during the husband's lifetime, the Sages did penalize her by depriving her of them.

¹¹³ § The mishna taught that if she married without the consent of the court she is permitted to return to her first husband. Rav Huna said that Rav said: This is the halakha. Rav Nahman said to him: Why do you steal in, i.e., why do you state your opinion in a sneaky manner? If you maintain in accordance with the opinion of Rabbi Shimon, then you should explicitly say: The halakha is in accordance with the opinion of Rabbi Shimon, as your halakha follows the opinion of Rabbi Shimon.

¹¹⁴ And lest you say: If I were to say that the halakha is in accordance with the opinion of Rabbi Shimon, that would erroneously indicate that I agree with him even with regard to the first case, that of a married woman who married another on the basis of one witness. If so, you should say the following: The halakha is in accordance with the opinion of Rabbi Shimon with regard to the last case. The Gemara comments: Indeed, the question of why Rav Huna did not state his ruling in this manner is difficult.

¹¹⁵ § Rav Sheshet said: I say that when Rav dozed and was falling asleep he said this halakha. In other words, Rav did not examine the matter carefully, as this ruling is unnecessary. Rav Sheshet explains: From the fact that Rav declared a ruling of halakha, it may be inferred that others disagree with this opinion. However, there is actually no dispute here, as what could she have done? It is as though he raped her. Since she received the testimony of witnesses that her husband was dead, she had no reason to refrain from remarrying. Her actions cannot be considered willing, as why should she refrain from marrying after receiving the testimony of witnesses that her husband was dead? Her lack of knowledge in this matter renders this case analogous to a rape. And as is well known, a woman who was raped is permitted to return to her husband.

¹¹⁶ And it was further taught in a baraita: Any of those with whom relations are forbidden by Torah law do not require a bill of divorce to dissolve a union, except for a married woman who remarried by permission of the court. The Gemara infers: It is only a woman who married by permission of the court who requires a bill of divorce, but if she married based on testimony of witnesses she does not require a bill of divorce.

¹¹⁷ The Gemara further inquires: Who is the author of this baraita? If we say it is Rabbi Shimon, in his opinion does a woman who married by permission of the court require a bill of divorce from the

second man? But isn't it taught in a baraita that Rabbi Shimon says: If the court acted merely in accordance with their own instruction when they permitted a woman to remarry and her husband later arrived, it is as though this remarriage were a willful act of a man with a woman, and she is penalized like an intentional adulteress. Conversely, if she married based on testimony of witnesses, it is considered like an unwitting act of a man with a woman. Either way, neither in this case nor in that one, i.e., whether the marriage was in accordance with a decision of the court or based on witness testimony, does she require a bill of divorce, as a woman who committed adultery, whether unwittingly or intentionally, does not require a bill of divorce from the adulterer.

¹¹⁸ Rather, is it not the case that this baraita, which states that a woman who engaged in forbidden relations, including one who married based on witnesses, does not require a bill of divorce, is in accordance with the opinion of the Rabbis? But if so, there was no need to issue a ruling to this effect, as everyone agrees that the halakha follows the majority opinion.

¹¹⁹ The Gemara refutes this suggestion: Actually, the baraita is in accordance with the opinion of Rabbi Shimon, and you should answer the difficulty as follows: Rabbi Shimon says that if the court acted in accordance with their own instruction, it is as though there was the intention of a man with a woman, i.e., as though the man had relations with the woman for the purpose of marriage, and therefore she requires a bill of divorce from him. Conversely, if she married based on testimony of witnesses they considered it as though there was no intention of a man with a woman, as he had relations with her without the intention of marriage, and in that case she does not require a bill of divorce.

¹²⁰ Rav Ashi said that there is no difficulty here at all, as Rabbi Shimon's statement should be explained differently. In fact, Rabbi Shimon taught his ruling with regard to the prohibition involved, not the issue of a bill of divorce, and this is what he said: If the court acted in accordance with their own instruction, it is as though this was a willful act of a man with a woman, and she is therefore forbidden to her husband like a woman who intentionally engaged in relations with another man. However, if she married based on testimony of witnesses, they considered it as though it was an unwitting act of a man with a woman, and she is not forbidden to her husband.

¹²¹ Ravina said that this baraita is taught with regard to an offering, and it should be explained as follows: If the court acted in accordance with their own instruction, it is as though this was a willful act of a man with a woman, and she therefore does not bring an offering, as an individual who followed the ruling of the court is exempt from bringing an offering (see Horayot 2a-b). If she married based on testimony of witnesses, it is considered as though this was an unwitting act of a man with a woman, and therefore she brings an offering.

¹²² And if you wish, say and refute Rav Sheshet's difficulty in the following manner: This first baraita, which exempts forbidden women from a bill of divorce, is the opinion of the Rabbis, who prohibit a woman in this situation to her husband, even if she had married another based on witnesses. And you should answer the difficulty by reading the relevant clause of the baraita as follows: Apart from a married woman who married on the basis of witness testimony, and this includes one who married by permission of the court, as she too requires a bill of divorce.

¹²³ § Ulla raised an objection against Rav Sheshet's reasoning: Do we say this justification: What could she have done? Is a woman considered to have acted under duress when she had no way to avoid sin? But didn't we learn in a mishna (Gittin 79b): If a man wrote a bill of divorce and dated it

according to a kingdom that is not suitable [hogenet], i.e., one that does not reign over their place of residence; or according to the kingdom of Media or according to the kingdom of Greece, which are no longer in existence; or if he dated it according to the building of the Temple or according to the destruction of the Temple; and similarly if the bill of divorce was given in the east and he wrote in it a place in the west, or in the west and he wrote a place in the east, this bill of divorce is invalid.

¹²⁴ Consequently, if she married another man she must leave this one and that one, both the one who gave her the bill of divorce and the new husband. And all these matters mentioned in the mishna here, the penalties imposed on a married woman who remarried unlawfully, apply to her. The Gemara asks: But why? Let us say: What could she have done. She acted under duress, as she married again only because she thought the bill of divorce was valid. The Gemara answers: This woman did not act under duress, as she should have had the bill of divorce read by a scholar, who would have told her that it was invalid.

¹²⁵ Rav Shimi bar Ashi said: Come and hear a different proof. With regard to one who married his yevama, and the rival wife of the yevama went and married someone else, and this yevama was later discovered to be a sexually underdeveloped woman, which means that she was never eligible for levirate marriage and therefore her act of intercourse did not exempt her rival wife from levirate marriage, the rival wife must leave this one and that one, i.e., her husband must give her a bill of divorce and she may not marry the yavam, and all these matters apply to her. But why? Again, let us say: What could she have done. The Gemara answers: This is no proof, as she should have waited until it was clearly established that the other wife was not a sexually underdeveloped woman.

¹²⁶ Abaye said: Come and hear: With regard to all those with whom relations are forbidden, with regard to whom the Sages said that they exempt their rival wives, if these rival wives went and married, and one of these forbidden women was discovered to be a sexually underdeveloped woman, which means that the obligation of levirate marriage did not apply to her at all, and it was the rival wives who should have performed levirate marriage, the rival wife must leave both this and that, and all these matters apply to her. But why? Let us say: What could she have done. The Gemara answers as before: She should have waited.

¹²⁷ Rava said: Come and hear: A scribe wrote a bill of divorce for the man and a receipt for the woman, so that the man should give the bill of divorce to his wife and she should give him the receipt upon his delivery of the marriage contract. And the scribe erred and gave the bill of divorce to the woman and the receipt to the man, leaving them with the mistaken impression that he had the bill of divorce and she the receipt, and they gave each other the documents, this one to that one and that one to this one.

¹²⁸ And after a while it became clear that the bill of divorce is in the man's possession and the receipt in the woman's possession, and no act of divorce had been performed at all. If the woman had married someone else in the meantime she must leave both this one and that one, and all these matters apply to her. But why? Let us say: What could she have done. The Gemara answers: Here too, she should have had the bill of divorce read by an expert.

¹²⁹ Rav Ashi said: Come and hear: If a man changed his name, or his wife's name, or the name of his city, or the name of her city, and she remarried, she must leave both this one and that one, and all these matters apply to her. But why? Let us say: What could she have done. The Gemara answers: Once again, she should have had the bill of divorce read by a scholar.

¹³⁰ Ravina said: Come and hear: A man married a woman on the basis that she was divorced. However, she had actually received a bare bill of divorce, i.e., missing a signature. This is referring to a special type of bill of divorce, one that was folded and sewn up. It requires as many witnesses as the number of lines it contains. If a bill of divorce of this kind does not have enough witnesses, it is invalid. In the case of the baraita, if this woman married another man after receiving this bill of divorce, she must leave both this one and this one, and all these penalties apply to her. Again, the question is: What could she have done? The Gemara answers, as before: She should have had the bill of divorce read by someone who could have told her it was invalid.

¹³¹ The Gemara relates: Rav Pappa thought to take action and permit a woman to return to her husband based on the rationale: What could she have done. In a case where she had no means of clarifying the matter, he ruled that she should be considered to have acted under duress. Rav Huna, son of Rav Yehoshua, said to Rav Pappa: But isn't it taught repeatedly in all these mishnayot that this argument is not accepted?

¹³² Rav Pappa said to Rav Huna, son of Rav Yehoshua: And did we not resolve these mishnayot, by explaining that in those particular cases she did have the option of clarifying the matter? He said to him: And shall we stand and rely on answers? Admittedly, we found some way of resolving these questions, but the accumulation of difficulties indicates that the rationale: What could she have done, is unacceptable. And indeed, Rav Pappa ceased to follow his original intention and did not issue a lenient ruling.

¹³³ § The Gemara discusses the case of the mishna from another perspective. Rav Ashi said: And we are not concerned about a rumor. In other words, if there was an unsubstantiated rumor that the husband was alive, the court takes no notice of it. The Gemara asks: Which kind of rumor does he mean? If we say that this is referring to a rumor that spread after the marriage of this woman to another man, Rav Ashi has already said this once, as Rav Ashi said:

¹³⁴ We are not concerned about any rumor after marriage. If a rumor spread about a woman after her marriage that she was forbidden to her husband, the court takes no notice of these reports. The Gemara answers: There is a novel aspect to this teaching: Lest you say that since she came to the court and they permitted her, the very fact that her case had to be discussed indicates that her status is not fully established, and consequently one might think that it should be considered like a rumor before marriage, and she should therefore be forbidden, Rav Ashi therefore teaches us that even in this case, once she is married the court takes no notice of unsubstantiated rumors.

¹³⁵ § The mishna further taught that if she married by permission of the court she must leave him, but she is exempt from bringing a sin-offering. On this issue, Ze'eiri said: The mishna is not accepted, and this is derived from what was taught in the study hall, as it was taught in a baraita in the study hall: If the court ruled that the sun had set at the conclusion of Shabbat, which means it is permitted to perform labor, and later the sun shone, this is not a ruling for which the court is to blame, but an error. Consequently, the court does not have to bring an offering for the unwitting communal sin. Rather, each individual is liable to bring a separate offering. Here too, although the woman married with the consent of the court, they did not issue a mistaken ruling of halakha but simply erred with regard to the facts. She is therefore an unwitting sinner and is liable to bring an offering.

¹³⁶ And conversely, Rav Naḥman said that the court's permission is considered a ruling that renders them liable to bring an offering for an unwitting communal sin.

¹³⁷ Rav Naḥman said: You can know that her permission to marry is a ruling, as in the entire Torah one witness is not deemed credible, and yet here he is deemed credible. What is the reason for this? Is it not because it is considered a ruling, i.e., she does not rely on the witness but on the decision of the court? By contrast, Rava said that we can know that her permission to marry is an error. His reasoning is that had the court ruled with regard to forbidden fat or with regard to blood that it is permitted, and they went back and saw a reason to prohibit it, if they subsequently retract and say that it is permitted we take no notice of them. If they did not find a conclusive proof but merely offered a new argument, this claim does not cancel the earlier ruling that the substance is forbidden.

¹³⁸ Whereas in the case of marriage, when one witness comes the court permits her, and when two witnesses subsequently come and testify that her husband is alive, they render her forbidden. When one other witness again comes forward, claiming that the husband is dead, they permit her. What is the reason for this? Is it not because it is considered an error of the court, as they did not issue their rulings based on their own reasoning but in reliance on the facts they had garnered from the witnesses? It is therefore considered a factual error, not a mistaken ruling.

¹³⁹ The Gemara adds: And Rabbi Eliezer also maintains that the ruling of the court is an error, as it is taught in a baraita that Rabbi Eliezer says: If a woman married by permission of the court and it later turned out that her husband was alive, let the law pierce the mountain, i.e., the matter must be fully investigated. If it turns out that the ruling of the court is incorrect, it is nullified and she brings a choice sin-offering. Granted, if you say that it is an error, it is due to that reason that she must bring an offering. However, if you say it is a ruling, why does she bring an offering? It is the court that should be liable to bring an offering for its incorrect ruling.

¹⁴⁰ The Gemara asks: But perhaps Rabbi Eliezer maintains that an individual who acted by ruling of the court is also liable to bring an offering, and this is why he obligates her to bring an offering, despite the fact that she went ahead with the consent of the court. The Gemara refutes this suggestion: If so, what need is there for the special mention of the rationale: Let the law pierce the mountain? He should simply have said that she is liable to bring an offering. Rather, Rabbi Eliezer evidently maintains that in general an individual does not have to bring an offering for a sin he committed based on the ruling of a court. Here, however, she must bring a sin-offering because there was an error with regard to the facts.

¹⁴¹ § The mishna taught that if the court instructed her to marry, and she went and ruined herself, she is liable to bring an offering. The Gemara asks: What is the meaning of: Ruined herself? Rabbi Eliezer says: She engaged in licentious sexual relations with a man, i.e., intercourse not for the purpose of marriage. Rabbi Yoḥanan said: It means that she married in a prohibited manner, e.g., a widow to a High Priest, or a divorcée or a yevama who had performed ḥalitza [ḥalutza] to a common priest.

¹⁴² The Gemara elaborates: According to the one who says that she engaged in licentious sexual relations, she is all the more so liable to bring an offering if she is a widow who had sexual relations with a High Priest, as she performed an act prohibited by Torah law. Conversely, according to the one who says that the mishna is speaking of a widow who engaged in relations with a High Priest, it is only in that case that she must bring an offering; however, if she engaged in licentious sexual

relations she is not liable to bring an offering. What is the reason? As she can say: It is you who deemed me unattached, and although my behavior was unseemly, I may live with whomever I choose as a single woman.

¹⁴³ The Gemara comments: It is taught in a baraita in accordance with the opinion of Rabbi Yoḥanan: If the court ruled that she may marry, and she went and ruined herself, for example a widow who engaged in intercourse with a High Priest, or a divorcée or a ḥalutza who engaged in intercourse with a common priest, she is liable to bring an offering for each and every sexual act, as each is a separate transgression. This is the statement of Rabbi Elazar.

¹⁴⁴ And the Rabbis say that she brings one offering for all of them, as she performed them all in a single lapse of awareness. And the Rabbis concede to Rabbi Elazar that if a married woman married in error, e.g., to five people, that she is liable to bring an offering for each and every one of them, since they are separate bodies. She is obligated to bring an offering for each separate man with whom she engaged in sexual relations.

¹⁴⁵ MISHNA: With regard to a woman whose husband and child went overseas, and witnesses came and said to her: Your husband died and afterward your child died, she does not require levirate marriage, as she had a child when her husband died. And for this reason she married another man. And if afterward they said to her that the matters were reversed, i.e., the child died before the husband, which means that she did require levirate marriage, she is therefore a yevama who married a stranger without ḥalitza and she must consequently leave her second husband. And with regard to the first child, the one born before they heard about the reversal, and the last one, born after they realized who actually died first, each of these children is a mamzer.

¹⁴⁶ Conversely, if they said to her: Your child died and afterward your husband died, and she therefore entered into levirate marriage, and afterward they said to her that the matters were reversed, which means she married her husband's brother when there was no obligation of levirate marriage, she must leave her husband, and the first child and the last one are each a mamzer. If they said to her: Your husband died, and she married, and afterward they said to her that he was alive at the time of her marriage and he later died, she must leave the second husband. And the first child, born when her original husband was still alive, is a mamzer, and the last one, born after his death, is not a mamzer.

¹⁴⁷ If they said to her: Your husband died, and she became betrothed to another man, and afterward her husband came, she is permitted to return to him, as betrothal alone does not render her forbidden to her husband. Furthermore, although the last man, i.e., her betrothed, gave her a bill of divorce, he has not thereby disqualified her from marrying into the priesthood. She was never his wife, for the betrothal was invalid, and a bill of divorce given to the wife of another man does not disqualify her. This was taught by Rabbi Elazar ben Matya: The verse states with regard to priests: "Neither shall they take a woman divorced from her husband" (Leviticus 21:7), which indicates: And not one who was divorced from a man who is not her husband, e.g., the second man in this case.

¹⁴⁸ GEMARA: The Gemara asks a question with regard to the first section of the mishna: What is the meaning of first child and what is the meaning of last child in this context? If we say that the first means the one born before her hearing that the report was erroneous, and the last means the one born after she heard, let him teach simply: The offspring is a mamzer, as there is no difference between the two cases.

¹⁴⁹ The Gemara explains that because the tanna wanted to teach in the latter clause: If they said to her your husband died, and she married, and afterward they said to her that he was alive and he later died, the first child is a mamzer and the last one is not a mamzer, he also taught in the first clause: The first and the last are each a mamzer, despite the fact that in this case it makes no difference whether the child was born before or after she heard.

¹⁵⁰ § The Sages taught: This mishna is the statement of Rabbi Akiva, who would say that betrothal does not take effect for those liable for violating regular prohibitions, and therefore the child of a yevama who transgressed a prohibition by marrying someone else is a mamzer. However, the Rabbis say that there is no mamzer from a yevama. The Gemara asks: And let the Rabbis say, as a principle: There is no mamzer from those liable for violating regular prohibitions.

¹⁵¹ The Gemara answers: This tanna called the Rabbis is in fact another tanna citing the opinion of Rabbi Akiva, who claims that Rabbi Akiva said that a child born from those liable for violating prohibitions proscribing sexual relations with close relatives is a mamzer, but one born from those liable for violating regular prohibitions, i.e., a prohibition that does not involve a family relationship, such as the prohibition that “the wife of the dead man shall not be married outside of the family to one not of his kin” (Deuteronomy 25:5), is not a mamzer. Rav Yehuda said

¹⁵² that Rav said: From where is it derived that betrothal by another man does not take effect with a yevama? As it is stated: “The wife of the dead man shall not be married outside of the family to one not of his kin” (Deuteronomy 25:5), which indicates: She shall not have the possibility of becoming married to one not of his kin, i.e., his betrothal is of no account.

¹⁵³ And Shmuel said: In our poverty of knowledge, as we do not fully understand the verse, she requires a bill of divorce. The Gemara explains: Shmuel was uncertain with regard to this verse: “The wife of the dead man shall not be married outside,” whether it comes for a prohibition, i.e., the woman is prohibited from marrying another man but the betrothal of that other man is effective, or whether it comes to teach that betrothal by any other man does not take effect with her.

¹⁵⁴ Rav Mari bar Raḥel said to Rav Ashi that Ameimar said as follows: The halakha is in accordance with the opinion of Shmuel. Rav Ashi said: Now that Ameimar said that the halakha is in accordance with the opinion of Shmuel, who maintains that one who betroths a yevama before she has performed ḥalitza must give her a bill of divorce, if her yavam was a priest, he performs ḥalitza with her, as she is forbidden to him after the man who betrothed her gave her a bill of divorce, and she is thereby permitted to the man to whom she was betrothed.

¹⁵⁵ The Gemara expresses surprise at this ruling: But in that case, she thereby gains from her prohibited betrothal, as she may subsequently marry the man who betrothed her illegally. If so, we find a sinner benefiting from his transgression. Rather, the Gemara emends the teaching: If her yavam was a regular Israelite, this second man who betrothed her must give her a bill of divorce, and she is permitted to the yavam, as a non-priest may marry a divorcée.

¹⁵⁶ § Rav Giddel said that Rav Ḥiyya bar Yosef said that Rav said: With regard to a yevama, betrothal does not apply to her, but marriage does apply to her. The Gemara expresses puzzlement: If betrothal does not apply to her, marriage also should not apply to her. How can marriage take effect if the earlier and less binding stage of betrothal is of no consequence? Rather, emend the above statement and say: Neither betrothal nor marriage apply to her.

¹⁵⁷ And if you wish, say a different explanation. What is the meaning of the phrase: Marriage does apply to her? It is referring to a case of licentious sexual relations. In other words, although Rav maintains that betrothal is ineffective for her, if she entered the wedding canopy with another man and had relations with him, her status changes and she is forbidden to the yavam. This is in accordance with the opinion of Rav Hamnuna, as Rav Hamnuna said that a widow awaiting her yavam who committed an act of licentious sexual relations is forbidden to her yavam.

¹⁵⁸ And if you wish, say: Actually, it is as we said initially, that betrothal does not apply to her but marriage does apply to her. However, this does not mean that marriage is actually effective. Rather, the halakha is that he must give her a bill of divorce, as people might confuse this case with that of a woman whose husband went overseas. The Sages decreed that he must give her a bill of divorce so that people would not say that a woman who remarried after hearing that her husband had died likewise does not require a bill of divorce.

¹⁵⁹ § Rabbi Yannai said: In the group of Sages who discussed this matter, they counted and concluded that betrothal by another man does not take effect with a yevama. Rabbi Yoḥanan said to him: My teacher, is this not taught in a mishna that states that betrothal is of no account for such a woman? As we learned in a mishna (Bava Metzia 16b): With regard to one who says to a woman: You are hereby betrothed to me after I convert; after you convert; after I am freed from slavery; after you are freed; after your husband dies; after your sister dies; or after your yavam performs ḥalitza with you, she is not betrothed. The reason for the above ruling is that he is considered to be attempting to acquire an entity that is not yet in existence, as the betrothal cannot take effect at that point in time. This indicates that betrothal is entirely ineffective for a yevama until she performs ḥalitza. Rabbi Yannai said to Rabbi Yoḥanan: Had I not lifted the earthenware shard for you, would you have discovered the pearl [marganita] beneath it? It was only after I informed you of the halakha that you were able to cite a proof for it from a mishna.

¹⁶⁰ Sometime later, Reish Lakish said to Rav Yoḥanan: If it were not for the fact that a great man, Rabbi Yannai, praised you, I would say that this is no proof, as it is possible that the mishna is in accordance with the opinion of Rabbi Akiva, who said that betrothal does not take effect for those liable for violating regular prohibitions, and therefore it is not effective with a yevama. However, according to the opinion of the Rabbis, betrothal is effective for this woman, as is the case with all regular prohibitions.

¹⁶¹ The Gemara asks: And if it is the opinion of Rabbi Akiva, when he said to her: After your yavam performs ḥalitza for you, let the betrothal take effect with her, as we have heard that Rabbi Akiva said that a man can transfer an entity that has not yet come into the world. In other words, Rabbi Akiva is of the opinion that an acquisition can take effect for something not yet in existence. If so, even if the betrothal cannot take effect now, it should be valid after she has performed ḥalitza. The proof that this is indeed Rabbi Akiva's opinion is as we learned in a mishna (Ketubot 59a):

¹⁶² If a wife said: Konam, i.e., this is forbidden like consecrated property, in reference to anything that I will prepare for your mouth, that is, the payment for any work I perform shall be forbidden to you, he is not required to nullify the vow, as it is automatically void, since she was under a prior obligation to give him her earnings as part of their marriage agreement.

¹⁶³ Rabbi Akiva says: He should nullify the vow, lest she exceed more than is fitting for him. A husband is entitled only to a certain sum from his wife's earnings (see Ketubot 64b). If she earns only

the sum of money to which he is entitled, the vow certainly does not go into effect. However, she might earn more, in which case the vow would apply with regard to the additional amount. To avoid this scenario, it is preferable for the husband to nullify the vow. This shows that according to the opinion of Rabbi Akiva a vow applies even with regard to an entity that has not yet come into the world. In this case, the entity is the earnings for work she has yet to perform.

¹⁶⁴ The Gemara refutes this proof: But wasn't it stated with regard to that mishna that Rav Huna, son of Rav Yehoshua, said: This mishna is not referring to a woman who renders the earnings for work she has yet to perform forbidden, but to a wife who says: Let my hands be consecrated to their Maker. In other words, she declares that it is as though her hands were sanctified, which means that anything produced by them is forbidden. Since these hands are in the world, she has not attempted to acquire something that does not exist. Therefore, there is no proof from here with regard to Rabbi Akiva's opinion on that issue.

¹⁶⁵ § The Gemara comments: And this opinion, that Rabbi Akiva maintains that one cannot acquire an entity that has not yet come into the world, disagrees with the opinion of Rav Naḥman bar Yitzḥak, as Rav Naḥman bar Yitzḥak said: Rav Huna agrees with the opinion of Rav, and Rav agrees with the opinion of Rabbi Yannai, and Rabbi Yannai with the opinion of Rabbi Ḥiyya, and Rabbi Ḥiyya with the opinion of Rabbi Yehuda HaNasi, and Rabbi Yehuda HaNasi with the opinion of Rabbi Meir, and Rabbi Meir with the opinion of Rabbi Eliezer ben Ya'akov, and Rabbi Eliezer ben Ya'akov with the opinion of Rabbi Akiva, who said: A person can transfer to another an entity that has not yet come into the world. This shows that Rabbi Akiva indeed maintains that one can acquire something that does not yet exist.

¹⁶⁶ The Gemara specifies the particular contexts in which the aforementioned opinions, all of which concur, were issued: Rav Huna, what is the source for his ruling? As it was stated: With regard to one who sells the fruit of a palm tree to another before the fruit has grown, Rav Huna said: Until the fruit has come into the world, he can retract the sale, as it has yet to take effect. However, after the fruit has come into the world, he can no longer retract, despite the fact the fruit had not yet sprouted when he made the acquisition.

¹⁶⁷ And Rav Naḥman said: Even after they have come into the world he can retract, as the acquisition was defective from the outset. He maintains that one cannot transfer ownership of an entity that does not yet exist. Rav Naḥman said: Even so, I concede that if the buyer seizes the fruit and consumes it, the court does not remove them from him, because despite the faulty acquisition he was promised a sale of fruit.

¹⁶⁸ The Gemara cites the proof that Rav also accepts the ruling that one can acquire an entity that does not yet exist, as Rav Huna said that Rav said: With regard to one who says to another: This field that I am about to buy, when I buy it, it is acquired by you from now, the addressee has acquired the field, despite the fact that it did not belong to the speaker at the time of his statement.

¹⁶⁹ Rabbi Yannai also agrees with the opinion of Rabbi Ḥiyya, as demonstrated by the following episode: Rabbi Yannai had a sharecropper working his land who would bring him a basket [kanta] of fruit every Shabbat eve. One day he was late and did not come. Rabbi Yannai took tithe from the fruit in his house for the fruit he expected to receive. He did this in case the fruit arrived near the beginning of Shabbat, as one may not tithe on Shabbat. However, Rabbi Yannai was uncertain

whether it is indeed possible to separate tithes for an entity that has not yet reached one's possession. He therefore came before Rabbi Ḥiyya to inquire whether his separation of tithes was effective.

¹⁷⁰ Rabbi Ḥiyya said to him: You acted well, as it is taught in a baraita, with regard to a verse that discusses tithes: "And you shall eat before the Lord your God...in order that you should learn to fear the Lord your God all the days" (Deuteronomy 14:23). With regard to the emphasis of "all," these are Shabbatot and Festivals. With regard to what halakha was this stated? If we say it was stated in regard to the issue of tithing and eating on Shabbat, this halakha is redundant. Was a verse necessary to permit the prohibition against moving objects, which applies by rabbinic law? Since the prohibition against moving objects is from the Sages, the Torah is certainly not referring to this halakha.

¹⁷¹ Rather, is it not referring to a case like this, of one who tithed an entity that was not yet in the world, in honor of Shabbat? Rabbi Yannai said to Rabbi Ḥiyya: But they read before me in a dream these two words: Bruised reed. What, is it not the case that they said to me as follows: "Behold you trust upon the staff of this bruised reed" (II Kings 18:21)? In other words, you rely on an unsubstantiated idea.

¹⁷² Rabbi Ḥiyya said to him: No; The dream referred to a different verse, one that deals with the Messiah, as they said to you as follows: "A bruised reed he shall not break and the dimly burning wick he shall not quench; according to truth he shall bring forth justice" (Isaiah 42:3). In other words, Rabbi Yannai acted correctly, in accordance with the ways of truth. This exchange shows that both Rabbi Ḥiyya and Rabbi Yannai agree that an entity not in the world can be acquired.

¹⁷³ With regard to Rabbi Yehuda HaNasi, his opinion is as it is taught in a baraita: The verse states: "You shall not deliver a slave to his master" (Deuteronomy 23:16). Rabbi Yehuda HaNasi says: The verse is speaking of one who buys a slave on the condition to free him. This owner may not keep his acquisition as a slave. The Gemara clarifies: What are the circumstances? Rav Naḥman bar Yitzḥak said: It is referring to a case where one wrote to a slave in the document of acquisition: When I acquire you as a slave, you are acquired by yourself from now. In this case, the buyer transfers ownership of an entity not yet in the world, as the slave did not yet belong to him.

¹⁷⁴ Rabbi Meir, his opinion is as we learned in a mishna (Bava Metzia 16b): One who says to a woman: You are hereby betrothed to me after I convert; after you convert; after I am freed; after you are freed; after your husband dies; after your sister dies; after your yavam performs ḥalitza with you, she is not betrothed. Rabbi Meir says she is betrothed, as the acquisition of a betrothal applies even to an entity not yet in the world, in this case, a woman available for betrothal.

¹⁷⁵ Rabbi Eliezer ben Ya'akov, his opinion is as it is taught in a baraita: Moreover, Rabbi Eliezer ben Ya'akov said that even if one said: The detached fruit of this garden bed shall be teruma for the currently attached fruit of this garden bed when its fruit will be detached, or if he said: The attached fruit of this garden bed shall be teruma for the currently detached fruit of this garden bed when the fruit reach a third of their growth, i.e., a third of their ripeness, and are detached, and if they actually reached a third and were detached, then his words are upheld and the teruma takes effect, despite the fact that the stipulation was issued before the attached fruit had ripened and before the obligation of teruma applied to the detached fruit. This halakha shows that one can acquire an entity not yet in the world; in this case he acquires the fruit by applying the sanctity of teruma to it.

¹⁷⁶ Rabbi Akiva, his opinion is as we learned in the aforementioned mishna, that if a wife says: Konam that I will prepare for your mouth, the husband is not required to nullify the vow. Rabbi Akiva says: He should nullify the vow, lest she exceed more than is fitting for him, as he maintains that the vow applies even to entities not yet in the world.

¹⁷⁷ § They raised a dilemma before Rav Sheshet: In a case of one witness who testifies that a woman's husband is dead, with regard to a yevama, what is the halakha? Can the court rely on this witness? The Gemara explains the sides of the dilemma: Is the reason that the testimony of one witness in the case of a missing husband is accepted because one does not lie about something that will be discovered, and here, too, he will not lie, in case the husband later arrives? Or, perhaps the reason for the eligibility of one witness is because the woman herself is exacting in her investigation before she marries again. But here, since she sometimes loves the yavam, as she already knew him beforehand, she is not exacting in her investigation before she marries again.

¹⁷⁸ Rav Sheshet said to him: You learned the answer to this question in the mishna: If they said to her: Your child died and afterward your husband died, and she entered into levirate marriage, and afterward they said to her that the matters were reversed, she must leave her husband, and the first child and the last one are each a mamzer. Rav Sheshet analyzes this case: What are the circumstances? If we say they are two and two, i.e., two witnesses came first and said one account, followed by two other witnesses who claimed the reverse, what did you see to make you rely on these second witnesses when you can equally rely on the first pair? The first witnesses do not lose their credibility merely due to the testimony of the second pair, so why should she have to leave the yavam?

¹⁷⁹ And furthermore, why should the child be a definite mamzer? At worst he is an individual whose status as a mamzer is uncertain, as there are two conflicting sets of testimonies. And if you would say that the tanna of the mishna was not precise in his failure to distinguish between a definite mamzer and one of uncertain status, but from the fact that it teaches in the latter clause of the mishna: The first is a mamzer and the last is not a mamzer, one can learn from here that the mishna was taught specifically in this manner, i.e., the mamzer the tanna referred to is a definite mamzer.

¹⁸⁰ Rather, isn't it correct to conclude from here that only one witness testified at first, and the reason for the halakha is that two people came and contradicted him, as the testimony of two witnesses certainly overrules that of a single witness? It may be inferred from this that if it were not so, the lone witness is deemed credible. This shows that the court will accept the testimony of one witness even to allow a woman to enter into levirate marriage.

¹⁸¹ The Gemara provides an alternative version of the discussion. And some Sages maintain another version that says: Let the dilemma not be raised, as even a wife herself is also deemed credible when she says her husband is dead, as we learned in a mishna (114b): With regard to a woman who said: My husband is dead, she may marry. Likewise, if she claimed: My husband is dead, she should enter into levirate marriage. If so, one witness is certainly deemed credible when he says her husband has died. The case where you could raise the dilemma is with regard to permitting a yevama to all other men, if a witness claims that the yavam is dead.

¹⁸² In this case as well, the Gemara clarifies the sides of this dilemma: What is the reason that one witness is deemed credible? Is it because one does not lie about something that will be discovered, and therefore here too he would not lie? Or, perhaps the reason for accepting the testimony of one

witness is because the wife is exacting in her investigation before she marries again, but this yevama is not exacting in her investigation before she marries again. Why not? Because she

¹⁸³ hates the yavam, and she would therefore take advantage of any testimony to rid herself of him. Rav Sheshet said to them that you learned it in the mishna. If they said to her: Your husband died and afterward your child died, and she married another man, and afterward they said to her that the matters were reversed, she must leave the other man, and the first child and the last one are each a mamzer.

¹⁸⁴ Again, Rav Sheshet analyzes the case: What are the circumstances? If we say that they are two and two, i.e., the account of two witnesses was contradicted by two other witnesses, what did you see to make you rely on these second witnesses when you can equally rely on those? Why should she have to leave this man? And furthermore, why should the child be a mamzer? At worst he is an individual whose status as a mamzer is uncertain, as there is no proof that the second witnesses are more reliable. And if you would say that the tanna of the mishna was not precise in his language, but from the fact that it teaches in the latter clause of the mishna: The first is a mamzer and the last is not a mamzer, one can learn from here that the mishna was taught specifically in this manner.

¹⁸⁵ Rather, is it not the case that this is referring to one witness, and the reason is that two others came and contradicted him. It may be inferred from this that if it was not so, the sole witness is deemed credible. The Gemara refutes this proof: Actually, the mishna is speaking of a case when two witnesses came first, followed by another two witnesses, and the ruling is as Rav Aḥa bar Manyumi said, with regard to a different issue, that it is referring to witnesses of false, conspiring testimony. In other words, the second set of witnesses did not offer an alternative account of the same incident. Rather, they claimed that the first witnesses lied, as they were with them, elsewhere, during the time that they supposedly witnessed the husband's death. In this case, the first witnesses are entirely disqualified, as the account of the second pair is accepted.

¹⁸⁶ Here too, we are dealing with witnesses of false, conspiring testimony. Consequently, the question of whether the court believes one witness who testifies that a yavam is dead cannot be resolved from the mishna.

¹⁸⁷ Rav Mordekhai said to Rav Ashi, and some say it was Rav Aḥa who said to Rav Ashi: Come and hear a proof from a different source (Yevamot 118b): A woman is not deemed credible if she says: My yavam is dead, so that I may marry, i.e., to permit herself to marry another man. And she is not deemed credible if she says: My sister is dead, so that I may enter her house, i.e., to marry her husband. The Gemara infers: It is she herself who is not deemed credible. It may be inferred from this that if one witness issues this report, he is deemed credible.

¹⁸⁸ The Gemara refutes this argument. And according to your reasoning, say the latter clause of that same mishna: A man is not deemed credible if he says: My brother is dead, so that I may enter into levirate marriage with his wife. And he is not deemed credible when he says: My wife is dead, so that I may marry her sister. Following the above reasoning, it is he himself who is not deemed credible, which indicates that one witness is deemed credible. Yet this cannot be correct: Granted, with regard to a woman, due to the concern that she be left a deserted wife, the Sages were lenient in her case, by allowing her to rely on a single witness. However, with regard to a man, what can be said? There is no concern that he will be left deserted, as a man can marry more than one woman, so he certainly cannot marry a woman on the basis of such flimsy testimony.

¹⁸⁹ Rather, the case of one witness cannot be decided from the mishna, as when is this halakha that a woman is not deemed credible when she says that her yavam is dead necessary to be stated? It is necessary for the opinion of Rabbi Akiva. The Gemara explains: It might enter your mind to say: Since Rabbi Akiva said that the offspring born of intercourse for which one is liable for violating a prohibition is a mamzer, which indicates that even the offspring of a yevama who unlawfully wed another man is a mamzer, one might say that she is concerned for the ruin of her offspring and is consequently exacting in her investigation and would marry only if she received clear, unambiguous testimony. The tanna therefore teaches us that she is concerned for her own ruin, e.g., if there is uncertainty as to whether her husband died, which would force her to leave both him and her second husband, but she is not as concerned for the ruin of her offspring, and in this case she is likelier to marry unlawfully.

¹⁹⁰ § Rava said: One witness is deemed credible in the case of a yevama by means of an a fortiori inference: If for a prohibition involving karet, i.e., adultery of a married woman, you permitted the testimony of one witness, then for a regular prohibition, that of a yevama to another man, is it not all the more so? One of the Sages said to Rava: She herself, a woman who testifies with regard to herself, can prove otherwise: For a prohibition involving karet you permitted her, i.e., if she testifies that her husband is dead she may marry another man and there is no concern that she might still be a married woman, and yet for a regular prohibition you did not permit her, as she is not deemed credible when she claims that her yavam is dead.

¹⁹¹ But rather, she herself, what is the reason that she is not deemed credible? Since sometimes the woman may hate him, she is not exacting in her examination of the matter and marries. With regard to one witness, the same concern also applies: Since sometimes the woman may hate him, she is not exacting in her investigation before she marries again. The court believes one witness only because they assume that she herself is careful to examine the matter. The a fortiori inference is therefore groundless, and the question remains unresolved.

¹⁹² § The mishna states that this was an exposition taught by Rabbi Elazar ben Matya: The verse states with regard to priests: “Neither shall they take a woman divorced from her husband” (Leviticus 21:7). This teaches that a woman is not disqualified from marrying into the priesthood by a bill of divorce she receives from a man other than her husband. Rav Yehuda said that Rav said: Rabbi Elazar should have taught this verse as a pearl but in fact he taught it as an earthenware shard. In other words, he could have arrived at a more significant conclusion.

¹⁹³ The Gemara asks: What pearl does he mean? As it is taught in a baraita: “Neither shall they take a woman divorced from her husband,” even if she was divorced only from her husband. Even if the woman was separated from her husband and was not permitted to marry anyone else, e.g., if her husband wrote in the bill of divorce: This is your bill of divorce but you are not permitted to any other man, this document is certainly not considered a full-fledged bill of divorce, and yet she is disqualified from the priesthood. If her husband later passes away, she has the status of a divorcée, not a widow, which means that she is prohibited from marrying a priest. And this is the trace of a bill of divorce, which is not an actual bill of divorce and yet disqualifies from the priesthood.

¹⁹⁴ MISHNA: In the case of one whose wife went overseas and people came and told him: Your wife is dead, and he married her sister, and afterward his wife came back from overseas, the original wife is permitted to return

¹⁹⁵ to him, as his erroneous marriage to her sister is considered licentious sexual relations, and one who has intercourse with his wife's relatives has not rendered his first wife forbidden to himself. And he is permitted to the relatives of the second woman, e.g., her daughter, and this second woman is permitted to his relatives, e.g., his son, as the marriage was entirely invalid. And if the first woman died he is permitted to the second woman, despite the fact that he has already engaged in forbidden relations with her.

¹⁹⁶ If they said to him that his wife is dead, and he married her sister, and afterward they said to him that she was alive when he married the sister and only later died, in this case the first child, born to the sister while his wife was still alive, is a mamzer, as he was born from the union of a man and his sister-in-law, and the last one is not a mamzer. Rabbi Yosei says: Whoever disqualifies others also disqualifies himself, and whoever does not disqualify others does not disqualify himself either. Rabbi Yosei's obscure statement will be explained by the Gemara.

¹⁹⁷ GEMARA: With regard to the case of a man who married his wife's sister after he was informed that his wife was dead, the Gemara comments: And even if his wife and his brother-in-law both went overseas and he was told that they had died, the halakha is that this marriage he performed is effective only to the extent that his brother-in-law's wife is forbidden to his brother-in-law. The reason for this prohibition is that he performed a marriage ceremony with a married woman by mistake, and one who erroneously weds a married woman has thereby rendered her forbidden to her husband. The Gemara adds: Even so, it is only his brother-in-law's wife who is forbidden to her husband, whereas his own wife remains permitted to him.

¹⁹⁸ It might have been thought that his own marriage, which caused this to be an act of forbidden sexual relations, would also be adversely affected. But the Gemara adds that we do not say: Since his brother-in-law's wife is forbidden to his brother-in-law, his wife is likewise forbidden to him. The Gemara suggests: Let us say that the mishna is not in accordance with the opinion of Rabbi Akiva. The reason is that if the mishna follows the opinion of Rabbi Akiva, his wife is now considered, with regard to him, the sister of his divorcée.

¹⁹⁹ As it is taught in a baraita: None of those with whom relations are forbidden by Torah law require a bill of divorce from him, even if he married them in a proper manner, apart from a married woman who married by mistake by permission of the court. And Rabbi Akiva adds: Also a brother's wife and a wife's sister. Since it is possible that these two women could become permitted to him, by levirate marriage in the case of a brother's wife, or a wife's sister after his wife's death, they too require a bill of divorce. And with regard to the issue at hand, since Rabbi Akiva said that a wife's sister requires a bill of divorce, this factor by itself indicates that his wife is forbidden to him, as his wife is considered the sister of his divorcée.

²⁰⁰ The Gemara refutes this claim: And wasn't it stated with regard to this case that Rav Giddel said that Rav Ḥiyya bar Yosef said that Rav said: In the case of this brother's wife, mentioned by Rabbi Akiva, what are the circumstances? For example, if his brother betrothed a woman and then went overseas, and the man who was here heard that his brother was dead, and he arose and married his brother's wife as a yevama. The reason for Rabbi Akiva's ruling is that uninformed people will say: This first one had a condition in the betrothal with his wife, and his betrothal was canceled because the condition was left unfulfilled, and this other one married well, in compliance with the halakha, as

she was not his brother's wife. It is for this reason that Rabbi Akiva requires him to give her a bill of divorce.

²⁰¹ And in this case of a wife's sister as well, what are the circumstances? For example, if he betrothed a woman and she went overseas, and he heard she died and arose and married her sister. As people will say: This first one, he had a condition in her betrothal, and as the condition was not fulfilled the betrothal is annulled, and this other one married well. However, with regard to the case of the mishna, which involves an actual previous marriage, can it be said that he had a condition in the marriage? There is a presumption that no man marries a woman conditionally. Once he marries her, it is assumed that he waived all prior conditions, and therefore even Rabbi Akiva agrees that a bill of divorce is not required in this case.

²⁰² Rav Ashi said to Rav Kahana: If it is the opinion of Rabbi Akiva, let him also teach the case of his mother-in-law, as she is another forbidden woman who nevertheless requires a bill of divorce, as we have heard him, Rabbi Akiva, say: One who has relations with his mother-in-law after his wife's death is not liable to being executed by burning, because the prohibition lapses upon his wife's death.

²⁰³ As it is taught in a baraita: The Torah states, with regard to one who takes a woman and her daughter: "They shall be burned in fire, he and they [et'hen]" (Leviticus 20:14). Now this cannot literally mean that both women are burned, as the first woman he took did not sin at all. The Sages therefore explained that the word et'hen means he and one of them [mehen]. This is the statement of Rabbi Yishmael. Rabbi Akiva says: He and both of them. Since it is hard to understand how they could both deserve punishment, the amora'im suggested various interpretations of Rabbi Akiva's opinion.

²⁰⁴ Granted, this makes sense according to the explanation of this dispute suggested by Abaye, who said that the interpretation of the meaning of the verse is the difference between them. In other words, Rabbi Yishmael and Rabbi Akiva did not argue over the halakha itself, but merely over the manner in which the halakha is derived from the Torah. That is, Rabbi Yishmael holds that it states: One woman, and the plain meaning of the verse is: He and one of them. And Rabbi Akiva holds that it states: Two, e.g., if he took two women who were both forbidden to him, such as his mother-in-law and her mother, they are both liable to be executed by burning. If this is the dispute between Rabbi Akiva and Rabbi Yishmael, it is fine, as there is no proof from here that the prohibition of a mother-in-law lapses upon his wife's death.

²⁰⁵ However, there is a difficulty according to the explanation of Rava, who said that the practical difference between Rabbi Yishmael and Rabbi Akiva's opinion concerns one's mother-in-law after his wife's death. Rabbi Yishmael maintains that even after the death of one's wife he is liable for marrying his mother-in-law. Rabbi Akiva maintains that one is liable only if both women are alive, as the verse mentions two women, but if the first one has already died his relations with the second woman are no longer punishable by Torah law. If so, let the tanna of the mishna, according to Rabbi Akiva, also teach that one must give a bill of divorce to his mother-in-law whom he married by mistake, as she too will be permitted to him after his wife's death.

²⁰⁶ Rav Kahana said to Rav Ashi: Granted that the verse excluded her from the punishment of burning, did the verse also exclude her from a prohibition? Even Rabbi Akiva agrees that the Torah prohibits a man from marrying his mother-in-law after his wife's death. Consequently, he cannot

marry her in a permitted manner, despite the fact that according to Rava's explanation Rabbi Akiva maintains that they are not executed by burning.

²⁰⁷ § The Gemara asks another question, from a different perspective: And let his wife be forbidden by his sexual relations with her sister, just as it is in the case of a woman whose husband went overseas, who is forbidden to her husband if she had relations with another man by mistake. The Gemara answers: This is not comparable. With regard to his wife, who is forbidden to him by Torah law if she committed adultery intentionally, the Sages decreed concerning her that she is forbidden to him even if she did so unwittingly.

²⁰⁸ However, with regard to a wife's sister, where even if the sister sins intentionally the wife is not forbidden to him by Torah law, if he did so unwittingly the Sages did not decree with regard to him. And from where do we derive that she is not forbidden? As it is taught in a baraita that in the verse: "A man, when his wife goes aside...and a man lies with her" (Numbers 5:12–13), the emphasis of "her" teaches: It is her intercourse with another man that renders her forbidden to her husband, but the intercourse of her sister does not render her forbidden.

²⁰⁹ As, were it not for this verse, one might have thought: Could this not be derived through an a fortiori inference: And if in a case where he has relations subject to a light prohibition, the one causing her to be rendered prohibited is forbidden, then in a situation where he has intercourse subject to a severe prohibition, is it not right that the one causing her to be rendered prohibited should be forbidden? This a fortiori inference will be explained later in the Gemara.

²¹⁰ Rabbi Yehuda said: Beit Shammai and Beit Hillel did not disagree with regard to one who has relations with his mother-in-law, that he renders his wife disqualified from remaining married to him. With regard to what case did they disagree? With regard to one who has relations with his wife's sister, as Beit Shammai say that he renders his wife disqualified, and Beit Hillel say he does not render her disqualified. Rabbi Yosei said: Not so, as Beit Shammai and Beit Hillel did not disagree with regard to one who has relations with his wife's sister, that he does not render his wife disqualified from remaining married to him. With regard to what did they disagree? With regard to one who has relations with his mother-in-law, as Beit Shammai say he renders his wife disqualified and Beit Hillel say he does not render her disqualified.

²¹¹ Rabbi Yosei explains why Beit Shammai and Beit Hillel did not disagree with regard to the case of one who has relations with his wife's sister. This is because at first, before the marriage, he is permitted to all the women in the world and she is permitted to all the men in the world. After he has betrothed her as his wife, he renders her forbidden to all men, and she renders him forbidden to her relatives. Consequently, the prohibition by which he renders her forbidden is greater than the prohibition by which she renders him forbidden, as he renders her forbidden to all the men in the world and she renders him forbidden by their betrothal only to her relatives.

²¹² Rabbi Yosei's explanation continues. Could this halakha of a wife's sister not be derived through an a fortiori inference: And if he prohibited her through their betrothal to all men in the world, and yet she was unwitting with one forbidden to her, i.e., she had relations with another man by mistake, she is not forbidden to he who is permitted to her, her husband; she, who prohibited him only to her relatives, if he was unwitting with one forbidden to him, her sister, is it not right that we should not render him forbidden to her, she who is permitted to him, namely his wife?

²¹³ And this is the a fortiori inference and the reason for the halakha of an unwitting sinner, i.e., that if he had unwitting relations with one of his wife's relations the wife is not thereby rendered forbidden to him. With regard to one whose act was intentional, from where is the halakha derived? The verse states: "Her," meaning that it is her intercourse with another man that renders her forbidden to her husband, but the intercourse of her husband with her sister does not render her forbidden to him.

²¹⁴ Rabbi Ami said that Reish Lakish said: What is the reason of Rabbi Yehuda, who maintains that one who has intercourse with his mother-in-law is forbidden to his wife? As it is written: "They shall be burned in fire, he and they" (Leviticus 20:14). This verse is puzzling: And shall the entire house be punished by burning? Why should both women be punished when only one of them transgressed? If it does not refer to the matter of burning, refer it to the matter of a prohibition, that they are both forbidden to him. This teaches that he is forbidden not only to the woman with whom he sinned, but also to his wife.

²¹⁵ Rav Yehuda said that Shmuel said: The halakha is not in accordance with the opinion of Rabbi Yehuda. The Gemara relates: A certain individual performed a transgression by having relations with his mother-in-law. Rav Yehuda had him brought for judgment and ordered that he be flogged. He said to him: If it were not for the fact that Shmuel said the halakha is not in accordance with the opinion of Rabbi Yehuda, I would render your wife forbidden to you permanently.

²¹⁶ § At the start of the baraita the tanna stated an a fortiori inference that is not entirely clear: If in a place where he has relations subject to a light prohibition, the one causing her to be rendered prohibited is forbidden. The Gemara asks: What is this light prohibition? Rav H̥isda said: It is referring to one who remarries his divorcée after she married another man.

²¹⁷ The Gemara explains that according to this interpretation the a fortiori inference should be understood as follows: If this one, the second husband, has relations with her, he has rendered her forbidden to that one, the first husband. And if the second man divorced her and then the other one, the first husband, had relations with her, he has likewise rendered her forbidden to this one. This demonstrates that even with regard to a light prohibition the man who renders her forbidden is also forbidden by this intercourse.

²¹⁸ The Gemara refutes this interpretation: What about the fact that one who remarries his divorcée after she married another man cannot be considered to have violated a light prohibition, as the prohibition is stringent in several regards: As the body is defiled by this intercourse, for the Torah states "after she has been defiled" (Deuteronomy 24:4); and her prohibition applies to the majority of the Jewish people, not to select groups; and her prohibition is an irrevocable prohibition, as she is no longer permitted to her first husband after having relations with her second husband. This last stringency is not true of his wife's sister, who is permitted to him after the death of his wife.

²¹⁹ Rather, the Gemara rejects this explanation in favor of the following one that Reish Lakish said: The baraita is referring to relations with a yevama, which is called a light prohibition, as the man who has relations with her is forbidden to her. The Gemara clarifies: With regard to this yevama, with whom did she engage in intercourse? If we say that she had relations with another man, not her yavam, this would mean that the ruling is in accordance with the opinion of Rav Hamnuna. As Rav Hamnuna said: A widow waiting for her yavam who engaged in licentious sexual relations with another man is forbidden to her yavam. The argument would be as follows: Although the yavam

renders the yevama forbidden to every other man, if she has relations with another she becomes forbidden to him as well.

²²⁰ However, this argument can also be challenged: What about the fact that in the case of a yevama who engages in this forbidden relationship, the body is defiled and her prohibition applies equally to the majority of the people. Therefore, one cannot derive the prohibitions of one's wife's relatives from this halakha.

²²¹ Rather, the baraita must be referring to a case of a yevama to the brothers, as follows: If this brother performed levirate betrothal [ma'amar] with her he has rendered her forbidden to that one, the other brothers, as she is effectively betrothed to him. If one of the other brothers, who had not performed levirate betrothal with her, subsequently has relations with her, he has rendered her forbidden to this one who had performed levirate betrothal with her. The Gemara asks: If that is the meaning of the baraita, why specifically state that the second had relations with her? Even if he performed levirate betrothal with her too, he thereby renders her forbidden to the first brother, which proves that it is not the act of intercourse itself that causes the prohibition.

²²² The Gemara refutes this suggestion: This is not difficult, as it can be explained in accordance with the opinion of Rabban Gamliel, who said: There is no levirate betrothal after a levirate betrothal, i.e., if one brother performed levirate betrothal with the yevama, no other levirate betrothal is of any effect. However, this explanation can still be refuted, as her prohibition to the yavam is not due to the act of intercourse, as even if the other brother gave her a bill of divorce, or even if he performed ḥalitza with her, he has likewise rendered her forbidden to the first brother, who performed levirate betrothal.

²²³ Rather, Rabbi Yoḥanan said: The light prohibition is that of a sota. The Gemara asks: This sota, to whom is she forbidden? If we say that she is forbidden to the husband, the explanation would be as follows: If her husband has relations with her, despite the fact that she is forbidden to him after she disobeyed his warning not to seclude herself with a certain man, he has rendered her forbidden to the fornicator, as she is barred from marrying him even if her husband divorces her. However, why is this true specifically in a case in which he had relations with her? Even if her husband only gave her a bill of divorce and did not have relations with her after her seclusion, or even if he said: I will not force her to drink the waters of a sota, she is likewise forbidden to the other man.

²²⁴ Rather, the baraita is referring to a sota who had relations with the fornicator, thereby rendering herself permanently forbidden to her husband, as she was a married woman at the time. Yet this too is puzzling: Is this a light prohibition? It is a severe prohibition, as this is the prohibition proscribing a married woman, one of the most serious of all prohibitions.

²²⁵ Rather, Rava said that the light prohibition is actually that of a married woman. And similarly, when Ravin came from Eretz Yisrael, he said that Rabbi Yoḥanan said that the baraita is referring to a married woman. And for what reason does the tanna call this a light prohibition? The reason is that it differs from and is more lenient than other prohibitions in that her husband, who renders her forbidden, does not render her forbidden for his whole lifetime, as he can negate the prohibition by giving her a bill of divorce. This is also taught in a baraita: Abba Ḥanan said in the name of Rabbi Elazar: The baraita is referring to a married woman.

²²⁶ The Gemara explains that according to this opinion the a fortiori inference should be understood as follows: And if in a case where he has relations with a married woman, which is a light

prohibition, due to the fact that he who renders her forbidden does not render her forbidden for his whole lifetime, and yet the one who renders her forbidden is forbidden, as the husband of a woman who committed adultery is permanently barred from having relations with her, then the following conclusion is correct: One who has relations subject to a severe transgression, e.g., a wife's sister, which is severe because the one who renders his wife forbidden renders her forbidden for her whole lifetime, since as long as his wife remains alive he is forbidden to her sister, is it not right that the one who renders her forbidden should be forbidden?

²²⁷ The verse therefore states: "Her," from which it is derived: It is her intercourse that renders her forbidden, but the intercourse of her sister does not render her forbidden.

²²⁸ § The mishna taught: Rabbi Yosei says: Whoever disqualifies others also disqualifies himself, and whoever does not disqualify others does not disqualify himself. The Gemara asks: What is it Rabbi Yosei is saying? If we say that the first tanna said that one's wife and brother-in-law went overseas and he mistakenly had relations with his wife's sister, who is married to his brother-in-law, and consequently the wife of his brother-in-law is forbidden to the brother-in-law, and his wife is permitted to him, this is problematic.

²²⁹ The Gemara elaborates: And according to this explanation, Rabbi Yosei says to the first tanna: Just as his wife is permitted to him, the wife of his brother-in-law is also permitted to her husband. Rabbi Yosei's reasoning is that if he has not disqualified his wife to himself, due to the accidental nature of his relations with her sister, he should not disqualify the sister to her husband either. The Gemara continues: If so, the formulation of Rabbi Yosei's statement is imprecise, as instead of saying: Whoever does not disqualify others does not disqualify himself, he should have said: Whoever does not disqualify himself, i.e., his sexual relations do not render his wife forbidden to him, does not disqualify others, i.e., the wife of the other man.

²³⁰ But rather, one might explain Rabbi Yosei's teaching in the reverse manner: Just as the wife of his brother-in-law is forbidden to her husband, his own wife is also forbidden to him. This works out well with regard to the clause that starts with: Whoever disqualifies, as he disqualifies others, i.e., his brother-in-law's wife to his brother-in-law, and therefore he also disqualifies his wife to himself. However, the continuation of the statement: Whoever does not disqualify, what is its purpose? This clause has no apparent relevance to Rabbi Yosei's statement.

²³¹ Rabbi Ami said: Rabbi Yosei's statement does not refer to this halakha, but to the first mishna of the chapter, which taught that if a woman whose husband went overseas was informed that he was dead and she married by permission of the court she must leave her new husband and is exempt from bringing an offering. If she married based on the testimony of witnesses, without the authorization of the court, she must leave and is liable to bring an offering. In this regard, the power of the court is enhanced, as she is exempt from an offering.

²³² Rabbi Ami explains: And accordingly, if his wife and brother-in-law went overseas and witnesses came and testified that they were both dead, the first tanna says that it is no different whether the wife of his brother-in-law married him based on the testimony of witnesses alone, in which case the wife of his brother-in-law is permitted to her husband, as she is considered as having acted under duress, having heard testimony that her husband was dead, and it is no different if she married him by permission of the court, as although the wife of his brother-in-law is prohibited, his own wife remains permitted to him.

²³³ Rabbi Ami continues his explanation. And Rabbi Yosei says to the first tanna: One who married by permission of the court, who disqualifies others, he also disqualified himself to his own wife; however, in the case of one who married based on the testimony of witnesses who does not disqualify others, I agree that he does not disqualify himself, and his wife is permitted to him.

²³⁴ Rabbi Yitzḥak Nappaḥa said: Actually, Rabbi Yosei is referring to the latter clause of the mishna, and the explanation is as follows: This is referring to one who married his brother-in-law's wife, and that case is referring to one who married his brother-in-law's betrothed. Alternatively, this involves a situation where his betrothed and his brother-in-law went overseas, whereas that concerns a situation when his wife and his brother-in-law went abroad. And the first tanna said: It is no different whether the ones who left were his wife and his brother-in-law, and it is no different whether they were his betrothed and his brother-in-law. Either way his brother-in-law's wife is forbidden to her husband and his own wife or betrothed is permitted to him.

²³⁵ Rabbi Yitzḥak Nappaḥa continues his interpretation. And Rabbi Yosei said to the first tanna: If his wife and his brother-in-law left, in which case it cannot be said that he had a condition with regard to his marriage to his wife, i.e., that the finalization of the marriage was pending on the fulfillment of some condition, everyone would realize that his marriage to her sister was a mistake and she is therefore permitted to his brother-in-law. Consequently, as he does not disqualify another, he does not disqualify himself either. If, however, it was his betrothed and his brother-in-law who left, when it can be mistakenly said that he had a condition with regard to his betrothal and the condition was unfulfilled, his brother-in-law's wife is therefore prohibited from returning to his brother-in-law. And therefore, as he disqualifies others he also disqualifies himself, and his betrothed is forbidden to him.

²³⁶ § Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Yosei. Rav Yosef strongly objects to this: And did Shmuel actually say this? But wasn't it stated that they disputed the status of a yevama: Rav said that she is like a married woman, and Shmuel said that she is not like a married woman. And Rav Huna said that this dispute concerns a case where his brother betrothed a woman and that brother went off overseas, and the one left behind heard that his brother was dead and he arose and married his brother's wife, in levirate marriage, and subsequently the missing brother returned.

²³⁷ As Rav said that she is like a married woman who married another man based on testimony that her husband was dead and is therefore forbidden to the yavam, i.e., to her first husband, who is called the yavam after his brother married her. And Shmuel said that she is not like a married woman, and is permitted to him. This apparently contradicts Rav Yehuda's ruling in the name of Shmuel that the halakha is in accordance with the opinion of Rabbi Yosei, as here too people might mistakenly think that the original betrothal included an unfulfilled condition and she should therefore be forbidden to him as the wife of his brother.

²³⁸ Abaye said to Rav Yosef: And from where do you know that when Shmuel said that the halakha is in accordance with the opinion of Rabbi Yosei, he was speaking of the explanation of Rabbi Yitzḥak Nappaḥa with regard to Rabbi Yosei's opinion? Perhaps he was speaking of the explanation of Rabbi Ami, that Rabbi Yosei is referring to the difference between one who married by permission of the court and one who did so based on the testimony of witnesses. And even if one accepts the

claim that Shmuel's ruling endorses the interpretation of Rabbi Yitzhak Nappaḥa, from where do you know that he was referring to the clause: One who disqualifies?

²³⁹ But perhaps Shmuel's ruling in accordance with the opinion of Rabbi Yosei is referring to the ruling that he does not disqualify his brother-in-law's wife to his brother-in-law, in a case where his wife and brother-in-law left. Alternatively, the contradiction can be resolved in the following manner: From where do we know that there is a reason to accept the explanation of Rav Huna with regard to the dispute between Rav and Shmuel? Perhaps there is no cause to agree with Rav Huna at all, and it can be explained that Rav and Shmuel disagree with regard to the statement of Rav Hamnuna. As Rav Hamnuna said: A widow waiting for her yavam who engaged in licentious sexual relations is forbidden to her yavam.

²⁴⁰ According to this interpretation, the dispute is as follows: As Rav said, she is like a married woman and she is therefore disqualified by licentious sexual relations. And Shmuel said that she is not like a married woman and is not disqualified by licentious sexual relations. And alternatively, one can explain that Rav and Shmuel disagree with regard to the issue of whether betrothal takes effect with a yevama: As Rav said, she is like a married woman with regard to all men other than her yavam, and therefore betrothal performed by anyone else does not take effect with her. And Shmuel said that she is not like a married woman, and this means that betrothal does take effect with her.

²⁴¹ The Gemara asks with regard to this last answer: How can the dispute be explained in this manner? But Rav and Shmuel already disagreed over this once. The Sages would certainly not record the same dispute twice. The Gemara answers: It is possible that they did not in fact disagree twice with regard to the same case. Rather, one ruling was stated by inference from the other. In other words, their dispute was recorded in two different ways, the second time by inference from their original dispute.

²⁴² MISHNA: Witnesses said to a husband: Your wife is dead, and he married her paternal sister, and witnesses subsequently told him that his second wife was dead and he married her maternal sister; afterward witnesses said that this one too was dead and he married her paternal sister; finally they told him that she was dead and he married the last woman's maternal sister, and then they were all discovered to be alive. In this case he is permitted to his first wife, and to the third and to the fifth. Since these women are not sisters, his betrothal to them is effective. Consequently, if he died and one of them entered into levirate marriage, they exempt their rival wives.

²⁴³ But he is forbidden to the second and fourth wife, each of whom is the sister of his original wife. Therefore, if he passed away and the yavam had relations with one of them, his relations with any one of them does not exempt her rival wife, as she was forbidden to his brother, which means there was no mitzva of levirate marriage here at all.

²⁴⁴ And if he had relations with the second woman in the aforementioned list after the death of the first, i.e., the first one indeed died but the other rumors were all false, in that case he is permitted to the second and the fourth, who are his lawful wives, and they exempt their rival wives, and he is forbidden to the third and the fifth, the sisters of the women married to him, and the sexual relations of the brother with any one of them does not exempt her rival wife.

²⁴⁵ § The mishna addresses a different issue: If a boy aged nine years and one day had relations with his yevama he thereby disqualifies his brothers from levirate marriage, despite the fact that as a minor he has not acquired the yevama through this act of intercourse, and the brothers likewise

disqualify the woman from him if they have intercourse with the yevama. However, there is a difference between them, as he disqualifies them only if he engaged in relations with her first, and the brothers disqualify him whether they had relations first or last.

²⁴⁶ The mishna explains: How so? A boy aged nine years and one day who had relations with his yevama has disqualified his brothers, as they are no longer eligible to marry her. If his brothers had relations with her, or performed levirate betrothal with her, or gave her a bill of divorce, or performed ḥalitza with her, they permanently disqualify him from engaging in relations with her.

²⁴⁷ GEMARA: The mishna states: And if he had relations with the second after the death of the first. The Gemara asks: Is that to say that all of them, all the other cases in the mishna, are not dealing with a situation after the death of the first woman? The entire case starts with the report: Your wife is dead. Rav Sheshet said: After the definite death of the first one. In other words, the mishna means that this did not follow a mere rumor that she was dead, but it was positively established that she had actually died.

²⁴⁸ § The mishna teaches that a boy aged nine years and one day who had relations with his yevama has disqualified her from his brothers. Throughout this discussion, whenever the Gemara refers to a nine-year-old boy, it is understood that he is actually nine years and one day old. The Gemara asks: Does a boy aged nine years and one day disqualify her to the brothers only if he had relations with her first, but if he had relations last he does not disqualify them? But didn't Rav Zevid bar Rav Oshaya teach: One who performs levirate betrothal with his yevama, and afterward his brother, who is nine years and one day old, had relations with her, he has disqualified her. This indicates that the intercourse of a nine-year-old disqualifies his brother even if it occurred after that of his brother.

²⁴⁹ They say in response: The intercourse of a nine-year-old disqualifies his brothers even if it happens last; however, in the case of a boy who merely performed levirate betrothal with her, if he did so first he disqualifies his brothers, whereas if he was last, he does not disqualify his brothers. The Gemara asks: And do the sexual relations of a nine-year-old disqualify his brothers even when performed last? But isn't it taught in the mishna: However, he disqualifies them only if he was first, and the brothers disqualify him whether they were first or last. How so? A boy aged nine years and one day who had relations with his yevama has disqualified his brothers. The example the mishna uses for a boy who disqualifies his brothers first is an act of intercourse.

²⁵⁰ The Gemara answers: The mishna is incomplete and this is what it is teaching: With regard to a boy aged nine years and one day, he disqualifies his brothers first, and they disqualify him first and last. In what case is this statement said? This is said with regard to levirate betrothal, i.e., if they performed levirate betrothal with her. However, if the minor had relations with her, he disqualifies them even if he did so last. How so? If a boy aged nine years and one day had relations with his yevama after his brother performed levirate betrothal with her, he has disqualified his brothers.

²⁵¹ The Gemara asks: And does a nine-year-old boy have the ability to perform levirate betrothal at all that would have any effect with regard to the eligibility of his brothers in levirate marriage? But isn't it taught in a baraita: With regard to a boy aged nine years and one day, he disqualifies the yevama to his brothers in one way, and the brothers disqualify him in four ways. How so? He disqualifies the brothers by relations, i.e., the yevama is forbidden to the other brothers if she has sexual relations with him, and the brothers disqualify him by relations, by levirate betrothal, by a bill of divorce, and by ḥalitza. The tanna does not mention the levirate betrothal of a minor at all.

²⁵² The Gemara rejects this claim: No proof can be derived from that source, as with regard to the sexual relations of a minor, which disqualifies his brothers whether it came first or last, the tanna can teach a definite ruling, i.e., he can state this halakha in an unambiguous and unqualified manner. Conversely, with regard to the levirate betrothal of a minor, which if it occurred first disqualifies his brothers but if it happened last, after one of the brothers performed levirate marriage with her, it does not disqualify them, the tanna cannot teach it in a definite and unqualified manner, but would have to elaborate and explain the precise circumstances. Therefore he omitted this case entirely.

²⁵³ § It was also stated by other amora'im: Rav Yehuda said that Shmuel said: A minor boy has the ability to give a bill of divorce in the case of a yevama, i.e., if he gave her a bill of divorce he has disqualified her to his brothers. And similarly Rav Taḥalisa bar Avimi said: He has the ability to perform levirate betrothal. The Gemara comments: This is also taught in a baraita: A minor has the ability to give a bill of divorce and he has the ability to perform levirate betrothal; this is the statement of Rabbi Meir.

²⁵⁴ The Gemara asks: And does Rabbi Meir hold that a minor boy has the ability to give a bill of divorce? But isn't it taught in a baraita: They established the sexual relations of a nine-year-old like a levirate betrothal performed by an adult. Rabbi Meir says: They established the ḥalitza of a nine-year-old like a bill of divorce of an adult. The Gemara explains the difficulty: And if it is so, let Rabbi Meir teach: They established the ḥalitza of a nine-year-old like his own bill of divorce, as he too can give a yevama a bill of divorce. Rav Huna, son of Rav Yehoshua, said: He does have the ability to give a bill of divorce, but it is less powerful than the bill of divorce of an adult yavam, as explained by Rav Huna below.

²⁵⁵ Rav Huna, son of Rav Yehoshua, elaborates: According to the opinion of Rabban Gamliel, who said that there is no bill of divorce after a bill of divorce for a yevama, i.e., if one of the brothers gave her a bill of divorce, no bill of divorce given later by a different brother is of any significance, this applies only when the bill of divorce was given by an adult after an adult, or by a minor after a minor. However, if an adult gave a bill of divorce after a minor, the bill of divorce of the adult is effective and disqualifies the yevama, as the bill of divorce of a minor is of less importance.

²⁵⁶ According to the opinion of the Rabbis, who say that there is a bill of divorce after a bill of divorce, this applies only to the case of an adult after an adult, or to a minor after a minor. However, they too agree that the bill of divorce of a minor after an adult is not effective, as a minor's bill of divorce is certainly weaker than that of an adult. For this reason Rabbi Meir said that they established the ḥalitza of a nine-year-old like a bill of divorce of an adult, to emphasize that a subsequent bill of divorce of a minor is of no account.

²⁵⁷ MISHNA: If a boy aged nine years and one day had sexual relations with his yevama, and afterward his brother, who is also nine years and one day old, had relations with her, the second brother disqualifies her to the first one. Rabbi Shimon says he does not disqualify her. If a minor aged nine years and one day had relations with his yevama, and afterward that same boy had relations with her rival wife, he thereby disqualifies her to himself, and both women are now forbidden to him. Rabbi Shimon says he does not disqualify her.

²⁵⁸ GEMARA: It is taught in a baraita that Rabbi Shimon said to the Rabbis: If the first sexual act of a nine-year-old is considered a proper act of sexual relations, then the second act is not an act of consequence, just as the intercourse of one adult yavam after that of another adult yavam is of no

effect. And if you say that the first sexual act is not considered a sexual act, the second act of himself or his brother is also not a sexual act. However, the Rabbis maintain that as the intercourse of a nine-year-old is like a levirate betrothal, one sexual act can take effect after another.

²⁵⁹ The Gemara comments that according to this explanation, the mishna is not in accordance with the opinion of ben Azzai. As it is taught in a baraita that ben Azzai says: There is levirate betrothal after levirate betrothal in a case of two yevamin and one yevama. In other words, if they both performed levirate betrothal with her, their actions are effective and she is forbidden to them both. The reason is that she has ties to each of the two men, which means that each levirate betrothal is effective in forbidding the other man.

²⁶⁰ But there is no levirate betrothal after a levirate betrothal in a case of two yevamot and one yavam, as the yavam did not have a full-fledged levirate bond with both of them. Therefore, if he performs a levirate betrothal with one of them, he has completed the bond. In contrast, the conclusion of the mishna is that the sexual relations of a nine-year-old with two yevamot is effective, and as the intercourse of a boy of this age is considered like a levirate betrothal the tanna of the mishna evidently maintains that there is levirate betrothal after levirate betrothal even in a case of one yavam.

²⁶¹ MISHNA: If a boy aged nine years and one day had relations with his yevama and died, that yevama performs ḥalitza and may not enter into levirate marriage. If the minor married a woman in a regular manner and died, she is exempt from levirate marriage and ḥalitza, as by Torah law a minor cannot marry. If a boy aged nine years and one day had relations with his yevama, and after he matured he married a different woman and then died childless, if he did not carnally know the first woman after he matured, but only when he was a minor, the first one performs ḥalitza and may not enter into levirate marriage, as she is in essence a yevama who had relations with a minor, and the second woman either performs ḥalitza or enters into levirate marriage, as she is his full-fledged wife.

²⁶² Rabbi Shimon says: The brother consummates levirate marriage with whichever woman he chooses, and performs ḥalitza with the second one. The mishna comments: This is the halakha both for a boy who is nine years and one day old, and also for one who is twenty years old who has not developed two pubic hairs. He has the status of a nine-year-old boy in this regard, as his intercourse is not considered a proper act of intercourse.

²⁶³ GEMARA: If a brother performed levirate betrothal with a yevama and died, she has a levirate bond in relation to the remaining brothers from two deceased brothers. Rava said: With regard to that which the Rabbis said, that when the bond of two yevamin exists, she performs ḥalitza and she does not enter into levirate marriage, you should not say that this applies only when there is a rival wife, as there is reason to decree due to a rival wife. The suggestion is that as the rival wife can enter into levirate marriage by Torah law, if the woman who performed levirate betrothal with the second brother was also permitted to enter into levirate marriage, people might mistakenly permit levirate marriage to two rival wives from the same family.

²⁶⁴ The proof that this is not the case is that here, in the first clause of the mishna, there is no rival wife, as it is referring to one woman, which means that this yevama who had relations with the nine-year-old is tied by the bonds of both her first husband and the underage yavam, whose intercourse is like levirate betrothal, and even so she performs ḥalitza but she does not enter into levirate marriage.

²⁶⁵ § The mishna teaches that if a nine-year-old boy married a woman and died, she is exempt from levirate marriage and ḥalitza. The Gemara comments: We already learned this, as the Sages taught in a baraita: With regard to an imbecile and a minor who married women and died, their wives are exempt from ḥalitza and from levirate marriage, as the marriage of a minor or an imbecile is of no account.

²⁶⁶ § The mishna further teaches the case of a nine-year-old boy who had relations with his yevama and after he matured married another woman. The Gemara asks: And let the Sages at least establish the sexual relations of a nine-year-old to be like the levirate betrothal of an adult, and it would therefore override the requirement of the rival wife to enter into levirate marriage, in accordance with the halakha of the rival wife of a woman who has the bond of two yevamin. Rav said: They did not establish the intercourse of a nine-year-old to be like the levirate betrothal of an adult in all regards, and Shmuel said: They certainly did. And similarly, Rabbi Yoḥanan said: They certainly did.

²⁶⁷ If so, the question remains: And let them establish the sexual relations of a nine-year-old to be considered like levirate betrothal. Why is he able to perform levirate marriage with her rival wife? The Gemara answers: This is a dispute between tanna'im. This tanna who discusses the case of four brothers, one of whom died, followed by the brother who performed levirate betrothal with the yevama (31b), he maintains that the yevama and her rival wife may not perform levirate marriage with one of the surviving brothers. The reason is that he maintains that the Sages decreed that a woman who has the bond of two deceased brothers may not perform levirate marriage due to a rival wife. They must both perform ḥalitza so that people will not say that two yevamot from one family can perform levirate marriage.

²⁶⁸ And that tanna taught us this halakha with regard to an adult brother who performed levirate marriage, and the same is true of a minor who had relations with her. And the reason that he stated the case of an adult in particular is because he was referring to an adult.

²⁶⁹ And conversely, this tanna, of the mishna here, holds that they established the sexual relations of a minor entirely like the levirate betrothal of an adult, and he maintains that the Sages did not decree that a woman who has the bond of two deceased brothers may not perform levirate marriage due to the case of a rival wife. And he taught us this halakha with regard to a minor, and the same is true of an adult. And the reason that he stated the case of a minor in particular is because he was referring to a minor.

²⁷⁰ § Rabbi Elazar went and said this halakha in the study hall, but he did not state it in the name of Rabbi Yoḥanan. Instead, he issued the halakha without attribution. Rabbi Yoḥanan heard that Rabbi Elazar omitted mention of his name and became angry with him. Rabbi Ami and Rabbi Asi visited Rabbi Yoḥanan, to placate him so that he would not be annoyed with his beloved disciple. They said to him: Wasn't there an incident in the synagogue of Tiberias involving a bolt that secures a door in place and that has a thick knob [gelustera] at its end? The question was whether it may be moved on Shabbat as a vessel, or whether it is considered muktze as raw material.

²⁷¹ And it was stated that Rabbi Elazar and Rabbi Yosei argued over this case until they became so upset with each other that they tore a Torah scroll in their anger. The Gemara interrupts this account to clarify exactly what happened: Tore? Can it enter your mind that such great Sages would intentionally tear a Torah scroll? Rather, you must say that a Torah scroll was torn through their anger. In the heat of their debate they pulled the scroll from one side to another until it tore. And

Rabbi Yosei ben Kisma, who was there at the time, said: I would be surprised if this synagogue does not become a place of idolatrous worship. This unfortunate event is a sign that this place is unsuitable for a synagogue. And indeed this eventually occurred.

²⁷² Rabbi Ami and Rabbi Asi cited this baraita to hint to Rabbi Yoḥanan how careful one must be to avoid anger. However, Rabbi Yoḥanan grew even angrier, saying: You are even making us colleagues now? Those two Sages were peers, whereas Rabbi Elazar is merely my student.

²⁷³ Rabbi Ya'akov bar Idi visited Rabbi Yoḥanan and said to him: The verse states: "As God commanded His servant Moses, so did Moses command Joshua, and so did Joshua, he left nothing undone of all that the Lord commanded Moses" (Joshua 11:15). Now did Joshua, with regard to every matter that he said, say to the Jews: Thus Moses said to me? Rather, Joshua would sit and teach Torah without attributing his statements, and everyone would know that it was from the Torah of Moses. So too, your disciple Rabbi Elazar sits and teaches without attribution, and everyone knows that his teaching is from your instruction. Hearing this, Rabbi Yoḥanan was appeased.

²⁷⁴ Later, after calming down, he said to Rabbi Ami and Rabbi Asi: Why don't you know how to appease me like our colleague ben Idi? The Gemara asks: And Rabbi Yoḥanan, what is the reason that he was so angry about this matter? The Gemara answers that this is as Rav Yehuda said that Rav said: What is the meaning of that which is written: "I will dwell in Your tent in worlds" (Psalms 61:5), literally, forever? And is it possible for a person to live in two worlds simultaneously? Rather, David said before the Holy One, Blessed be He: Master of the Universe, let it be Your will

²⁷⁵ that they will say a matter of halakha in my name in this world when I have passed on to another world. As Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yoḥai: With regard to any Torah scholar in whose name a matter of halakha is said in this world, his lips mouth the words in the grave, as though he is talking. Rabbi Yitzḥak ben Ze'eira said, and some say this was stated by Shimon the Nazirite: What is the verse from which it is derived? "And the roof of your mouth is like the best wine that glides down smoothly for my beloved, moving gently the lips of those who are asleep" (Song of Songs 7:10).

²⁷⁶ He explains: This is like a pile [komer] of grapes left to warm before they are pressed: Just as in the case of a pile of grapes, when a person places his finger on it, immediately it moves, as the wine bursts through and the whole pile shakes, so too with Torah scholars: When a teaching is said in their name in this world their lips mouth the words in the grave. For this reason Rabbi Yoḥanan wanted his Torah statements to be attributed to him, so that he would earn eternal life.

²⁷⁷ § The Gemara addresses the statement of the mishna that this is the halakha both for a boy who is nine years and one day old as well as a twenty-year old who has not developed two pubic hairs. In both cases, their sexual relations are not considered proper intercourse with regard to levirate marriage. And the Gemara raises a contradiction against this from the following source: With regard to a man twenty years old who has not developed two pubic hairs, they must bring proof that he is twenty years old, and he is established as a eunuch, who may neither perform ḥalitza nor perform levirate marriage.

²⁷⁸ Likewise, in the case of a woman who is twenty years old and has not developed two pubic hairs, they must bring proof that she is twenty years old, and that she is a sexually underdeveloped woman, who may neither perform ḥalitza nor enter into levirate marriage. This shows that the status of a nine-year-old male and a twenty-year old man without pubic hairs are not the same, as the intercourse of a

nine-year-old is considered of some significance, whereas that of a eunuch is entirely disregarded, as he may not even perform ḥalitza.

²⁷⁹ The Gemara answers: Wasn't it stated with regard to this baraita that Rav Shmuel bar Yitzḥak said that Rav said: And this halakha applies only if he developed other signs of a eunuch by the age of twenty. The mishna, by contrast, is referring to one who merely showed the signs of maturity at a late age. Rava said: The language of the baraita is also precise, as it teaches: And he is the eunuch. One can learn from here that this is referring to one who is definitely a eunuch.

²⁸⁰ The Gemara asks a question with regard to the halakha itself: And in a case where he does not develop the signs of a eunuch, until what age is he considered a minor? The school of Rabbi Ḥiyya taught: Until most of his years have passed, i.e., until he reaches the age of thirty-five, i.e., halfway to seventy, the standard length of a man's life.

²⁸¹ On the same issue, the Gemara relates: When they would come before Rava to inquire about someone who had reached the age of maturity but had not yet developed the physical signs, if the person in question was thin, he would say to them: Go and fatten him up before we decide on his status. And if he was fat, he would say to them: Go and make him thin. As these signs, the pubic hairs of maturity, sometimes they fall off due to thinness and sometimes they fall off due to fatness. It is therefore possible that after his bodily shape is adjusted he will develop the signs of maturity and will not have the status of a eunuch.

Chapter 11

¹ MISHNA: One may marry a relative, e.g., the sister or the mother, of the woman he raped and of the woman he seduced. However, one who rapes and one who seduces a relative of the woman who is married to him is liable to receive capital punishment or karet for engaging in prohibited sexual intercourse, depending on the particular family relationship. A man may marry a woman raped by his father, or a woman seduced by his father, or a woman raped by his son, or a woman seduced by his son. Rabbi Yehuda prohibits marriage in the case of a woman raped by his father or a woman seduced by his father.

² GEMARA: We learned in the mishna that which the Sages teach in a baraita: If a man raped a woman, he is permitted to marry her daughter. If he married a woman, it is prohibited for him to marry her daughter. However, the Gemara raises a contradiction from another baraita: One who is alleged to have engaged in intercourse with a particular woman is prohibited from marriage with her mother, and with her daughter, and with her sister. Apparently, as a consequence of non-marital intercourse, there is a prohibition against the man marrying the woman's relatives. The Gemara answers: This is merely prohibited by rabbinic decree, lest the man continue to engage in intercourse with this particular woman after marrying one of her relatives, thereby transgressing a Torah prohibition.

³ The Gemara asks: And anywhere that there is a rabbinic prohibition, does the mishna teach that one may marry the woman ab initio? Since the marriage is prohibited by rabbinic decree, the mishna should have taught that if he marries her, he is exempt from punishment. The Gemara answers: When we learned in the mishna that he may marry her ab initio, it was dealing with their marriage after the

death of the woman that he raped or seduced. The rabbinic prohibition does not relate to this case, as concern with regard to forbidden relatives is not relevant there.

⁴ The Gemara asks: With regard to the mishna's ruling, from where are these matters derived? It is as the Sages taught: With regard to all other prohibited sexual relations, lying is stated, whereas here, with regard to a man's intercourse with his wife's relatives, taking is stated. This is to tell you that the Torah prohibited intercourse with these relatives only through taking, i.e., the man's acquisition of his wife through marriage. It did not prohibit intercourse with the relative of a woman with whom he engaged in nonmarital relations.

⁵ Rav Pappa said to Abaye: However, if that interpretation is so, then with regard to intercourse with one's sister, concerning whom it is written: "And if a man takes his sister, his father's daughter, or his mother's daughter" (Leviticus 20:17), you must also say that it is only intercourse through taking, i.e., marriage, that is prohibited. But intercourse through lying, i.e., without marriage, is permitted. How can this be?

⁶ Abaye said to Rav Pappa: When the term taking is stated in the Torah without specification, it is interpreted in accordance with the context. With regard to the context of a relationship that has potential for taking through marriage, this verb is interpreted as taking through marriage. In the context of a relationship that has potential only for lying, as their marriage would be invalid, taking the woman is understood to mean lying with her.

⁷ Rava said: The halakha that if a man raped a woman it is permitted for him to marry her daughter is derived from here. It is stated: "The nakedness of your son's daughter, or of your daughter's daughter, even their nakedness...you may not uncover" (Leviticus 18:10). It may be inferred from here that the daughter of the woman's own son from a different relationship, and the daughter of her own daughter, may be uncovered, i.e., intercourse with them is not prohibited.

⁸ And it is also written: "You may not uncover the nakedness of a woman and her daughter; you may not take her son's daughter, or her daughter's daughter, to uncover her nakedness; they are near kinswomen, it is lewdness" (Leviticus 18:17). How so? How can the two verses be reconciled? Evidently, the former verse is stated with regard to rape. A man may marry the daughter or granddaughter of the woman he raped, provided they are not his own offspring. The latter verse is stated with regard to marriage. Marrying the relatives of one's wife is prohibited.

⁹ The Gemara asks: Perhaps I should reverse the resolution of the contradiction between the verses and state that the daughter or granddaughter of his rape victim is forbidden, whereas the relatives of his wife are permitted. The Gemara answers: With regard to those with whom intercourse is forbidden, the concept of kinship is stated (see Leviticus 18:13, 17). In marriage there is kinship, whereas in the case of rape there is no kinship. Therefore, the prohibition against intercourse with a woman and her daughter or granddaughter is clearly referring to the daughter and granddaughter of one's wife and not of the woman he raped.

¹⁰ § It is taught in the mishna that Rabbi Yehuda prohibits marrying a woman raped by his father or a woman seduced by his father. Rav Giddel said that Rav said: What is the reasoning for the ruling of Rabbi Yehuda? It is as it is written: "A man may not take his father's wife, and may not uncover his father's skirt" (Deuteronomy 23:1), meaning that one may not uncover the skirt that his father has seen.

¹¹ And from where is it apparent that this verse is written with regard to a woman raped by his father and not with regard to his father's wife? It is as it is written just before that verse, with regard to rape: "And the man who lay with her shall give the young woman's father fifty shekels of silver" (Deuteronomy 22:29).

¹² And how do the Rabbis, who disagree with Rabbi Yehuda, respond to this proof? If the prohibition stated had been juxtaposed with the verse dealing with rape, it would be as you said. However, now that it is not juxtaposed with it, as there is another prohibition in between, namely "a man may not take his father's wife" (Deuteronomy 23:1), the prohibition of "he may not uncover his father's skirt" is necessary to teach that which Rav Anan taught, as Rav Anan said that Shmuel said: The verse is speaking of a widow waiting for her brother-in-law, who is this man's father, to perform levirate marriage. And what is the meaning of the phrase "his father's skirt"? The skirt that is potentially his father's, he may not uncover.

¹³ The Gemara questions this interpretation: Why does the Torah need to explicitly prohibit intercourse with the yevama of one's father? Derive that intercourse is prohibited due to the fact that she is his aunt, as she is his father's brother's widow. The Gemara answers: The Torah purposely rendered this act a more serious offense. By specifying that it is prohibited for one to engage in sexual relations with his father's yevama, one who engaged in intercourse with her has violated two prohibitions. The Torah specifically prohibited his father's yevama in order to have one who engages in relations with her violate two prohibitions, the prohibition proscribing relations with his aunt and the prohibition proscribing relations with his father's yevama, thereby rendering it a more serious offense.

¹⁴ The Gemara asks: But why not derive that one violates two prohibitions because there is also a prohibition against a yevama engaging in intercourse with a member of the public, i.e., someone other than her yavam. The Gemara answers: The Torah prohibited one's father's yevama so that one who engaged in intercourse with her will have violated three prohibitions: Intercourse with one's aunt, with one's yevama, and with one's father's yevama. And if you wish, say instead that the verse that prohibits his father's yevama is referring to the period after the death of his father, who has no additional brothers, so there is no prohibition against the yevama engaging in intercourse with a member of the public.

¹⁵ § The opinion that a man may marry a woman raped or seduced by his father can lead to the existence of an unusual family relationship. A woman says: I have a half brother from my father and not from my mother, and my half brother is the husband of my mother, and I am the daughter of his wife. Rami bar Hama said: This state of affairs is not legitimate according to the opinion of Rabbi Yehuda in the mishna, who holds that a man may not marry a woman with whom his father engaged in intercourse, even if they were not married. However, according to the Rabbis, a woman whose father was not married to her mother can legitimately have a paternal half brother who is married to her mother.

¹⁶ The Gemara cites another riddle about a bizarre family relationship. A woman says: He is my brother and he is my son; I am the sister of this one, whom I carry on my shoulders. What is the solution? You find it in the case of a gentile who engaged in intercourse with his daughter, and she bore him a son, who is therefore both her brother and her son. The Gemara is referring to a gentile because it does not wish to entertain the idea that a Jew would act in such a manner.

¹⁷ The Gemara cites another riddle: Peace upon you, my son; I am the daughter of your sister. You find the solution in the case of a gentile who engaged in intercourse with the daughter of his daughter, who bore him a son. This son's mother is related to him from her mother's side as well, as she is his sister's daughter.

¹⁸ The Gemara cites another riddle: Water drawers, who draw water in buckets to irrigate fields, let this cryptic riddle fall among you: This boy whom I carry is my son, and I am the daughter of his brother. You find the solution in the case of a gentile who engaged in intercourse with the daughter of his son, as their son is also her uncle.

¹⁹ The Gemara cites another riddle: Woe, woe [baya, baya] for my brother, who is my father, and who is my husband, and who is the son of my husband, and who is the husband of my mother, and I am the daughter of his wife; and he does not provide bread for his brothers, who are orphans, the sons of me, his daughter. You find the solution in the case of a gentile who engaged in intercourse with his mother, and she bore him a daughter. This daughter is both his sister and his daughter. And he engaged in intercourse with that daughter. And then the old man, his father, engaged in intercourse with her, and she bore him sons. This woman is therefore the wife of her father-brother, and he is also the son of her husband, the old man. Her father's brothers, i.e., the sons she had with the old man, are his daughter's sons.

²⁰ The Gemara cites another riddle: You and I are siblings; your father and I are siblings; your mother and I are siblings. You find the solution in the case of a gentile who engaged in intercourse with his mother, and she bore him two daughters, and he then engaged in intercourse with one of them, and she bore him a son. And the sister of the son's mother calls him and says this statement to him, as she is his sister from his father's side and his father's sister from their mother's side, and she is his mother's sister from both sides.

²¹ The Gemara cites another riddle: You and I are cousins; your father and I are cousins; your mother and I are cousins. You find the solution to this riddle in a permitted manner as well. For example, Reuven, who has two daughters, and his brother Shimon came and married one of them, and the son of Levi, the third brother, came and married the other one of them. And the son of Shimon says this statement to the grandson of Levi. They are cousins from their mothers' sides, Shimon's son and Levi's son are cousins from their fathers' sides, and Shimon's son and the mother of Levi's grandson are cousins from their fathers' sides.

²² MISHNA: With regard to a female convert whose sons converted with her, they do not perform *ḥalitza* for each other's wives, and they do not perform levirate marriage with them, as their conversions are considered rebirth, and they are considered unrelated. This is so even if the conception of the first son was not in the sanctity of Israel, i.e., the mother had not yet converted when she conceived of him, but his birth was in the sanctity of Israel, as his mother had converted by the time she gave birth to him, whereas the second son was both conceived and born in sanctity. The first son is considered a convert, who is unrelated to his brother. And this halakha similarly applies to a maidservant whose sons were freed with her, as they too are not considered relatives.

²³ GEMARA: The sons of Yudan the maidservant were freed. Rav Aḥa bar Ya'akov allowed them to marry each other's wives after divorce. Rava said to him: Didn't Rav Sheshet prohibit marriage in that case? Rav Aḥa bar Ya'akov said to him: He prohibited it and I permit it. I disagree with his ruling.

²⁴ The Gemara explains: If the two freed slaves or converts are half brothers from their father's side and not from their mother's side, everyone agrees that the marriage is permitted, as even a gentile and certainly a convert are considered unrelated to their father's family. If they are half brothers from their mother and not from their father, everyone agrees that it is prohibited.

²⁵ When they disagree, it is a case where they are brothers both from their father and from their mother. The one who permits the marriage claims that we trace them after their father. Their paternal lineage is followed, since they are called the sons of so-and-so, their father. Since they are recognized by their paternal lineage, it is well known that they are considered unrelated, and there is no concern that people will infer that a man may marry his sister-in-law. And Rav Sheshet maintains that they are also called the sons of so-and-so, their mother. Therefore, this concern does exist, as it is not common knowledge that a convert is considered reborn and unrelated to his mother's family.

²⁶ And some say a different version of this dispute: Rav Aḥa bar Ya'akov disagrees with Rav Sheshet, even with regard to maternal half brothers. And what is the reasoning behind this opinion? The legal status of a convert who just converted is like that of a child just born, and all his previous family relationships are disregarded, whether from his father's side or from his mother's side.

²⁷ We learned in the mishna: With regard to a female convert whose sons converted with her, they do not perform ḥalitza with each other's wives, and they do not perform levirate marriage with them. What is the reason that they may not perform levirate marriage? Is it not because they are prohibited from marrying them, contrary to Rav Aḥa bar Ya'akov's opinion? The Gemara answers: No, the mishna means that these wives are not included in the law of ḥalitza and levirate marriage, as they are considered unrelated, and each wife is therefore permitted to marry anyone. And they, too, are permitted to marry her.

²⁸ The Gemara asks: But doesn't the mishna teach that this is so even if the mother converted while pregnant with the first son, and the second converted independently? Granted, if you say that they are prohibited from marrying each other's wives, this explanation is consistent with that which is taught: Even so they are prohibited from marriage. Although the first son was not conceived in sanctity and only his birth was in sanctity, whereas the second was both conceived and born in sanctity, and therefore they are like the sons of two different mothers, even so they are prohibited from performing levirate marriage with their sisters-in-law. But if you say they are permitted to marry each other's wives, what is the meaning of the word even?

²⁹ The Gemara answers: The mishna means that although both of them were born in sanctity, and people might come to confuse them with Jews from birth, who may not marry their sisters-in-law, nevertheless they are permitted to marry each other's wives.

³⁰ There are those who say a different version of this inference: So too, it is reasonable that they are permitted to marry their sisters-in-law, as the mishna teaches: Even if the mother converted while pregnant. Granted, if you say that they are permitted, this explanation is consistent with that which is taught: Even so they are permitted. Although both of them were born in sanctity, and people might come to confuse them with Jews from birth, nevertheless, they are permitted. But if you say that they are prohibited, what is the meaning of the word even?

³¹ The Gemara answers: The mishna means that although the first son was not conceived in sanctity and only his birth was in sanctity, whereas the second was both conceived and born in sanctity, so

that they are like the sons of two mothers, nevertheless, they are prohibited from marrying each other's wives.

³² The Gemara cites another proof. Come and hear: Two twin brothers who are converts, and similarly twin brothers who are freed slaves, do not perform ḥalitza for each other's wives, and they do not perform levirate marriage with them, and if they engage in intercourse with them they are not liable to receive karet for engaging in intercourse with a brother's wife. If they were not conceived in sanctity and only their birth was in sanctity, they do not perform ḥalitza or levirate marriage, but they are liable for engaging in intercourse with a brother's wife. If they were conceived and born in sanctity, they are like Jews from birth in all of their matters. In any event, the baraita is teaching that regular converts are not liable for engaging in intercourse with a brother's wife. It can be inferred that while there is no liability by Torah law,

³³ there is a rabbinic prohibition, contrary to Rav Aḥa's opinion. The Gemara answers: The same is true that there is no prohibition, either. And since the baraita wanted to teach in the latter clause that if they were born in sanctity they are liable, it also taught in the first clause that they are not liable. For this reason, the baraita mentions only the absence of liability.

³⁴ Rava said: With regard to that which the Sages said, that a gentile has no patrilineage, do not say that it is because they are so steeped in licentiousness that they do not know the identity of their fathers with certainty, but if that identity is known, we are concerned that the paternity is recognized, with regard to the prohibition of intercourse with forbidden paternal relatives and other halakhic issues. Rather, even when it is known, we are still not concerned.

³⁵ The proof is from the case of two identical twin brothers, who were one drop that was divided into two and obviously have the same father, and yet it is taught in the latter clause of the baraita: They do not perform ḥalitza and they do not perform levirate marriage, although they certainly have the same father. Learn from this that the Merciful One dispossesses the male gentile of his offspring, as it is written with regard to Egyptians: "Whose flesh is the flesh of donkeys, and whose semen is the semen of horses" (Ezekiel 23:20), i.e., the offspring of a male gentile is considered no more related to him than the offspring of donkeys and horses.

³⁶ The Gemara resumes its discussion of the dispute between Rav Aḥa bar Ya'akov and Rav Sheshet. Come and hear another proof, as Rabbi Yosei said: An incident took place involving Niftayim the convert, who married the wife of his maternal half brother, and the incident came before the Sages, and they said that there is no valid marriage for a convert. The Gemara asks: Is this possible? And if a convert betroths a woman who is not related to him, is his betrothal to her indeed ineffective? Rather, modify the baraita and say that with regard to a convert there is no prohibition proscribing a brother's wife. The Gemara concludes: What, is the baraita not referring to a case where the brother, her first husband, married her when he was already a convert, thereby proving that a convert is permitted to marry the wife of his deceased brother who was also a convert, even if they were maternal brothers?

³⁷ The Gemara answers: No, the baraita is referring to a case where the brother married her while he was still a gentile, and since he converted they are no longer married. The Gemara asks: If he married her while he was a gentile, what is the purpose of stating this obvious halakha? The Gemara answers: Lest you say the Sages should decree that the marriage is prohibited even in a case where the first husband married her while he was a gentile, due to the prohibition against their marriage if the

brother married her when he was already a convert. The baraita therefore teaches us that there is no such decree.

³⁸ Come and hear another proof, as ben Yasiyan said: When I went to cities overseas, I found one convert who married the wife of his maternal half brother. I said to him: My son, who permitted this to you? He said to me: There is a local woman and her seven sons to whom this was permitted. On this very bench [safsal], Rabbi Akiva sat and said two statements: He said that a convert may marry the former wife of his maternal half brother, and he said that the verse “And the word of the Lord came to Jonah a second time, saying” (Jonah 3:1) implies that the Divine Presence spoke with him only a second time. However, a third time the Divine Presence did not speak with him, i.e., Jonah did not receive any more prophecies. In any event, this baraita teaches that a convert may marry the wife of his maternal brother. What, is it not referring to a case where the convert’s brother married her when he himself was already a convert?

³⁹ The Gemara answers: No, the baraita is referring to a case where the brother married her while he was still a gentile. The Gemara asks: If so, what is the purpose of stating this obvious halakha? The Gemara answers: Lest you say we should decree that marriage between a convert and the former wife of his brother is prohibited even if the brother married her while he was still a gentile, due to the prohibition against their marrying if the brother married her when he was already a convert. The baraita therefore teaches us that there is no such decree.

⁴⁰ And is that convert who cited Rabbi Akiva a reliable witness, despite the fact that the ruling affects him personally? Didn’t Rabbi Abba say that Rav Huna said that Rav said: With regard to any Torah scholar who teaches a ruling of halakha in a certain case and it comes to be, if he said it before the incident, one listens to him. And if not, if the ruling followed the incident, one does not listen to him.

⁴¹ The Gemara answers: If you wish, say that the convert taught the ruling, and only afterward it came to be that he himself married his sister-in-law. And if you wish, say that he is reliable because he supported his ruling by stating that there was a practical case involving a woman and her seven sons, in which Rabbi Akiva ruled that this kind of marriage is permitted. And if you wish, say that here it is different, as the convert stated a different incident with it. Since he cited an unrelated teaching of Rabbi Akiva in the same testimony, this teaching is also considered reliable.

⁴² The Master said that Rabbi Akiva inferred from the verse “And the word of the Lord came to Jonah a second time, saying” that the Divine Presence spoke with him only a second time. However, a third time the Divine Presence did not speak with him. The Gemara asks: Isn’t it written with regard to King Jeroboam ben Joash: “He restored the border of Israel from the entrance of Hamath to the Sea of the Arabah, according to the word of the Lord, the God of Israel, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet” (II Kings 14:25)? Evidently, Jonah prophesied at least once more.

⁴³ Ravina said: Rabbi Akiva was saying that Jonah did not prophesize a third time about the issue of Nineveh. Rav Naḥman bar Yitzḥak said that this is the meaning of the phrase “According to the word of the Lord, the God of Israel, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet”: It is not that Jonah had prophesized about the conquests of Jeroboam ben Joash, but rather that just as the fortune of Nineveh turned from bad to good, so too, in the days of Jeroboam ben Joash, Israel’s fortune turned from bad to good.

⁴⁴ The Gemara resumes discussion of the dispute between Rav Aḥa bar Ya'akov and Rav Sheshet. Come and hear another proof: A convert whose birth was in sanctity but whose conception was not in sanctity has maternal kinship, i.e., his relationship to his mother's relatives is recognized. However, he does not have paternal kinship. How so? If he married his maternal half sister, who was born before him and converted, he must divorce her. Although by Torah law they are considered unrelated, the Sages rendered it prohibited for them to marry, lest he marry a maternal half sister who was born after him and is forbidden to him. If she is his paternal half sister, he may maintain her as his wife. If he married his father's maternal half sister, he must divorce her.

⁴⁵ If she is his father's paternal half sister, he may maintain her as his wife. If she is his mother's maternal half sister, he must divorce her. If she is his mother's paternal half sister, Rabbi Meir says he must divorce her, and the Rabbis say he may maintain her. This is as Rabbi Meir would say: Any relative forbidden due to kinship with the mother, whether the woman is his paternal relative, e.g., his father's maternal half sister, or his maternal relative, he must divorce her. However, if she is forbidden due to the father, he may maintain her.

⁴⁶ And he is permitted to marry his maternal brother's wife and his father's brother's wife, and all other forbidden relatives are also permitted to him. The expression: And all other relatives are also permitted to him, is added to include the father's wife.

⁴⁷ With regard to one who married a woman and her daughter and they converted, he may remarry one but must divorce the other one. He should not marry her *ab initio*. If his wife, the daughter, died, he is permitted to maintain his mother-in-law as his wife. And some teach that he is prohibited from maintaining his mother-in-law.

⁴⁸ In any event, this baraita teaches that he is permitted to marry his brother's wife. The Gemara asks: What, is it not referring to a case where his brother married her when he was already a convert? The Gemara answers: No, it is referring to a case where he married her while he was a gentile. The Gemara asks: If so, what is the purpose of stating this obvious halakha? The Gemara answers: Lest you say that the Sages should decree that the marriage is prohibited if the brother married her while he was a gentile, due to the prohibition against their marriage if the brother married her when he was already a convert. The baraita therefore teaches us that there is no such decree.

⁴⁹ The Master said: If one married a woman and her daughter and they converted, he may remarry one but must divorce the other one. He should not marry her *ab initio*. The Gemara asks: Now that he must divorce her, is it necessary to state that he should not marry her *ab initio*? The Gemara answers: That statement is standing there, i.e., it is referring to the previous sentence, and this is what it is saying: Those wives that the Sages said that he may maintain, e.g., his paternal half sister, he should not marry them *ab initio*.

⁵⁰ The baraita taught: If his wife, the daughter, died, he is permitted to maintain his mother-in-law as his wife. And some teach that he is prohibited to maintain his mother-in-law. The Gemara comments: One of the teachings is in accordance with the opinion of Rabbi Yishmael, and the other one is in accordance with the opinion of Rabbi Akiva.

⁵¹ The one who prohibits the convert from maintaining his mother-in-law is in accordance with the opinion of Rabbi Yishmael, who said that one's mother-in-law after his wife's death remains forbidden to him to the same degree as during her lifetime. And therefore, with regard to a convert, the Sages decreed that she is forbidden to him, lest one marry his mother-in-law who is a Jew from

birth after his wife's death. And the one who permits him to maintain her is in accordance with the opinion of Rabbi Akiva, who said that the prohibition against engaging in intercourse with one's mother-in-law is weakened after his wife's death, as they are not liable to receive the death penalty. And therefore, with regard to a convert, the Sages did not decree that she is forbidden to him.

⁵² MISHNA: With regard to five women whose offspring were mixed, i.e., their lineage became indeterminate, and they had other sons as well who were not mixed, and the mixed sons matured and married women and subsequently died, then four sons who were not mixed, each one from a different mother, must perform ḥalitza with one of the widows, as she might be the sister-in-law of any of them. And one son of the mother whose sons did not perform ḥalitza may perform levirate marriage with her instead of ḥalitza; even if she is not his sister-in-law, once she has received ḥalitza from the others she may marry any man.

⁵³ Subsequently, he and three of the four other sons must perform ḥalitza with one of the remaining widows, and the other one may perform levirate marriage. When this process has been completed for all the widows, four ḥalitzot and a levirate marriage are found altogether for each and every widow.

⁵⁴ GEMARA: The Gemara infers from the mishna that ḥalitza specifically is performed first, and afterward levirate marriage. However, levirate marriage may not be performed first, as that would breach the prohibition against a yevama engaging in intercourse with a member of the public, if she is not his sister-in-law.

⁵⁵ The Gemara asks: What is the reason for the mishna's ruling that the son who performed levirate marriage and three of the four others must perform ḥalitza with one of the remaining widows, and the remaining son may perform levirate marriage? Why can't the same son who performed levirate marriage with the first widow be the one to perform levirate marriage with the other widows, too, after the other four sons perform ḥalitza? The Gemara answers: Do not say that one of the brothers may perform levirate marriage with all of them. Rather, each one of them should perform levirate marriage with one, as perhaps one will happen upon his own sister-in-law, whereas if one performs levirate marriage with all of them, the others will not have a chance to perform the mitzva.

⁵⁶ § A continuation of a case in the mishna is stated in a baraita: If some of them are brothers, and some of them are not brothers, the brothers perform ḥalitza and those who are not brothers perform levirate marriage. The Gemara asks: What is the baraita saying? Rav Safra said that this is what it is saying: If some of the sons who were not mixed are only paternal brothers of the mixed sons, and some of them, in addition to being paternal half brothers, are also maternal half brothers of other members of the mixed group, then the maternal half brothers must perform ḥalitza with all of the women, since each of them might be his maternal sister-in-law, who is forbidden to him, as levirate marriage applies only to a paternal sister-in-law. And those who are only paternal brothers perform levirate marriage.

⁵⁷ The baraita continues: If some of them are priests and some of them are not priests, the priests perform ḥalitza, and those who are not priests perform levirate marriage, as it is prohibited for a priest to marry a woman who underwent ḥalitza. If some of them are priests and some of them are maternal half brothers, both these and those perform ḥalitza and not levirate marriage.

⁵⁸ § The Sages taught: There is a case in which one performs ḥalitza with his mother due to uncertainty, or with his sister due to uncertainty, or with his daughter due to uncertainty. This is the halakha despite the fact that a levirate bond cannot be created between these relatives.

⁵⁹ How so? If his mother and another woman had two sons, one each, and they then gave birth to two other sons in hiding, whose identities were confused, such that their lineage was consequently indeterminate, and the known son of this woman came and married the mother of that other known son, and the known son of that woman married this son's mother, and they died without children, the halakha is that this one of the mixed sons performs ḥalitza with both women, as it is unknown which is his mother and which his yevama, and that one likewise performs ḥalitza with both women. It is therefore found that each one of them performs ḥalitza with his mother, due to the uncertainty.

⁶⁰ There is a case where a man performs ḥalitza with his sister due to uncertainty. How so? If his mother and another woman gave birth to two females in hiding, and they were mixed, and the paternal, but not maternal, half brothers of this man and of the son of the other woman came and married them, and those half brothers died without children, the halakha is that the living half brothers perform ḥalitza with both wives, each with his half sister-in-law. It is therefore found that one performs ḥalitza with his half sister due to uncertainty.

⁶¹ There is a case where one performs ḥalitza with his daughter due to uncertainty. How so? If his wife and another woman gave birth to two females in hiding, and they were mixed, and his brothers and the brothers of the other woman's husband came and married them, and they died without children, then this one performs ḥalitza with his daughter due to uncertainty, and that one also performs ḥalitza with his daughter due to uncertainty.

⁶² § Following the previous baraita, the Gemara cites two additional baraitot that discuss unusual family situations. It is taught in a baraita that Rabbi Meir would say: A man and a woman can sometimes bear children of five nations, i.e., of five separate categories of lineage.

⁶³ How so? If a Jew bought a slave and a maidservant from the market, and the slave and maidservant had two children at the time, and one of these children converted, it is found that one child is a convert and the other one is a gentile. If the master immersed the slave and maidservant for the sake of giving them the status of slaves, and they engaged in intercourse with each other and had a child, here there are three children in the family who are a convert, and a gentile, and a slave. If he freed the maidservant, which renders her a Jewess, and her husband the slave engaged in intercourse with her, and they had another child, here there are a convert, a gentile, a slave, and a mamzer. The offspring of a slave and a Jewess, according to Rabbi Meir, have the same status as a son born from an incestuous or adulterous relationship. If the master subsequently freed both the maidservant and the slave and married them to each other and they had another child, here there are a convert, a gentile, a slave, a mamzer, and a regular Jew.

⁶⁴ The Gemara asks: What is the baraita teaching us? The Gemara answers: It is teaching us that if a gentile or a slave engaged in intercourse with a Jewish woman, their offspring is a mamzer.

⁶⁵ The Sages taught: There is a case in which a man sells his father in order to collect his mother's marriage contract for her. How so? A Jew bought a slave and a maidservant from the market, and they had a son, and the master freed the maidservant and married her, and he arose and wrote that all his property should go to her son, including her son's father, the slave. It is found that this son, after receiving the master's property, might sell his father to collect for his mother her marriage contract.

⁶⁶ The Gemara asks: What is the baraita teaching us? The Gemara answers: The entire baraita is the statement of Rabbi Meir, and it is teaching us that although the legal status of a slave is like that of movable property, and there are those who hold that movable property cannot be mortgaged, Rabbi

Meir holds that movable property is mortgaged for a marriage contract. This is also Rabbi Meir's ruling elsewhere. Therefore, one might be obligated to sell his slave to pay a marriage contract. And if you wish, say that it is teaching us this: The legal status of a slave is like that of real estate, and therefore, according to all opinions one is obligated to sell his slave to pay a marriage contract.

⁶⁷ MISHNA: With regard to a woman whose offspring was mixed with the offspring of her daughter-in-law, and their lineage was consequently indeterminate, and the mixed sons matured and married women, and subsequently they died, the certain sons of the daughter-in-law perform ḥalitza with the wives, but not levirate marriage, as with regard to each wife it is uncertain whether she is his brother's wife, and therefore his yevama, and uncertain whether she is his father's brother's wife, who is forbidden to him.

⁶⁸ However, the certain sons of the elder woman, i.e., the mother-in-law, perform either ḥalitza or levirate marriage, as with regard to each wife it is uncertain whether she is his brother's wife, in which case levirate marriage is valid, or his brother's son's wife, in which case she is permitted to him, after having performed ḥalitza with a son of the daughter-in-law.

⁶⁹ If the sons of certain, unflawed lineage were the ones who died, then the mixed sons perform ḥalitza with the widows of the elder woman's sons but not levirate marriage, as it is uncertain whether she is his brother's wife or his father's brother's wife. With the widows of the certain sons of the daughter-in-law, one of the mixed sons performs ḥalitza, in case she is his brother's wife. And the other one performs levirate marriage, as even if she is his brother's son's wife, she is permitted to him.

⁷⁰ In the case of a priestess whose offspring was mixed with her maidservant's offspring, they may partake of teruma, as both a priest and the slave of a priest partake of teruma. And they receive one share of teruma in the granary.

⁷¹ And they may not become ritually impure with impurity imparted by a corpse, as each of them might be a priest. And they may not marry women, whether unflawed women, who may not marry a slave, or women unfit to marry into the priesthood, as with regard to each of them it is uncertain whether he is a priest or a slave. If the mixed sons matured and freed each other, they may marry women fit to marry into the priesthood, as a freed slave may marry such women. However, neither may marry a woman unfit for the priesthood, in case he is a priest.

⁷² And they may not become ritually impure with impurity imparted by a corpse, since they are uncertain priests. However, if they became impure, they do not receive the forty lashes, as each of them might not be priest. And they may not partake of teruma, as one of them is not a priest. However, if they ate teruma unwittingly they do not pay the principal and the additional fifth, as each of them might be a priest. And they do not receive a share of teruma in the granary, as neither can prove that he is a priest. However, they may sell the teruma that they remove from their own produce, and although they may not eat it, the money is theirs. Since it cannot be proven with regard to either of them that he is not a priest, teruma cannot be appropriated from them.

⁷³ And they do not receive a share of the consecrated offerings of the Temple, as each of them might not be a priest. And one may not give them consecrated offerings to sacrifice for the same reason. However, the hides of their own offerings may not be appropriated from their possession, as it cannot be proven with regard to either of them that he is not a priest.

⁷⁴ And they are exempt from giving a priest the foreleg, and from giving him the jaw, and from giving him the maw of their non-consecrated kosher animals. And with regard to either of them, the firstling of his kosher animal should graze until it becomes unfit to be sacrificed, i.e., until it gets a blemish. It is against his interest to sacrifice the animal before it gets a blemish, thereby letting it be eaten by the priests. Once it gets a blemish, it cannot be appropriated from him. Since he is possibly a priest, he may claim that the animal is the property of a priest. The animal then becomes his private property, and he may eat it if he wishes. And in general, we place upon him both the stringencies of priests and the stringencies of Israelites.

⁷⁵ GEMARA: It is stated in the mishna that if the sons of certain, unflawed lineage were the ones who died, the mixed sons perform ḥalitza with the widows of the elder woman's sons, but not levirate marriage. The Gemara asks: Does this indicate that because these sons were mixed up they are rendered unfit? The fact that their lineage is unclear should not render them unfit. Rava Pappa said: Say that the correct wording is: And if the certain sons were the ones who died.

⁷⁶ It is stated in the mishna that with the widows of the certain sons of the daughter-in-law, one of the mixed sons performs ḥalitza and the other one performs levirate marriage. The Gemara comments that ḥalitza is specifically performed first, and afterward levirate marriage. However, levirate marriage is not performed first, because if she is not his own yevama but rather his brother's daughter-in-law, doing so breaches the prohibition against a yevama engaging in intercourse with a member of the public.

⁷⁷ § It is stated in the mishna that in the case of a priestess whose offspring was mixed with her maidservant's offspring, they receive one share of teruma in the granary. The Gemara asks: Isn't it obvious that they receive one share and no more? Rather, say that they receive a share as one, i.e., they receive a share at the granary only if they come together.

⁷⁸ The Gemara comments: According to this modification, we have learned in the mishna a ruling that is in accordance with the one who said that one may distribute teruma to a slave only if his master is with him, as it is taught in a baraita: One may distribute teruma to the slave of a priest who is possibly a priest himself only if his master is with him; this is the statement of Rabbi Yehuda. Rabbi Yosei says that teruma is distributed to him alone, even without the accompaniment of his master, as he can say: If I am a priest, give me teruma due to my own priesthood, and if I am the slave of a priest, give me due to my master.

⁷⁹ The Gemara explains the background behind this dispute: In Rabbi Yehuda's place, they would elevate a person to the presumptive status of priesthood for the purpose of lineage on the basis of his having received teruma. If they saw a person receive teruma, they would assume that he is a priest and testify to that effect. Therefore, teruma was not distributed to someone who might be a slave, unless he was accompanied by his master, lest the slave be assumed to be a priest himself. Conversely, in Rabbi Yosei's place they would not elevate a person to the presumptive status of priestly lineage on the basis of his having received teruma. Therefore, he was allowed to receive teruma independently.

⁸⁰ It is taught in a baraita that Rabbi Elazar bar Tzadok said: In all my days I never had the opportunity to testify in court, besides one testimony, and they promoted a slave to the presumptive status of priesthood on the basis of my word. Although they presumably examined the matter carefully, an error occurred.

⁸¹ The Gemara asks: Can it enter your mind that they actually promoted him? Now consider: If, even through the animals of the righteous, the Holy One, Blessed be He, does not bring about a stumbling block, then through the righteous themselves, all the more so is it not so that He does not bring about stumbling blocks?

⁸² Rather, say that this is what Rabbi Elazar bar Tzadok meant: They sought to promote a slave to the presumptive status of priesthood on the basis of my word. How did this happen? Rabbi Elazar bar Tzadok saw a man receiving teruma in Rabbi Yosei's locale and went and testified in Rabbi Yehuda's locale about what he saw, not realizing that this testimony would be sufficient grounds to assume that the man is a priest. Since teruma is distributed there only to priests, the slave was almost promoted to the presumptive status of priesthood erroneously.

⁸³ § The Sages taught: There are ten types of priests to whom one may not distribute teruma in the granary, and they are: A deaf-mute, an imbecile, and a minor, a person whose sexual organs are concealed [tumentum], and a hermaphrodite, and a slave, and a woman, and an uncircumcised man, and a ritually impure man, and one who marries a woman who is unfit for him, i.e., who is unfit to marry a priest. And with regard to all of them, one may send teruma to them, to their homes, with the exception of a ritually impure man and one who marries a woman who is unfit for him.

⁸⁴ The Gemara asks: Granted, teruma may not be distributed to a deaf-mute, an imbecile, and a minor, as they are not competent, and it is unbecoming to give them teruma in public. It is also inappropriate to distribute teruma to a tumentum and a hermaphrodite,

⁸⁵ as they are each an unusual creature of their own kind. With regard to a slave it is also clear, since if he is given teruma, perhaps the court will come to elevate him to the presumptive status of priestly lineage. Teruma may not be distributed to an uncircumcised man and a ritually impure man, because these situations are repulsive and it is unseemly to give them teruma in public. One may not distribute teruma to one who marries a woman unfit for him, due to a penalty that expropriates his priestly rights as long as he persists in his transgression. But for what reason is teruma not distributed to a woman?

⁸⁶ Rav Pappa and Rav Huna, son of Rav Yehoshua, disagree on this issue. One said that it is due to the case of an Israelite woman who was married to a priest and got divorced, thereby losing her permission to partake of teruma. Teruma is not distributed to women in public at all, lest this divorcée continue to receive teruma. And the other one said that it is due to the concern that the owner and the woman might be alone together in the granary.

⁸⁷ The Gemara asks: What is the practical difference between them? The Gemara answers: The practical difference between them is in the case of a granary that is close to town but is not frequented by people. Because it is close to town, the owner of the granary would know if she was divorced. However, since there are not many people there, the concern about their being alone together remains. Alternatively, there is a practical difference in the case of a granary that is distant but is frequented by people. There, there is concern that the owner of the granary might not know if she was divorced, but the concern that they might be alone together does not exist.

⁸⁸ It is stated in the baraita under discussion: And with regard to all of them, one may send teruma to them, to their homes, with the exception of a ritually impure man and one who marries a woman unfit for him. The Gemara infers: However, to an uncircumcised man one may send it. What is the reason? How does he differ from an impure man?

⁸⁹ The Gemara answers: One may send him teruma. It is because of circumstances beyond his control, i.e., the death of his brothers from their circumcision, that he was not circumcised. The Gemara asks: Isn't an impure man also in his state due to circumstances beyond his control? Why is teruma not sent to him? The Gemara answers: This man is uncircumcised because of circumstances entirely beyond his control, as circumcision is considered life-threatening for him, whereas that impure man is not under circumstances entirely beyond his control, as one can protect himself from ritual impurity.

⁹⁰ § The Sages taught: One may not distribute teruma to a slave or a woman if they are in the granary. And in a place where people do distribute it to them, the woman is given first and released immediately. The Gemara asks: What is this saying? If one may not distribute teruma to them, how can there be a place where it is distributed?

⁹¹ The Gemara explains that this statement is not referring to teruma. This is what it is saying: In a case where the poor man's tithe is distributed to the poor from the owner's house, the woman is given first. What is the reason? She is given the tithe first because it is demeaning for a woman to have to wait in the company of men for a lengthy period of time.

⁹² Rava said: Initially, when a man and a woman would come for judgment before me, each for a different case, I would resolve the man's quarrel first. I would say that since he is obligated in many positive mitzvot I should not waste his time by causing him to wait. However, since I heard this baraita, I resolve the woman's quarrel first. What is the reason? I resolve her quarrel first because it is demeaning for her to be waiting in the company of men.

⁹³ § It is stated in the mishna: If the mixed sons matured and freed each other, they may marry women fit for the priesthood. The use of the past tense indicates that this halakha applies after the fact. If one of the sons desires to free the other, he may, but if he does not desire to do so, he is not obligated. And why not? Neither of them can marry a maidservant in case he is a priest, nor can either of them marry a free woman, as he might be a slave. They are therefore unable to fulfill the mitzva to be fruitful and multiply in their current state and should be obligated to free each other. Rava said: Say that the mishna means that we coerce them and they free each other.

⁹⁴ It is stated in the mishna that we place upon them both the stringencies of priests and the stringencies of Israelites. The Gemara asks: With regard to what halakha is this stated, beyond those cited specifically in the mishna? Rav Pappa said: It is stated with regard to their meal-offering: The handful is taken from it like the meal-offering of an Israelite, unlike that of a priest, which is burned in its entirety. However, the offering does not get eaten, like the meal-offering of priests. How so? How is the practice performed so that both stringencies are kept? The handful is sacrificed and burned by itself, and the remainder of the offering is offered by itself.

⁹⁵ The Gemara asks: How can it be performed in this manner? There is a principle that should apply here, that whatever is partly burned in the fire on the altar is subject to the prohibition of "you may not make...as an offering" (Leviticus 2:11). This principle states that if part of an item, e.g., the blood of an animal offering or the handful of a meal-offering, is burned on the altar, then burning any of its other parts, which are not designated for burning, is prohibited. How, then, can the remainder of the meal-offering be sacrificed?

⁹⁶ Rabbi Yehuda, son of Rabbi Shimon ben Pazi, said that the remainder is brought up to the altar only for the purpose of wood, i.e., as fuel for the altar, not as an offering. In this manner, it is

permitted. This answer is in accordance with the opinion of Rabbi Elazar, as it is taught in a baraita that Rabbi Elazar said: “But they shall not come up for a sweet savor on the altar” (Leviticus 2:12). This verse indicates that you may not bring up leaven and honey as a “sweet savor,” i.e., an offering. However, you may bring up leaven, and honey, and other materials for the purpose of wood.

⁹⁷ The Gemara asks: This works out well according to Rabbi Elazar. However, according to the Rabbis, who disagree with Rabbi Elazar and hold that it may not be burned for the purpose of fuel, what can be said? What is to be done with the remainder? The Gemara answers that the offering is treated in accordance with the opinion of Rabbi Elazar, son of Rabbi Shimon, as it is taught in a baraita that Rabbi Elazar, son of Rabbi Shimon, says: The handful is sacrificed by itself, and the remainder is scattered over the place of the ashes. And even the Rabbis disagree with Rabbi Elazar, son of Rabbi Shimon, only with regard to a sinner’s meal-offering that belongs to priests, as it is fit to be sacrificed in its entirety. However, here, in the case of an uncertain priest, even the Rabbis agree that the remainder is scattered over the ashes, as it cannot be offered in case he is a non-priest.

⁹⁸ MISHNA: With regard to a woman who did not wait three months after separating from her husband, and remarried and gave birth to a son, and it is not known if he was born after nine months of pregnancy to the former husband or if he was born after seven months to the latter husband, if she had sons of certain patrilineage from the first husband and sons of certain patrilineage from the second one, and the son of uncertain patrilineage married and died childless, then the brothers from both husbands must perform ḥalitza with his wife, as they might be his paternal brothers. But they may not perform levirate marriage with her, in case he is only their maternal half brother, and his wife is forbidden to them. And similarly, with regard to him and their wives, if one of them dies childless, he performs ḥalitza and not levirate marriage.

⁹⁹ If he had half brothers from the first husband and half brothers from the second, not from the same mother but from the same father, he performs ḥalitza or levirate marriage with their widows. If he is indeed their paternal half brother, then the widows are his yevamot; if not, he may marry them like any other man. And similarly, with regard to them and his wife, one half brother from one father performs ḥalitza and one from the other father performs levirate marriage.

¹⁰⁰ If one of his two uncertain fathers was an Israelite and one was a priest, he may marry only a woman fit to marry a priest, due to the possibility that he is a priest. And he may not become ritually impure with impurity imparted by a corpse because he might be a priest. But if he became impure, he does not receive the forty lashes, as he might be a non-priest. Likewise, he does not partake of teruma, in case he is a non-priest. However, if he ate teruma he does not pay the principal and the additional fifth, as he might be a priest. And he does not receive teruma at the granary. However, he may sell the teruma of his own produce and the money is his. It cannot be taken away from him due to the uncertainty with regard to his status.

¹⁰¹ And he does not receive a share of the sacred of the consecrated offerings, and one may not give him the consecrated offerings to sacrifice. However, the hides of his own offerings may not be appropriated from his possession. And he is exempt from giving a priest the foreleg, and the jaw, and the maw of his non-consecrated animals. And the firstling of his animal should graze until it becomes unfit to be sacrificed because it gets a blemish. And in general, we place upon him the stringencies of priests and the stringencies of Israelites.

¹⁰² If both uncertain fathers were priests, then if they die he is in a state of acute mourning over each of them, in case the deceased is his father. And if he dies, they are both in a state of acute mourning over him, as one of them is his father. He may not become ritually impure to bury them, as each one may not be his relative, and they may not become ritually impure to bury him for the same reason. He does not inherit from them, as the heirs of both husbands can reject his claims. However, they inherit from him if he has no sons and split his inheritance equally.

¹⁰³ And he is exempt from capital punishment for striking and for cursing both this father and that one. Although one who strikes or curses his father or mother is liable to receive the death penalty, he cannot be held liable, as it is unknown which of the men is his father. He must ascend to the Temple service with the priestly watch of this father and of that one, as he belongs to one of these watches and is obligated to serve with them. However, he does not receive a share of the portion of the offerings that gets eaten, as the members of each watch can claim that he is a member of the other watch. If both uncertain fathers were in one priestly watch, he receives one share, as he certainly belongs to that watch.

¹⁰⁴ GEMARA: The mishna stated that if the son has paternal half brothers from each of his two uncertain fathers and he dies childless, a half brother from one father performs ḥalitza and the other performs levirate marriage. The Gemara comments that ḥalitza is specifically performed first and only afterward levirate marriage. However, levirate marriage is not performed first, as that would breach the prohibition against a yevama engaging in intercourse with a member of the public in the event that she is not his yevama but rather the yevama of the other half brother.

¹⁰⁵ Shmuel said that if ten priests were standing in one place, and one of them, who is unidentified, left the group and engaged in intercourse with a woman, and she gave birth, the child is a silenced one, i.e., a child whose father's identity is not known. The Gemara asks: What is the meaning of the phrase silenced one [shetuki] in this regard? If we say that he is silenced from any claim to his father's property, this is obvious; do we know who his father is? Rather, it means that he is silenced from the status of priesthood, as well. Although his father certainly is a priest, he is not given this status.

¹⁰⁶ The Gemara asks: What is the reason for this? The Gemara answers that the verse states: "And it shall be to him and to his seed after him, the covenant of an everlasting priesthood" (Numbers 25:13). It is derived from "and to his seed after him" that we require a priest's descendants to be attributed to his lineage, and here that is not the case, as there is no certain father.

¹⁰⁷ Rav Pappa strongly objects to this: However, if that is so, since the same phrase is written with regard to Abraham: "To be a God to you and to your seed after you" (Genesis 17:7), what is the Merciful One warning him there? Can it possibly mean that one who cannot identify his parents is not obligated to serve God as a Jew? The Gemara answers that this is what He said to him: You may not marry a gentile woman or a maidservant, so that the status of your offspring will not follow her status, as the child of a Jewish man and a gentile woman or maidservant receives the status of his mother.

¹⁰⁸ The Gemara raises an objection: A baraita (37a) teaches that if a priest performed levirate marriage with his brother's wife within three months of his brother's death, and she gave birth to a son who is either her deceased husband's son or her brother-in-law's son, this first son born after the levirate marriage is fit even to be a High Priest. But don't we require his descendants to be attributed

to his lineage, and that is not so in this case, as the father's identity is unknown? The Gemara answers: The requirement that his descendants be attributed to his lineage is rabbinic law, and the verse is a mere support, not the actual source. And when the Sages decreed that one whose father's identity is unknown is not a priest, they did so only with regard to a case of licentious intercourse. With regard to a case of marriage, as is the case in the baraita, the Sages did not apply the decree.

¹⁰⁹ The Gemara asks: And with regard to a case of licentious intercourse, did the Sages in fact issue a decree? Didn't we learn in the mishna about a woman who did not wait three months after separating from her husband and remarried and gave birth to a son?

¹¹⁰ What is the meaning of the phrase: After separating from her husband? If we say it means after her husband's death, say the latter clause of the mishna: If they die, he is in a state of acute mourning over each of them, and if he dies, they are both in a state of acute mourning over him. Granted, if they die, he is in a state of acute mourning over them. You find this case with regard to his uncertain father from his mother's marriage to the second man. If the second husband dies, the child must mourn for him, and he is also in a state of acute mourning following the gathering of the bones of the first husband, who died before he was born. When the bones of a person who was buried are dug up for proper burial in his ancestor's plot, his relatives mourn for him a second time. But with regard to the statement that if he dies they are in a state of acute mourning for him, how can you find these circumstances? The first husband is already dead.

¹¹¹ And assume the mishna's statement is rather with regard to a divorcée. And accordingly what is the meaning of the phrase: After separating from her husband? It means: After she received a bill of divorce from her husband. If so, say the latter clause of the mishna: He may not become impure to bury them, and they may not become impure to bury him. Granted, they may not become impure to bury him, as the ruling is stringent, as with regard to each one of them perhaps he is not his son. However, why may he not become impure to bury them?

¹¹² Granted, for the second one he should not become impure, as he might not be his son. However, for the first he should be allowed to become impure whichever way you view it: If he is his son, it is appropriate for him to become impure to bury him, as even a priest must become ritually impure to bury his father. And if he is the son of the latter one, it is appropriate for him to become impure to bury him, as he, the son, is a ḥalal. If his mother is a divorcée, his father, the latter husband, is prohibited as a priest to marry her, and a child born from this relationship is a ḥalal, who is unfit for the priesthood. There would then be no prohibition against his becoming ritually impure.

¹¹³ Rather, is the mishna's statement not with regard to the licentious intercourse of an unmarried woman? And what is the meaning of the phrase: After she separated from her husband [ba'ala]? Is it not: After separating from the man with whom she engaged in intercourse [bo'ala], meaning that she engaged in intercourse with a man less than three months before marrying another man, and therefore she does not know the identity of the father? And it is taught in the latter clause of the mishna that the son ascends to the Temple service with the priestly watch of this one and of that one, which implies that he is considered a priest, although the identity of his father is uncertain due to the licentious intercourse of his mother. And this appears to be a conclusive refutation of the opinion of Shmuel.

¹¹⁴ Rav Shemaya said: The mishna's statement pertains to a girl who refused her husband. A minor girl who was orphaned from her father may be married off by her brothers. However, she may subsequently refuse her husband before reaching majority. This nullifies the marriage entirely, so she

is not considered a divorcée, for whom it is prohibited to marry a priest. In the case of the mishna, she did not wait three months after her refusal before marrying again, so she does not know who the father of her child is.

¹¹⁵ The Gemara asks: Can a girl who refuses her husband give birth? Didn't Rav Beivai teach before Rav Nahman that women in three situations may engage in intercourse with a contraceptive resorbent, despite the fact that this practice is generally prohibited: A minor girl, a pregnant woman, and a nursing woman? A minor girl may do so lest she become pregnant and die, as the fetus might endanger her life. A pregnant woman may do so lest she get pregnant a second time and her previous fetus becomes a sandal, i.e., it is squashed by the pressure of the second fetus. A nursing woman may do so lest she wean her child prematurely, as pregnancy will cause her milk to dry up, and he will die of hunger. And who is considered a minor girl in this context? A girl from the age of eleven years and one day until the age of twelve years and one day. If she is younger than this or older than this, she should go ahead and engage in intercourse in her usual manner. This is the statement of Rabbi Meir.

¹¹⁶ And the Rabbis say: Both this one and that one, i.e., women in any cases, should go ahead and engage in intercourse in their usual manner, and Heaven will have mercy and prevent them from getting pregnant, as it is stated: "The Lord preserves the simple" (Psalms 116:6). Evidently, a girl who is a minor and therefore young enough to refuse her husband cannot become pregnant without endangering her health.

¹¹⁷ The Gemara answers: You find a solution in the case of a mistaken betrothal. For example, if the first husband betrothed her conditionally and the condition was unfulfilled, the marriage is nullified. This woman may marry a priest. If she did so within three months, the identity of her child's father is uncertain, which fits the statement in the mishna. And this is in accordance with that which Rav Yehuda said that Shmuel said, as Rav Yehuda said that Shmuel said in the name of Rabbi Yishmael: The verse states with regard to a sota: "Neither was she [hi] coerced in the act" (Numbers 5:13). It may be inferred that she is forbidden to her husband only if she was not coerced by the adulterer; if she was coerced she is permitted to him.

¹¹⁸ And the superfluous word "she" indicates that you have another woman who, although she engaged in intercourse willingly and was not coerced, is nevertheless permitted to her husband, as the intercourse is not considered adultery. And who is this? This is referring to a woman whose betrothal was a mistaken betrothal, as even if her child is riding on her shoulders, she may refuse her husband and go off on her way. She is considered an unmarried woman, and she is therefore permitted to return to her husband, even if she engaged in intercourse with another man. The mishna may therefore be explained in a way that does not contradict Shmuel.

¹¹⁹ § It is stated in the mishna that if both uncertain fathers were priests, the son is exempt from punishment for striking and for cursing them. The Sages taught: If he struck this uncertain father, and then struck that one, or if he cursed this one and then cursed that one, or if he cursed both of them simultaneously or struck both of them simultaneously, in all these cases he is liable to receive capital punishment, as one of them is certainly his father. Rabbi Yehuda says: Although if he struck or cursed both of them simultaneously he is liable, if he struck or cursed them one after the other, he is exempt.

¹²⁰ The Gemara asks: But isn't it taught in a baraita that Rabbi Yehuda says: He is exempt even if he struck or cursed them simultaneously? The Gemara answers: These are the opinions of two tanna'im, and they each expressed their opinion in accordance with that of Rabbi Yehuda.

¹²¹ The Gemara asks: What is the reasoning of the one who exempts the son from punishment? Rabbi Ḥanina said: Blessing is stated below (Leviticus 20:9), with regard to cursing parents, and blessing is stated above (Exodus 22:27), with regard to cursing God. The Sages used the word blessing as a euphemism for cursing, as it was their custom to avoid uncouth language. Just as the statement above, in Exodus, is referring to a curse that does not involve partnership, as God is One, so too the statement below, in Leviticus, is referring exclusively to a curse of a parent that does not involve partnership, i.e., when there is no doubt with regard to his identity. And striking is juxtaposed with cursing. Just as one is not liable for cursing when it is unclear who his father is, the same applies to striking.

¹²² § It is stated in the mishna: And he ascends to the Temple service with the priestly watch of both uncertain fathers. However, he does not receive a share of the offerings of either watch. The Gemara asks: Since he does not receive a share, why does he ascend? The Gemara is puzzled by this question: Why does he ascend? Doesn't he naturally say: I wish to perform a mitzva by serving as a priest? The Gemara explains: However, note that the mishna does not state: If he ascended, but rather: He ascends, in the present tense. Apparently he is obligated to ascend, even against his will.

¹²³ Why is he under obligation to serve in the Temple? Rav Aḥa bar Ḥanina said that Abaye said that Rabbi Yoḥanan said: He is obligated due to the potential family flaw, i.e., harm to the family name. If he does not serve with these watches, people will infer that both families are unfit for the priesthood, which is not the case.

¹²⁴ It is stated in the mishna: And if both uncertain fathers were in one priestly watch, he receives one share. The Gemara asks: What is different about the case in which the uncertain fathers belonged to two priestly watches, with regard to which the mishna states that the son does not receive a share, and the case in which they belonged to the same watch? Just as in the case where they belonged to two watches, he goes to this watch to receive a share and they reject him, claiming that he belongs to the other watch, and he goes to that watch and they reject him in the same manner, so too, where they belonged to one watch, he goes to this patrilineal family to receive a share on their day, and they reject him, and the other patrilineal family rejects him too, as his true patrilineal family is unknown.

¹²⁵ Rav Pappa said that this is what the mishna is saying: If they were both in one priestly watch and one patrilineal family, he receives one share, as he cannot be rejected.

Chapter 12

¹ MISHNA: The mitzva of ḥalitza, the ritual through which the yavam frees the yevama of her levirate bonds, must be performed before three judges, and the ritual does not require the judges to be experts fit to adjudicate other matters, as even if all three are laymen, it is acceptable. If she performed ḥalitza while he was wearing a shoe made of soft leather that covers the whole foot, her ḥalitza is valid, but if she performed ḥalitza while he was wearing a soft shoe [anpileya] made of cloth, her ḥalitza is invalid, as it is not considered a real shoe. If ḥalitza was performed while he was

wearing a sandal, i.e., footwear made of hard leather, that has a heel, it is valid; but if performed with a sandal without a heel, it is invalid ḥalitza.

² If the leg of the yavam was amputated anywhere from the knee down and she performed ḥalitza as he wore a shoe on the stump of his leg, it is valid ḥalitza. If, however, the leg was amputated anywhere from the knee and above, and she performed ḥalitza as he wore a shoe on the stump of his leg, it is invalid ḥalitza. If she performed ḥalitza while the man was wearing a sandal that did not belong to him, or a sandal made of wood, or on the left shoe, which was being worn on his right foot, it is valid ḥalitza. If she performed ḥalitza as the man was wearing a shoe that was too large for him but which he can still walk in, or a shoe that was too small but that covered most of his foot, her ḥalitza is valid.

³ GEMARA: The Gemara asks: Now that the mishna says that even three laymen are qualified for ḥalitza, why do I need it to mention judges? It would be sufficient to say that the mitzva requires three people. The Gemara answers: This teaches us that we require three people who can at least dictate the verses read during the ḥalitza ritual to the participants like judges, as they are not complete laymen in that they are literate. The Gemara comments: We already learned this halakha in a baraita, as the Sages taught: The mitzva of ḥalitza is performed before three individuals who know how to dictate the verses like judges. Rabbi Yehuda says: Ḥalitza must be performed before five individuals acting as judges.

⁴ The Gemara discusses the dispute as to how many individuals must conduct the ḥalitza: What is the reason of the first tanna, who requires three? As it is taught in a baraita concerning ḥalitza: “His yevama shall ascend to the gate to the Elders” (Deuteronomy 25:7). Since the minimum number of the plural term “Elders” is two, and since, in order to prevent a paralyzing disagreement between an even number of judges, a court may not be composed of an even number of judges, one more is added to them. Therefore, there are three judges. And Rabbi Yehuda interprets the verse otherwise, for one verse states: “And the Elders of his city shall call him” (Deuteronomy 25:8), indicating a minimum of two judges, and it says in the following verse “Elders” another time, indicating an additional two people, and since a court may not be composed of an even number of judges, one more is added to them. Therefore, there are five judges.

⁵ The Gemara asks: And what does the first tanna do with this second appearance of the word “Elders”? The Gemara explains: He requires it for allowing the inclusion of even three laymen as presiding judges for ḥalitza. The word “Elders” would seem to limit ḥalitza to recognized judges, but since it is mentioned twice, it becomes an instance of the hermeneutic principle that one restrictive expression appearing after another restrictive expression comes to include some additional halakha. Therefore, repeating the restrictive term “Elders” twice actually comes to include laymen rather than exclude them.

⁶ The Gemara asks: From where does Rabbi Yehuda derive the halakha that ḥalitza can be done in the presence of laymen? The Gemara answers: He derives it from what is written: “Before the eyes of the Elders” (Deuteronomy 25:9), for the Master said: “Before the eyes of” excludes blind individuals from being the judges conducting the ḥalitza.

⁷ And since it was necessary to say “before the eyes of” to exclude blind individuals from being judges for ḥalitza, learn from here that even laymen are qualified to be judges for ḥalitza. For if it enters your mind to say that we require expert judges who are fit to sit on the high court of the

Sanhedrin, then why do I need to exclude blind individuals? For that matter can be derived from a baraita that Rav Yosef taught, as Rav Yosef taught: Just as a court must be clean in righteousness, as they are careful to judge others justly, and are free of guilt and suspicion, likewise a court must be clean of any physical blemish, with judges who are physically complete.

⁸ This is as it is stated: “You are entirely beautiful, my love, and there is no blemish in you” (Song of Songs 4:7). If the Elders conducting ḥalitza needed to be expert judges, there would be no reason to explicitly exclude the blind, as they are unfit to be judges in a regular court. Evidently it is permitted for laymen to be judges for ḥalitza, and only blind individuals are excluded. The Gemara asks: And the other Sage, the first tanna, what does he do with the verse “before the eyes of”? The Gemara answers: That verse comes for that which Rava taught, as Rava said: The judges must see the spittle that exits from the mouth of the yevama as part of the ceremony of ḥalitza, as it is written: “His yevama shall approach him, before the eyes of the Elders, and remove his shoe from on his foot and spit before him and respond and say: So shall it be done to the man who does not build his brother’s house” (Deuteronomy 25:9).

⁹ The Gemara asks: If so, the other Sage, Rabbi Yehuda, should also require “before the eyes” to teach Rava’s statement. The Gemara answers: Yes, this is so, as Rabbi Yehuda understands “before the eyes” as requiring the judges to see the spittle. But then from where does he derive the eligibility of laymen? He derives it from the phrase: “In Israel,” in the verse “And his name shall be called in Israel” (Deuteronomy 25:10), which indicates that any Israelite, even one who is not an expert judge, may preside over ḥalitza.

¹⁰ The Gemara asks: And with regard to the other Sage, the first tanna, what does he do with this phrase: “In Israel”? The Gemara answers: He requires it for that which was taught by Rav Shmuel bar Yehuda: “In Israel” means in a court of Israelites from birth, and not in a court of converts. The mitzva of ḥalitza must be conducted by judges who can trace their lineage to other Jews from birth, and not converts.

¹¹ The Gemara asks: And with regard to the other Sage, Rabbi Yehuda, from where does he derive this halakha? The Gemara answers: “In Israel” is written another time as well (Deuteronomy 25:7, 10), and that is the source of this principle. And the other, the first tanna, what does he do with this additional “In Israel”? The Gemara explains: He requires it for that which is taught in a baraita, that Rabbi Yehuda said: Once we were sitting in study before Rabbi Tarfon, and a yevama came to perform ḥalitza, and he said to us: After the ḥalitza is completed, you should all respond: “He who had his shoe removed.” He understands the verse “His name shall be called in Israel” (Deuteronomy 25:10) to mean that all those who witness the ḥalitza must respond: “He who had his shoe removed” (Deuteronomy 25:10).

¹² The Gemara asks: And the other, Rabbi Yehuda, from where did he derive this halakha? The Gemara answers: He derives it from the phrase “Shall be called,” that those who attend the ḥalitza must respond aloud.

¹³ The Gemara returns to the dispute concerning the number of judges: However, if that is so, that the plural term “Elders” indicates the need for additional judges, there are other plural terms written in the verse that should also indicate the need for additional judges. As the verse states: “And they shall call”; this is referring to two people. “And they shall speak” indicates two more. Therefore,

according to Rabbi Yehuda's interpretation there should be nine judges here, and according to the Rabbis there should be seven here.

¹⁴ The Gemara answers: That verse is necessary for him to derive the halakha that is taught in a baraita: "They shall call him" means the judges themselves and not their agents. "They shall speak to him" teaches that they give him counsel appropriate for him concerning whether he should perform levirate marriage or ḥalitza. For example, if he was a young boy and she was elderly, or if he was elderly and she was a young girl, they would tell him not to enter into levirate marriage because: What are you doing with a young girl if you are an old man? What are you doing with an elderly woman if you are a young boy? Go be with someone like yourself, closer to your own age, and do not bring a quarrel into your household, as the age difference will be a cause for disputes and strife later.

¹⁵ Rava said that Rav Naḥman said: The halakha is that ḥalitza takes place before three men, since the tanna taught us this opinion as an unattributed mishna in the beginning of the chapter, in accordance with this opinion, indicating that this is the halakha. After he heard him say this, Rava said to Rav Naḥman: If that is so, then declarations of refusal, written on behalf of a girl who as a minor was married to a man by her brother or mother after the death of her father, and is given the right to refuse the marriage upon reaching majority, also should be performed before three men. As we learned in a mishna (25b): Declarations of refusal and ḥalitza are performed before three judges.

¹⁶ And if you would say that indeed three men are required, but isn't it taught in a baraita: With regard to refusal, Beit Shammai say that a declaration of refusal may be performed only by a court of experts, and Beit Hillel say: It may be performed in a court of experts, or not in a court of experts. Both concede that whether the judges are experts or not, three men are required. On the other hand, Rabbi Yosei, son of Rabbi Yehuda, and Rabbi Elazar, son of Rabbi Yosei, validate declarations of refusal even before two men. And Rav Yosef bar Minyumi said that Rav Naḥman said: The halakha follows that pair. Evidently, Rav Naḥman is willing to rule differently from the unattributed mishna that rules that three judges are necessary for ḥalitza.

¹⁷ The Gemara answers: There, with respect to declarations of refusal, there is only one unattributed mishna (Sanhedrin 2a) that states that refusals are performed before three judges, and here, there are two unattributed mishnayot that state that ḥalitza is performed before three judges, both here and also in that same mishna in tractate Sanhedrin. The Gemara challenges the previous claim: There too, with regard to refusals, there are two unattributed mishnayot, as we learned in a mishna (25b): If she made a declaration of refusal or performed ḥalitza before a judge, this judge may marry her if he wishes to, as there is no suspicion of ulterior motives, because he is a member of a court. This mishna implies that declarations of refusal may take place only before a court.

¹⁸ The Gemara concedes: Rather, there, with regard to refusals, there are only two unattributed statements found in the mishna, and here, with regard to ḥalitza, there are three unattributed statements found in the mishna. That convinces us to rule in accordance with those three sources requiring three for ḥalitza.

¹⁹ The Gemara asks: Since this is supported by an unattributed mishna and that is supported by an unattributed mishna, what difference does it make to me if there is one unattributed mishna? What difference does it make to me if there are two unattributed mishnayot? What difference does it make to me if there are three unattributed mishnayot? Rather, Rav Naḥman bar Yitzḥak said: This ruling

was made because the unattributed mishna, which states that ḥalitza requires three men, is recorded unequivocally in a place where it is adjacent to a different dispute involving Rabbi Yehuda.

²⁰ As we learned in a mishna (Sanhedrin 2a): Ordination of Elders and the ceremony of the heifer whose neck is broken are performed before three judges; this is the statement of Rabbi Yosei. Rabbi Yehuda says: Before five. Ḥalitza and declarations of refusal are performed before three. The Gemara explains the rationale to rule on the basis of this mishna that ḥalitza should in fact be performed before three: And since Rabbi Yehuda did not dispute this second statement concerning ḥalitza even though he disputed the first halakha in the mishna, learn from here: Rabbi Yehuda retracted his opinion concerning ḥalitza and no longer required that it be performed before five men. The Gemara concludes: Indeed, learn from here that he retracted his opinion, and three judges are sufficient for conducting ḥalitza.

²¹ § The Gemara begins a discussion concerning the halakhic details of ḥalitza. Rava said: The judges need to establish a location ahead of time where the ḥalitza will be performed, as it is written: “His yevama shall ascend to the gate to the Elders” (Deuteronomy 25:7), indicating that there is an established place, “the gate,” for the court to convene for ḥalitza. The Gemara relates: Rav Pappa and Rav Huna, son of Rav Yehoshua, conducted a case of ḥalitza before five judges. The Gemara asks: In accordance with whose opinion were they ruling? If you say they ruled in accordance with the opinion of Rabbi Yehuda, but it was proven above that Rabbi Yehuda retracted his initial opinion and requires only three judges. The Gemara answers: They did this only to publicize the matter and not because this number of judges is required.

²² It is told further: Rav Ashi once happened to come to Rav Kahana’s house. Rav Kahana said to Rav Ashi: Will the master come up with us to complete the quorum of five men in order to perform ḥalitza? Rav Kahana said further: When I stood before Rav Yehuda, he said to me: Go up to the bundle [zirza] of reeds to join the five men who will oversee the performance of ḥalitza, as a bundle of reeds had been set aside to be the established location where the court will convene to conduct cases of ḥalitza. Those in attendance said to Rav Yehuda: Why do I need five if three are sufficient? He said to them: In order to publicize the matter, and not because it is a halakhic obligation.

²³ It is told: Rav Shmuel bar Yehuda was standing before Rav Yehuda. Rav Yehuda said to him: Go up to the bundle of reeds to complete the quorum of five in order to publicize the matter of this ḥalitza. Rav Shmuel bar Yehuda said to him: We learned that the phrase “In Israel” in the verse: “And his name shall be called in Israel” (Deuteronomy 25:10) indicates that ḥalitza must be performed before a court of Israelites from birth, and not before a court composed of converts, but I am a convert, as Rav Shmuel bar Yehuda had converted along with his father.

²⁴ Rav Yehuda said to him: I would exact payment based on the word of someone such as Rav Shmuel bar Yehuda, as he has shown that he is upright and honest by revealing this unknown fact about himself. The Gemara questions: Does it enter your mind that one can actually exact payment based on the word of one man, no matter how honest he seems to be? Doesn’t the Merciful One state in the Torah: “By the mouth of two witnesses or by the mouth of three witnesses, shall a matter be established” (Deuteronomy 19:15), indicating that one can exact payment based only on the evidence of at least two witnesses? Rather, the Gemara explains that Rav Yehuda’s intention was to say: I would declare a bill of indebtedness invalid based on his word, accepting his claim that the debt had been collected.

²⁵ Parenthetical to mentioning the status of a convert with regard to a court of ḥalitza, the Gemara relates: Rava said:

²⁶ By Torah law a convert may judge his fellow convert, as it is stated: “You shall set a king over you, whom the Lord your God shall choose; one from among your brothers you shall set king over you” (Deuteronomy 17:15). The Gemara deduces from the terminology of the phrase “over you,” i.e., when presiding over Jews by birth either as a king, a judge, or any other official, that from here it is where we require that the official must be: “From among your brothers,” meaning a Jew by birth. However, a convert may judge his fellow convert, as the requirement of “one from among your brothers” doesn’t apply when presiding over fellow converts.

²⁷ And if the convert’s mother was from Israel, he may even preside as a judge in a court to adjudicate legal matters involving a native-born Jew. But with regard to ḥalitza, he may not act as a judge unless both his father and his mother were from Israel from birth, as it is stated with regard to ḥalitza: “And his name shall be called in Israel: The house of he who had his shoe removed” (Deuteronomy 25:10), implying that he must be born as a member of the Jewish people from both of his parents.

²⁸ § Rabba said that Rav Kahana said that Rav said: If Elijah the Prophet should come and say: One may perform ḥalitza using a soft leather shoe, the Rabbis would listen to him. But if he says: One may not perform ḥalitza using a hard leather sandal, they would not listen to him, for the people already have established the practice of performing ḥalitza using a sandal.

²⁹ And Rav Yosef said that Rav Kahana said that Rav said: If Elijah the Prophet should come and say: One may not perform ḥalitza using a soft leather shoe, they would listen to him. But if he says: One may not perform ḥalitza using a hard leather sandal, they would not listen to him, for the people already have established the practice of performing ḥalitza using a sandal.

³⁰ The Gemara asks: What is the practical difference between these two opinions? Seemingly, they both say the same thing. The Gemara answers: The practical difference between them is with respect to performing ḥalitza with a soft leather shoe ab initio. According to Rabba’s opinion, one may not perform ḥalitza this way ab initio, as Rabba said that only if Elijah comes and permits it would he be heeded, implying that until Elijah does so one may not perform ḥalitza this way. According to Rav Yosef’s opinion, one may perform ḥalitza with a soft leather shoe until Elijah comes and teaches us otherwise.

³¹ The Gemara asks: And according to the one who says that one may even perform ḥalitza with a soft leather shoe ab initio, didn’t we learn in the mishna (101a): If she performed ḥalitza with a soft leather shoe, her ḥalitza is valid, and the past tense wording indicates after the fact, yes, but it is not valid ab initio?

³² The Gemara answers: The same is true that one may perform ḥalitza with a soft leather shoe even ab initio, but since the tanna wished to teach in the latter clause of that mishna: If an anpileya, a soft shoe made of cloth, was used for ḥalitza, her ḥalitza is disqualified even after the fact, he also taught the first clause of the mishna using wording that indicates validity after the fact, even though it is in fact permitted even ab initio.

³³ The Gemara comments: And performing ḥalitza with a soft leather shoe ab initio is a dispute between tanna’im, as it is taught in a baraita, Rabbi Yosei said: One time I went to the city of

Netzivin in Babylonia, and I found there a certain Elder. I said to him: Do you know Rabbi Yehuda ben Beteira, who was from Netzivin? He said to me: Yes, and he is a frequent visitor at my table. I asked the Elder: Have you ever seen if he conducted the ḥalitza of a yevama?

³⁴ He said to me: I saw that he conducted ḥalitza many times. I asked him: Using a soft leather shoe or a hard leather sandal? He said to me: Does anyone allow performing ḥalitza with a soft leather shoe? But the Torah said: “His shoe [na’alo]” (Deuteronomy 25:9) and not: His shoe [minalo]. I said to him: If so, what did Rabbi Meir see that made him say that if a woman performed ḥalitza using a soft leather shoe her ḥalitza is valid?

³⁵ Rabbi Ya’akov says in the name of Rabbi Meir: One may perform ḥalitza using a soft leather shoe ab initio. The Gemara explains: And for the one who said one may not perform ḥalitza with a soft leather shoe ab initio, what is the reason for this?

³⁶ If we say that a soft leather shoe is disqualified because the upper side of the soft leather shoe [panta] is on his foot directly, and the straps [arketa] tied around the upper portion of the shoe are like a second shoe on top of the shoe that is directly on top of his foot, and the Torah says: “Remove the shoe from on his foot,” indicating that the entire shoe must be “on his foot” but not from on something else that is on his foot, if so, then even after the fact as well, it should not be fit for use. If a soft leather shoe is unfit for ḥalitza by Torah law, it should be prohibited under all circumstances.

³⁷ Rather, it is a rabbinic decree due to the concern that one might use a torn soft leather shoe, which may nevertheless be worn if torn due to its softness but is prohibited as it does not cover his foot. No similar concern exists with regard to a torn sandal, as due to its hard exterior it would never be worn if torn, and therefore there is no concern that it will be used for ḥalitza.

³⁸ Alternatively, it is a rabbinic decree due to concern that one might perform ḥalitza with a half shoe, as the ḥalitza shoe must cover most of the foot, yet there are some who wear soft leather shoes that cover only half of the foot. Therefore, there is a prohibition against using a soft leather shoe for ḥalitza ab initio for fear that a half shoe might also accidentally be used. No similar fear exists with a hard leather sandal as a half sandal is never worn.

³⁹ Rav said: If I had not seen my beloved uncle, Rabbi Ḥiyya, conduct a ḥalitza using a sandal with laces, I would not have conducted ḥalitza with anything other than a sandal of Arabs, which is more tight fitting and snug. The Gemara explains: And with regard to this sandal of ours, i.e., the customary sandal of that day, although it does have a ring [ḥumrata] on top to ensure that it will not fall off the foot easily, we tie a strap to it during ḥalitza in order to make it tighter, so that her ḥalitza will be of the highest standard. The strap is tied on so that the sandal will not come off by itself, to ensure that the yevama will have to untie the strap in order to remove the sandal.

⁴⁰ § The Gemara presents a mnemonic device for the following three halakhot that Rav Yehuda taught in the name of Rav: Hatarat, meaning release of; yevama; sandal. This mnemonic serves as a reminder that the release of a yevama is done through removing a sandal. Rav Yehuda said that Rav said: The release of a yevama to enable her marriage to a member of the public occurs when most of the heel is removed from the shoe. Even though the shoe has not been entirely removed, or even removed from most of the yavam’s foot; it is still permitted for her to remarry.

⁴¹ The Gemara raises an objection from the following baraita: If the straps of a soft leather shoe or a hard leather sandal were untied, but not through the actions of the yevama, or if the yavam removed

most of his foot from the shoe himself before the yevama completed the removal, her ḥalitza is disqualified.

⁴² The Gemara infers: The reason her ḥalitza is disqualified is specifically that he removed most of his foot and she only completed the removal, but had she removed most of the foot from the shoe, then her ḥalitza would be valid. The Gemara continues: If so, yes, only when the yevama removes most of the foot is the ḥalitza valid, but if she removed only most of the heel, it would not be sufficient.

⁴³ The Gemara rejects this question: No, most of the foot is the same as most of the heel, and therefore the inference should be that even if she removed most of the heel from the shoe the ḥalitza is valid. And why do they call it: Most of the foot? Because the whole weight of the leg puts pressure on the heel.

⁴⁴ The Gemara comments: This baraita supports Rabbi Yannai, as Rabbi Yannai said: Whether he unties the shoe and she removes it, or whether she unties it and he removes it, her ḥalitza is disqualified unless she both unties it and takes it off. And on the same topic, Rabbi Yannai asked: If she did not remove the sandal, but instead ripped it off him, what is the halakha? If she burned it using coals, what is the halakha? The Gemara presents the real issue in question: Is exposure of the foot the essential act of ḥalitza that we require, through any act of removing that which covers the foot, which exists here? Or perhaps it is removal of the shoe from over the foot that we require, which is lacking here? No answer was found to this question, so the Gemara concludes: The question shall stand unresolved.

⁴⁵ Rabbi Nehemya asked Rabba the following question: If the man was wearing two shoes, one on top of the other, what is the halakha? The Gemara asks: What are the circumstances of the case? If we say that she removed the outer shoe and the inner shoe remains in place, but the Merciful One states in the Torah: “From on his foot” and not: From on that which is on his foot. The Gemara answers: No, this question wasn’t asked in a case where the inner shoe remained on his foot. Rather, it is necessary in a case where she tore the outer shoe and took off the inner shoe, and the outer one still remains on his foot although it is torn. The question centers around the previous one with regard to the nature of ḥalitza: What is the halakha for valid ḥalitza? Is it removal of the shoe that we require, which we have brought about in this example? Or perhaps it is exposing the foot that we require, which is lacking here, as the foot is still covered by the torn outer shoe.

⁴⁶ The Gemara asks: Is there really a case like this where people wear one shoe on top of another? The Gemara answers: Yes, for the Sages saw Rav Yehuda, who went out once to the market wearing five pairs of shoes, which were similar to slippers, one on top of another.

⁴⁷ Rav Yehuda said another halakha that Rav said: An underage yevama who grew up among her husband’s brothers before any ḥalitza was performed is permitted to marry one of the brothers through levirate marriage, and we are not concerned about the possibility that during the time she was in the company of her yevamin she removed a sandal from one of them, and thereby she would have already performed ḥalitza. The Gemara infers from this statement: The reason it is permitted to perform levirate marriage now is specifically that we did not see her remove one of their shoes, but if in fact we did see her do so, we are concerned and treat her as a yevama who already performed ḥalitza and is thereby forbidden to all the brothers.

⁴⁸ The Gemara challenges: But isn't it taught in a baraita: Whether he intended to perform ḥalitza and she did not intend to, or whether she intended to perform ḥalitza and he did not intend to, the ḥalitza is invalid, unless they both intended it as one to perform a proper act of ḥalitza? The Gemara answers: This is what Rav said: Even if we did see that she removed a shoe from one of them, we are not concerned that perhaps they intended to perform ḥalitza.

⁴⁹ And there are those who say the inference from Rav's statement should be made in the opposite manner: The reason it is permitted for her to perform levirate marriage now is specifically that we did not see her remove a shoe from one of the brothers. But if we did see, we would be concerned and would treat her as a yevama who already performed ḥalitza, despite our knowledge that she did not intend to perform ḥalitza. And with regard to that which was taught in the baraita, that intention is required, this applies only as far as validating the act of ḥalitza in order to permit her to marry a stranger. But performing an act of ḥalitza even without intention is sufficient to disqualify her for the brothers, rendering prohibited an act of levirate marriage afterward.

⁵⁰ Rav Yehuda also said that Rav said: One may not perform ḥalitza using a sandal that was sewn together with threads made of flax, as it is stated: "And I made you shoes of taḥash skin" (Ezekiel 16:10), which is the skin of an animal, implying that a shoe is something made entirely of leather. The Gemara challenges: If the source is "taḥash," let us say: A shoe made of taḥash skin, yes, it is valid; but if made of anything else, no. The Gemara rejects this: Because "shoe" and "shoe" are written in the Torah multiple times, this amplifies and includes all types of shoes crafted from leather skins as valid for performing ḥalitza.

⁵¹ The Gemara asks: If the inclusion of the words "shoe" and "shoe" amplifies, then should one include as valid for performing ḥalitza shoes crafted from even any other materials as well, including those not produced from leather at all? The Gemara answers: If so, what purpose does "taḥash" serve, as nothing is learned from it? Rather, from the word taḥash it is derived that the shoe must be crafted entirely of leather, but all types of leather are included because the word "shoe" is repeated in the Torah numerous times.

⁵² Rabbi Elazar asked Rav: What is the status of the following type of sandal used for performing ḥalitza? In a case where it, the shoe itself, is made of leather, and the sections that hold its straps [tereisiyyot] are made of hair, as they were woven together with goat's hair, what is the halakha? He said to him: Do we not refer to such a sandal as: "And I made you shoes of taḥash"? Since it is crafted from material that comes from an animal it is valid. The Gemara asks: If that is so, i.e., that anything derived from an animal is valid, then even if it is fashioned entirely of hair it should also be valid. The Gemara answers: That would be called a slipper, not a shoe.

⁵³ Rav Kahana said to Shmuel: From where is it known that this phrase: "And she shall remove [ḥaltza] his shoe from on his foot" (Deuteronomy 25:9), means to remove? As it is written: "Then the priest shall command, and they shall take out [ḥiltzu] the stones in which the plague is" (Leviticus 14:40), indicating that the word ḥaltza means that they shall remove the stones from their place.

⁵⁴ The Gemara asks whether the word ḥaltza can be interpreted differently based upon its apparent meaning in other contexts: But could you say it is a term for strengthening, as it is written: "Arm [heḥaletzu] men from among you for the army" (Numbers 31:3), meaning that men among you will be strengthened and take up arms to prepare for battle? The Gemara answers: There too, the meaning

of the word is referring to taking something from its place, as it means removing people from their houses in order to go out to war.

⁵⁵ The Gemara challenges: But isn't it written: "He delivers [yehaletz] the afflicted by His affliction [be'onyo]" (Job 36:15)? This indicates that the afflicted one becomes stronger due to his affliction, as, if the intention was to deliver him from his affliction, it should have said: From His affliction, rather than "by His affliction." The Gemara answers that the verse should be interpreted as follows: Be'onyo, in other words, as reward for his suffering from affliction, He shall deliver him from the judgment of Gehenna, as is understood from the term be'onyo, through the reward due to his affliction.

⁵⁶ The Gemara challenges further: But with regard to that it is written: "The angel of the Lord encamps around those who fear Him and delivers them [vayehaltzem]" (Psalms 34:8), doesn't vayehaltzem rather mean: He shall strengthen them? The Gemara answers: The verse means: As a reward for those that fear Him, He shall deliver them from the judgment of Gehenna. Therefore, the Gemara interprets vayehaltzem as "delivers them," not as: Strengthens them.

⁵⁷ The Gemara challenges further: But with regard to that which is written: "And the Lord will guide you, and satisfy your soul in drought, and make your bones strong [yahalitz]" (Isaiah 58:11), and Rabbi Elazar said regarding that verse: This is the greatest of blessings, and Rava said it means: Strengthening of bones. This seems to indicate that the root of the word halitza is referring to strengthening. The Gemara answers: Yes, it has this connotation, and it has this connotation, i.e., the root ḥ-l-tz sometimes connotes removal and sometimes connotes strengthening. But here, only one meaning is possible, as, if it enters your mind that halitza here connotes strengthening, then let the Merciful One write in the Torah: She shall strengthen [ḥaletza] his shoe on his foot [beraglo], indicating that she should tighten the shoe on his foot, rather than stating: "From on his foot [me'al raglo]," which indicates that she is removing something from his foot.

⁵⁸ The Gemara responds: If the Merciful One had written in the Torah: On his foot [beraglo], I would have said she must strengthen and tighten the shoe on his foot, yes, but on his calf, no; and if his foot were amputated she may no longer perform halitza. Therefore, the Merciful One writes in the Torah: "From on his foot [me'al raglo]," to teach that she may strengthen the shoe even on his calf, which is part of the leg, or regel, above the foot. The Gemara answers: If so, and halitza really means strengthening, let the Merciful One write in the Torah: She shall strengthen his shoe on the upper part of his foot [beme'al raglo], indicating that the shoe can also be tightened on the area of the calf. What then is the meaning of "from on his foot [me'al raglo]," which is written in the verse? Learn from here that in this context the word halitza clearly indicates removal, meaning that the mitzva of halitza is for the yevama to remove the shoe of the yavam and not to tighten it on his foot.

⁵⁹ Parenthetical to this discussion, the Gemara relates: A certain heretic said to Rabban Gamliel: You, the children of Israel, are a nation whose Master removed [ḥalatz] Himself from them, for God has left you in much the same way in which a yavam would perform halitza with his yevama, as it is written: "With their flocks and with their herds they shall go to seek the Lord, but they shall not find Him. He has removed [ḥalatz] Himself from them [meihem]" (Hoshea 5:6). The heretic tried to use this verse as scriptural support that God has performed halitza with the Jewish people.

⁶⁰ He, Rabban Gamliel, said to him: Imbecile, does it say: He performed halitza to them [lahem]? Rather, it says "ḥalatz from them [meihem]," meaning it is as if they, the Jewish people, performed

ḥalitza on Him. But if a yevama had her shoe removed by her yevamin, does this have any significance? Here too, the meaning of the verse is that the nation of Israel abandoned God by removing themselves from Him, and this abandonment has no significance.

⁶¹ The Gemara analyzes the phrase used in the mishna that discusses the types of shoes that can be used for ḥalitza. It was taught in the mishna that if he was wearing a soft shoe [anpileya] made of cloth for ḥalitza, her ḥalitza is invalid. The Gemara explains: That is to say that an anpileya is not considered a shoe.

⁶² And we also learned similarly in a mishna (Shekalim 3:2): The one who collects the funds of shekels donated to the Temple from the chamber and puts them into baskets in order to be used may not enter to collect the funds wearing a garment [pargod] that is cuffed [ḥafut], nor wearing an anpileya, and needless to say that he may not enter wearing a shoe or a sandal, because one may not enter the Temple courtyard wearing a shoe or a sandal. It is prohibited for the one collecting funds from the chamber to enter the chamber wearing a garment or footwear in which money could be hidden, lest people come to suspect that he hid in them funds collected from the chamber. In any case, the wording of the mishna indicates that an anpileya is not considered a type of shoe, since it is permitted to enter the Temple wearing an anpileya when there is no reason for suspicion, unlike a shoe or sandal, which can never be worn in the Temple.

⁶³ And the Gemara raises a contradiction from a baraita concerning what footwear is permitted on Yom Kippur, which seems to indicate otherwise: The halakha is the same for a soft leather shoe, and a hard leather sandal, and an anpileya, as one may not walk in them from one house to another, nor from one bed to another on Yom Kippur, due to the prohibition against wearing shoes, indicating that at least as far as Yom Kippur is concerned, an anpileya is considered a shoe.

⁶⁴ Abaye said: There, with regard to Yom Kippur, it is referring to an anpileya that has cushioning, and this is forbidden due to the pleasure that one derives from cushioned footwear on a day when people are commanded to afflict themselves. Rava said to him: But is footwear that is not considered to be shoes forbidden on Yom Kippur due to the pleasure one derives from wearing them? But Rabba bar Rav Huna would wrap a scarf on his feet and go out on Yom Kippur so his feet would not be injured, implying that there is no prohibition against wearing something comfortable on one's foot, as long as it is not defined as a shoe. Rather, Rava said: This is not difficult. Here, when they said that an anpileya has the status of a shoe, it is referring to an anpileya made of leather. There, when they do not consider it a shoe, it is referring to an anpileya made of cloth.

⁶⁵ The Gemara adds: And so too, it is reasonable to distinguish in this manner, as, if you do not say so, it is difficult to reconcile the seeming contradiction between one statement about Yom Kippur and another statement about Yom Kippur. As it is taught in a baraita: A person shall not walk while wearing slippers [kordakisin] within his house on Yom Kippur, but he may walk while wearing an anpileya within his house. This would imply that wearing an anpileya is permitted, but the baraita quoted above taught that it is prohibited. Rather, must one not conclude from here that here, where it indicates that an anpileya is forbidden, it is referring to an anpileya made of leather, as they are considered like a shoe, and there, where an anpileya is permitted, it is referring to an anpileya made of cloth? The Gemara concludes: Indeed, learn from here that it is so.

⁶⁶ It is taught in a baraita in accordance with the opinion of Rava: If she performed ḥalitza using a shoe whose seams were opened up, which still covered most of the foot; or if she performed ḥalitza

with a sandal whose sole was partially opened that still held most of the foot; or if she performed ḥalitza with a sandal made of cork [sha'am], or of fibers from a tree; or with a prosthetic foot of an amputee; or with a felt shoe [muk]; or with a leg blanket that an amputee makes for his feet as a covering in which to put the stumps of his legs, which is not an actual shoe; or with a leather anpileya; and likewise, a woman who performs ḥalitza with her yavam when he is an adult man,

⁶⁷ whether the yavam is standing or sitting or leaning; and a woman who performs ḥalitza on a blind yavam; in all of these cases her ḥalitza is valid. But if she performs ḥalitza when he is wearing a shoe that is so torn that it does not cover most of the foot; or using a broken sandal that does not hold most of the foot; or using a hand blanket that the amputee wears on his hands, similar to a leather shoe, in order to drag himself using them; or using a soft shoe [anpileya] made of cloth; or a woman who performs ḥalitza with a yavam who is a minor; in all these cases her ḥalitza is disqualified.

⁶⁸ The Gemara comments: Who is the tanna who holds that an amputee's prosthetic is considered a shoe? It is Rabbi Meir, as we learned in a mishna (Shabbat 65b): One with an amputated leg may go out on Shabbat with his wooden leg, as it has the legal status of a shoe; this is the statement of Rabbi Meir. He reasons that the prosthesis functions like the shoe of any other person, indicating that Rabbi Meir is not especially concerned about the material from which the shoe is made. And Rabbi Yosei, on the other hand, prohibits the amputee from going out on Shabbat with his wooden leg, as he does not consider it a shoe that is being worn, but rather a wooden object that is being carried.

⁶⁹ The Gemara asks how Rabbi Meir can be the tanna of the baraita, as the continuation of the baraita states ḥalitza is disqualified if performed with an anpileya made of cloth, as this cloth shoe is not to be considered a shoe. If so, have we come to the opinion of the Rabbis, who rule in accordance with Rabbi Yosei, and render it prohibited to use any shoes for ḥalitza that are not made of leather?

⁷⁰ In an attempt to resolve the contradiction Abaye said: Since the latter clause of the baraita is in accordance with the Rabbis, who rule like Rabbi Yosei, the first clause is also in accordance with the Rabbis. And therefore the first clause, which permits the amputee's prosthesis, is referring to a prosthetic foot covered in leather, as it constitutes a shoe due to its leather exterior.

⁷¹ Rava said to him: But according to your explanation, if the prosthesis is not covered in leather, what would its status be? It would be unfit. If so, rather than teaching in the latter clause: Anpileya made of cloth is invalid for ḥalitza, let it distinguish within the matter itself and say: In what case is this statement that a wooden prosthesis is fit said? It is in the case of a prosthetic leg covered in leather, but if it is not covered in leather, it is unfit.

⁷² Rather, the fact that the baraita was not taught in that manner indicates that Abaye's explanation is incorrect. Therefore, Rava said that the contradiction should be reconciled in another way: Since the first clause of the baraita is in accordance with the opinion of Rabbi Meir, that the shoes need not be made of leather, the latter clause is also taught in accordance with the opinion of Rabbi Meir, and the distinction between a wooden prosthetic and an anpileya of cloth is: This prosthesis protects the foot, and that soft shoe does not protect the foot, as it does not have a hard sole. Rabbi Meir does not require that the shoe be of leather, but he does require that it be protective footwear.

⁷³ With regard to the statement in the baraita that indicates that ḥalitza may be performed even if the yavam is not standing, Ameimar said: The one who performs ḥalitza by having his yevama remove his shoe must press his foot to the ground, and while in this position the yevama will remove his shoe.

⁷⁴ Rav Ashi said to Ameimar: But isn't it taught in the baraita above: She may perform ḥalitza whether he was standing or sitting or leaning? One who is leaning cannot easily press his foot into the ground. He answered him: Say that the man may perform ḥalitza while in any of these positions, but that actually this is true only if he presses his foot to the ground, which is admittedly more difficult to do while leaning.

⁷⁵ And Ameimar also said about this issue: Someone who walks on the backs of his feet, meaning he is clubfooted and his foot is twisted upside down, cannot perform ḥalitza. Rav Ashi said to Ameimar: But isn't it taught in a baraita: Leg supports can be used for ḥalitza. Does this not mean that this lame individual performs ḥalitza using these supports on his knees? This would indicate that even one with twisted feet can perform ḥalitza. The Gemara answers: No, the intention is that if he gave these supports to another whose foot is shaped normally and he wore them while performing ḥalitza, it is valid. That other one is allowed to perform ḥalitza while wearing these supports because they are also considered shoes, but one whose foot is misshapen may not perform ḥalitza with them, as it functions for him as a foot, not a shoe.

⁷⁶ Rav Ashi said: According to what Ameimar said, bar Uva cannot perform ḥalitza and bar Kipof cannot perform ḥalitza, as these two, who were famous eulogizers in Rav Ashi's generation, had feet that became so crooked that they were unable to walk normally.

⁷⁷ It was taught in the mishna that if one's leg was amputated from the knee down and his yevama performed ḥalitza with him, the ḥalitza is valid. The Gemara raises a contradiction from a baraita that comments on the pilgrimage one makes to Jerusalem during a Festival. The Torah states: "Three Festivals [regalim] you shall celebrate for Me in the year" (Exodus 23:14). The baraita comments on the verse: Festivals are referred to in the verse as regalim, which literally means feet, indicating that one must actually make the pilgrimage to Jerusalem by foot [regel] during the Festival, which comes to exclude people who have prostheses. This indicates that a prosthetic foot is not called a regel, which seems to contradict the mishna that allows ḥalitza on a prosthetic from the knee down.

⁷⁸ The Gemara answers: It is different here, with respect to ḥalitza, as it is written: "She removes the shoe from on his foot [me'al raglo]" (Deuteronomy 25:9), which indicates that not only can his actual foot be used for performing ḥalitza, but also the part above it, i.e., the calf. The Gemara objects: If that is so, that one may use a part of his leg above his foot to perform ḥalitza, then if one's leg was amputated from above the knee, he should also be eligible for ḥalitza; and yet, the same mishna taught that only one with a leg amputated from below the knee is eligible for ḥalitza. The Gemara answers that the verse states: "From on his foot," meaning above his foot, but not: From on that which is on his foot; the wording indicates that it can be above his foot until the knee, but not any further above that.

⁷⁹ Rav Pappa said: Learn from here that the heel bone [istavira] reaches to the ground where it connects to the foot, for if it enters your mind to say that it is separate and divided, and there is another bone in between, then that ankle bone is "from on the foot" and the calf would be prohibited for ḥalitza, as it would be considered: From on that which is on his foot. Rav Ashi said: Even if you say that it is separate and divided from the calf, because anything that is connected with the sole of the foot is considered like the foot, then the ankle is certainly part of the foot, making the calf the area that is "from on the foot."

⁸⁰ It was taught in the mishna that if one's legs were amputated from the knee and above, the ḥalitza is invalid. This implies that the regel includes the calf but not the thigh. Rav Kahana raised an objection from the verse: "And against her afterbirth that emerges from between her legs [ragleha]" (Deuteronomy 28:57), implying that regel includes even the thighs. Abaye said: The verse actually means between her feet, as when a woman crouches to give birth, she pushes her heels into her thighs and she gives birth, so it appears as if the fetus emerges from between her feet.

⁸¹ The Gemara continues its challenge. Come and hear another verse: "He had neither dressed his feet [raglav], nor trimmed his beard" (II Samuel 19:25). The phrase "dressed his feet [raglav]" is referring to treating his pubic hair, implying that even the area around the thigh is referred to as regel. The Gemara answers: This is a euphemism. The Gemara attempts another challenge: Come and hear from another verse: "And Saul went in to cover his feet [raglav]" (I Samuel 24:3), meaning: To urinate, implying that regel refers even to the thighs. The Gemara answers: This is also a euphemism.

⁸² Come and hear the meaning of: His feet, from the following verse regarding the Moabite king, Eglon, which states: "Surely he is covering his feet [raglav] in the cabinet of the cool chamber" (Judges 3:24). The Gemara answers: This is a euphemism. The Gemara attempts another proof from a verse regarding Sisera's encounter with Yael: "At her feet [ragleha] he sunk, he fell" (Judges 5:27), which indicates that they had sexual intercourse, and implies that regel includes the thigh. The Gemara answers: This is also a euphemism.

⁸³ The Gemara elaborates on what happened when Sisera was in Yael's tent. Rabbi Yoḥanan said: That wicked man, Sisera, had sexual intercourse with Yael seven times that day, as it is stated: "At her feet he sunk, he fell, he lay; at her feet he sunk, he fell; where he sunk, there he fell down dead" (Judges 5:27). Each instance of the terms "sunk," "fell," or "lay" in the verse indicates an act of intercourse, as Yael sought to tire and weaken Sisera to enable her to kill him. The Gemara asks: But how could Yael do this even for the noble purpose of killing the wicked Sisera, as she derived pleasure from the transgression of licentious sexual relations with a gentile? Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yoḥai: Every act that is a benefit for the wicked

⁸⁴ is a disadvantage for the righteous, as a righteous individual gains no pleasure from this so-called beneficial act. As it is stated by God to Laban: "Take heed to yourself that you speak not to Jacob either good or bad" (Genesis 31:24). Granted, speak no bad; this is rightly so, i.e., understandable. But speak no good? Why not? Rather, learn from here that even something that would be a good benefit to the wicked like Laban, is a disadvantage for the righteous.

⁸⁵ The Gemara asks: Granted, there, in Laban's words to Jacob, it is understandable that there could be a certain repulsive aspect to a wicked man speaking nicely to a righteous individual, as perhaps he will mention to him the name of the idol he worships and even though he means well, it still would repulse Jacob. But here, what disadvantage is there if she derives benefit from licentious relations with a wicked man?

⁸⁶ The Gemara answers: He implants filth in her and contaminates her, as her body accepts his semen. As Rabbi Yoḥanan also said, based on his understanding that the serpent seduced Eve into having sexual relations with him: When the serpent came upon Eve, he infected her with moral contamination, and this contamination remained in all human beings. When the Jewish people stood at Mount Sinai their contamination ceased, whereas with regard to gentiles, who did not stand at

Mount Sinai, their contamination never ceased. Therefore, Yael was repulsed by the contamination that she allowed into her body, and she did not benefit from relations with Sisera.

⁸⁷ § It was taught in the mishna that if she performed ḥalitza using a shoe that was not his, the ḥalitza is valid. The Sages taught: From the verse “And remove his shoe from on his foot” (Deuteronomy 25:9), I have derived only that the yavam may wear “his shoe,” i.e., a shoe that belongs to him; from where do I derive that he may wear any person’s shoe? The verse states the words “shoe” and “shoe” twice: “And remove his shoe” (Deuteronomy 25:9), and “The house of he who had his shoe removed” (Deuteronomy 25:10), to teach us that in any case it is acceptable, i.e., the shoes of another person may also be worn for ḥalitza.

⁸⁸ But if so, what is the meaning when the verse states: “His shoe,” which seems to indicate that he must own the shoe that he is wearing? It teaches that one must wear “his shoe,” i.e., a shoe that is fitting for him, excluding a shoe so large that he is unable to walk in it, and excluding a shoe so small it does not cover most of his foot, and also excluding a heelless sandal [sandal hamesulyam], a sandal that has only a sole but does not have a heel and is not fit for walking.

⁸⁹ The Gemara relates: Abaye was standing before Rav Yosef and a yevama came to perform ḥalitza. Rav Yosef said to Abaye: Give the yavam your sandal so that the ḥalitza may begin. He gave him his left sandal. Rav Yosef said to him: Granted, one can say that the Sages said that it is permitted to perform ḥalitza with the left shoe after the fact, but did they say that it is also permitted ab initio?

⁹⁰ He said to him: If so, then also with regard to a sandal that does not belong to him, say that the Sages said that it is permitted after the fact; however, did they say it is permitted as well to perform ḥalitza using another’s shoe ab initio? Rav Yosef said to Abaye: This is what I was saying to you: Give him your sandal and transfer ownership to him by giving it to him as a temporary gift so that it will be his, and therefore the ḥalitza will be performed in an ideal manner, without any question as to its validity.

⁹¹ The mishna taught that if the yevama performed ḥalitza while the yavam was wearing a wooden sandal the ḥalitza is valid. The Gemara asks: Who is the tanna who taught that it is permitted to use a wooden sandal? Shmuel said: It is the opinion of Rabbi Meir, as we learned in a mishna (Shabbat 65b): One with an amputated leg may go out on Shabbat with his wooden leg, as it has the legal status of a shoe; this is the statement of Rabbi Meir. And Rabbi Yosei prohibits it, since he does not consider it to have the legal status of a shoe. Alternatively, the father of Shmuel says: Here the mishna is referring to a wooden sandal that is covered in leather, and all agree. This halakha was taught in accordance with all opinions, as even Rabbi Yosei agrees that the leather covering makes it a shoe.

⁹² Rav Pappi said in the name of Rava: One should not perform ḥalitza on a yavam wearing a quarantined sandal, i.e., a sandal examined by a priest who found its signs of leprosy to be inconclusive, and places the sandal in isolation for a waiting period of up to two weeks to see if clear indications of leprosy develop. But if she did perform ḥalitza while the yavam was wearing it, her ḥalitza is nevertheless valid after the fact. On the other hand, if the sandal with leprosy is a confirmed sandal, i.e., a sandal that was definitively ruled to have leprosy, one may not perform ḥalitza with it, and if she did perform ḥalitza while the man was wearing it, her ḥalitza is disqualified. As an object with confirmed leprosy must be burned, it is considered halakhically as if it were already burnt, and is consequently considered to lack the qualities of a shoe necessary for ḥalitza.

⁹³ In contrast, Rav Pappa said in the name of Rava: With regard to both a quarantined sandal and a confirmed sandal the same halakha applies: She may not perform ḥalitza with it *ab initio*, but if she did perform ḥalitza with it, her ḥalitza is valid.

⁹⁴ The Gemara raises an objection to Rav Pappa's version, from a mishna (Nega'im 13:4): A quarantined house, i.e., one in which a discoloration appeared and was then quarantined by a priest until it could be determined whether it would be deemed a confirmed house of leprosy or not, renders one who touches it ritually impure from within, i.e., if one touches the inside of the house he becomes ritually impure; a house with confirmed leprosy renders one impure not only from touching it inside from within, but additionally from touching it behind, by touching it on the outside; and both this and that, i.e., both a quarantined house and a confirmed house, impart ritual impurity through entering it, as one who enters into either house becomes ritually impure, even if he does not touch the walls.

⁹⁵ The Gemara elaborates: And if it enters your mind to say that an item with confirmed leprosy is considered as if it were crushed and not intact due to the requirement to burn it, then in order to contract ritual impurity through entering a house with leprosy, we require that there be a house, as the verse states: "Moreover, one who enters the house...shall be ritually impure" (Leviticus 14:46)? And this requirement is not satisfied here, as the house confirmed with leprosy must be burned and consequently should be considered as if it is crushed and not intact.

⁹⁶ The Gemara answers: There it is different, as the verse states: "And he shall break down the house" (Leviticus 14:45), which teaches that even while it is being broken down it is still called a house, until it is totally destroyed. Therefore, although for other purposes, objects that are required to be burned are considered crushed, the verse explicitly teaches that a house confirmed with leprosy is considered intact with regard to its ability to transmit ritual impurity to those who enter it.

⁹⁷ Come and hear a proof from the Tosefta (Nega'im 7:3): If a rag that is three fingerbreadths by three fingerbreadths has a spot of leprosy, then even if it does not contain the minimum volume of an olive-bulk, once most of the rag enters a pure house it renders the house ritually impure. What, is it not referring to a rag with confirmed leprosy, implying that one should calculate its measurements even when its leprosy is confirmed and it is destined to be burned? The Gemara rejects this assumption: No, this is referring to a quarantined rag, which does not have to be burned and is consequently considered intact. It can be measured to determine if it has the minimum measurements required for imparting ritual impurity.

⁹⁸ The Gemara challenges: If you interpret it so, say the latter clause: If the rag was the volume of several olives, i.e., it was very thick and even a small section of the cloth was equal to an olive-bulk, when one olive-bulk of the rag enters a ritually pure house, even if it is a small portion of the rag, it renders the house ritually impure.

⁹⁹ Granted, if you say that the entire baraita is referring to a rag with confirmed leprosy, this is so because a confirmed leper is juxtaposed with and thereby compared to a dead person (Numbers 12:12), and therefore an olive-bulk of the rag causes ritual impurity just as an olive-bulk of a corpse does. But if you say it is speaking about a quarantined rag, why should it be juxtaposed to a dead person? There is no biblical source comparing a quarantined leper to a corpse, and therefore, there is no reason to think that an olive-bulk of a rag transmits ritual impurity. Only if the rag is of the minimum dimensions and the entire rag enters the airspace does it transmit ritual impurity.

¹⁰⁰ The Gemara answers: That is correct; the baraita is referring to a rag with confirmed leprosy, but nevertheless it is not difficult for Rav Pappi. Although generally objects that are required to be burnt are considered crushed even before they are burnt, this is not true with regard to a garment with leprosy. There the halakha for a garment that has confirmed leprosy is different, as the verse states: “And he shall burn the garment” (Leviticus 13:52), which indicates that even when it is being burned, it is still called a garment.

¹⁰¹ The Gemara asks: If your interpretation above is correct, that a garment with confirmed leprosy can still transmit ritual impurity even though the object is to be burned and should be considered crushed, let us learn from this concerning a sandal that even after it has been definitively determined to have leprosy, it is still considered a shoe and should be eligible for ḥalitza, at least after the fact, in accordance with Rav Pappa’s opinion. The Gemara answers: We cannot derive a halakha of a prohibition from a halakha of ritual impurity, as these different areas of halakha cannot be compared. Therefore, although a garment with leprosy is considered intact with regard to the transmission of ritual impurity, that status cannot act as a source to teach that it is intact for the purpose of ruling that ḥalitza performed with a shoe with confirmed leprosy is valid.

¹⁰² The Gemara cites Rava’s final ruling: Rava said that the halakha is the same for a quarantined sandal, a confirmed sandal, and a sandal of idolatrous worship, i.e., a sandal that was placed on a statue of idolatrous worship; one should not perform ḥalitza with it, and if she did perform ḥalitza with it, her ḥalitza is valid. If, however, he was wearing a sandal that functioned as an offering of idolatrous worship, in that it was brought as a gift to an idol;

¹⁰³ or a sandal belonging to an inhabitant of an idolatrous city, a city the majority of whose inhabitants committed idolatry, which stands to be destroyed with all of the city’s property; and likewise, the sandal of an Elder made in accordance with his dignity to be worn upon his death as part of his shroud, i.e., it is not meant for walking as a normal shoe, the yevama may not perform ḥalitza using any of these shoes. And if she did perform ḥalitza, her ḥalitza is invalid even after the fact, as these are not halakhically considered shoes.

¹⁰⁴ Ravina said to Rav Ashi: What is different about the sandal of an Elder that is made in accordance with his dignity that one should say that even though it is the proper size for his foot, it is not valid because it was not made for walking, but merely for him to wear after his death. But the court’s sandal also was not made for walking, as the court kept a sandal that met all the other necessary qualifications for a sandal for ḥalitza and gave it to the yavam to be worn during the ḥalitza procedure. Since the yavam would return the ḥalitza sandal after the conclusion of the ḥalitza, therefore, the sandal was never used for walking and should be invalidated for ḥalitza just as the sandal made for the dignity of an Elder?

¹⁰⁵ He said to him: If a messenger of the court had walked in the ḥalitza shoe used by the court, would the judge reprimand him? Although the court’s sandal was designed for the express purpose of ḥalitza, it may also be used for walking. A shoe designed for a dead person, on the other hand, is forbidden for any other use and is not made for walking at all, and it is consequently disqualified.

¹⁰⁶ MISHNA: If a woman performed ḥalitza at night, her ḥalitza is valid, but Rabbi Elazar invalidates it. If she performed ḥalitza on the left foot, her ḥalitza is invalid, but Rabbi Elazar validates it.

¹⁰⁷ GEMARA: Let us say that they disagree about this issue: One Sage, Rabbi Elazar, holds that we compare the halakhot governing monetary disputes, which category includes ḥalitza, as ḥalitza carries with it monetary ramifications and requires payment of the marriage contract to the yevama, with the halakhot of leprosy. Just as leprosy cases are judged only during the day (see Leviticus 13:14), likewise, monetary cases may take place only during the day. And one Sage, the first tanna, holds that we do not compare monetary disputes with leprosy.

¹⁰⁸ The Gemara responds: No, everyone holds that we do not compare monetary disputes with leprosy, for if we would compare them fully, then even delivering the verdict of the court case could not be done at night, but it is permitted to complete monetary judgments and deliver the verdict at night, provided the proceedings began during the day. And here, with respect to performing ḥalitza at night they disagree about this issue: One Sage, Rabbi Elazar, holds that ḥalitza is considered like the commencement of judgment of monetary cases, and one Sage, the first tanna, holds that ḥalitza is considered like the verdict of a monetary judgment, and therefore it may also be conducted at night.

¹⁰⁹ It is told: Rabba bar Ḥiyya Ketosfa'a, from Ctesiphon, conducted ḥalitza using a slipper that was not made of leather, and he did so in private, as he was the only judge, and by night. Shmuel said disparagingly: How great is the power of this master who follows an individual opinion, as in his practice he relied on individual opinions that are not accepted as halakha.

¹¹⁰ The Gemara asks: What is difficult for Shmuel about Rabba bar Ḥiyya's actions? If it was the fact that he conducted ḥalitza using a slipper, an unattributed opinion is taught in a baraita stating that this is valid. As the opinion is unattributed, this indicates that it is not the view of one individual, but rather the opinion of the majority. If it was the fact that he performed ḥalitza at night, an unattributed opinion is taught in the mishna stating that it is valid as well.

¹¹¹ Rather, it was difficult for him that Rabba bar Ḥiyya conducted ḥalitza in private, as the sole judge: How could he do so in private, as that is taught only in accordance with an individual opinion, as we learned in a mishna: If she performed ḥalitza before two or three judges and one of them is found to be a relative or disqualified, her ḥalitza is invalid. And Rabbi Shimon and Rabbi Yoḥanan the Cobbler validate the judge who is not a relative or disqualified. If there are two judges who are not relatives, then they hold that the ḥalitza is valid, as they validate a ḥalitza performed before two judges. And an incident occurred involving one who performed ḥalitza between him and her alone in prison, as there was no judge present at all, and the incident came before Rabbi Akiva and he validated it.

¹¹² And Rav Yosef bar Minyumi said that Rav Naḥman said: The halakha does not follow that pair, i.e., Rabbi Shimon and Rabbi Yoḥanan the Cobbler. Evidently, Rabba bar Ḥiyya relied on the individual opinion of Rabbi Akiva, who permitted ḥalitza in private, and therefore Shmuel commented regarding Rabba bar Ḥiyya's power to rule based on an individual's opinion. And if you wish, say that not only does this detail follow an individual opinion, but rather all of these details are taught by an individual opinion. As it is taught in a baraita: Rabbi Yishmael, son of Rabbi Yosei, said: I saw that Rabbi Yishmael ben Elisha performed a ḥalitza using a slipper, in private, and at night. This statement implies that these details are all according to his individual opinion, contrary to the opinion of the rest of the Sages.

¹¹³ It was taught in the mishna that if ḥalitza was performed using his left foot, her ḥalitza is invalid, while Rabbi Elazar validates it. The Gemara asks: What is the reason of the Rabbis' opinion? Ulla

said: We derive a verbal analogy from the word “foot” stated here, and the word “foot” stated regarding the leper. Just as there, with respect to the leper, it is the right foot (Leviticus 14:14), so too here, with respect to ḥalitza, it is the right foot that must be used.

¹¹⁴ The Gemara notes: And this would seem to indicate that Rabbi Elazar does not derive “foot” with regard to ḥalitza from the word “foot” from the leper. But isn’t it taught in a baraita: Rabbi Elazar says: From where is it derived that piercing a Hebrew slave’s ear with an awl when the slave chooses to remain in servitude is done specifically on the right ear? “Ear” is stated here in the halakhot pertaining to a pierced slave, and “ear” is stated there in the halakhot of the leper. Just as there, with regard to leprosy, it is the right ear, as it is stated explicitly there, so too here, with regard to piercing the ear, it is the right ear. This statement of Rabbi Elazar implies that he does learn a verbal analogy about the word “right.”

¹¹⁵ Rav Yitzḥak bar Yosef said that Rabbi Yoḥanan said: The attribution of the opinions is reversed, meaning that it is Rabbi Elazar who invalidates ḥalitza on the left foot, as he learns an analogy from the halakha with regard to piercing the ear that the right must be used.

¹¹⁶ Rava said: Actually, do not reverse the opinions. The words “ear” and “ear” are free terms, i.e., they are superfluous in their context and therefore it is clear that the Torah included those terms for the express purpose of establishing the verbal analogy. A verbal analogy that is based on otherwise extraneous terms cannot be logically refuted. Therefore, the superfluous “ear” teaches that piercing is done on the right ear. However, the words “foot” and “foot” are not free, because the word “foot,” written with regard to the yavam, is necessary in its context and is not superfluous. Therefore, the verbal analogy of the word “foot” is incomplete.

¹¹⁷ The Gemara asks: And even if they are not both free to be used for exposition, what refutation is there? A verbal analogy that is free to be used for exposition in only one place is still valid, provided there is no reason to refute the comparison. The Gemara explains: It can be refuted, as the leper is unique in that there is a very specific process necessary for his purification: He requires that the blood of the offering be sprinkled upon him, and he requires cedarwood, hyssop, and scarlet thread. Therefore, it is possible to say that the Torah also specified the use of the right foot in the case of the leper. However, this would not necessarily be required with respect to ḥalitza, which lacks such specific halakhot. Consequently, ḥalitza performed using the left foot could be valid.

¹¹⁸ MISHNA: If she, i.e., the yevama, removed the shoe and spat in accordance with the halakha but did not recite the necessary text, her ḥalitza is valid. If she recited the text and spat but did not remove the shoe, her ḥalitza is disqualified. If she removed the shoe and recited the text but did not spit, Rabbi Elazar says: Her ḥalitza is disqualified, while Rabbi Akiva says: Her ḥalitza is valid.

¹¹⁹ Rabbi Elazar said to him: The verse states: “So shall it be done to the man who does not build his brother’s house” (Deuteronomy 25:9). “So” is an exclusionary term indicating that only precisely in this fashion is ḥalitza valid. Therefore, any term that constitutes an action for ḥalitza is indispensable. Rabbi Akiva said to him: You derive proof from there? But it states: “So shall it be done to the man” indicating that only a term constituting an action toward the man, namely any aspect of ḥalitza that concerns the man’s body, such as removal of his shoe, is indispensable. But spitting, which does not involve the man, although it takes place in his presence, is not indispensable.

¹²⁰ The mishna lists additional halakhot with regard to ḥalitza. If a deaf-mute man underwent ḥalitza, or a deaf-mute woman performed ḥalitza, or if an adult woman performs ḥalitza with a male minor,

her ḥalitza is invalid and the woman may not marry. If a female minor performed ḥalitza, she must perform ḥalitza a second time once she becomes an adult, and if she does not perform the second ḥalitza, her first ḥalitza is invalid. If she performed ḥalitza before two or three judges and one of them is found to be a relative or disqualified as a judge for some other reason, her ḥalitza is invalid. Rabbi Shimon and Rabbi Yoḥanan the Cobbler validate the ḥalitza in this case. And an incident occurred involving a certain person who performed ḥalitza between him and her alone in prison, i.e., not in the presence of others, and the case came before Rabbi Akiva and he validated it.

¹²¹ GEMARA: Rava said: Now that you have said that recitation of the text is not indispensable in order for the ḥalitza to be valid, therefore if a mute man or a mute woman performed ḥalitza, their ḥalitza is valid. Although the statements should be recited ab initio, since the recitation is not indispensable, mute individuals can perform ḥalitza.

¹²² The Gemara challenges: But we learned in the mishna above: If a deaf-mute man underwent ḥalitza, or a deaf-mute woman performed ḥalitza, or if a woman performs ḥalitza with a male minor, her ḥalitza is invalid. What is the reason that the ḥalitza is invalid? Is it not because they are not competent to recite the text, thereby indicating that the recitation is necessary even after the fact? The Gemara rejects this assertion: No, the reason for disqualifying a deaf-mute man and woman is because they are not considered to have intellectual capacity, and therefore their actions do not have halakhic significance.

¹²³ The Gemara asks: If that is so, let us also say that a mute man and woman do not have intellectual capacity. Rava said: A mute man and woman do have intellectual capacity. Rather, it is their mouth that hurts them. Mute individuals have full intellectual capacity; they merely lack a means of expression. The deaf-mute, on the other hand, is not considered to have the mental capacity to speak.

¹²⁴ The Gemara challenges again: But didn't the scholars from the house of study of Rabbi Yannai say that a deaf-mute man and woman are disqualified from participation in ḥalitza because they cannot fulfill the requirements of "he says" (Deuteronomy 25:8) and "she shall say" (Deuteronomy 25:9), and not due to insufficient intellectual capacity? Rather, when that first statement of Rava was said, it was stated concerning the latter clause of the mishna: If a deaf-mute man underwent ḥalitza, or a deaf-mute woman performed ḥalitza, or if a woman performs ḥalitza on a male minor, her ḥalitza is invalid.

¹²⁵ Rava said: You have now said that recitation is indispensable, as can be inferred from the mishna disqualifying the deaf-mute. Therefore, if a mute man or woman performed ḥalitza, their ḥalitza is invalid. And the mishna, which indicates in its first clause that recitation is not indispensable, but later states that ḥalitza performed by someone incapable of recitation is invalid, is in accordance with the opinion of Rabbi Zeira with regard to a meal-offering. A meal-offering is generally a mixture of flour and oil. If flour is added to the oil but they are not mixed, they are considered to be fitting to be mixed so long as there is not an excessive amount of flour.

¹²⁶ This is that which Rabbi Zeira said: Whatever is fitting to be mixed, mixing is not indispensable to it, and it is valid even if it is not mixed. And whatever is not fit to be mixed, e.g., if the quantity of flour is so great that the ingredients cannot be properly mixed, mixing is indispensable for it and it is invalid if it has not been mixed. From here one may learn a general halakhic principle: There are some actions for which their actual performance is not indispensable, provided they are capable of

being performed. An action becomes indispensable only if one is unfit or unable to perform it. With regard to recitation of the verses, although it is not indispensable, a mute person is disqualified from performing ḥalitza because he is not capable of reciting the verses.

¹²⁷ They sent the following teaching from Eretz Yisrael to the father of Shmuel: Once a yevama has spat she must perform a complete ḥalitza and may not enter into levirate marriage. The Gemara comments: By inference, you may learn that even though the spitting did not permit her to marry outside the family, she is disqualified from entering into levirate marriage with any of the brothers, and must therefore complete the ḥalitza.

¹²⁸ The Gemara asks: In accordance with whose opinion is this halakha taught? If we say it is in accordance with Rabbi Akiva, who stated in the mishna that spitting is not required after the fact, it is difficult, as the following a fortiori reasoning indicates: Now if even in a case where there is a mitzva of ḥalitza, and the yevama is still around and capable of fulfilling the Torah command of spitting, and one might say that spitting should be treated just as it is with regard to the fatty portions of offerings that are to be consumed on the altar, where the halakha is that when they are not present for offering, i.e., they were lost or became ritually impure, they are not considered indispensable to permit the consumption of the offering.

¹²⁹ When the fats of the offering are no longer present for offering, it is permitted for the sacrificial meat to be eaten by the priests through the sprinkling of blood alone, even without offering the fatty portions on the altar. But when the fatty portions are present and extant, then they are considered indispensable, and the priests are not permitted to eat their portions of the offering until the fatty portions are burned on the altar.

¹³⁰ Based on an analogy to the fatty portions of offerings, one would have said regarding the spitting of a yevama that even if it is not indispensable after the fact, so long as the yevama is around, one would expect that her spitting is indispensable. Yet even so, Rabbi Akiva said in the mishna that spitting is not indispensable to ḥalitza even in such a case, and the ḥalitza is validated by the removal of the shoe alone. Since Rabbi Akiva seems to accord little significance to the spitting, he cannot be the basis for this halakha, as if spitting is never indispensable, could spitting alone disqualify her from entering into levirate marriage with one of the brothers?

¹³¹ But rather, one might say that this teaching is in accordance with the opinion of Rabbi Elazar, who disagrees with Rabbi Akiva and states in the mishna that spitting is indispensable for validating ḥalitza and is necessary alongside the removal of the shoe. Since he accords significance to the spitting, one might have thought that the teaching prohibiting the yevama from levirate marriage is in accordance with his view.

¹³² But that is difficult as well, as according to Rabbi Elazar, removal of the shoe and spitting are both necessary, and therefore, they are considered two permitting factors that must be completed in order to fulfill an obligation. And there is a principle accepted by Rabbi Elazar with regard to offerings that should be applicable here: Whenever there are two permitting factors that are indispensable for an offering to be valid, one of those factors cannot elevate one of the subordinate components of the offering to consecrated status without the other. Similarly, since Rabbi Elazar holds that ḥalitza and spitting are both indispensable, if she performs only one of these actions, such as spitting, it is only one of two permitting factors and therefore should not disqualify her for levirate marriage with one of the other yevamin.

¹³³ Rather, one must say that this teaching is in accordance with the opinion of Rabbi Yehuda HaNasi, who is of the opinion that even one of two permitting factors can effect a change in status without performance of the other factor, as it is taught in a baraita: The lambs sacrificed on the festival of Assembly, i.e., Shavuot, consecrate the loaves that accompany them only by means of their slaughter, as the slaughtering of the lambs consecrates the bread.

¹³⁴ How so? If one slaughtered the lambs for their own sake, i.e., as lambs for Shavuot, and the priest sprinkled their blood for their own sake, the loaves are consecrated. However, if one slaughtered them not for their own sake, and the priest sprinkled their blood for their own sake, the loaves are not consecrated, as the factors indispensable in rendering the offering valid were not properly performed. If one slaughtered them for their own sake, and he sprinkled their blood not for their own sake, the fact that the lambs were properly slaughtered renders the loaves partially consecrated. Therefore, the loaves are consecrated to the extent that they cannot be redeemed, but they are not consecrated to the extent that they may be eaten. This is the statement of Rabbi Yehuda HaNasi.

¹³⁵ Rabbi Elazar, son of Rabbi Shimon, says: Actually, the loaves are consecrated only when one slaughters the offerings for their own sake and sprinkles their blood for their own sake, i.e., only if both factors indispensable in rendering the offering valid were properly performed. If so, the teaching sent from Eretz Yisrael seems to be in accordance with Rabbi Yehuda HaNasi's opinion that even if only one of the two permitting factors of slaughter and sprinkling was performed, the loaves will still be consecrated. Likewise, with respect to *ḥalitza*, where there is a need for two permitting factors, spitting and removal of the shoe, performing one factor such as spitting is sufficient to disqualify the *yevama* from subsequently entering into levirate marriage.

¹³⁶ The Gemara questions the previous assumption with regard to Rabbi Akiva's opinion on the matter: But did Rabbi Akiva say that spitting does not disqualify the *yevama* from a later levirate marriage to one of the other brothers? But isn't it taught in a baraita: If she removed the shoe but did not

¹³⁷ spit and did not recite the verses, her *ḥalitza* is valid. If she spat but did not remove the shoe and did not recite the text, her *ḥalitza* is disqualified. If she recited the verses but did not spit or did not remove the shoe, there is no doubt that she has done nothing, and her action has no halakhic significance.

¹³⁸ The Gemara clarifies: Who is the author of the baraita? If we say it is in accordance with the opinion of Rabbi Eliezer, could it be that he would hold that if she removed the shoe but did not spit or did not recite the verses, her *ḥalitza* is valid, as stated in the baraita? But didn't Rabbi Eliezer say: The phrase "so shall it be done" (Deuteronomy 25:9) indicates that any element of the *ḥalitza* process that constitutes an action is indispensable; therefore spitting is necessary. Rather, it is obvious that the baraita is in accordance with the opinion of Rabbi Akiva, and he teaches at the end of the baraita that if she spat but did not remove the shoe or did not recite the text, her *ḥalitza* is disqualified. The Gemara clarifies: To whom is the *yevama* disqualified from marrying after such a *ḥalitza*?

¹³⁹ If we say that Rabbi Akiva means to teach us that she is disqualified from marriage to everyone in the world, this is unnecessary, as it is clear that spitting alone will not permit her to marry any stranger. It is obvious that her *ḥalitza* is invalid, as did any *ḥalitza* take place in order for her to be permitted to a stranger? Rather, is it not clear that Rabbi Akiva is ruling that she is disqualified from marriage to the brothers? Learn from here that Rabbi Akiva also thinks that spitting alone disqualifies

her from marriage to the brothers, which is not in accordance with the previous assumption with regard to his opinion.

¹⁴⁰ The Gemara asks: But according to Rabbi Akiva's understanding that only an action performed on the body of the yavam is indispensable for ḥalitza, what is different about spitting and what is different about recitation? Both are not indispensable, so why is it that if she spat but did not remove the shoe she is disqualified from marriage to the brothers, yet if she recited the text but did not remove the shoe her action has no halakhic significance?

¹⁴¹ The Gemara answers: Rabbi Akiva finds a reason to rabbinically prohibit the woman after spitting, yet holds that the reason is not valid after the recitation alone. The recitation of the verses, which takes place both at the beginning of the process, before the removal of the shoe, and at the end, will not cause him to be confused about a proper ḥalitza, as one who witnesses her recitation knows that she may have only recited the text but has not yet removed the shoe, and therefore it will cause no harm to invalidate her ḥalitza and permit her in levirate marriage to the yevamin. But with regard to spitting, which does not take place at the beginning but takes place at the end, after the removal of the shoe, one who witnesses her spitting might assume that she had already removed the shoe, and he might confuse this woman with a woman who removed the shoe, and if we would allow her to perform levirate marriage after the spitting, they will come to permit a yevama who performed ḥalitza to marry the brothers of the yavam after the ḥalitza. Therefore, Rabbi Akiva finds reason to rabbinically prohibit a woman after spitting, although he doesn't do so if they merely recited the verses of ḥalitza.

¹⁴² And there are those who say that this is what they sent to Shmuel's father: A yevama who spat before removing the shoe shall remove the shoe, and she is not required to spit another time. This is like the incident where a certain woman came before Rabbi Ami for ḥalitza, and Rabbi Abba bar Memel sat before him at the time. She spat before she removed the shoe. Rabbi Ami said to him: Rabbi Abba, tell her to remove the shoe of the yavam, so one may dismiss her case from the court, as she does not require another act of spitting.

¹⁴³ Rabbi Abba said to him: But for ḥalitza we need her to spit. He answered: She already spat. Rabbi Abba said to him: That spitting was done before the removal, so let her spit again, and what would be the problem with that? He answered him: A disaster could be brought out from it, as, if you say she should spit again there will be others who say: The first spitting has no halakhic significance and she is still permitted to the brothers if no spitting was performed subsequently, and they will come to permit a bona fide ḥalitza, i.e., a yevama who has performed ḥalitza, to the brothers, because when they see her spitting the first time they will say that she certainly already removed the shoe beforehand.

¹⁴⁴ He challenged again: But we require that ḥalitza be performed in the proper order, as recorded in the Torah. He answered him: Their proper order is not indispensable. Rabbi Abba bar Memel thought: He is merely pushing off my legitimate questions with far-fetched attempts to justify his statements that are not well founded. Afterward, he went out from the house of study and examined the matter and discovered that it was as Rabbi Ami said. As it is taught in a baraita: Whether the removal of the shoe preceded the spitting, as the proper order requires, or whether the spitting preceded the removal of the shoe, what he did is done, i.e., is effective, as the woman is therefore permitted to remarry.

¹⁴⁵ Apropos adherence to instructions given in the Torah, the Gemara relates a story. Levi went out to the villages to teach people Torah. They asked him several questions: Firstly, what is the halakha for an armless woman, may she perform ḥalitza with her teeth? Secondly, what is the halakha if a yevama spat blood instead of saliva, is the ḥalitza valid? Furthermore, they asked with regard to the verse: “But I will declare to you that which is inscribed in the writing of truth” (Daniel 10:21), if by inference, there is writing in Heaven that is not truth.

¹⁴⁶ He did not have an answer at hand to these questions, so he came and asked at the house of study. They said to him in response to the first question: Does it say in the Torah: And she shall remove the shoe by hand? Clearly, she may remove the shoe in any manner and there is no reason to disqualify an armless woman. With regard to the second question, they said: And does it say in the verse: And she shall spit saliva? It merely states: “And she shall spit,” indicating that even if she spits blood the ḥalitza is valid.

¹⁴⁷ With regard to the verse cited in the third question: “But I will declare to you that which is inscribed in the writing of truth,” about which you ask: But is there writing in Heaven that is not truth?

¹⁴⁸ This is not difficult. Here, i.e., a writing of truth, refers to a sentence of judgment accompanied by an oath; this is called “writing of truth” as it cannot ever be canceled. There, i.e., the inferred untruthful writing, refers to a sentence of judgment that is not accompanied by an oath, as it could be canceled if conditions change.

¹⁴⁹ This is in accordance with the words of Rav Shmuel bar Ami, as Rav Shmuel bar Ami said that Rabbi Yonatan said: From where is it derived that a sentence of judgment accompanied by an oath cannot be torn up? It is as it is stated: “Therefore I have sworn unto the house of Eli, that the iniquity of Eli’s house shall not be atoned for with sacrifice nor offering forever” (I Samuel 3:14), which indicates that due to the accompanying oath, the sentence of judgment cannot ever be rescinded, even if offerings of atonement are brought.

¹⁵⁰ Apropos this verse, the Gemara mentions what Rabba said with regard to it: With sacrifice and offering, one from the house of Eli will not be atoned for, but he may gain atonement through words of Torah study. Abaye said: Through sacrifice and offering he may not achieve atonement, but he may gain atonement through acts of kindness. The Gemara relates that Rabba and Abaye themselves descended from the house of Eli. Rabba, who immersed himself primarily in Torah study, lived forty years, while Abaye, who immersed himself both in Torah and acts of kindness, lived sixty years. They both lived longer lives than usual for descendants of the house of Eli, due to their actions.

¹⁵¹ The Gemara relates a similar story from a baraita: The Sages taught: There was a certain family in Jerusalem whose children were dying at around age eighteen. The members of the family came and told Rabban Yoḥanan ben Zakkai about these tragic deaths. He said to them: Perhaps you are from the house of Eli, as it is stated: “All the increase of your house shall die young men” (I Samuel 2:33), which teaches that as soon as they reach full maturity, old enough to be called “men,” they die. Therefore, you must go out and immerse yourselves in Torah, and you will live. They went and immersed themselves in Torah and lived longer lives, and people would call them: The family of Yoḥanan, after his name, as the advice he gave them enabled them to live.

¹⁵² With regard to a decree of judgment that cannot be torn up, Rav Shmuel bar Unya said that Rav said: From where is it derived that a sentence of judgment upon a community is never sealed? The

Gemara expresses surprise: Is it truly not sealed? But isn't it written: "For although you wash yourself with niter, and take much soap for yourself, yet your iniquity is marked before Me" (Jeremiah 2:22), indicating that there is no longer any atonement for iniquity of a community.

¹⁵³ Rather, one must say as follows: From where is it derived that even when a community's sentence is sealed, it may be torn up as a result of repentance, as it is stated: "For what great nation is there, that has God so close unto them, as the Lord our God is whenever we call upon Him?" (Deuteronomy 4:7). The Gemara objects: But isn't it written in another verse: "Seek the Lord while He may be found, call upon Him when He is near" (Isaiah 55:6), implying that God is not always near and may not always answer whenever we call upon Him? The Gemara answers: This contradiction is not difficult. This verse is concerning an individual who must seek God where He is found, as He is not always equally accessible to answer those who call out to Him. That first verse is concerning a community, for whom He is accessible "whenever we call upon Him."

¹⁵⁴ The Gemara asks: For an individual, when is the time that God is close to him? Rav Nahman said that Rabba bar Avuh said: These are the ten days that are between Rosh HaShana and Yom Kippur.

¹⁵⁵ The Gemara returns to the questions the villagers asked Levi: The Sages in Eretz Yisrael sent this halakha to Shmuel's father: A yevama who spat blood shall remove the shoe, because it is not possible that blood came out of her mouth without any trace of saliva, and she fulfills her obligation through this saliva.

¹⁵⁶ The Gemara raises an objection from a baraita that states with regard to a zav: One might have thought that blood that issues from his mouth or from the opening of his genital organ should be ritually impure, like any of the secretions that issue from a zav e.g., saliva and urine; therefore, the verse states: "His discharge is impure" (Leviticus 15:2), to teach: Only his white, pus-like discharge and other secretions similar to it are ritually impure, but blood that issues from his mouth or from his genital organ is not impure, but it is pure. And from here one may learn that blood can issue from the mouth without saliva, for if it was as they said, that all spittle necessarily contains saliva, the blood in the spittle would be ritually impure due to the saliva.

¹⁵⁷ The Gemara answers: This is not difficult. Here, where it said that blood cannot issue from the mouth without saliva, it is referring to a woman who sucks up the blood in her mouth before spitting it out, in which case there will certainly be some saliva in the mouth. There, it is referring to blood that was flowing by itself from an oral wound of the zav, in which case the spittle of blood might contain no saliva in it at all.

¹⁵⁸ It was taught in the mishna: if a deaf-mute man underwent ḥalitza or a deaf-mute woman performed ḥalitza, or if an adult woman performs ḥalitza with a male minor, her ḥalitza is invalid.

¹⁵⁹ Rav Yehuda said that Rav said: This teaching of the mishna with regard to a minor is the statement of Rabbi Meir, who maintains that such a ḥalitza has significance in that it disqualifies a subsequent levirate marriage, but it is insufficient to permit the woman to marry a stranger. But the Rabbis say: The ḥalitza of a male minor isn't significant of anything, as she is permitted to one of the brothers in levirate marriage as one who performed no ḥalitza at all.

¹⁶⁰ § It was taught in the mishna: If a female minor performed ḥalitza, she must perform ḥalitza a second time once she becomes an adult, and if she does not, her first ḥalitza is invalid. Rav Yehuda said that Rav said: This is the statement of Rabbi Meir, who said: "Man" is written in the Torah

portion about ḥalitza: “And if the man does not wish” (Deuteronomy 25:7), implying an adult must perform ḥalitza, and we juxtapose and compare a woman with a man, indicating that the woman must also be an adult at the time of ḥalitza.

¹⁶¹ But the Rabbis say: “Man” is written in this Torah portion, which indicates that an adult male must perform ḥalitza, but with respect to the woman who removes the shoe, since the term woman is not used to describe her, but rather the more general term yevama is written, as the continuation of the above-mentioned verse says: “To take his yevama” (Deuteronomy 25:9), she may be either an adult or a female minor.

¹⁶² The Gemara asks: Who are these Rabbis who disagree with Rabbi Meir? The Gemara answers: It is Rabbi Yosei, as it seems from this incident: As, Rabbi Ḥiyya and Rabbi Shimon bar Rabbi Yehuda HaNasi were sitting outside the house of study, immersed in Torah learning. One of them began and said: One who prays must direct his gaze downward while praying, as it is stated by God with regard to the Holy Temple: “And My eyes and My heart shall be there perpetually” (I Kings 9:3), meaning: The Divine Presence rests in the Eretz Yisrael, and one must direct his gaze to the sacred land when praying.

¹⁶³ And one of them said he must direct his eyes upward, because it is stated: “Let us lift our hearts with our hands toward God in Heaven” (Lamentations 3:41). In the meantime, Rabbi Yishmael, son of Rabbi Yosei, came beside them. He said to them: What are you dealing with? They said to him: With prayer, as we are debating the proper posture for prayer. He said to them: My father, Rabbi Yosei, said as follows: One who prays must direct his eyes downward and his heart upward, in order to fulfill both of these verses.

¹⁶⁴ In the meantime, while they were talking, Rabbi Yehuda HaNasi came to the house of study and everyone quickly went to sit in their assigned places. Those who were light-footed hurried and sat in their places. Rabbi Yishmael, son of Rabbi Yosei, due to his being very heavy, was stepping and walking slowly, as everyone was already sitting in his place on the ground, requiring him to pass over their heads in order to get to his place.

¹⁶⁵ Abdon, the shortened form of the name of Rabbi Yehuda HaNasi’s student and attendant, Abba Yudan, said to him: Who is that individual stepping over the heads of a sacred people, for it appeared to him as an act of disrespect to those sitting that Rabbi Yishmael stepped over their heads. He said to him: I am Yishmael, son of Rabbi Yosei, who came to learn Torah from Rabbi Yehuda HaNasi. Abdon said to him: But are you fit to learn Torah from Rabbi Yehuda HaNasi, for it seems that you are showing disrespect to others in order to accomplish it?

¹⁶⁶ He said to him: Was Moses fit to learn Torah from the mouth of the Almighty? Rather, it is not necessary that the student be as dignified as his teacher. He said to him: And are you Moses? Rabbi Yishmael said to him: And is your teacher God? Rav Yosef said about this part of the story: Here Rabbi Yehuda HaNasi received his retribution [mittarpesei] for remaining silent during this discussion and not reprimanding his student for humiliating Rabbi Yishmael. And what is his retribution? When Rabbi Yishmael spoke to Abdon, he said your teacher, and not my teacher, implying that he did not accept Rabbi Yehuda HaNasi’s authority upon himself.

¹⁶⁷ In the meantime, a yevama came before Rabbi, and she was a minor close to the age of maturity who had performed ḥalitza, but it was not clear whether she had already reached the age of maturity necessary to validate her ḥalitza. Rabbi Yehuda HaNasi said to Abdon: Go and check to see if she has

already reached maturity. After Abdon left, Rabbi Yishmael said to Rabbi Yehuda HaNasi: My father, Rabbi Yosei, said as follows: “Man” is written in the Torah portion of ḥalitza, but the woman may be either an adult woman or a female minor.

¹⁶⁸ Rabbi Yehuda HaNasi said to Abdon: Come back. You do not need to check, as the Elder, Rabbi Yosei, has already ruled that a minor can perform ḥalitza, and therefore no further examination is required. Abdon was stepping and coming over the heads of the others in order to return to his place. Rabbi Yishmael, son of Rabbi Yosei, said to him: One upon whom a holy people depends may step over the heads of a holy people. But one upon whom a holy people does not depend, as there is no longer a need for Abdon to examine the woman, how can he step over the heads of a holy people?

¹⁶⁹ Rabbi Yehuda HaNasi said to Abdon: Stand in your place and do not go any further. It was taught: At that moment Abdon was afflicted with leprosy as a punishment for insulting Rabbi Yishmael, son of Rabbi Yosei, and two of his sons who were recently married drowned, and his two daughters-in-law, who were minors married to those sons, made declarations of refusal and annulled their marriages. Rav Naḥman bar Yitzḥak said: Blessed is the Merciful One, Who shames Abdon in this world, for this prevents him from being punished further in the World-to-Come, as all his iniquities have been forgiven through this suffering.

¹⁷⁰ Rabbi Ami said: From the words of the great man, Rabbi Yosei, let us learn: A female minor performs ḥalitza even as a young child, at age six or seven. Rava said: She may not perform ḥalitza until she reaches the age of vows as an eleven-year-old, when she has enough intellectual capacity to understand the meaning of a vow. However, the Gemara concludes: And the halakha is: She may not perform ḥalitza until she has two pubic hairs.

¹⁷¹ It was taught in the mishna: If she performed ḥalitza before two or three people, and one of them is found to be disqualified to serve as a judge, Rabbi Shimon and Rabbi Yoḥanan the Cobbler validate it. Rav Yosef bar Minyumi said that Rav Naḥman said: The halakha does not follow this pair who validate such a case. The Gemara asks: But didn't Rav Naḥman already say this same ruling one time before? As Rav Yosef bar Minyumi said that Rav Naḥman said: Ḥalitza must be conducted before three people, indicating that there must be no fewer than three valid judges.

¹⁷² The Gemara answers: Both are necessary, for if only the first one, stating that ḥalitza must be before three judges, were stated, I would say: This applies ab initio, but after the fact even two is acceptable. Therefore, he teaches us that the halakha does not follow this pair of Sages, and her ḥalitza before two people is invalid even after the fact. And vice versa: If he would have told us only that the halakha does not follow this pair, but rather the first tanna, I would say that it is valid if performed before three people only after the fact, but they must require five people ab initio, in accordance with Rabbi Yehuda's opinion. Therefore it is necessary to say both of these statements.

¹⁷³ § A story is told in the mishna about an incident in which a couple once performed ḥalitza between themselves in private while alone in prison, and the case later came before Rabbi Akiva and he validated it. The Gemara asks: How can we know what happened between him and her? There was no testimony to confirm it, and how can we be certain that the ḥalitza was done properly to validate it? Rav Yehuda said that Shmuel said: And the ḥalitza was validated because there were witnesses who saw them from outside the prison, who testified that the ḥalitza was performed properly.

¹⁷⁴ A dilemma was raised before the students in the house of study with regard to the incident recorded in the mishna in which a private ḥalitza performed in a prison was validated: Did the incident in which they performed ḥalitza between him and her privately actually take place outside in a different locale, and the reference to prison is that the case came before Rabbi Akiva when he was confined in prison? Or, perhaps the incident when they performed ḥalitza between him and her took place in prison, and then this case came before Rabbi Akiva? Rav Yehuda said that Rav said: The ḥalitza incident took place in prison, and also the case came to Rabbi Akiva when he was in prison.

¹⁷⁵ § The Sages taught: A mistaken ḥalitza is valid. The Gemara asks: What constitutes a mistaken ḥalitza? Reish Lakish said: Any case in which they say to a yavam who is not well versed in halakha: Let her remove your shoe, and in doing so you will take her in marriage, i.e., the yavam understands that by allowing ḥalitza he will actually be marrying her. Although he actually intended to marry her, having allowed her to remove his shoe validates the ḥalitza. Subsequently it is prohibited for the woman to marry him, and she is permitted to others.

¹⁷⁶ Rabbi Yoḥanan said to him: I teach that whether in a case where he had intended to perform valid ḥalitza and she did not intend, or whether she had intended and he did not intend, the ḥalitza is invalid, unless they both intend together as one to perform a proper ḥalitza that would permit her to marry others. And yet you say that in that case when he doesn't have any intention of permitting her to others, and actually intends to marry her through the act of ḥalitza, her ḥalitza is valid?

¹⁷⁷ Rather, a mistaken ḥalitza that is valid refers to any case in which they say to him: Let her perform ḥalitza on you, with the intention of releasing her bond, on the condition that she will give you two hundred dinars afterward, and even if she does not give him the money the ḥalitza is valid, as the stipulated condition is not binding. This idea of Rabbi Yoḥanan is also taught in a baraita, which states: A mistaken ḥalitza is valid. What constitutes a mistaken ḥalitza? Any case in which they say: Let her perform ḥalitza on you on condition that she will give you two hundred dinars.

¹⁷⁸ And an incident occurred involving a certain woman, who happened before her yavam for levirate marriage, yet he was not suitable for her, and they, the judges, said to him: Let her perform ḥalitza on the condition that she will give you two hundred dinars. Afterward, when she did not pay, the incident came before Rabbi Ḥiyya and he validated that ḥalitza.

¹⁷⁹ One man came before Rabbi Ḥiyya bar Abba with his yevama in order to have the court convince her to perform a levirate marriage. Rabbi Ḥiyya said to her: My daughter, stand up, for we are beginning to discuss your case now, and the participants must stand. She said to him: Say that her sitting, referring to her desire to remain seated as an act of refusal of even contemplating the possibility of performing levirate marriage, is therefore tantamount to her standing, as levirate marriage is not an option for her. In other words, the option that will enable her to remain standing proud in the future is not to enter into levirate marriage with this man. Rabbi Ḥiyya said to her: Are you acquainted with this yavam and do you know him well enough to know why he wants to perform levirate marriage with you although you are not interested? She said to him: Yes, it is money that he saw in her, a euphemism for herself, and he wants to consume it by taking it from her, and therefore he wishes to enter levirate marriage.

¹⁸⁰ Rabbi Ḥiyya said to her: Is he not amenable to you? She said to him: No, I am certain he is not good for me. Rabbi Ḥiyya accepted her wish, but knowing that the yavam was adamant in his desire to marry her, he said to the yavam: Let her remove your shoe, and in doing so you will take her in

marriage, for he wanted to mislead him into allowing ḥalitza, which would disqualify a subsequent levirate marriage between them. After he allowed her to perform ḥalitza, Rabbi Ḥiyya said to the yavam: Now, she is disqualified for you forever, since you allowed her to perform ḥalitza. Although you thought it was an act of marriage, she is no longer permitted to marry you, so you have nothing to lose if you permit her to marry others. Therefore, allow her to perform valid proper ḥalitza, so she will be permitted to others. By performing a second ḥalitza, even Rabbi Yoḥanan, who disqualified this form of a mistaken ḥalitza, would have no problem permitting her to remarry based on the second ḥalitza.

¹⁸¹ It is told: The daughter of Rav Pappa's father-in-law, i.e., his sister-in-law, happened before her yavam for levirate marriage, yet he was not suitable for her, although he wished to perform levirate marriage. The case came before Abaye. Abaye said to the yavam: Let her remove your shoe, and in doing so you will take her in marriage. Rav Pappa said to him: Does the Master, i.e., do you, not accept what Rabbi Yoḥanan said, that this type of ḥalitza does not work at all? Abaye said to him: But what shall I say to him?

¹⁸² He said to Abaye that he should say to him as Rabbi Yoḥanan himself suggested: Let her perform ḥalitza on the condition that she will give you two hundred dinars. Convince him to allow ḥalitza on the basis that he will profit financially from it. Abaye told the yavam to do so and he did. After he let her perform ḥalitza, Abaye said to Rav Pappa's sister-in-law: Go give him the money, for you have agreed to give him two hundred dinars. Rav Pappa said to Abaye on her behalf that a case of: I was fooling you, was what she did to him. She never seriously intended to give him the money when accepting his stipulated condition, and even though the ḥalitza is valid one cannot force her to pay.

¹⁸³ Isn't it taught in a baraita: One who was running away from prison and came upon a ferry. He said to the ferry man: Take a dinar, i.e., he offered to pay an amount much larger than the standard fee, and take me across the river. Despite the escapee's commitment, it is ruled in the baraita that the ferryman receives nothing other than his usual rate, as the escapee is legally exempt from paying the higher amount he had agreed to pay.

¹⁸⁴ Apparently, one could have said in such a case: I was deceiving you and never really intended to live up to my side of the agreement, and therefore it is not an actual debt. Here too, she may say to him: I was fooling you, and she is therefore exempt from paying the two hundred dinars. Abaye heard this and agreed.

¹⁸⁵ Abaye was amazed at Rav Pappa's sharpness, as he was a young man at the time of this incident. Therefore, he said to Rav Pappa: Where is your father? He said to him: He is in the city. Where is your mother? He said: In the city. Abaye, who was orphaned in his youth, felt that a large part of Rav Pappa's success came because his parents lived in close proximity to him and provided for all his needs, freeing him from any need to get involved in business affairs and enabling him to immerse himself in Torah without distractions. Abaye felt a twinge of jealousy and set his gaze upon them, Rav Pappa's parents, in the pain that he did not have similarly supportive parents, and both Rav Pappa's father and mother died.

¹⁸⁶ § The Sages taught: A mistaken ḥalitza is valid, while a mistaken bill of divorce is invalid. A coerced ḥalitza is invalid, while a coerced bill of divorce is valid. The Gemara clarifies: What are the circumstances of a coerced bill of divorce? If they force him until he says: I want to give the bill of divorce, then even this type of ḥalitza also should be valid, as although he was initially coerced, he

acquiesced. And if he did not say by the end of the giving of the bill of divorce: I want to divorce her, then even this type of coerced bill of divorce should also not be acceptable.

¹⁸⁷ The Gemara answers that this is what the Sage said: A mistaken ḥalitza is always valid, while a mistaken bill of divorce is always invalid. A coerced ḥalitza and a coerced bill of divorce are sometimes valid and sometimes invalid. How so? With regard to the one who says after being coerced: I want to give the bill of divorce, it is effective, although he says this as a result of being under compulsion. With regard to the one who does not say: I want to give the bill of divorce, the divorce is invalid.

¹⁸⁸ As it is taught in a baraita: It is said with regard to some offerings: “He shall offer it” (Leviticus 1:3). This teaches that they may coerce him to bring the offering he owes. I might have thought this means that he brings the offering totally against his will. Therefore, the continuation of that verse states: “In accordance with his will” (Leviticus 1:3). How can these two contradictory expositions be reconciled? They coerce him by imposing fines or penalties until he says: I want to. And similarly, you find the same principle with respect to bills of divorce for women, as it is prohibited for anyone other than the husband to write the bill of divorce, but they coerce him until he says: I want to divorce her, and then write the bill of divorce on his behalf.

¹⁸⁹ § Rava said that Rav Sehora said that Rav Huna said: Judges can allow a man and woman to conduct ḥalitza even if the judges do not recognize the participants. In other words, even if they do not have complete testimony before them that proves that these two people are a yavam and a yevama, if two people wish to perform ḥalitza, the judges are not required to check their identities. Likewise, with regard to women making declarations of refusal: If a young woman after reaching majority comes to make a declaration of refusal against her husband, she may do so, even if witnesses do not recognize her and they do not know for sure that she is the wife of the supposed husband.

¹⁹⁰ Therefore, in cases where the woman is not identified, although the court may perform ḥalitza and refusals, it may not write a document of ḥalitza, i.e., a document attesting that ḥalitza took place, unless they, the judges, recognize her. And witnesses to the act may not write a document of a declaration of refusal, i.e., a document attesting that a refusal took place, unless they, the judges, recognize the woman, as we are concerned about the possibility of a mistaken court. Perhaps a court will not know that such a document is not complete proof that the action was conducted properly, and will consider it as proof that it was the yevama in this document who removed the shoe, or the wife in this document who made a declaration of refusal. Since the first court can conduct ḥalitza and refusals without accepting witnesses attesting to the identities of the involved parties, a second court cannot rely on these attesting documents alone, but must verify the identities before declaring the women eligible for marriage.

¹⁹¹ And Rava himself said the opposite of what he quoted in the name of others: A court may not conduct ḥalitza unless they, the judges, recognize the participants, and a court may not convene a declaration of refusal unless they, the judges, recognize the young woman. Therefore, witnesses may write a document of ḥalitza even if they do not recognize the woman themselves, as one who witnessed a court conduct ḥalitza can be sure that the court already checked the party’s identities thoroughly. And witnesses may write a document of refusal even if they do not recognize the young woman who has refused, relying on the fact that witnesses must have already attested to their

identities. And we need not be concerned about the possibility of a mistaken court, as there is no reason to fear that the first court conducted the case without properly identifying the participants.

¹⁹² MISHNA: The mitzva of ḥalitza is performed as follows: He and his yevama come to the court, and the scholars of the court give him advice appropriate for him, whether to enter levirate marriage or to perform ḥalitza, as it is stated: “And the Elders of his city shall call him and speak to him” (Deuteronomy 25:8).

¹⁹³ If they decide to perform ḥalitza, she says: “My brother-in-law refused to establish a name for his brother in Israel, he did not wish to consummate the levirate marriage” (Deuteronomy 25:7), and afterward he says: “I do not wish to take her” (Deuteronomy 25:8). And they would say these statements in the sacred Hebrew language and not in any other language. Afterward, the shoe is removed and she spits before him, as is written: “His yevama shall approach him, before the Elders, and remove his shoe from on his foot and spit before him” (Deuteronomy 25:9), which indicates that this spittle must be visible to the judges. “And she shall respond and say: So shall it be done to the man who does not build his brother’s house” (Deuteronomy 25:9). Up until this point the judges would prompt the parties to recite the text that they are required to say.

¹⁹⁴ And when Rabbi Hyrkanus once prompted the participants in ḥalitza under the ela tree in the village of Eitam, he prompted them to finish reciting the whole Torah passage, after which they established the custom of completing the whole Torah passage. Therefore, they continue and say the following verse: “And his name shall be called in Israel: The house of he who had his shoe removed” (Deuteronomy 25:10). This mitzva of saying: The house of he who had his shoe removed, applies to the judges, but not to the students, i.e., the students of the judges and other onlookers who are present. Rabbi Yehuda says: It is a mitzva upon all those present to say: He who had his shoe removed.

¹⁹⁵ GEMARA: Rav Yehuda said: This is the correct order for the mitzva of ḥalitza: She recites the sentence beginning with “My brother-in-law refused” (Deuteronomy 25:7), and afterward he recites “I do not wish to take her” (Deuteronomy 25:8). Then she removes the shoe, and spits, and recites: “So shall it be done to the man who does not build his brother’s house” (Deuteronomy 25:9). The Gemara asks: What is Rav Yehuda teaching us? This is already explicit in the mishna. The Gemara answers: This teaches us that the mitzva is like this, i.e., this is the proper order, but if one switched the order, we have no problem with it, as even though he did not fulfill the mitzva properly, the ḥalitza is still valid, since the order is not indispensable.

¹⁹⁶ The Gemara comments: This is also taught in a baraita: Whether the removal of the shoe preceded the spitting, or whether the spitting preceded the removal of the shoe, what he did is done, i.e., the ḥalitza is valid.

¹⁹⁷ § Abaye said concerning the details of these halakhot: The one who prompts the yavam and the yevama to read the text for the bill of ḥalitza should not prompt her by reciting “He did not” (Deuteronomy 25:7) by itself, and “wish to consummate the levirate marriage” (Deuteronomy 25:7) by itself, because such a way of reading sounds to one who hears only the second phrase like he is saying: My yavam does wish to consummate the marriage. Rather, he should prompt her all at once consecutively: “He did not wish to consummate the levirate marriage” (Deuteronomy 25:7), which will ensure that the intended meaning is clear.

¹⁹⁸ And he should not read to the yavam: “I do not” by itself, followed by: “Wish to take her” by itself, as it sounds to one who heard only the second phrase like: I do wish to take her. Rather, he should read together at once: “I do not wish to take her.” Rava said: It is a mere interruption in the matter. And we have no problem with regard to an interruption in the matter as it is basically just a pause for taking a breath.

¹⁹⁹ It is told: Rav Ashi found Rav Kahana painstakingly trying to prompt a certain yevama, so that she would recite: “He did not wish to consummate the levirate marriage” all at once, but the yevama did not understand and was distorting the meaning by not reciting the words together. Rav Ashi said to him: Does the Master not hold that which Rava said, that the proper pausing during the recitation is not indispensable?

²⁰⁰ He said to him: Although Rava disagreed with Abaye about interruptions in the recitation of: “I do not wish to take her,” Rava concedes concerning the recitation of: “He did not wish to consummate the levirate marriage,” as this recitation is essential and must be recited properly. Rav Kahana added that Abaye also said: One who writes a bill of *ḥalitza* must write as follows: We prompted her to recite from “My brother-in-law refused” until “he did not wish to consummate the levirate marriage” (Deuteronomy 25:7); and we prompted him to recite from “I do not” until “take her” (Deuteronomy 25:8). And we prompted her to recite from “So shall” (Deuteronomy 25:9) until “he who had his shoe removed” (Deuteronomy 25:10).

²⁰¹ Mar Zutra would score lines of a parchment and write the whole *ḥalitza* passage on it as a bill of *ḥalitza*, so it would be displayed before the *ḥalitza* participants. Mar bar Idi strongly objected to this: But it is unable to be written like this on its own, as the Torah may be written only in a complete state, and it is prohibited to write parts of the Torah when there is no mitzva to write them separately. The Gemara comments: Even so, the halakha is in accordance with the opinion of Mar Zutra, because there is an aspect of a mitzva here, as it is being written as part of a bill of *ḥalitza*, not for its own purpose.

²⁰² § Abaye said: If the yevama spat, but the wind seized her saliva and it never landed in front of the face of the yavam, she did nothing, and her actions have no halakhic significance. What is the reason for this? We require that “she spit before him,” as is mentioned in the verse. Therefore, if he is tall and she is short and the wind seized it, the requirement of “before him” is satisfied, because the moment the saliva left her mouth it was in front of the face of the yavam. But if she is tall and he is short, we require that the saliva reach the space across from his face, and afterward it may go with the wind; i.e., if she was taller than him and the saliva was taken by the wind before it reached the height of his face, she did not fulfill her obligation.

²⁰³ Rava said: If she ate garlic and spat, or if she ate gargishta clay, i.e., a type of clay once chewed for medicinal purposes, and spat, she did nothing and her actions have no halakhic significance, for this is not called spitting. What is the reason for this? We require that “she shall spit” on her own, and this is not satisfied here, for in this case she spits only on account of another thing that causes a pooling of saliva in her mouth. And Rava said: The judges must see the spittle when it leaves the mouth of the yevama, and the mere fact that she spat on the ground is insufficient, as it is written: “Before the Elders...and spit,” indicating that the spitting must take place before the eyes of the judges.

²⁰⁴ § It was taught in the mishna: With regard to the verse “And his name shall be called in Israel: The house of he who had his shoe removed,” there is a mitzva upon the judges to recite this but it is not a requirement for the students or onlookers. It is taught in a baraita that Rabbi Yehuda says: Once we were sitting before Rabbi Tarfon and a yevama came to perform ḥalitza. He said to us: You must all answer: “He who had his shoe removed,” “He who had his shoe removed,” “He who had his shoe removed,” stating that portion of the verse three times.

Chapter 13

¹ MISHNA: The Sages decreed that in the case of a minor girl whose father died, her mother or brothers may marry her off. However, such a marriage does not have the same legal status as the marriage of an adult. Therefore, if the minor regrets having married, she is allowed to make a declaration of refusal to her husband, thereby annulling the marital bond. The Sages disagreed with regard to the details of this halakha: Beit Shammai say: Only betrothed girls may refuse. A girl may refuse, upon reaching adulthood, to remain married to the man to whom her mother or brothers married her as a minor after the death of her father. But Beit Hillel say that both betrothed and fully married girls may refuse.

² Beit Shammai say: Refusal may be directed only at her husband and not at her yavam. In such a situation, she must perform ḥalitza in order to dissolve the levirate bond. But Beit Hillel say: It may be directed at her husband or her yavam.

³ Beit Shammai say: The refusal must take place specifically in the presence of the husband. But Beit Hillel say: It may take place either in his presence or in his absence. Beit Shammai say: The refusal must take place specifically in court. But Beit Hillel say: It may take place either in court, or not in court.

⁴ Beit Hillel said to Beit Shammai: She may refuse as long as she is a minor, even four or five times if her relatives married her off again to another man after each refusal. Beit Shammai said to them: The daughters of Israel are not to be treated with disregard and should not be passed from one man to another. Rather, she refuses once. And then she must wait until she reaches majority, and refuse, and marry.

⁵ GEMARA: Rav Yehuda said that Shmuel said: What is the reason of Beit Shammai for ruling that a married minor girl may not perform refusal? It is because there are no conditions with regard to marriage. Although a betrothal can be conditional, the condition is nullified upon consummation of the marriage. Likewise, marriage cannot be conditional, as the sexual relationship is not subject to conditions. And if a married minor girl would refuse, others may mistakenly think this to be a condition with regard to the marriage of an adult woman, and they will come to say that there can be a condition with regard to marriage.

⁶ The Gemara asks: But what is there to say if she entered the marriage canopy but did not yet engage in sexual intercourse? The marriage goes into effect even though it has not yet been consummated. The Gemara replies: There are no conditions with regard to a wedding canopy, i.e., the wedding ceremony.

⁷ The Gemara asks further: But what is there to say if the father delivered his daughter to the agents of the husband to be married, so that she was considered married even before the marriage ceremony took place? The Gemara answers: The Sages did not distinguish between different circumstances, and no marriages are conditional. It follows that refusal cannot take place once a minor girl is married.

⁸ And with regard to Beit Hillel, what is their reasoning? It is known that marriage of a minor girl is by rabbinic law, and therefore no one would confuse this type of marriage with an adult marriage. Rabba and Rav Yosef both say: Beit Shammai's reason is that a man would not readily render his sexual act licentious sexual intercourse. If he had intercourse with the minor girl and the marriage was later retroactively annulled by her refusal, then his sexual act was outside the context of marriage and is regarded as licentious.

⁹ The Gemara asks: What is there to say if she entered the marriage canopy but did not engage in sexual intercourse, as this reason would not apply to such a case? The Gemara answers: It would not be satisfactory for him, i.e., the husband, if his would be a forbidden marriage canopy, because if the marriage is later annulled by her refusal, he will have stood under the marriage canopy with a woman who was not permitted to him. The Gemara asks: What is there to say if the father delivered his daughter to the agents of the husband? The Gemara answers: The Sages did not distinguish between different circumstances. And how do Beit Hillel respond to Beit Shammai's reasoning? Since there is both betrothal and a marriage contract in this case, no one will come to say that his sexual act was licentious intercourse. The primary reason Beit Shammai prohibit refusal after marriage is because it would render the sexual relationship of the marriage a licentious one. Beit Hillel do not regard sexual activity under such circumstances as licentious, so there is also no stigma attached to having stood under a wedding canopy with a girl who later refuses the marriage.

¹⁰ Rav Pappa said: The reasoning for Beit Shammai's opinion is because of the profits from the property she brings into the marriage, and the reasoning for Beit Hillel's opinion is also because of the profits from her property. He explains: The reasoning for Beit Shammai's opinion is because of the profits from her property, for if you say that a married minor girl may perform refusal, then the husband of that minor might seize those profits from her and consume them, as ultimately she stands to leave him if she refuses him later. In the meantime, he will try to extract as much profit as he can. And Beit Hillel say: On the contrary: Since you say she may refuse, he will seek to improve her property. He will think: if I do not do so, her relatives will advise her to refuse him and they will take her from him.

¹¹ Rava said: This is the reasoning of Beit Shammai: A man will not bother to make a marriage feast and then lose it. If the wife is entitled to refuse him even after the marriage, the man will not be willing to marry a minor and bear the expenses of the wedding, when it is uncertain that she will stay with him. And Beit Hillel reason as follows: The marriage is convenient for both of them even if it is nullified later, so as to generate publicity about them that they are married.

¹² § It is taught in the mishna: Beit Shammai say: Refusal may be directed only at her husband and not her yavam. If she wishes to refuse her yavam, she must perform *ḥalitza* in order to dissolve the levirate bond. But Beit Hillel say that refusal may be directed at her husband or her yavam. Rabbi Oshaya said: A minor yevama may direct a refusal against a levirate betrothal but she may not direct a refusal against his levirate bond. Before the yavam betroths her, she cannot nullify the levirate bond

by refusal. Rav Ḥisda said: What is the reasoning of Rabbi Oshaya? In the case of levirate betrothal, which is consensual, she can nullify it. But with regard to the levirate bond, which applies to her even against her will, she cannot nullify it.

¹³ The Gemara asks: But the consummation of the levirate bond may be against her will

¹⁴ and she can nullify it, as she can subsequently refuse the yavam with whom she entered into levirate marriage. Rather, the reasoning is: With regard to consummation of the levirate marriage and to levirate betrothal, both of which he performs, she can nullify them. But with regard to the levirate bond, which the Merciful One imposes upon her at the death of her first husband, she cannot nullify it. Whereas Ulla said: She may direct her refusal even to his levirate bond. What is the reason? By refusing, she nullifies the original marriage, rather than the levirate bond that resulted from the death of her husband.

¹⁵ Rava raised an objection to the statement made by Ulla. It is taught in a baraita: In any case of levirate marriage in which a minor girl is forbidden to the yavam and she could perform refusal but does not perform refusal, her rival wife performs ḥalitza and may not enter into levirate marriage. Rava continues: Why? Let her perform refusal now and nullify the first marriage retroactively, so that the so-called rival wife was never really a rival wife of a forbidden relative at all, and let her rival wife enter into levirate marriage. The Gemara answers: A rival wife of a forbidden relative is different, due to a rabbinic decree, as Rami bar Yehezkel taught in a baraita: A minor girl who refuses her husband is permitted to his father, because the marriage was annulled and she is no longer his daughter-in-law. But one who refuses a yavam is forbidden to his father.

¹⁶ Evidently, at the time when she happens before her yavam for levirate marriage she appears to be his father's daughter-in-law. Since people would not understand that her refusal later on would annul her first marriage, the Sages decreed that the father-in-law may no longer marry her. Here, too, in a case, for example, of the rival wife of a girl who was married to her uncle, since at the time she happened before the girl's father for levirate marriage she appears to be his daughter's rival wife, the Sages decreed that even if the girl refuses her original marriage, the rival wife is forbidden to the girl's father.

¹⁷ § Rav said: A minor girl who refuses this yavam who married her in levirate marriage is forbidden to that yavam, his brother, just as it is in a case concerning a yevama who has received a bill of divorce from one of her yevamin. Is it not so that since the yevama who has received a bill of divorce is forbidden to one of them, i.e., the one who gave her the divorce, she is forbidden to all of them? Here too, it is no different.

¹⁸ And Shmuel said: If she refused this yavam, she is permitted to that one, and it is not comparable to a yevama who has received a bill of divorce. For in the case of the yevama who has received a bill of divorce, it is he who performed the act of giving the bill of divorce to her, and he thereby renders her forbidden to his brothers as well. Here, she is performing an act on him, as she says: I do not desire you and I do not want you, indicating: It is you whom I do not desire, but I may desire your fellow.

¹⁹ Rav Asi said: If she refuses this yavam she is permitted even to him if she changes her mind. The Gemara asks: Shall we say that he holds in accordance with the opinion of Rabbi Oshaya, who said: She cannot refuse his levirate bond, and since the bond still exists and is not dissolved by her refusal, she is consequently permitted to engage in sexual relations with him to consummate it. The Gemara

rejects this: Rav Asi's opinion is consistent with that of Ulla, that refusal of a levirate bond is effective. In the case of one yavam who had no additional brothers, she can indeed nullify the levirate bond. However, here, we are dealing with two yevamin, and there cannot be refusal of half a levirate bond. Since she refuses only one yavam, her status as a yevama remains intact, the levirate bond remains intact, and she is permitted to consummate the levirate bond even with the one she initially refused.

²⁰ The Gemara relates: When Ravin came from Eretz Yisrael he said that Rabbi Yoḥanan said: A minor girl who refuses this yavam is permitted to the brothers, and they did not agree with him. The Gemara asks: Who did not agree with him? Abaye said: It was Rav, as Rav claims that she is forbidden to the brothers. Rava said: It was Rabbi Oshaya, who claims that refusal cannot nullify the levirate bond. And some say: It was Rav Asi who did not agree with him, since according to Rav Asi she is permitted to marry even the brother she refused.

²¹ § It is taught in the mishna: Beit Shammai say: The refusal must take place specifically in the presence of the husband, but Beit Hillel say: Either in his presence or in his absence. It is taught in a baraita: Beit Hillel said to Beit Shammai: But didn't the wife of Pishon the camel driver refuse him in his absence? Beit Shammai said to Beit Hillel: Pishon the camel driver measured using a defective standard, as he did not properly take care of the property she brought into the marriage, and therefore the Sages measured him with a defective standard [midda kefusha]. The marriage in that case was annulled by the Sages and the refusal was not treated as a standard refusal.

²² The Gemara asks: Since he was consuming the profits from her property, it is obvious that it is speaking of a case where she was married, as a man is not entitled to the profits of the property of his betrothed. But didn't Beit Shammai say that a married minor girl cannot perform refusal? The Gemara answers in accordance with Beit Shammai's opinion: They tied him in two knots, i.e., the Sages punished Pishon in two ways: They permitted the refusal against him to take place in his absence, and they permitted it even though she was already married to him.

²³ § It was taught: Beit Shammai say: The refusal must take place specifically before a court, but Beit Hillel say: It may take place either before a court, or not before a court. We learned in a mishna elsewhere (Sanhedrin 2a): Ḥalitza and refusals take place in the presence of three judges. The Gemara asks: Who is the tanna who taught this? Rabba said: It is Beit Shammai who say that refusal must take place specifically before a court. Abaye said: You can even say that it is Beit Hillel. Beit Hillel state only that we do not require expert judges for a refusal, but we do require three upright people, who constitute a court of laymen.

²⁴ As it is taught in a baraita: Beit Shammai say: Before a court, and Beit Hillel say: Either before a court or not before a court, but both this school and that school concede that three people are required. Rabbi Yosei bar Yehuda and Rabbi Elazar, son of Rabbi Shimon, validate a refusal in the presence of two. Rav Yosef bar Manyumi said that Rav Naḥman said: The halakha is in accordance with that pair.

²⁵ § The mishna states that Beit Shammai say: She refuses once. And then she must wait until she reaches majority, and refuse, and marry. The Gemara asks: Didn't she already refuse once? Why must she refuse again? Shmuel said: Beit Shammai's statement means: The refusal does not take effect until she reaches majority and says: I wish to uphold my initial refusal, in case she changed her mind in the interim.

²⁶ Ulla said: Two different possibilities are taught in Beit Shammai's statement: Either she should refuse, and then once she has matured she should become betrothed; or she should refuse and marry immediately. She should not refuse and then only become betrothed again. According to Beit Shammai, as a minor, she may not refuse again.

²⁷ The Gemara challenges this: Granted, the explanation of Ulla is consistent with that which is taught: Until she reaches majority and marries. That is: Until she reaches majority, or until she marries. But according to the explanation of Shmuel, the mishna should have said: Until she reaches majority and says that she wishes to uphold the refusal. The Gemara comments: This phrase is difficult according to his explanation.

²⁸ MISHNA: Who is a minor girl who needs to perform refusal in order to annul her marriage? Any minor whose mother or brother married her off with her consent. If they married her off without her consent, she need not refuse her husband at all and may leave her husband without a declaration of refusal. Rabbi Ḥanina ben Antigonus says: Any girl who is so young that she cannot keep her betrothal, i.e., the money or document of betrothal, safe does not need to refuse, as the Sages instituted marriage only for a girl old enough to understand what she is doing.

²⁹ Rabbi Elazar says: The act of a minor girl is nothing, so that if a minor girl's mother or brothers marry her off, the marriage is essentially invalid. Rather, her status is as though she were a seduced unmarried woman. Therefore, a minor daughter of a non-priest married to a priest may not eat teruma, and the minor daughter of a priest married to an Israelite may eat teruma.

³⁰ Rabbi Eliezer ben Ya'akov says otherwise: If there is any obstruction in the matter due to the man, it is as if she were his wife. If there is any obstruction in the matter that is not due to the man, it is as if she were not his wife. This statement will be explained in the Gemara.

³¹ GEMARA: Rav Yehuda said, and some say it was taught in a baraita: At first, they would write a bill of refusal in this manner: I do not desire him, I do not want him, and I do not wish to be married to him. Once they saw that the text was too long, the Sages said:

³² This document may come to be confused with a bill of divorce and perhaps a man will err and give a bill of divorce using the text of refusal. Therefore, they decreed that one should write as follows: On such and such a day, so-and-so, the daughter of so-and-so, performed refusal in our presence, and no more.

³³ § The Sages taught: What constitutes a refusal? If she said: I do not want so-and-so as my husband, or: I do not want the betrothal in which my mother and brothers had me betrothed, that is a refusal. Rabbi Yehuda said more than that: Even if she is sitting in a bridal chair [apiryon] going from her father's house to her husband's house and said along the way: I do not want so-and-so as my husband, this constitutes a refusal.

³⁴ Rabbi Yehuda said even more than that: Even if guests are reclining at her husband's house and she is standing and serving them drinks as hostess, and she said to them: I do not want so-and-so as my husband, this constitutes a refusal, even though it is possible that she is merely complaining about the effort she is expending. Rabbi Yosei bar Yehuda said more than that: Even if her husband sent her to a shopkeeper to bring him an article of his and she said: I do not want so-and-so as my husband, there is no greater refusal than this.

³⁵ § It was taught in the mishna: Rabbi Ḥanina ben Antigonus says: Any girl who is so young that she cannot keep her betrothal safe does not need to refuse. Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Ḥanina ben Antigonus. It was taught: In the case of a minor girl who did not refuse her husband, but who went and married someone else, it was said in the name of Rabbi Yehuda ben Beteira: Her new marriage constitutes her refusal, as she made her state of mind known, that she does not want him, and that is sufficient.

³⁶ A dilemma was raised before the Sages: What is the halakha if she was betrothed to another man without performing refusal of the first husband? Is her acceptance of the betrothal sufficient to indicate that she refuses the first husband? The Gemara suggests: Come and hear an answer from a baraita: If a minor girl did not refuse her husband but went and became betrothed to another man, then, as the Sages said in the name of Rabbi Yehuda ben Beteira: Her betrothal constitutes her refusal.

³⁷ A dilemma was raised before the Sages: Do the Rabbis disagree with Rabbi Yehuda ben Beteira or not? And further, if you say that they do disagree with him, do they disagree with him with regard to betrothal alone, or do they also disagree with him with regard to marriage? And if you say that they disagree even with regard to marriage, is the halakha in accordance with his opinion or is the halakha not in accordance with his opinion? And if you say that the halakha is in accordance with his opinion, is this only with regard to marriage, or is it even with regard to betrothal?

³⁸ The Gemara cites a tradition: Come and hear: Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Yehuda ben Beteira with regard to both marriage and betrothal. From the fact that he ruled the halakha, one may derive by inference that the Rabbis disagree.

³⁹ But still, you should raise the dilemma: Does Rabbi Yehuda ben Beteira say that her betrothal to another counts as refusal even when she had initially been married or perhaps only if she was betrothed but not married beforehand? Come and hear: The daughters-in-law of Abdan rebelled against their husbands. Rabbi Yehuda HaNasi sent a pair of Sages to examine them and determine what could be done to rectify the matter. Some women said to the daughters-in-law: See, it is your husbands that are coming. They said back to them: Let them be your husbands.

⁴⁰ Rabbi Yehuda HaNasi said: There is no greater refusal than this. What is the case? Is it not that they were already married? The Gemara rejects this: No, they were merely betrothed, but not married. This story cannot establish unequivocally what the halakha is in the case when the girl is married. The Gemara nevertheless concludes: The halakha is in accordance with the opinion of Rabbi Yehuda ben Beteira in all of these matters, even with regard to her marriage to the first husband: Even if she had actually been married to the first man, the marriage is invalidated by her betrothal to another.

⁴¹ § It is taught in the mishna: Rabbi Elazar says: The act of a minor girl is nothing. Rather, her status is as though she were a seduced unmarried woman. Rav Yehuda said that Shmuel said: I reviewed all the opinions of the Sages concerning these matters, and I did not find any person who applied a consistent standard with regard to a minor like Rabbi Elazar did. For Rabbi Elazar portrayed her as a girl walking with her husband in a courtyard, who stands up from his bosom after he engaged in intercourse with her, and immerses herself to become ritually pure, and partakes of teruma by evening as if there were no marital bond between them and as if she, as the daughter of a

priest, could continue to partake of teruma. The daughter of a priest is prohibited from eating teruma once she is married to a non-priest.

⁴² It is taught in a baraita: Rabbi Eliezer says: The act of a minor girl is nothing, and therefore her marriage is not valid. And her husband has no rights to items she finds, nor to her earnings; nor does he have the right to annul her vows; he does not inherit her assets if she dies; and if she dies he may not become ritually impure on her account if he is a priest, i.e., through his presence in the same room as her corpse. The principle is: She is not his wife in any sense, except that she must perform refusal in order to marry someone else.

⁴³ Rabbi Yehoshua says: In the case of a minor whose mother or brother married her off, her husband has rights to items she finds, and to her earnings; and he has the right to annul her vows; and he inherits her assets if she dies; and if she dies he must become ritually impure on her account even if he is a priest. The principle is: She is his wife in every sense, except that she can leave him by means of refusal and does not require a bill of divorce.

⁴⁴ Rabbi Yehuda HaNasi said: The statement of Rabbi Eliezer appears to be more correct than the statement of Rabbi Yehoshua, as Rabbi Eliezer applied a consistent standard with regard to a minor, while Rabbi Yehoshua applied an inconsistent standard. The Gemara asks: In what way is his standard inconsistent? The Gemara answers: If she is his wife, she should require a bill of divorce from him.

⁴⁵ According to Rabbi Eliezer too, there appears to be an inconsistency, as, if she is not his wife, she should not be required to perform refusal either. The Gemara answers: But shall she leave with no ritual at all? Some sort of act is required to indicate that their relationship is permanently severed. Rabbi Eliezer has a consistent standard, according to which the marriage of a minor has no substance and to dissolve it she need only indicate that she does not want her husband. Rabbi Yehoshua is inconsistent in treating the relationship as a marriage even though it can be dissolved easily.

⁴⁶ § The mishna stated: Rabbi Eliezer ben Ya'akov says: If there is any obstruction in the matter due to the man, it is as if she were his wife. If there is any obstruction in the matter that is not due to the man, it is as if she were not his wife. The Gemara asks: What are the circumstances of an obstruction due to the man, and an obstruction that is not due to the man? Rav Yehuda said that Shmuel said: If someone proposed marriage to her and she said: I do not wish to marry on account of so-and-so, my husband, this is an obstruction that is due to the man. When she declined the proposal, she made it clear that she views herself as his wife. But if she says: I do not want to marry because the men suggested to me are not suitable for me, this is an obstruction that is not due to the man, and she is not considered to be his wife.

⁴⁷ Abaye bar Avin and Rav Ḥanina bar Avin both say: If the minor's husband gave her a bill of divorce, this is an obstruction that is due to the man, since in presenting the bill of divorce, the marriage is being treated as valid. Therefore, from then onward, he is prohibited from marrying her close relatives, and she is prohibited from marrying his close relatives; and, as a divorced woman, she is disqualified from marrying into the priesthood. However, if she refuses him, this is an obstruction that is not due to the man. Therefore, he is permitted to marry her close relatives, and she is permitted to marry his close relatives, and she is not disqualified from the priesthood, since her refusal annuls the marriage retroactively.

⁴⁸ The Gemara challenges: But it is taught explicitly below, in the following mishna: If a minor girl refuses a man, he is permitted to marry her close relatives and she is permitted to marry his close relatives, and he has not disqualified her from marrying into the priesthood. If he gave her a bill of divorce, he is prohibited from marrying her close relatives, and she is prohibited from marrying his close relatives, and he has disqualified her from marrying into the priesthood. Since the difference between refusal and a bill of divorce is already addressed in the following mishna, why is the same ruling repeated here? The Gemara answers: The following mishna is explaining the latter part of this mishna.

⁴⁹ MISHNA: If a minor girl refuses a man, he is permitted to marry her close relatives, such as her mother or her sister, and she is permitted to marry his close relatives, such as his father or brother, and he has not disqualified her from marrying into the priesthood, as she is not considered divorced. However, if he gave her a bill of divorce, then even though the marriage was valid according to rabbinic law and not Torah law, he is prohibited from marrying her close relatives, and she is prohibited from marrying his close relatives, and he has disqualified her from marrying into the priesthood.

⁵⁰ If he gave her a bill of divorce but afterward remarried her, and she subsequently refused him and married another man, and then she was widowed or divorced from her second husband, she is permitted to return to him. Since she left him the last time by means of refusal, the refusal cancels the bill of divorce that he gave her previously, and her status is that of a minor girl who refused her husband, who is not forbidden to her first husband after a second marriage. However, if the order was different, and if she refused him and he subsequently remarried her, and this time he gave her a bill of divorce and she married another man, and she was widowed or divorced, she is forbidden to return to him, like any divorced woman who married another man.

⁵¹ This is the principle concerning a minor girl who refused her husband and then married several times: If the bill of divorce followed the refusal and she remarried, she is forbidden to return to him. If the refusal followed the bill of divorce, she is permitted to return to him. Since the refusal followed the bill of divorce it is clear that she was a minor and neither the marriage nor the divorce were valid by Torah law. However, when the ultimate separation is by means of a bill of divorce, there is no indication that she was a minor at the time and there is potential for confusion with an adult divorcée.

⁵² If a minor girl refuses one man and marries another, and he divorces her, and then she marries another man and refuses him, and then she marries another man and he divorces her, this is the principle for this case: With regard to anyone she leaves by means of a bill of divorce, it is prohibited for her to return to him. With regard to anyone she leaves by means of refusal, she is permitted to return to him.

⁵³ GEMARA: It was taught in the mishna that if the man gave his minor wife a bill of divorce but subsequently remarried her and she refused him, and then she married someone else, she is permitted to remarry the first husband when her marriage to the second is concluded. Apparently, refusal comes and nullifies a bill of divorce.

⁵⁴ The Gemara raises a contradiction from the end of the mishna: If a minor girl refuses one man and marries another, and he divorces her, and then she marries another man and refuses him, and then she marries another man and he divorces her, this is the principle: With regard to anyone she leaves by means of a bill of divorce, she is prohibited from returning to him. With regard to anyone she leaves

by means of refusal, she is permitted to return to him. Apparently, a refusal of another man does not come and nullify one's own bill of divorce. If the refusal completely nullified the marriage to the second husband, there would be no obstacle to her remarrying her first husband, as an ex-wife who did not marry another man is permitted to remarry her first husband. However, the divorce, combined with the second marriage, does generate a prohibition, and she is prohibited from remarrying in this case.

⁵⁵ Rav Yehuda said that Shmuel said: This mishna is disjointed, and he who taught this halakha, that she may remarry her first husband if she refused him after he divorced her, did not teach that halakha, that her refusal of another man does not render her permitted to her divorced husband.

⁵⁶ Rava said: What is the difficulty here? Perhaps her refusal of him nullifies his bill of divorce, while her refusal of the other man does not nullify the original husband's bill of divorce. The Gemara asks: In what way is her refusal of the other man different, that it does not nullify his bill of divorce? Isn't it that because she is familiar with the intimations and gestures [keritzotav] of her first husband, he will lead her astray and bring her back to him, by causing her to refuse her new husband and then return to him? Consequently, it was decreed that she may not return to her first husband by refusing the second. But for this same reason the refusal against the first husband himself also should not nullify his own bill of divorce, as, since she is familiar with his intimations and gestures, he will lead her astray and bring her back to him after she has married another man.

⁵⁷ The Gemara answers: But he already tried to lead her astray and she was not led astray. In other words, he already remarried her after the divorce and she still refused him, which proves that he does not have sufficient influence to lead her astray.

⁵⁸ But if there is a difficulty, it is the contradiction between one halakha involving another man and a different halakha involving another man that is difficult, as the mishna states: If she refused him and he subsequently remarried her, and this time he gave her a bill of divorce and she married another man, and she was widowed or divorced, she is prohibited from returning to her original husband. The reason is specifically that she was widowed or divorced by the other man. But if she had refused the second husband, she would be permitted to return to the first husband. Apparently, a refusal of the other man would have come and nullified his bill of divorce, permitting her to remarry the first husband, despite her erstwhile marriage to the other man.

⁵⁹ This raises a contradiction, as it is taught later: If a minor girl refuses one man and marries another and he divorces her, and then she marries another and refuses him, this is the principle: With regard to anyone she leaves by means of a bill of divorce, she is prohibited from returning to him. With regard to anyone she leaves by means of refusal, she is permitted to return to him. Apparently, refusal of the other man cannot come and nullify his own bill of divorce.

⁶⁰ Rabbi Elazar said: This mishna is disjointed, and he who taught this halakha did not teach that halakha. Ulla said: The last clause, in which it says her refusal does not nullify the bill of divorce, is referring to a case where she was divorced three times. Since she was divorced three times, she appears to be an adult, and therefore the Sages did not allow her refusal to cancel the effect of the divorce.

⁶¹ § The Gemara asks: According to Rabbi Elazar, who holds that the mishna is disjointed, who is the tanna that taught that a minor may always remarry a husband she refused but not one who divorced her? Rav Yehuda said that Rav said: This can be determined based on the following

incident. What is the meaning of that which is written: “We have drunk our water for money; our wood comes to us for a price” (Lamentations 5:4), implying that Torah, which is analogous to water, can be purchased with money. The Gemara explains: During the time of danger, i.e., religious persecution by the Romans, this halakhic ruling was requested: If she, a minor, left her first husband by means of a bill of divorce and her second by refusal, what is the halakha with regard to her returning to the first?

⁶² Those involved hired one person for four hundred dinars for the dangerous mission and asked Rabbi Akiva, who was incarcerated in prison by the Romans for teaching Torah, and he ruled that it is forbidden. They asked Rabbi Yehuda ben Beteira in Netzivin, in Babylonia, and he also deemed it forbidden.

⁶³ Rabbi Yishmael, son of Rabbi Yosei, said: This question was not what they asked, as it was unnecessary: If you rendered permitted a prohibition for whose violation one is liable to receive excision from the World-to-Come [karet], i.e., if the prohibition against sexual intercourse with a married woman is dissolved by the refusal, as the marriage is nullified retroactively, then is it not clear all the more so that after a refusal, the regular prohibition against remarrying one’s ex-wife after she was married to another should be permitted? The opinion in the mishna that refusal does not cancel the effect of divorce is in accordance with that of Rabbi Akiva and Rabbi Yehuda ben Beteira, while the opinion that she is permitted to return to her first husband after refusing the second one is in accordance with the opinion of Rabbi Yishmael, son of Rabbi Yosei.

⁶⁴ Rabbi Yishmael, son of Rabbi Yosei, continued: Rather, this is what they asked: If the minor was the wife of someone’s mother’s brother, a secondary forbidden relative, i.e., a relative forbidden to him by rabbinic law, and afterward his paternal brother married her and died, so that she became eligible to him for levirate marriage, what is the halakha with regard to the following: May she refuse now and uproot the first marriage to the mother’s brother, so that she will no longer be a forbidden relative, and likewise her rival wife will not be the rival wife of a forbidden relative, so that her rival wife may enter into levirate marriage? In other words, in a case where there is a mitzva of levirate marriage, is refusal after the husband’s death valid or not?

⁶⁵ Those involved hired two people for four hundred dinars, and they came and asked Rabbi Akiva in prison and he deemed it prohibited. They asked Rabbi Yehuda ben Beteira in Netzivin and he deemed it prohibited.

⁶⁶ Rav Yitzḥak bar Ashyan said: Rav concedes that she is permitted to the brother of the man to whom she is forbidden. Rav Yitzḥak is referring to a case of a minor who refused her husband, remarried the same man, and was subsequently divorced, and then married another man and refused him. Although she may not remarry the first husband, she may marry his brother, despite the fact that one may not ordinarily marry one’s brother’s divorcée.

⁶⁷ The Gemara asks: It is obvious. It is he, her former husband, whose hints and gestures she recognizes, but not those of his brother, so that there is no concern that the brother will persuade her to refuse her husband. The Gemara explains: Rav Yitzḥak bar Ashyan saw fit to point this out, lest you say: Issue a decree rendering it prohibited for her to marry this brother due to the risk that such a marriage would lead people to think she is permitted to marry that brother, her original husband. Therefore, he teaches us that no such decree was instituted.

⁶⁸ And there are those who say a different version of the discussion: Rav Yitzḥak bar Ashyan said: Just as she is forbidden to him, to the man who divorced her, so is she forbidden to his brothers. The Gemara asks: But she is not familiar with their intimations and gestures. Why is it prohibited for her to marry them? The Gemara answers: It is a rabbinic decree concerning the ex-husband's brothers due to him, the ex-husband. If she were to be permitted to her ex-husband's brothers, people might mistakenly think that she is even permitted to remarry the ex-husband himself.

⁶⁹ MISHNA: With regard to one who divorces a woman and remarries her and then dies childless, his wife is permitted to enter into levirate marriage with her yavam,

⁷⁰ but Rabbi Elazar prohibits this. Likewise, with regard to one who divorces an orphaned minor girl whose mother and brothers married her off and remarries her and subsequently dies, she is permitted to the yavam in levirate marriage, and Rabbi Elazar prohibits it. A minor girl whose father married her off, in which case the marriage is valid by Torah law, and who was subsequently divorced while she was still a minor is like an orphan during the lifetime of her father, as he no longer has the right to marry her off, and she cannot become fully married because she is a minor. And if the husband remarries her while she is still a minor and then dies childless, everyone agrees that she is forbidden to the yavam and may not enter into levirate marriage.

⁷¹ GEMARA: The Sage Eifa said: What is the reasoning of Rabbi Elazar, who prohibits a man from entering into levirate marriage with a woman whom his brother had divorced and remarried? It is because she was forbidden to him at one time; when the first brother divorced her, she became forbidden to the second brother due to her status as the first brother's ex-wife. A husband's relatives are forbidden to the wife even after death or divorce. However, the mitzva of levirate marriage grants a special exemption from the prohibition against marrying one's brother's wife. In this case, if the first brother had died while they were still divorced, the mitzva of levirate marriage would not have applied, and she would have been forbidden to him. The Sages said to Eifa: If that is so, she should also not require ḥalitza, since she is a forbidden relative.

⁷² And if you would say: Indeed, Rabbi Elazar also exempts her from ḥalitza, isn't it taught in a baraita: It was said in the name of Rabbi Elazar that she performs ḥalitza? Rather, Eifa said: I do not know the reason for the opinion of Rabbi Elazar.

⁷³ Abaye said: This is the reasoning of Rabbi Elazar: He is uncertain whether the death of the husband determines that she is a candidate for levirate marriage, or whether the original marriage determines it. In other words, he is uncertain as to whether the obligation to perform levirate marriage is established only at the death of one's brother or already from the beginning of the brother's marriage. If death determines that she is a candidate for levirate marriage, then she has happened before him for levirate marriage, as she is the wife of his childless brother who died. If the original marriage determines that she is a candidate for levirate marriage, then she was forbidden to him for a time as his brother's ex-wife and is consequently exempt from levirate marriage. According to Rabbi Elazar, it is due to this uncertainty that the brother may not enter into levirate marriage yet must perform ḥalitza.

⁷⁴ Rava said: Actually, it is obvious to Rabbi Elazar that death determines that she is a candidate for levirate marriage. However, everyone is well informed with regard to divorces. Everyone knows that the woman was divorced, while not everyone is well informed with regard to remarriage, and they do

not necessarily know that she remarried him. Therefore, there is concern that people will mistakenly think that one entered into levirate marriage with his brother's ex-wife.

⁷⁵ The Gemara argues against this point: On the contrary, her return to her former husband, since she is living with him, generates publicity, so that it is known that they are remarried. The Gemara answers: Are we not dealing even with a case in which he remarried her in the evening and died in the morning? In this instance and others like it, not everyone would know that he remarried her, and they will think that the brother took his deceased brother's ex-wife in levirate marriage. In order to avoid such situations, Rabbi Elazar decreed that she is always forbidden.

⁷⁶ Rav Ashi said: This is the reasoning of Rabbi Elazar: He decreed to prohibit levirate marriage with these, i.e., women who were divorced and remarried, due to the case of a girl who is considered an orphan in the lifetime of her father, who was divorced by her husband and he subsequently remarried her. If a minor girl was married off by her father and was subsequently divorced, she is no longer subject to her father with regard to marriage and divorce, but because she is a minor, any marriage she enters into is by rabbinic rather than by Torah law. The Gemara comments: So too, this is reasonable based on what was taught in the latter clause of the mishna: A minor girl whose father married her off and who was subsequently divorced while she was still a minor, is like an orphan during her father's lifetime. And if the husband remarries her while she is still a minor and then dies, everyone agrees that she is forbidden to the yavam and may not enter into levirate marriage.

⁷⁷ What is the purpose of stating this halakha? It is obvious. Rather, is it not teaching us Rabbi Elazar's reason for decreeing that these women who were divorced and remarried are forbidden due to that woman, the girl who is considered an orphan in the lifetime of her father? The Gemara concludes: Learn from here that this is his reason.

⁷⁸ The Gemara comments: It is taught in a baraita in accordance with the opinion of Rav Ashi: The Rabbis concede to Rabbi Elazar concerning a minor girl whose father married her off and who was divorced, that she is like an orphan in the lifetime of her father, and that if her husband remarried her, she is forbidden to the yavam, because her divorce was a full-fledged divorce by Torah law while her remarriage was not a full-fledged remarriage, as she was still a minor. This implies that Rabbi Elazar's ruling is prompted by the case of a girl who is like an orphan in her father's lifetime and that this was the reason for his decree.

⁷⁹ The baraita continues: In what case is this statement said? In a case where he divorced her while she was a minor and he remarried her while she was still a minor. But if he divorced her while she was a minor and remarried her when she was already an adult, or if he remarried her while she was a minor and she matured to legal adulthood while with him, and he subsequently died, she may either perform ḥalitza or enter into levirate marriage. It was said in the name of Rabbi Elazar: She must perform ḥalitza and may not enter into levirate marriage, since he decreed that all remarried women may not enter into levirate marriage due to the case of one who is like an orphan in her father's lifetime.

⁸⁰ Rava asked Rav Naḥman: What is the halakha with regard to the rival wife of a girl whose husband remarried her, according to Rabbi Elazar? Is the girl regarded as a forbidden relative to the extent that even her rival wife may not enter into levirate marriage? He said to him: She herself is forbidden due to a rabbinic decree, as explained already. And will we then proceed to issue a decree

to prevent violation of a decree? Accordingly, her rival wife is permitted to enter into levirate marriage.

⁸¹ The Gemara challenges: Isn't it taught in a baraita: It was said in the name of Rabbi Elazar: Both she and her rival wife must perform ḥalitza? The Gemara asks: Would it enter your mind to say: She and her rival wife? Why should two women from the same household perform ḥalitza? Ḥalitza performed by one of them exempts the other. Rather, should it not say: Either she or her rival wife must perform ḥalitza, but even the rival wife may not enter into levirate marriage. The Gemara responds: Are you not emending the mishna? If so, emend it as follows: She can only perform ḥalitza; her rival wife may either perform ḥalitza or enter into levirate marriage.

⁸² MISHNA: If two brothers are married to two minor sisters, and the husband of one of them dies childless, this widowed girl shall be exempt from levirate marriage due to her status as a forbidden relative, as one is prohibited from marrying the sister of his wife. The same halakha applies to two deaf-mute women, whose status is like that of two minors in this matter, as their marriages are valid by rabbinic law. And if two brothers were married to two sisters, one of them an adult and the other a minor, and the husband of the minor dies, the minor shall leave due to her status as the sister of a wife, as in the first case in the mishna.

⁸³ But if the husband of the adult dies, it generates a Torah obligation of levirate marriage, which is not abrogated by the rabbinic prohibition proscribing the yevama as his wife's sister. This prohibition is by rabbinic law, because marriage to a minor is rabbinic in origin. What does one do under such circumstances? Rabbi Eliezer says: We instruct the minor, i.e., his wife, to refuse him, so that her marriage is dissolved and he may then enter into levirate marriage with her adult sister, the widow of his childless brother.

⁸⁴ Rabban Gamliel says: If the minor refuses of her own accord, her refusal is valid. And if not, she should wait until she reaches majority, whereupon her marriage is valid by Torah law, and that widowed adult sister shall be exempt from levirate marriage due to her status as the sister of a wife.

⁸⁵ Rabbi Yehoshua says: When the brother married to the adult sister dies, leaving the brother married to the minor, woe [ee] to him for his wife, woe to him for his brother's wife. Under these circumstances, he loses both women: He must release his own wife with a bill of divorce and his brother's wife by performing ḥalitza. He cannot stay married to his wife because she is the sister of his yevama, and he cannot enter into levirate marriage with the yevama even after divorcing his wife, because the yevama is his wife's sister. The principle that one is completely absolved from levirate marriage when the potential yevama is a forbidden relative does not apply because Torah law does not recognize his marriage to his minor wife. That marriage's rabbinic sanction does not suffice to render the yevama, his wife's sister, a forbidden relative who is not a candidate for levirate marriage.

⁸⁶ GEMARA: The Gemara inquires about Rabbi Eliezer's suggestion to instruct the minor to refuse: Is it permitted to instruct her to refuse? Doesn't bar Kappara teach: A person should always cling to three things and distance himself from three things. He should cling to three things: To ḥalitza rather than levirate marriage, to bringing about peace, and to the nullification of vows. And he should distance himself from three things: From refusal; and from accepting deposits, as he is then responsible for them; and from serving as a guarantor. The Gemara answers: A refusal for a mitzva is different, as this refusal is performed to allow the mitzva of levirate marriage to be fulfilled with the other sister.

⁸⁷ § The Gemara explains the details of the matter itself. Bar Kappara taught: A person should always cling to three things: To ḥalitza; this is in accordance with the opinion of Abba Shaul, as it is taught in a baraita: Abba Shaul said: One who marries his yevama for her beauty, or for the sake of matrimony because he wants to be married to her, or for some other reason, such as her money, it is as if he is having intercourse with a woman forbidden to him, and in my eyes it is almost as if his offspring were a mamzer. Therefore, it is preferable that one performs ḥalitza and avoids sin.

⁸⁸ One should cling to bringing about peace, as it is written “Seek peace and pursue it” (Psalms 34:15).

⁸⁹ And Rabbi Abbahu said: It is derived by verbal analogy from the terms pursuit and pursuit. It is written here: “Seek peace and pursue it” (Psalms 34:15) and it is written there: “He who pursues righteousness and mercy finds life, prosperity, and honor” (Proverbs 21:21), indicating that pursuing peace is a mitzva, just as pursuing righteousness and mercy is. As for the nullification of vows, this is in accordance with the opinion of Rabbi Natan, as it is taught in a baraita: Rabbi Natan says: With regard to one who vows, it is as if he built a personal altar when it is prohibited to build an altar outside the Temple. And one who fulfills that vow, it is as if he sacrificed an offering on this personal altar, thereby doubling his sin. Therefore, it is preferable that he ask a halakhic authority to dissolve the vow.

⁹⁰ And one should distance himself from three things: From refusals, as perhaps she will grow up and regret her decision, and it will turn out that she refused a husband who was suitable for her. From deposits entrusted to him by an inhabitant of the same city, as he will treat the bailee’s home as his home. The owner might enter the bailee’s house and take the deposit without the latter’s knowledge, and subsequently falsely sue him for its return. From serving as a guarantor: This is referring to Sheltziyyon guarantees, in which the lender is entitled to demand payment from the guarantor even before the borrower defaults on the loan.

⁹¹ As Rabbi Yitzḥak said: What is the meaning of that which is written: “He who serves as a guarantor for a stranger shall suffer evil; but he who hates those who shake hands is secure” (Proverbs 11:15)? This means: Evil after evil will befall those who accept converts, and Sheltziyyon guarantors, and one who confounds himself in matters of halakha. The Gemara clarifies. Evil will befall those who accept converts: This is in accordance with the opinion of Rabbi Ḥelbo. As Rabbi Ḥelbo says: Converts are difficult for the Jewish people like a leprous sore on the skin.

⁹² Evil shall befall Sheltziyyon guarantors because they practice: Pull out, thrust in. That is, they pull out the borrower and thrust the guarantor in his place as the one responsible for the loan. Evil befalls one who confounds himself in matters of halakha, as it is taught in a baraita: Rabbi Yosei says: Anyone who says he has no Torah, has no Torah. The Gemara asks: Is this not obvious? Rather, anyone who says he has nothing other than Torah, has nothing other than Torah.

⁹³ The Gemara asks: But isn’t this also obvious? One does not receive more reward than he deserves. Rather, it means that he does not even have Torah. What is the reason? Rav Pappa said: The verse states: That you may learn them and perform them, which is an abridged version of the verse “Hear, O Israel, the statutes and the ordinances that I speak in your ears this day, that you may learn them, and take care to perform them” (Deuteronomy 5:1). The verse teaches that anyone who is engaged in performing mitzvot is engaged in Torah study, while anyone not engaged in performing mitzvot is

not engaged in Torah study; the Torah study of one who wishes only to immerse himself in his studies without fulfilling the mitzvot is not considered to be fulfilling even the mitzva of Torah study.

⁹⁴ And if you wish, say: Actually, it is as you initially said: Anyone who says he has nothing other than Torah has nothing other than Torah. Rather, this statement is necessary with regard to one who teaches others and they go and perform the mitzvot. Lest you say that there is reward for him in it, Rabbi Yosei teaches us that since that person engaged in Torah study without the intention of observing the mitzvot himself, he does not receive a reward for the mitzvot that he taught others and which they performed.

⁹⁵ And if you wish, say that one who confounds himself in matters of halakha is referring to a judge who had a case come before him, and he learned the tradition about a ruling in a similar case, and he likens one matter to the other in order to reach a conclusion; and he has a teacher nearby but he does not go and ask him. This is inappropriate, as judges must be very careful not to err in judgment.

⁹⁶ As Rabbi Shmuel bar Naḥmani said that Rabbi Yonatan said: A judge should always view himself as if a sword were placed between his thighs, so that if he leans right or left he will be injured, and as if Gehenna was open beneath him, as it is stated: "Behold, it is the bed of Solomon; sixty mighty men are around it, of the mighty men of Israel. They all handle the sword, and are expert in war; every man has his sword upon his thigh, because of dread in the night" (Song of Songs 3:7–8), i.e., because of the dread of Gehenna, which is similar to the night. Rabbi Shmuel bar Naḥmani understands the mighty men of Israel in this verse to refer to the judges who sit in judgment around the bed of Solomon, i.e., in the Temple.

⁹⁷ § It was taught in the mishna that Rabban Gamliel says: If the minor refuses of her own accord, her refusal is valid. And if not, she should wait until she reaches majority, whereupon her marriage is valid by Torah law, and the widowed adult sister shall be exempt from levirate marriage due to her status as the sister of a wife. Rabbi Elazar raised a dilemma to Rav: What is Rabban Gamliel's reasoning? Is it because he holds that the betrothal of a minor girl is in suspension and when she reaches majority, the betrothal reaches majority, i.e., is fully realized, with her? Accordingly, the betrothal would then be realized even if he did not engage in intercourse with her after she reached majority.

⁹⁸ Or perhaps, is it because he holds that when a yavam betroths the sister of his yevama, causing the yevama to be forbidden to him, the yevama is exempt and is released even though her levirate bond came first? If he engaged in sexual intercourse with his betrothed after she reached majority, then yes, the yevama is exempt as a forbidden relative, because only then does Rabban Gamliel consider the betrothal to be fully realized, but if he did not engage in intercourse with his betrothed, then the yevama is not exempt from levirate marriage.

⁹⁹ Rav said to him: This is Rabban Gamliel's reasoning: Because he holds that in the case of one who betroths the sister of his yevama, the yevama is exempt and is released, then if he engaged in sexual intercourse with the sister after she reached majority then yes, the yevama is exempt from levirate marriage, but if he did not engage in intercourse with the sister after she reached majority, the yevama is not exempt.

¹⁰⁰ Rav Sheshet said: I say that Rav said this halakha when he was dozing and lying down, as it is difficult. As it is taught in a baraita: In the case of one who betroths a minor girl, her betrothal is in suspension. What does it mean that it is in suspension? Is it not that when she reaches majority, the

betrothal reaches majority with her and is fully realized even if he did not have intercourse with her after she reached majority?

¹⁰¹ Ravin, son of Rav Naḥman, said to Rav Sheshet: This matter, that the betrothal of a minor girl remains in suspension, should be understood differently. It means that her betrothal is provisional as long as she is still a minor: If he has sexual intercourse with her after she reaches majority, yes, her betrothal is realized; if he does not engage in intercourse with her after she reaches majority, her betrothal is not realized. For she says to herself: He has an advantage over me in that he can divorce me, and I have an advantage over him, as I can refuse him. Since the marriage of a minor depends upon her ongoing consent, as she can refuse him at any time, it remains provisional until it is consummated when she is an adult.

¹⁰² The Gemara asks: But does Rav truly think that only if he has intercourse with her after she becomes an adult, then yes, her betrothal is realized, but if he did not engage in intercourse with her, then no, it is not realized? Wasn't it stated that with regard to a minor who had not refused her husband and reached majority, and then went and married another, Rav said: She does not require a bill of divorce from the second man, as she is fully married to the first and consequently her second marriage is invalid? And Shmuel said: She does require a bill of divorce from the second man, as it is uncertain whether her second marriage is valid.

¹⁰³ What, is it not a case where he did not have intercourse with her after she reached majority? If so, Rav thinks that even when he did not have intercourse with her, her marriage is fully realized once she reaches majority. The Gemara rejects this: No, this is referring to a case where he did have intercourse with her. The Gemara asks: If it is referring to a case where he had intercourse with her, what is Shmuel's reasoning? If the first one engaged in intercourse with her after she reached majority, then the marriage was fully realized. Under such circumstances, the second betrothal would not take effect. The Gemara answers: Shmuel holds that when anyone has sexual intercourse with a woman he married as a minor, his intention is that the intercourse is within the framework established by the initial betrothal and is not a new act of acquisition.

¹⁰⁴ The Gemara asks: But if this is the basis of the dispute, they already disagreed about this once, as it was stated with regard to the following case: A man betrothed a woman on some condition, and married her without mentioning the condition, and the condition was not fulfilled. Rav says: She requires a bill of divorce from him, and Shmuel says: She does not require a bill of divorce from him.

¹⁰⁵ The Gemara explains: Rav says she requires a bill of divorce from him, for since he married her, he apparently retracted his condition, and is therefore married to her even though the condition was not met. And Shmuel says: She does not require a bill of divorce from him, because anyone who has sexual intercourse with his wife, his intention is that the intercourse is within the framework established by the initial betrothal and the condition he set at the time of betrothal still stands. Since it was not fulfilled, the marriage is annulled. If so, Rav and Shmuel already disagreed about this same issue.

¹⁰⁶ The Gemara answers: It is necessary to state the dispute in both contexts, for if only that halakha about conditional betrothal was stated, one might think: In this case Rav says she needs a divorce since there is a condition with regard to the betrothal, but when he had intercourse with her, he retracted the condition. But in this case of betrothal to a minor, say that Rav would concede to Shmuel that the intercourse was not performed with the intention of it constituting a full betrothal.

And if only this case of betrothal to a minor was stated, one might think: Shmuel said that the marriage is effective in this case of betrothal to a minor, but in that case of a conditional betrothal, say that he would concede to Rav. Therefore, it was necessary to state the dispute explicitly in both instances.

¹⁰⁷ The Gemara asks: And did Rav actually say that when he engaged in sexual intercourse with her, yes, the original marriage is valid, and if he did not have intercourse with her, no, it is not valid? Wasn't there an incident in the city of Neresh where a woman was betrothed when she was a minor, and she reached majority, and the husband seated her in a bridal chair under the marriage canopy and had not yet had intercourse with her, and another man came and seized her from him and married her? And Rav Bruna and Rav Ḥananel, the students of Rav, were there and they did not require her to receive a bill of divorce from the latter husband. Presumably, they regarded her as fully married to the first husband, so the marriage to the second marriage never took effect, despite the fact that the first marriage had not yet been consummated.

¹⁰⁸ Rav Pappa said: There is a difference, because in Neresh their practice is to first marry a woman and have intercourse with her, and afterward they seat her in the bridal chair. In this incident, the husband had already had intercourse with her once she was an adult, and that is why Rav's students did not require a bill of divorce from the second man. Rav Ashi says: There was a different reason, even if the practice was not as Rav Pappa describes. This bride snatcher acted improperly. Consequently, they treated him improperly by annulling the legal validity of his actions, and the Sages abrogated his betrothal.

¹⁰⁹ Ravina said to Rav Ashi: This works out well if the second man betrothed her with money, as then the Sages could declare that money to be ownerless property and void the betrothal. If he betrothed her by means of intercourse, what is the halakha? How can the Sages dissolve the betrothal when the sexual act took place? The Gemara answers: The Sages rendered his sexual act a licentious sexual act, which does not create a bond of betrothal. With regard to the dispute in the mishna, Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Eliezer, and the minor is instructed to make a declaration of refusal. Likewise, Rabbi Elazar said: The halakha is in accordance with the opinion of Rabbi Eliezer.

¹¹⁰ MISHNA: If a man was married to two orphaned minors and died, consummation of levirate marriage or ḥalitza with one of them exempts her rival wife from either levirate marriage or ḥalitza, rendering her free to remarry. Likewise, if two deaf-mutes were married to one man who died, consummation of levirate marriage or ḥalitza with one of them exempts her rival wife. In both of these cases, both women are married by rabbinic law and consequently become yevamot by rabbinic law. Since their statuses are equal, one can exempt the other. If one wife is a minor and the other is a deaf-mute, consummation of levirate marriage or ḥalitza with one of them does not exempt her rival wife. Although both women are married by rabbinic law, their statuses are not the same and one cannot exempt the other.

¹¹¹ If one of them was halakhically competent and one was a deaf-mute, consummation of levirate marriage with the halakhically competent wife exempts the deaf-mute, as the halakhically competent women's marriage and levirate marriage are by Torah law. But consummation of levirate marriage with the deaf-mute does not exempt the halakhically competent wife. Likewise, if one was an adult

woman and one a minor girl, consummation of levirate marriage with the adult exempts the minor but consummation of levirate marriage with the minor does not exempt the adult.

¹¹² GEMARA: The mishna states that ḥalitza by one deaf-mute exempts the other. The Gemara asks: Can a deaf-mute perform ḥalitza? Didn't we learn in a mishna (104b): If a male deaf-mute performs ḥalitza, and if a female deaf-mute performs ḥalitza, and if a woman performs ḥalitza on a minor boy, her ḥalitza is disqualified?

¹¹³ Rav Giddel said that Rav said: The mishna is not referring to a deaf-mute's ḥalitza, but rather to consummation of levirate marriage with one of the deaf-mutes. Rava said: You can even say it is referring to ḥalitza. Here, the mishna is referring to a woman who was a deaf-mute from the outset, when he married her, and there the mishna that disqualifies the ḥalitza is referring to someone who was halakhically competent when she was married and afterward became a deaf-mute.

¹¹⁴ The difference is that a deaf-mute from the outset, just as she entered into marriage with her first husband so she leaves the levirate bond by means of ḥalitza. Both her marriage and her status as a yevama are by rabbinic law. However, one who was halakhically competent, so that she was married by Torah law, and later became a deaf-mute, no, she cannot be released by ḥalitza, since recitation is indispensable for her ḥalitza, and she cannot recite the text that a yevama must recite.

¹¹⁵ Abaye raised an objection to this: And is one who is a deaf-mute from the outset a candidate for ḥalitza? Didn't we learn in a mishna (Yevamot 112b): Two brothers, one who is halakhically competent and one who is a deaf-mute, are married to two unrelated women, one who is halakhically competent and one deaf-mute. If the male deaf-mute, who is the husband of the female deaf-mute, dies, what should the halakhically competent man, who is the husband of the halakhically competent woman, do? He may consummate the levirate marriage, but there is no option of performing ḥalitza. And if he wants to divorce her later, he may divorce her.

¹¹⁶ If the halakhically competent man, husband of the halakhically competent woman, dies, what should the male deaf-mute, who is the husband of the female deaf-mute, do? He may consummate the levirate marriage, but he may never divorce her, as a deaf-mute is not halakhically competent to divorce a woman to whom he is married by Torah law. What, is it not referring to a deaf-mute from the outset? And it is taught: Yes, he may consummate the levirate marriage,

¹¹⁷ but no, he may not perform ḥalitza. The Gemara rejects this: No, it is referring to a halakhically competent woman who later became a deaf-mute, and ḥalitza performed by a deaf-mute does not have the power to undo a levirate bond that is valid by Torah law.

¹¹⁸ Come and hear proof from a baraita: Two halakhically competent brothers are married to two unrelated women, one who is halakhically competent and one who is a deaf-mute. If the halakhically competent man who is the husband of the female deaf-mute, dies, what should the halakhically competent man who is the husband of the halakhically competent woman do? He consummates the levirate marriage with the deaf-mute, and if he later wishes to divorce her, he may divorce her. But if the halakhically competent man who is the husband of the halakhically competent woman dies, what should the halakhically competent man who is the husband of the female deaf-mute do? He may either perform ḥalitza or consummate the levirate marriage.

¹¹⁹ What, is it not the case in this baraita that since he is halakhically competent from the outset, one may presume that she is a deaf-mute from the outset as well? And it is taught yes, he may

consummate the levirate marriage with the yevama who is a deaf-mute, but no, he may not perform ḥalitza to her, thereby indicating that ḥalitza cannot be performed even though as a deaf-mute from the outset, she is a yevama by rabbinic law and not by Torah law. The Gemara rejects this: Are the cases comparable? This case is as it is, i.e., the husband is competent throughout, and that case is as it is, i.e., the wife was not a deaf-mute at the outset.

¹²⁰ The Gemara raised an objection to this from a mishna (Yevamot 112b): Two brothers, one who is halakhically competent and one who is a deaf-mute, are married to two sisters, one who is halakhically competent and one who is a deaf-mute. If the male deaf-mute who is the husband of the female deaf-mute dies, what shall the halakhically competent man who is the husband of the halakhically competent woman do? The female deaf-mute leaves and is exempt from levirate marriage due to the prohibition against marrying the sister of one's wife.

¹²¹ If the halakhically competent man who is the husband of the halakhically competent woman dies, what should the male deaf-mute who is the husband of the female deaf-mute do? He releases his wife, the female deaf-mute, with a bill of divorce, and his brother's wife is forbidden forever and may never remarry. He cannot remain married because his wife is the sister of his yevama by Torah law. He cannot consummate the levirate marriage with her because she is the sister of his ex-wife. Apparently, ḥalitza is not an option because he is a deaf-mute, and his ḥalitza cannot dissolve a levirate bond that is established by Torah law.

¹²² And if you would say: Here, too, it is referring to a man who was halakhically competent and later became a deaf-mute, can such a person divorce his wife? Didn't we learn the following in the mishna (112b): If a halakhically competent man married a halakhically competent woman and she became a deaf-mute, he may divorce her; if she became mentally incompetent, he may not divorce her, because of a rabbinic ordinance to protect her from harm. If he himself became a deaf-mute or became mentally incompetent, he may never divorce her. Since he was competent when he married her, he cannot dissolve a marriage that is by Torah law when he is incompetent.

¹²³ Rather, is it not referring to a male who was deaf-mute from the outset? And since he was a deaf-mute from the outset, she was also a deaf-mute from the outset. And since the sisters in these cases were deaf-mutes from the outset, then the unrelated women were also deaf-mutes from the outset, and we learned in the mishna with regard to the unrelated women that yes, he may consummate the levirate marriage with them, but no, he may not perform ḥalitza. When this question was presented to Rabba, he was silent and had no response.

¹²⁴ When Abaye came before Rav Yosef and told him of the matter, Rav Yosef said to him: What is the reason that you raised an objection to him based on this? For he could teach, i.e., explain to you, as follows: The sisters the mishna referred to were deaf-mutes at the outset, whereas the unrelated women it referred to were halakhically competent women who later became deaf-mutes.

¹²⁵ Rather, you should have raised an objection to him from this mishna (112b): In the cases of two deaf-mute brothers married to two halakhically competent sisters or to two deaf-mute sisters or to two sisters, one halakhically competent and one a deaf-mute; and likewise, two deaf-mute sisters married to two halakhically competent brothers or to two deaf-mute brothers or to two brothers, one halakhically competent and one a deaf-mute, all these women are exempt from ḥalitza and from levirate marriage in the event of the death of one of the brothers while childless. And if, in these

cases, the women were unrelated to one another, the surviving brothers should consummate levirate marriage with them, and if they wish to divorce them subsequently, they may divorce them.

¹²⁶ The Gemara clarifies: What are the circumstances? If we say the mishna is referring to men who were halakhically competent and later became deaf-mutes, then in that case can they release them? But didn't we learn in the mishna (112b): If she became mentally incompetent, he may not divorce her; if he became a deaf-mute or mentally incompetent, he may never divorce her?

¹²⁷ Rather, is it not referring to men who were deaf-mutes at the outset? And since they were deaf-mutes at the outset, the women were also deaf-mutes at the outset, and it is taught there: If, in these cases, they were unrelated to one another, the surviving brothers should consummate levirate marriage with them. This implies: Yes, they should consummate levirate marriage with them, but no, they should not perform *ḥalitza*. From this conclusion is apparent that a female deaf-mute may not perform *ḥalitza*; the refutation of the opinion of Rabba is a conclusive refutation.

¹²⁸ § It is taught in the mishna: If one wife is a minor and the other is a deaf-mute, consummation of levirate marriage or *ḥalitza* of the *yavam* with one of them does not exempt her rival wife. Rav Naḥman said: I found Rav Adda bar Ahava and Rav Ḥana his son-in-law sitting and posing challenges [*kamakvu akvata*] to one another in the marketplace of Pumbedita, and saying as follows: That which we learned in the mishna, that in the case of a minor and a deaf-mute, the consummation of levirate marriage with one of them does not exempt her rival wife, applies when she happened before him for levirate marriage as the widow of his halakhically competent brother. Under such circumstances, we do not know if the minor was preferable to the brother who married her initially, or if the deaf-mute was preferable to him.

¹²⁹ The Gemara explains: They wondered if the minor was preferable to him, since she eventually would have come to full intellectual capacity when she reached majority, or if the deaf-mute was preferable, since she is an adult and she is suitable for sexual intercourse. Given the uncertainty, it cannot be determined whose initial marriage was more complete and therefore the levirate marriage of one of them cannot exempt her rival wife. However, if she happened before him for levirate marriage as the widow of his brother who was deaf-mute, certainly the female deaf-mute was preferable to him, as she was suitable for sexual intercourse and was of his kind, and therefore the marriage to her was more complete.

¹³⁰ And I, Rav Naḥman, said to them: Even if she happened before him as the widow of his brother who was deaf-mute, it is still uncertain, because the difference between the marriage of a minor and a deaf-mute in this case is independent of the original husband's preferences. They are different types of relationships.

¹³¹ The Gemara asks: How can their situation be rectified, so that they can remarry? Rav Ḥisda said that Rav said: He consummates the levirate marriage with the deaf-mute and then releases her by means of a bill of divorce. He cannot stay married to her because the subsequent *ḥalitza* of the minor will disqualify her as the rival wife of his *yevama* who has performed *ḥalitza* [*ḥalutza*]. The minor must wait until she reaches majority and then perform *ḥalitza*.

¹³² Rav Ḥisda said: Learn from this statement that Rav holds that a married deaf-mute is partially acquired, and a minor is either acquired or not acquired, i.e., there is uncertainty as to whether she was acquired completely or not acquired at all. For if it enters your mind to say the opposite, that the deaf-mute is either acquired or not acquired, while the minor is partially acquired, then with regard to

the deaf-mute woman, why should he consummate the levirate marriage and then release her with a bill of divorce?

¹³³ Let her stay with him, as she is permitted whichever way you look at it: If she is acquired, then she is fully acquired; and if she is not acquired at all, then she is merely an unrelated woman. If the marriage to the deceased brother was not a true marriage, there is no reason for her to be forbidden to him.

¹³⁴ And if you would say that the same question could be asked if you claim that it is the minor whose acquisition is uncertain: Why should she wait until she reaches majority and performs ḥalitza? Let her stay with him: If she is acquired, then she is fully acquired; and if she is not acquired at all, then she is merely an unrelated woman. However, you cannot say that because, if that is so, how shall the deaf-mute be released? As a deaf-mute, she cannot perform ḥalitza, and he cannot consummate the levirate marriage with her since the minor may be considered to be acquired by him, in which case the deaf-mute would be disqualified as the rival wife of his yevama. Rav's suggestion was meant to find a way for both of them to be able to remarry, and that is only possible if the minor and deaf-mute's statuses are as Rav Ḥisda argues.

¹³⁵ Rav Sheshet said: Indeed, this too stands to reason, i.e., only the way that Rav Ḥisda explained the halakha in accordance with the opinion of Rav is reasonable.

¹³⁶ As it is taught in a baraita about the following case: Two brothers married two orphaned sisters, one of them a minor and one of them a deaf-mute. If the husband of the minor dies and she happens before the husband of the deaf-mute for levirate marriage, the deaf-mute must be released by means of a bill of divorce due to her sister's levirate bond, and the minor must wait until she reaches majority and perform ḥalitza.

¹³⁷ If the deaf-mute's husband dies, the minor must be released by means of a bill of divorce and the deaf-mute is forbidden forever. He must divorce the minor because of the levirate bond with her sister. He may not consummate the levirate marriage with the deaf-mute because she is his ex-wife's sister; and he cannot perform ḥalitza with her, because she is not capable of performing ḥalitza. And if he transgresses and consummates the levirate marriage with the deaf-mute, he gives her a bill of divorce afterward, and she is thereby released.

¹³⁸ Granted, this argument works if you say that the deaf-mute is partially acquired, and the minor is either acquired or not acquired; it is due to that reason that if he transgresses and consummates the levirate marriage with the deaf-mute, he gives her a bill of divorce and she is released. You would say she is released whichever way you look at it: If the minor is fully acquired by her husband, then the deaf-mute is released due to her status as the sister of his wife, who is a forbidden relative and as such is entirely exempt from levirate marriage. And if the minor is not acquired at all, then he may rightly consummate the levirate marriage and afterward divorce her.

¹³⁹ But if you say that the deaf-mute is either acquired or not acquired, i.e., the status of a marriage with a deaf-mute is uncertain, while the minor is partially acquired, then when he transgresses and has intercourse with the deaf-mute, why should he give her a bill of divorce and she thereby be released? It is an invalid sexual act, as the minor is partially acquired, which disqualifies her sister from levirate marriage. And an invalid sexual act does not exempt her, i.e., does not constitute full consummation of the levirate marriage, making it possible for him to divorce her. She still requires

ḥalitza, and a deaf-mute cannot perform ḥalitza. Therefore it must be, as Rav Ḥisda suggested, that the deaf-mute is partially acquired while it is uncertain whether the minor is acquired or not.

¹⁴⁰ The Gemara rejects the conclusion that the baraita provides evidence for Rav Ḥisda's explanation, as it is possible to say: In accordance with whose opinion is this baraita? It is in accordance with the opinion of Rabbi Neḥemya, who said: An invalid sexual act also exempts a woman from ḥalitza.

¹⁴¹ The Gemara asks: If one accepts the suggestion that this baraita is in accordance with the opinion of Rabbi Neḥemya, say the latter clause of this same baraita: Consider the case of one who was married to two orphans, a minor and a deaf-mute, and he died. If the yavam had intercourse with the minor and then had intercourse with the deaf-mute, or if one of his brothers had intercourse with the deaf-mute after the first brother engaged in intercourse with the minor, they are both forbidden to the first brother. How can their situation be rectified? The deaf-mute must be released with a bill of divorce, and the minor must wait until she reaches majority and then perform ḥalitza.

¹⁴² Granted, this halakha makes sense if you say that a deaf-mute is partially acquired, meaning that she was never fully acquired in the first place; that a minor is either acquired or not acquired; and that the baraita is in accordance with the opinion of the Rabbis who state that an invalid sexual act does not exempt a woman from ḥalitza. For these reasons, the minor must wait until she reaches majority and then perform ḥalitza. The Sages decreed that she must perform ḥalitza no matter what, as perhaps he may precipitately have intercourse with the deaf-mute first, so that the subsequent intercourse with the minor is considered an invalid sexual act, because he is already partially married to her rival wife. However, since the deaf-mute is only partially acquired, her levirate marriage does not exempt the minor and the minor still must perform ḥalitza.

¹⁴³ But if you say it is in accordance with the opinion of Rabbi Neḥemya, and also that the status of a deaf-mute's marriage is uncertain while the status of the minor is that she is partially acquired, there is no explanation why the minor must perform ḥalitza when she reaches majority, as he said that an invalid sexual act exempts her.

¹⁴⁴ Rather, conclude from this reasoning that this baraita is in accordance with the opinion of the Rabbis. The Gemara concludes: Learn from it.

¹⁴⁵ Rav Ashi said: One may learn also from the first clause of the baraita that it is in accordance with the opinion of the Rabbis, as it teaches: If he transgresses and consummates the levirate marriage with the sister, who is a deaf-mute, he gives her a bill of divorce afterward, and she is thereby released. And it does not teach: If he consummates the levirate marriage with the minor, he gives her a bill of divorce and she is released. This is presumably because consummation of levirate marriage with the minor is an invalid sexual act, as her deaf-mute sister is partially married to the yavam. Even if he does engage in intercourse with her, she will still require ḥalitza.

¹⁴⁶ The Gemara rejects this argument: If it is due to that reason, there is no conclusive argument, as one may say that for the deaf-mute, whose situation has no rectification that is permitted because she cannot perform ḥalitza, the baraita teaches a prohibited rectification; but for the minor, whose situation has a permitted rectification, in that she can perform ḥalitza after she reaches majority, the baraita does not teach a prohibited rectification.

¹⁴⁷ MISHNA: If a man was married to two minor orphans and he died, and a yavam engaged in intercourse with the first of them to consummate the levirate marriage, and then engaged in intercourse with the second, or if his brother who is also their yavam engaged in intercourse with the second,

¹⁴⁸ the yavam or his brother did not disqualify the first girl from staying married to him, as her levirate marriage was consummated. Likewise, if the two wives were two female deaf-mutes, the first wife may remain married to the yavam. Intercourse with the second wife, though prohibited, has no effect: If the marriage was of uncertain status, then either the levirate marriage was concluded when he engaged in intercourse with the first, or neither wife was really married to the first husband, and they are therefore not rival wives. If the initial marriage was partial, then since both wives have the same standing, the levirate marriage with the first wife fully realizes whatever degree of levirate marriage is available.

¹⁴⁹ If one wife was a minor and the other a deaf-mute, and the yavam engaged in intercourse with the minor and then engaged in intercourse with the deaf-mute, or if his brother engaged in intercourse with the deaf-mute, then the yavam or his brother disqualified the minor from staying married due to the Sages' decree, lest it be confused with a situation where the intercourse with the deaf-mute was first.

¹⁵⁰ If the yavam engaged in intercourse with the deaf-mute and then engaged in intercourse with the minor, or if his brother engaged in intercourse with the minor, then the yavam or his brother disqualified the deaf-mute from staying married. The marriage to the deaf-mute creates a partial acquisition that does not exempt the second wife from levirate marriage, as she, as a minor, has a different standing. Accordingly, intercourse with the second wife also creates a partial acquisition and thereby both women are prohibited to the yavam, as it is prohibited to consummate levirate marriage with more than one wife.

¹⁵¹ If one widow was halakhically competent and one widow was a deaf-mute, and the yavam engaged in intercourse with the halakhically competent woman and then engaged in intercourse with the deaf-mute, or if his brother then engaged in intercourse with the deaf-mute, the yavam or his brother did not disqualify the halakhically competent woman from staying married. Since the yavam consummated the levirate marriage with her first, the levirate bond was entirely dissolved and the intercourse with the deaf-mute, though forbidden, had no effect.

¹⁵² If the yavam engaged in intercourse with the deaf-mute and then engaged in intercourse with the halakhically competent woman, or if his brother engaged in intercourse with the halakhically competent woman, the yavam or his brother disqualified the deaf-mute from staying married. Consummation of the levirate marriage with the deaf-mute creates only a partial acquisition that does not fully dissolve the levirate bond.

¹⁵³ If the deceased brother had two wives, an adult and a minor, and the yavam engaged in sexual intercourse with the adult, then engaged in intercourse with the minor, or if his brother engaged in intercourse with the minor, the yavam or his brother did not disqualify the adult from staying married, as the consummation of the levirate marriage with the adult completely dissolves the levirate bond. If the yavam engaged in intercourse with the minor, and then engaged in intercourse with the adult, or if his brother engaged in intercourse with the adult, the yavam or his brother disqualified the minor from staying married. Rabbi Elazar says: The court instructs the minor to

refuse him thereby annulling her marriage retroactively, and then the minor is permitted to marry any man.

¹⁵⁴ GEMARA: Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Elazar, and likewise the amora Rabbi Elazar ben Pedat said: The halakha is in accordance with the opinion of Rabbi Elazar ben Shammua, the tanna in the mishna.

¹⁵⁵ The Gemara says: It is necessary to rule that the minor is instructed to refuse, thus annulling her original marriage, both in this case and in the earlier case (Yevamot 109a) of an adult woman who becomes the yevama of her husband's brother who is married to her minor sister. For if this halakhic ruling was stated only in that earlier case, I would have said: It was in that case that Shmuel stated the halakha is in accordance with the opinion of Rabbi Eliezer, due to the fact that the yavam did not fulfill the mitzva of levirate marriage with the adult. In order for him to be permitted to do so, the Sages rule that the minor should be instructed to refuse him. But for this case, where the mitzva of levirate marriage is fulfilled, say that they must both be released with a bill of divorce.

¹⁵⁶ And conversely, if the tanna teaches us the ruling only in this case, one would think: It is because the adult happened before him for levirate marriage, and since both the adult and the minor are equally candidates for levirate marriage, it makes sense to encourage the minor to refuse; however, in the other mishna, where the minor is already married to the yavam, making the adult yevama his wife's sister who is forbidden to him, she should not be encouraged to refuse. Therefore, it was necessary to state, also in this case, that she is nevertheless encouraged to refuse.

¹⁵⁷ MISHNA: If a minor yavam engaged in sexual intercourse with a minor yevama, they should grow up together, living as a married couple. He may not divorce her, as he is a minor. If he engaged in sexual intercourse with an adult yevama, she should raise him, i.e., they must stay married, as there is no way for him to divorce her until he reaches majority.

¹⁵⁸ When a yevama said within thirty days of her marriage: I have not engaged in sexual intercourse with him, the court forces him to perform ḥalitza with her. If she said this after thirty days but he claimed that he had engaged in sexual intercourse, the court asks him to perform ḥalitza with her, as there are grounds to believe him. And when he admits that he did not engage in intercourse with her, even after twelve months, the court forces him to perform ḥalitza with her.

¹⁵⁹ If a woman vows during her husband's lifetime to derive no benefit from her yavam, the court forces him to perform ḥalitza with her as it is forbidden for her to engage in sexual intercourse with him to consummate the levirate marriage. If she vowed after the death of her husband to derive no benefit from her yavam, the court asks him to perform ḥalitza with her. And if she intended to do so, i.e., she had an ulterior motive of avoiding levirate marriage when she vowed, even if she made the vow during her husband's lifetime, the court merely asks him to perform ḥalitza with her.

¹⁶⁰ GEMARA: The mishna teaches that a minor yavam and minor yevama can consummate a levirate marriage and are permitted to live together. The Gemara suggests: Let us say that the mishna is not in accordance with the opinion of Rabbi Meir as it is taught in a baraita: A minor boy and a minor girl may not perform ḥalitza and may not enter into levirate marriage. This is the statement of Rabbi Meir. Rabbi Meir prohibits this lest the boy turn out to be a eunuch or the girl turn out to be sexually underdeveloped. In such cases, the mitzva of levirate marriage would not apply, and the prohibition against marrying one's brother's wife would be in effect.

¹⁶¹ The Gemara responds: You can even say that the mishna is in accordance with the opinion of Rabbi Meir. When Rabbi Meir said that minors may not enter into levirate marriage, he was referring to an adult yevama with a minor yavam or a minor yevama with an adult yavam. This is because for one of them it would be a forbidden sexual act, due to the uncertainty of the minor's status. Since the minor may turn out to be permanently sexually underdeveloped, the adult is forbidden from having intercourse with him or her. But in the case of a minor yavam who has sexual intercourse with a minor yevama, where they are both similar to one another, as neither of them is obligated to perform mitzvot, Rabbi Meir did not state that it is forbidden for them to perform levirate marriage.

¹⁶² The Gemara asks: But it is taught in the mishna: If he, i.e., the minor yavam, engaged in sexual intercourse with an adult yevama, she should raise him, which contradicts the explication of Rabbi Meir's opinion above. Rabbi Ḥanina Ḥoza'a said: It is different once he engaged in intercourse with her. Although at the outset Rabbi Meir prohibits consummation of the levirate marriage, once it has already taken place, it is preferable that she raise him. The Gemara asks: But it says that she should raise him, indicating that they are meant to live as a married couple, even though each and every sexual act is forbidden according to Rabbi Meir. Rather, it is clear that the mishna is not in accordance with the opinion of Rabbi Meir.

¹⁶³ The Gemara asks: How can the minor enter into levirate marriage? The verse here reads: "And if the man does not wish to take his yevama, his yevama shall ascend to the gate to the Elders and say: My brother-in-law refused to establish a name for his brother in Israel; he did not wish to consummate the levirate marriage" (Deuteronomy 25:7), and this minor is incapable of doing so, as he cannot sire children. Abaye said that the verse states: "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), to include anyone, even someone who cannot sire children.

¹⁶⁴ Rava said: Even without this interpretation you still could not say that it is prohibited for a minor to enter into levirate marriage. Is there a case of levirate marriage where she is forbidden to him now, and after some time she becomes permitted? Didn't Rav Yehuda say that Rav said: Any yevama to whom I cannot apply the verse "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5) at the time she happens before him for levirate marriage, is considered as if she were the wife of a brother who has children, who is exempt from levirate marriage, and she is consequently forbidden to him forever? It must be the case that minors can perform levirate marriage. If it was forbidden, then they would be exempt from levirate marriage even after reaching the age of majority.

¹⁶⁵ The Gemara asks: And say, indeed, a minor should be exempt from levirate marriage, and consequently forbidden from ever marrying his brother's wife. The Gemara answers: The verse states: "If brothers dwell together" (Deuteronomy 25:5), indicating that this rule applies to all brothers who are alive simultaneously, even if the brother was only one day old.

¹⁶⁶ § The mishna states: When a yevama said within thirty days of her marriage: I have not engaged in sexual intercourse with him, the court forces him to perform ḥalitza with her. The Gemara asks: Who is the tanna who taught that for up to thirty days a person can be presumed to restrain himself and resist engaging in sexual intercourse with a woman who lives with him?

¹⁶⁷ Rabbi Yoḥanan said: It is the opinion of Rabbi Meir, as it is taught in a baraita: A man may come to court to make a claim concerning virginity, i.e., that the woman he married was not a virgin, for thirty days after the marriage ceremony. Assuming that he makes the claim immediately following

their first sexual act, his claim is credible if he makes it within the first thirty days; this is the statement of Rabbi Meir.

¹⁶⁸ Rabbi Yosei says: If she was secluded with him after the wedding in a place suitable for sexual intercourse, a claim concerning virginity is only credible immediately. But if she was not secluded with him, they presumably did not engage in intercourse, and such a claim is credible even several years later.

¹⁶⁹ Rabba said: You can even say that the mishna is in accordance with the opinion of Rabbi Yosei. Rabbi Yosei states his opinion there only with regard to a virginity claim about one's betrothed, to whom he is accustomed, and therefore less inhibited, but with regard to his brother's wife, i.e., a widow,

¹⁷⁰ he is embarrassed with her. Therefore, it is possible that more time passed before he engaged in intercourse with her.

¹⁷¹ § The Gemara asks about the halakha that if he has not consummated the marriage, he is forced to perform ḥalitza: Before he is forced to perform ḥalitza, let us force him to consummate the levirate marriage. Rav said: The mishna is referring to a case where her bill of divorce is already to be found in her hand. The yavam has already given her a bill of divorce, but she claims that he never consummated the levirate marriage, and that therefore she is not released by the bill of divorce and still requires ḥalitza.

¹⁷² The Gemara raises an objection: If, within thirty days, a yevama said: I have not engaged in sexual intercourse with him, then whether he says: I did engage in intercourse, or whether he says: I did not engage in intercourse, the court forces him to perform ḥalitza. If she made this claim after thirty days have passed, the court asks him to perform ḥalitza.

¹⁷³ If she says after thirty days: I engaged in sexual intercourse with him, and he says: I did not engage in sexual intercourse with her, then he releases her with a bill of divorce, because the legal presumption is that he did have sexual relations with her. If he says: I engaged in sexual intercourse with her, and she says: I did not engage in sexual intercourse with him, even if he retracted his statement and said: I did not engage in sexual intercourse with her, this situation requires both a bill of divorce and ḥalitza. The fact that the baraita requires a bill of divorce indicates that the entire passage is referring to a case when she did not yet have a bill of divorce.

¹⁷⁴ Rabbi Ami says: When the baraita says that she requires a bill of divorce, it means that she requires ḥalitza with her bill of divorce that she already received. Rav Ashi says: There, where Rav explained the mishna as referring to a case where she has already received a divorce, it is referring to a bill of divorce that he gave her for his levirate bond, before he consummated the levirate marriage. Upon its reception, it is prohibited to consummate the levirate marriage, but she still requires ḥalitza. Here, in the baraita, it is referring to a bill of divorce that he gave for his consummation of the levirate marriage. After he engaged in sexual relations with her she becomes his wife and requires a regular divorce in order to remarry.

¹⁷⁵ It was told: A certain couple, a yavam and yevama, who both admitted that they had not consummated the levirate marriage, came before Rava. Rava said to the Sages who sat before him: Arrange ḥalitza for her, and resolve her case. Rav Sherevyia said to Rava: But it is taught in a baraita

that she requires a bill of divorce and ḥalitza. He said to him: If this baraita is taught, it is taught, and I retract my ruling on account of it.

¹⁷⁶ Hon, son of Rav Naḥman, asked Rav Naḥman: What is the halakha with regard to her rival wife? If the yavam consummated the levirate marriage with his brother's wife, the rival wife is exempted. In the event that the yevama who entered levirate marriage says that her yavam did not consummate the levirate marriage, is there a need for a procedure to exempt the rival wife from the levirate bond?

¹⁷⁷ He said to him: Just because we force or sometimes ask the husband to perform ḥalitza in order to remove any uncertainty and release the wife, should the rival wife be forbidden to remarry? The presumption is that the yavam did consummate the levirate marriage but since she denies it, she causes herself to be forbidden to marry others without ḥalitza. However, her statement is not relied upon to the extent that her rival wife would be forbidden.

¹⁷⁸ § It is taught in the mishna: If a woman vows during her husband's lifetime to derive no benefit from her yavam, the court forces him to perform ḥalitza. We learned in a mishna elsewhere (Nedarim 90b): At first they said: Three categories of women are divorced from their husbands against their will, and even so they receive payment of their marriage contract.

¹⁷⁹ They are: A woman who says: I am defiled to you. When a priest's wife tells her husband that she was raped, he is obligated to divorce her as she is forbidden to him. Since she became forbidden due to circumstances beyond her control, she is entitled to receive payment of her marriage contract. Likewise, a woman who says: Heaven is between me and you, that is: There are no witnesses to the matter, but Heaven will testify that you are incapable of having normal sexual relations with me. Since this is not her fault, she receives the settlement in her marriage contract. The same halakha applies if a woman vows: I am withdrawn from the Jews, meaning, she vows not to engage in sexual relations with any Jew, because conjugal relations are difficult for her.

¹⁸⁰ The Sages subsequently retracted and said that in order that a married woman should not cast her eyes on another man and, in order to be with him, ruin her relationship with her husband and leave with payment of her marriage contract, these halakhot were modified. Rather, a priest's wife who says to her husband: I am defiled to you, must bring evidence for her statement that she was raped. A woman who says: Heaven is between me and you, the court deals with the matter by way of a request, and the husband is not forced to divorce his wife.

¹⁸¹ As for a woman who says: I am withdrawn from the Jews, her husband must nullify his part in the vow, that is, the part of the vow that concerns him, so that she should be permitted to him, and she may have relations with him. But she is withdrawn from all other Jews, so that if he divorces her, she is forbidden to all.

¹⁸² A dilemma was raised before the scholars: If the wife said: I am withdrawn from the Jews and the husband nullifies his part in the vow, what is the halakha with regard to the yavam once the husband has died? Does this vow apply to him? When she takes the vow, does it enter her mind that her husband will die and she will happen before a yavam, or not? If she did entertain the thought, then the vow applies to the yavam, as the husband's nullification only affects himself, and she must perform ḥalitza. If she did not consider the possibility of becoming a yevama, then the vow does not apply to the yavam and she can enter into levirate marriage. Her vow was directed only against any potential suitors she might have if her husband divorced her.

¹⁸³ Rav says: A yavam is not like a husband. She did not intend that her vow be directed against him at all, and he may enter into levirate marriage with her. And Shmuel says: A yavam is like a husband in this respect and the vow applies to him as well, so he must perform ḥalitza. Abaye said: Ruling according to Rav's opinion stands to reason, as we learned in the mishna: If a woman vows during her husband's lifetime to derive no benefit from her yavam, the court forces him to perform ḥalitza. And if it is the case that it enters her mind that the husband will die and she will become a candidate for levirate marriage with the yavam,

¹⁸⁴ the mishna should have said that the court asks the yavam to perform ḥalitza rather than forces him. The court would not force him to perform ḥalitza in a case where she deliberately attempted to avoid fulfilling the mitzva of levirate marriage. The Gemara answers: With what are we dealing here? With a woman who has children with her husband when she vows, so that it did not enter her mind to the extent that her children would die, and later her husband would also die, and she would happen before his brother for levirate marriage.

¹⁸⁵ The Gemara asks: But if she has no children, what is the halakha? Is it that we ask him to perform ḥalitza, but do not force him? If so, then instead of teaching the more remote case that if she intended to do so, to avoid levirate marriage in the event of her husband's death, even if she vowed during her husband's lifetime, the court merely asks him to perform ḥalitza with her, let the mishna distinguish and teach the distinction within this halakha itself, as follows: In what case is this statement said? When she has children, but if she does not have children, the court merely asks him.

¹⁸⁶ Rather, learn from it that there is no difference between when she has children and when she does not have children. Either way the court forces him to perform ḥalitza, in accordance with the opinion of Rav, as there is no assumption that the woman planned to avoid levirate marriage unless she says so explicitly. The Gemara concludes: Indeed, learn from it that the halakha follows Rav's opinion.

Chapter 14

¹ MISHNA: With regard to a deaf-mute who married a halakhically competent woman, and a halakhically competent man who married a deaf-mute: If either man wants to divorce his wife, he may divorce her, and if he wants to maintain her as his wife, he may maintain her. The reason why a deaf-mute man can divorce his wife is that just as he marries her by intimation, i.e., his marriage is not performed by explicit speech, as deaf-mutes rely on gestures, so too, he divorces her by intimation.

² Likewise, in the case of a halakhically competent man who married a halakhically competent woman, and she later became a deaf-mute: If he wants to divorce his wife, he may divorce her, as a wife does not have to have intellectual capacity to receive a bill of divorce, and if he wants to maintain her as his wife, he may maintain her. If she became an imbecile, he may not divorce her, i.e., a bill of divorce is ineffective in this case. If he became a deaf-mute or an imbecile after they were married, he may never divorce her, as he does not have the legal competence to give a bill of divorce.

³ Rabbi Yoḥanan ben Nuri said: For what reason is the halakha that in the case of the woman who becomes a deaf-mute, her husband may divorce her, but in the case of the man who becomes a deaf-

mute, he may not divorce his wife? If the bill of divorce written by someone who formerly possessed all his senses and later became a deaf-mute is invalid, it stands to reason that it should not be valid when she becomes a deaf-mute either. They said to him: The man who divorces his wife is not similar to the woman who is divorced, as the woman is divorced whether she is willing or unwilling. Since the woman's consent is not required, she may be divorced even if she is a deaf-mute. And, conversely, the man divorces his wife only willingly, and therefore the bill of divorce of a deaf-mute, who is not legally competent, is ineffective.

⁴ Rabbi Yoḥanan ben Gudgada testified with regard to a female deaf-mute whose father married her off when she was a minor, which means her marriage was valid by Torah law, that she can be divorced with a bill of divorce even when she matures and is no longer under her father's authority, despite the fact that she is not legally competent. They said to him: This woman, too, has a similar status. In other words, a woman who possessed all her faculties and later became a deaf-mute is comparable to a minor whose marriage was valid by Torah law and later, when she matured and was no longer under the authority of her father, received a bill of divorce. Both of these women can receive a bill of divorce, in accordance with the principle stated in the previous paragraph.

⁵ The mishna continues: In a case where there were two deaf-mute brothers married to two deaf-mute sisters or to two halakhically competent sisters, or to two sisters, one of whom was a deaf-mute and the other one halakhically competent; or in a case where there were two deaf-mute sisters married to two halakhically competent brothers or to two deaf-mute brothers or to two brothers, one of whom was a deaf-mute and the other one halakhically competent, all these women are exempt from ḥalitza and from levirate marriage. Each of them is forbidden to her yavam because he is married to her sister. And if they were unrelated women, i.e., the women are not sisters, the men may marry them in levirate marriage, and if they want to divorce them later, they may divorce them.

⁶ However, if two brothers, one of whom is a deaf-mute and other one halakhically competent, were married to two halakhically competent sisters, and the deaf-mute married to the halakhically competent sister died, what should the halakhically competent brother married to the halakhically competent sister do? His brother's wife is released without levirate marriage or ḥalitza, due to the prohibition with regard to a wife's sister.

⁷ If the halakhically competent brother married to the halakhically competent sister died, what should the deaf-mute brother married to the halakhically competent sister do? He divorces his wife with a bill of divorce, as his wife's sister came before him for levirate marriage by Torah law, and the legal status of her marriage and her levirate marriage is higher than his own marriage, which applies only by rabbinic law. And his brother's wife is forbidden to him forever, and there is no remedy for her. He cannot marry her, as by rabbinic law she is the sister of his ex-wife, nor can he exempt her by means of ḥalitza, as he is a deaf-mute.

⁸ If two halakhically competent brothers were married to two sisters, one of whom is a deaf-mute and the other one halakhically competent, and the halakhically competent brother married to the deaf-mute sister died, what should the halakhically competent brother married to the halakhically competent sister do? The deaf-mute sister is released due to the prohibition with regard to a wife's sister. If the halakhically competent brother married to the halakhically competent sister died, what should the halakhically competent brother married to the deaf-mute sister do? He divorces his wife with a bill of divorce, as the halakhically competent sister came before him for levirate marriage, and

the status of her levirate bond is higher than the status of his marriage to his wife, a deaf-mute. And he releases his brother's wife, who is not a deaf-mute, by means of ḥalitza, as they are both legally competent and can therefore perform ḥalitza.

⁹ If two brothers, one of whom is a deaf-mute and the other one halakhically competent, were married to two sisters, one of whom is a deaf-mute and the other one halakhically competent, and the deaf-mute brother married to the deaf-mute sister died, what should the halakhically competent brother married to the halakhically competent sister do? The deaf-mute woman is released due to the prohibition with regard to a wife's sister.

¹⁰ If the halakhically competent brother married to the halakhically competent sister died, what should the deaf-mute brother married to the deaf-mute sister do? He divorces his wife with a bill of divorce, which is as valid as their original marriage. And his brother's wife is forbidden to him forever. There is no remedy for her, as he may not consummate levirate marriage with her because she is the sister of his ex-wife by rabbinic law, and he cannot perform ḥalitza with her either, as he is a deaf-mute.

¹¹ If two brothers, one of whom is a deaf-mute and the other one halakhically competent, were married to two unrelated, halakhically competent women, and the deaf-mute married to the halakhically competent woman died, what should the halakhically competent brother married to the halakhically competent woman do? He either performs ḥalitza or enters into levirate marriage. If the halakhically competent brother married to the halakhically competent woman died, what should the deaf-mute brother married to the other halakhically competent woman do? He cannot perform ḥalitza with her, as he is a deaf-mute. Rather, he marries her, and he may never divorce her, as sexual intercourse between a yavam and his yevama creates a valid marriage that cannot be broken by the bill of divorce of a deaf-mute.

¹² If two halakhically competent brothers were married to two unrelated women, one of whom is halakhically competent and the other one a deaf-mute, and the halakhically competent brother married to the deaf-mute woman died, what should the halakhically competent brother married to the halakhically competent woman do? The brother cannot perform ḥalitza with her, as she is a deaf-mute. Rather, he marries the deaf-mute, and if he wishes to divorce her, he may subsequently divorce her with a bill of divorce. If the halakhically competent brother married to the halakhically competent sister died, what should the halakhically competent brother married to the deaf-mute do? Either he performs ḥalitza or he enters into levirate marriage.

¹³ If two brothers, one of whom is a deaf-mute and the other one halakhically competent, were married to two unrelated women, one of whom is a deaf-mute and the other one halakhically competent, and the deaf-mute brother who was married to the deaf-mute woman died, what should the halakhically competent brother married to the halakhically competent woman do? He may marry her if he desires the deaf-mute woman, and if he wishes afterward to divorce her, he may divorce her. If the halakhically competent brother married to the halakhically competent woman died, what should the deaf-mute brother married to the deaf-mute woman do? He marries his yevama and may never divorce her, as he does not have the legal capacity to end a valid marriage.

¹⁴ GEMARA: Rami bar Ḥama said: What is the difference between the case of a deaf-mute man and a deaf-mute woman, that the Sages enacted rabbinic marriage for them despite their condition, and the case of an imbecilic man and an imbecilic woman, that the Sages did not enact marriage for

them? As it is taught in a baraita: With regard to an imbecilic man and a minor who married women and died, their wives are exempt from ḥalitza and from levirate marriage. This indicates that the marriages of an imbecile and a minor are of no significance.

¹⁵ The Gemara explains: In the case of a deaf-mute man and a deaf-mute woman, where the ordinance of the Sages can be fulfilled, i.e., these marriages can be maintained, the Sages enacted marriage for them. By contrast, with regard to an imbecilic man and an imbecilic woman, where the ordinance of the Sages cannot be fulfilled, as one cannot live with an imbecilic partner, in accordance with the well-known saying: A person cannot reside in a basket, i.e., in close quarters, with a snake, the Sages did not enact marriage for them.

¹⁶ The Gemara asks: And what is the difference between a minor, that the Sages did not enact marriage for him, and a deaf-mute, that the Sages did enact marriage for him? The Gemara explains: In the case of a deaf-mute, as he will not reach the stage of eligibility for marriage by Torah law, the Sages enacted marriage for him. Conversely, with regard to a minor, as he will eventually reach the stage of eligibility for marriage by Torah law when he matures, the Sages did not enact marriage for him.

¹⁷ The Gemara raises a difficulty: But there is the case of a minor girl, who will reach the stage of eligibility for marriage by Torah law someday, and yet the Sages enacted marriage for her, as her mother and brothers may marry her off by rabbinic law. The Gemara answers: There the Sages issued their decree for a different reason, so that people should not treat her in the manner of ownerless property. If she marries, her husband will watch over her; if not, she might be treated disrespectfully.

¹⁸ The Gemara asks: What is the difference between a minor girl, that she may perform refusal, i.e., she can retroactively nullify her marriage by means of a declaration of refusal of her husband, and a female deaf-mute, that she cannot perform refusal, as the Sages did not establish the option of refusal in her case? Since the marriage of a deaf-mute woman also applies by rabbinic law, why didn't the Sages establish refusal in her case as well? The Gemara answers: The reason is that if so, i.e., had the Sages enacted refusal for a female deaf-mute,

¹⁹ others would refrain from marrying her at all, as she can issue a declaration of refusal indefinitely, whereas in the case of a minor there is a time limit with regard to her option of a refusal.

²⁰ § The Gemara further asks: What is the difference between a minor girl, that she may partake of teruma when she is married to a priest, and a deaf-mute woman, that she may not partake of teruma when she is married to a priest, despite the fact that both of their marriages apply by rabbinic law? As we learned in a mishna (Gittin 55b): Rabbi Yoḥanan ben Gudgada testified with regard to a female deaf-mute whose father married her off, that she can be divorced with a bill of divorce. And he testified with regard to a minor girl, daughter of an non-priest who was married to a priest, that she may partake of teruma, whereas a deaf-mute woman, it may be inferred, may not partake of teruma.

²¹ The Gemara answers: The reason that a deaf-mute woman may not partake of teruma, even if she is married to a halakhically competent priest, is due to a rabbinic decree lest a deaf-mute priest likewise feed teruma to his deaf-mute wife. The Gemara asks: And which prohibition would that violate? Let him feed her, as he is equivalent to a minor who eats meat from unslaughtered animals. This is referring to the halakha that there is no obligation to prevent minors from committing transgressions. Since a deaf-mute, who is not legally competent, has the status of a minor, the same

reasoning should apply in this case. Consequently, the court should be under no obligation to prevent this deaf-mute woman from eating teruma unlawfully.

²² Rather, it is a rabbinic decree lest a deaf-mute priest feed teruma to a halakhically competent wife. Since by Torah law her marriage to a deaf-mute man is not valid, she may not eat teruma. The Gemara asks: As well, in the case of a deaf-mute priest who wishes to feed a halakhically competent wife, let her partake of teruma that applies by rabbinic law. There are types of produce from which there is no obligation to separate teruma by Torah law, and one separates teruma from them due to rabbinic decree. Just as the marriage of this woman is by rabbinic law, she should be permitted to eat teruma that applies by rabbinic law. The Gemara answers: It is a rabbinic decree, as perhaps he will come to feed her teruma that applies by Torah law.

²³ The Gemara further asks: And what is the difference between a minor girl, that she has a marriage contract, and a deaf-mute woman, that she does not have a marriage contract? The Gemara answers: The reason is that if so, if the husband of a deaf-mute would be obligated to give her a marriage contract, men would refrain from marrying her at all.

²⁴ The Gemara asks: And a minor girl, from where do we derive that she has a marriage contract? As we learned in a mishna (Bava Metzia 67a): With regard to a minor who refuses her husband and leaves him, and likewise a woman who is a secondary forbidden relative prohibited by rabbinic law, and a sexually underdeveloped woman who is incapable of bearing children, these women have no marriage contract. The Gemara infers: However, any other woman who can be divorced by means of a bill of divorce, and this includes a minor girl, is entitled to a marriage contract.

²⁵ The Gemara asks: And a deaf-mute woman, from where do we derive that she has no marriage contract? As it is taught in a baraita: A deaf-mute and an imbecile who married halakhically competent women, even if the deaf-mute subsequently regained his senses, and the imbecile regained his competence, their wives have no claim of anything against them, even if their wives received marriage contracts from them. However, if the men wish to maintain these women as their wives after they became fully competent, they have a marriage contract from that point onward.

²⁶ And in the case of a halakhically competent man who married a deaf-mute or an imbecile, and he decided to write a marriage contract for her, even if he wrote for her one hundred dinars her marriage contract is valid, because he wanted to harm his own property. In other words, as he acted willingly, despite the lack of obligation to do so, this is comparable to one who chooses to harm himself and give away property in any other manner; it is his prerogative. The Gemara infers: The reason for this halakha is that he wanted to write her a marriage contract, from which it may be inferred that if he does not want to write one, she will not have a marriage contract. The logic is as stated above, that if so, men would refrain from marrying her.

²⁷ The Gemara asks: If so, in a case of a halakhically competent woman who was married to a deaf-mute, let the Sages enact a marriage contract for her, for if so, i.e., if women would not receive marriage contracts in this situation, they would refrain from marrying deaf-mute men entirely. The Gemara answers: More than the man wants to get married, a woman wants to be married. Consequently, women will not be too discriminating with regard to marriage with a deaf-mute, even if they are not entitled to a marriage contract.

²⁸ The Gemara relates: There was a certain deaf-mute man who was in the neighborhood of Rav Malkiyyu. Rav Malkiyyu married him to a woman, and he wrote four-hundred dinars for her from

the property of the deaf-mute as her marriage contract. Rava said: Who is as wise as Rav Malkiyyu, as he is a great man who found a way to achieve a desirable result by giving her a marriage contract, despite the fact that the deaf-mute was not obligated to do so. Rav Malkiyyu reasoned as follows: If that deaf-mute man wanted a maidservant to attend to him, would we not acquire one for him? All the more so here, as there are two advantages, for she will attend to his needs both as a maidservant and as a wife.

²⁹ § Rav H̥iyya bar Ashi said that Shmuel said: If a man had unwitting relations with the wife of a deaf-mute, i.e., not knowing that she was married, he is not obligated to bring a guilt-offering for uncertainty on her account. He is not liable to bring an offering that is brought in cases where one is unsure whether he committed a sin that requires a sin-offering. A man who unwittingly has relations with a married woman must bring a sin-offering, whereas if the woman was doubtfully married, he brings a guilt-offering for uncertainty. However, the marriage of a deaf-mute is not even categorized as a doubtful marriage.

³⁰ The Gemara comments: Let us say that the mishna (Terumat 1:1) supports Shmuel's opinion: There are five categories of people who may not separate teruma ab initio, and if they separated teruma, their teruma is not considered teruma. They are: A deaf-mute, an imbecile, and a minor, and one who separates teruma from produce that is not his, and a gentile who separated teruma from the produce of a Jew even with the Jew's permission. In this last case, his teruma is not considered teruma, because a gentile cannot be appointed as an agent to separate teruma, and all the more so he cannot separate teruma on his own. This shows that the actions of a deaf-mute have no effect, and are not even considered of doubtful validity.

³¹ The Gemara responds: This is no proof, as with regard to teruma, Shmuel said his statement in accordance with the opinion of Rabbi Elazar. As it is taught in a baraita that Rabbi Yitzḥak said in the name of Rabbi Elazar: The teruma of a deaf-mute is not released into a non-sacred status, because it is uncertain. Rabbi Elazar does not maintain that the actions of a deaf-mute have no consequence whatsoever. The Gemara asks: If Shmuel maintains, in accordance with the opinion of Rabbi Elazar, that a deaf-mute is competent, let him also obligate a man who has relations with the wife of a deaf-mute to bring a guilt-offering for uncertainty.

³² The Gemara answers: We require one piece from two pieces. Shmuel maintains that one is not liable to bring a guilt-offering for uncertainty in every case where there is doubt whether or not there was a transgression, and where one would be liable to bring a sin-offering if it were certain that there was a transgression. Rather, a guilt-offering for uncertainty is brought if, for example, one had two pieces of meat before him, one of which was definitely forbidden while the other was permitted, but he does not know with certainty which one he ate. However, when the doubt involves a single item or action, which may or may not have been prohibited, in that situation one does not bring a guilt-offering for uncertainty. In the case discussed here, the doubt concerning the wife of a deaf-mute does not involve a choice between an action that is prohibited and one that is permitted. Rather, it depends on the status of the woman's marriage.

³³ The Gemara asks: And does Rabbi Elazar need a case involving one piece from two pieces to render one liable to bring a guilt-offering for uncertainty? But isn't it taught in a baraita that Rabbi Elazar says: With regard to a koy, a kosher animal with characteristics of both a domesticated animal and a non-domesticated animal, one is obligated to bring a guilt-offering for uncertainty for eating its

forbidden fat. Certain fats, which are permitted in the case of a wild animal, are prohibited if they are from a domesticated animal, and one who partakes of them is liable to bring a sin-offering. Since a koy is of uncertain status, one must bring a guilt-offering for uncertainty for eating its fat. This shows that Rabbi Elazar maintains that one brings a guilt-offering for uncertainty even for a doubt involving one item or action.

³⁴ The Gemara answers: Shmuel holds in accordance with the opinion of Rabbi Elazar in one matter, the status of a deaf-mute, and disagrees with him in one other matter, the halakha of a guilt-offering for uncertainty.

³⁵ And there are those who say a different version of the above discussion. Rav Hiyya bar Ashi said that Shmuel said: If a man had unwitting relations with the wife of a deaf-mute, he is obligated to bring a guilt-offering for uncertainty on her account, due to the doubt. The Gemara raises an objection: Five categories of people may not separate teruma, etc., which indicates that the actions of a deaf-mute have no legal effect. The Gemara answers that Shmuel maintains his opinion in accordance with the opinion of Rabbi Elazar, that the teruma of a deaf-mute is considered teruma that is of doubtful legal status.

³⁶ Rav Ashi raised a dilemma: What is the reason for the opinion of Rabbi Elazar? One possibility is that it is obvious to him that the mind of a deaf-mute is weak. However, he is uncertain as to whether his mind is clear. In other words, although a deaf-mute is weaker intellectually than an average person, and he does not understand everything, nevertheless he is aware of what he is doing with regard to certain undertakings.

³⁷ Or perhaps his mind is not clear, i.e., he cannot achieve full and clear understanding, and yet he is always of one mind. In other words, a deaf-mute functions at the same level of intellectual capacity every day. Rav Ashi explains the other possibility: Or perhaps it is obvious to Rabbi Elazar that the mind of a deaf-mute is weak and his mind is unclear, but in this case here, this is Rabbi Elazar's reasoning: Since he is at times competent and at times imbecilic, without clarity of mind, i.e., he does not function at the same level of understanding every day, therefore the teruma of a deaf-mute is considered teruma that is of doubtful legal status.

³⁸ The Gemara asks: What is the practical difference how one defines the intellectual capacity of a deaf-mute? The Gemara answers: It makes a difference with respect to divorcing his wife with a bill of divorce. If you say that a deaf-mute has one consistent mind, his divorce is equivalent in status to his betrothal. Since he had a weak mind at the time of his betrothal, he has the same level of competence at his divorce and therefore he may divorce his wife.

³⁹ But if you say that he is at times competent and at times imbecilic, he may betroth a woman, as the Sages are stringent and assume that he was healthy and of clear mind at the time; however he cannot divorce her, due to a concern that he was competent when he betrothed her but he is incompetent now. If so, what is Rabbi Elazar's reasoning? No solution is found, and therefore the Gemara states that the dilemma shall stand unresolved.

⁴⁰ § The mishna taught that one whose wife became imbecilic may not divorce her. Rabbi Yitzhak said: By Torah law, an imbecilic woman may be divorced, just as it is in the analogous case of a halakhically competent woman who was divorced against her will. Since there is no need for a woman to agree to receive a bill of divorce, an imbecile's lack of sound mind does not prevent her from being divorced. And if so, what is the reason that the Sages said that an imbecilic woman may

not be divorced? The reason is so that people should not treat her in the manner of ownerless property. Since she is not of sound mind and has no husband to protect her, there is a concern that people might treat her in a disrespectful fashion.

⁴¹ The Gemara inquires: What are the precise circumstances of this case? If we say that this woman knows how to guard her bill of divorce, i.e., she understands the concept of a bill of divorce, and she also knows how to take care of herself, would people treat her in the manner of ownerless property? She is capable of protecting herself. Rather, the mishna is evidently referring to a woman who does not know how to guard her bill of divorce, nor does she know how to take care of herself.

⁴² The Gemara asks: Is it correct that by Torah law an imbecilic woman may be divorced? But didn't a Sage of the school of Rabbi Yannai say, with regard to the verse: "He shall write her a bill of divorce and give it into her hand" (Deuteronomy 24:3), that this refers only to a woman who has a hand, i.e., she has enough intellectual capacity to accept a bill of divorce for herself. This serves to exclude this imbecilic woman, who does not have a hand to accept her divorce for herself.

⁴³ And the school of Rabbi Yishmael taught this slightly differently. The verse continues: "And send her out of his house" (Deuteronomy 24:3); this indicates that one may divorce only the type of woman whom he will send away and she will not return. It serves to exclude this imbecilic woman, as he will send her away and she will return, as she does not understand the concept of divorce.

⁴⁴ The Gemara explains: No, Rabbi Yitzhak's halakha is necessary in the case of a woman who knows how to guard her bill of divorce but does not know how to take care of herself. By Torah law this imbecilic woman may be divorced, as she knows how to safeguard her bill of divorce, and yet the Sages said that her husband should not divorce her, so that people should not treat her in the manner of ownerless property, because she does not know how to take care of herself.

⁴⁵ Abaye said: The language of the mishna is also precise in this case, as it teaches with regard to this woman that if she became an imbecile he may not divorce her; and yet, with regard to the husband, the mishna states that if he became an imbecile he may never divorce her. What is different here, that the mishna teaches using the word: Never, and what is different there, that it does not teach: Never? Rather, one can learn from here that this halakha, that an imbecilic man may not give a divorce, applies by Torah law, and this one, that a man may not divorce an imbecilic woman, applies by rabbinic law, and therefore the mishna does not add the phrase: Never.

⁴⁶ § The mishna taught that Rabbi Yoḥanan ben Nuri said: What is the reason that the husband of a woman who became a deaf-mute may divorce her, whereas a man who becomes a deaf-mute may not divorce his wife? A dilemma was raised before the scholars with regard to the opinion of Rabbi Yoḥanan ben Nuri: Is it obvious to him that a deaf-mute man may not divorce his wife, and he raised his dilemma with regard to a woman, i.e., why she may be divorced if she is a deaf-mute? Or perhaps, it is obvious to him why one may divorce a deaf-mute woman, and he raised his dilemma with regard to a deaf-mute man, i.e., why he may not divorce his wife.

⁴⁷ The Gemara cites a proof: Come and hear from what the Rabbis said in response to Rabbi Yoḥanan ben Nuri: The man who divorces his wife is not similar to the woman who is divorced, as the woman is divorced whether she is willing or unwilling, and the man divorces his wife only willingly. Learn from here that Rabbi Yoḥanan ben Nuri raised his dilemma with regard to a deaf-mute man, not a woman, as the reply of the Rabbis is referring to the man, not the woman. The Gemara rejects this proof: On the contrary, from the fact that the Rabbis said to him: This woman,

too, has a similar status, one can learn from here that he raised his dilemma with regard to a deaf-mute woman.

⁴⁸ Rather, Rabbi Yoḥanan ben Nuri spoke to the Rabbis in accordance with their statement, i.e., he formulated his statement so as best to argue with their opinion, as follows: According to my opinion, just as a deaf-mute man cannot divorce his wife, so too a deaf-mute woman cannot be divorced. However, according to your opinion, what is the difference between the case of a deaf-mute woman and the case of a deaf-mute man? They said to him: The man who divorces his wife is not similar to the woman who is divorced.

⁴⁹ The mishna taught: Rabbi Yoḥanan ben Gudgada testified that in the case of a deaf-mute minor whose father married her off, which is a marriage that is valid by Torah law, she may nevertheless be divorced once she matures. Rava said: From the testimony of Rabbi Yoḥanan ben Gudgada one may learn that if a husband said to witnesses: See this bill of divorce that I am giving my wife, and yet he said to her: Take this promissory note, she is divorced, despite the fact when he gave his wife the bill of divorce she did not know what it was.

⁵⁰ This halakha is derived from Rabbi Yoḥanan ben Gudgada's statement in the following manner: Didn't Rabbi Yoḥanan ben Gudgada say that we do not require her consent, as there is no need for the woman to understand that she is receiving a bill of divorce? Here, too, we do not require her consent, and even if she believes that she is receiving a bill of debt, she is divorced. The Gemara asks: Isn't it obvious that there is no need for the woman's consent? What is the novel element in Rava's statement?

⁵¹ The Gemara answers that Rava's statement is necessary, lest you say: From the fact that the husband said to her: Take this promissory note, he has thereby nullified the bill of divorce. Rava therefore teaches us that this is not the case, for if it is so, that he nullified the bill of divorce, he would have said so to the witnesses. And from the fact that he did not say this to the witnesses, he evidently did not nullify the bill of divorce at all. And the reason that the husband said this, i.e., that she should take this bill of debt, it was due to shame that he said this to her, as he meant to divorce her all along, but he did not want her to know at the time what he was doing.

⁵² The Gemara relates a story: Rav Yitzḥak bar Bisna lost the keys to the study hall, and therefore they could not come into the study hall from the public domain on Shabbat. It was impossible to open the synagogue, as they could not bring the key because it is prohibited to carry in the public domain. He came before Rabbi Pedat to ask what to do. Rabbi Pedat said to him: Go

⁵³ and lead boys and girls and let them walk there where the keys were lost, and if they find the keys they will bring them to you of their own accord, without you saying anything to them. The Gemara comments: Apparently, Rabbi Pedat maintains that with regard to a minor who eats meat from unslaughtered animals or violates other prohibitions, the court is not commanded to prevent him from doing so. The Gemara comments: Let us say that the following source supports his opinion: A person may not tell a child on Shabbat: Bring me a key, or: Bring me my seal from the public domain. However, he may allow the child to detach plants and allow him to throw in the public domain. This shows that one need not be strict with a child who transgresses a prohibition, but one may not tell a child to transgress a prohibition.

⁵⁴ The Gemara rejects this suggestion: Abaye said that this is no proof, as it is possible that detaching plants is referring to an unperforated flowerpot, as the prohibition against detaching plants from a

vessel of this kind applies by rabbinic law. Similar, when it states: Throw, this can be referring to throwing in a karmelit rather than the public domain. A karmelit is an intermediate domain between public and private domains, which has the status of a public domain by rabbinic law. However, perhaps one is obligated to stop the child if he is transgressing a Torah prohibition.

⁵⁵ The Gemara further suggests: Come and hear the following statement (Shabbat 121a): If a gentile comes to extinguish a Jew's fire on Shabbat, one may not say to him: Extinguish, or: Do not extinguish, because responsibility for his rest is not incumbent upon the Jew. However, if a Jewish child comes to extinguish a fire on Shabbat, they do say to him: Do not extinguish, despite the fact that he is not yet obligated in mitzva observance, because responsibility for his rest is incumbent upon the Jew. This shows that one must prevent a minor from violating a Torah prohibition.

⁵⁶ Rabbi Yoḥanan said: This is referring to a minor who is acting with his father's consent. Even if the father did not tell him explicitly what to do, the child is aware of his father's wishes, and acts on his behalf. The Gemara asks: The same reasoning can be applied with regard to a gentile, that he acts with the Jew's consent, and yet in this case is it permitted for him to perform labor on behalf of a Jew? The Gemara answers: A gentile acts in accordance with his own wishes. As an adult he is responsible for his own decisions and is not considered to be following the instructions of others.

⁵⁷ Come and hear: The son of a ḥaver, one who is devoted to the meticulous observance of mitzvot, especially the halakhot of ritual purity, teruma, and tithes, is accustomed to going to his mother's father, who is an ignoramus and therefore is not known to be as careful to separate teruma and tithes. In this case, the son need not be concerned lest his grandfather feed him food items that are not tithed. If the father found fruit in the child's hand, and he does not know where the fruit is from, he is not bound to separate tithes from the fruit. This indicates that one need not prevent a minor from eating forbidden food. Rabbi Yoḥanan said: The Sages were lenient with regard to doubtfully tithed produce [demai]. Since the prohibition against eating this produce applies only due to doubt, and most ignoramuses do separate tithes, the Sages were lenient in uncertain cases of this kind.

⁵⁸ The Gemara infers: Rather, the reason that the Sages were lenient is that it is demai, from which it may be inferred that if it was definitely untithed, the father would be required to tithe the fruit. But didn't Rabbi Yoḥanan himself say that one need stop a minor only when he is acting with his father's consent? Rather, Rabbi Yoḥanan is uncertain with regard to this halakha, and therefore in this case he refutes it, and in that case he refutes it. In other words, he reached no definite conclusion about this matter, and therefore he treats each case on its own merits.

⁵⁹ Come and hear: With regard to the son of a ḥaver priest who is accustomed to going to his mother's father, a priest who is also an ignoramus, one need not be concerned lest his grandfather feed him ritually impure teruma. If the father found fruit in the child's hand, he is not bound to take it from him. This shows that even when the concern involves ritually impure teruma, which is a Torah prohibition, one is not required to ensure that a minor does not sin. The Gemara rejects this: This is no proof, as this is referring to teruma that is separated by rabbinic law, not a doubt concerning a Torah prohibition.

⁶⁰ Come and hear: A child may regularly suckle from a gentile woman; and a child may suckle from a non-kosher animal. And in both cases one need not be concerned that he might be considered one who suckles from a detestable creature. But one may not feed a child unslaughtered animal carcasses, or animals with wounds that will cause the animals to die within twelve months [tereifot], or

repugnant creatures, or creeping animals. A child may suckle from all these, including the non-kosher creatures, even on Shabbat, but in the case of an adult, it is prohibited for him to suckle on Shabbat even from a kosher animal. Abba Shaul says: We were accustomed to suckle from a kosher animal on a Festival, rather than milk it by hand, in the usual way.

⁶¹ In any event, this tanna teaches that one need not be concerned that he might be considered one who suckles from a detestable creature, which indicates that a child may be left to eat forbidden food. The Gemara rejects this: There, permission is granted due to a danger, because a child must eat. The Gemara asks: If so, it should also be permitted for an adult, as saving a human life supersedes these prohibitions.

⁶² The Gemara answers: An adult requires consultation, i.e., doctors or other experts must examine him and establish that he is dangerously ill. The Gemara retorts: A minor should also require consultation as to whether he is in danger. Rav Huna, son of Rav Yehoshua, said: There is no need for a special consultation, as in an unspecified case a child is in danger with regard to milk. It can be assumed that a child needs milk, and if he does not get it, he will be in danger.

⁶³ The Gemara analyzes the last opinion in the above baraita. Abba Shaul says: We were accustomed to suckle from a kosher animal on a Festival. The Gemara inquires: What are the circumstances? If there is imminent danger to a person, even on Shabbat it should also be permitted. And if there is no danger, even on a Festival it should be prohibited. The Gemara answers: No, it is necessary in a case where there is suffering, i.e., they suffer from thirst but no danger is involved.

⁶⁴ The Gemara explains: And Abba Shaul holds that sucking directly from an animal is considered the prohibited labor of extracting performed in an unusual manner. It is prohibited to remove food from a source that is not fit for consumption. However, in this case he does not do so in the usual way of milking, but by sucking, and therefore it is prohibited by rabbinic law. Consequently, on Shabbat, when it is a prohibition punishable by stoning, the Sages issued a decree in this case, even if the milking is done in an unusual manner. Conversely, with regard to a Festival, when labor is a negative prohibition that is not punishable by stoning, the Sages did not issue a decree in a situation that involves suffering. In any case, this source offers no proof with respect to how to treat a child who transgresses.

⁶⁵ Come and hear: The verse states, with regard to creeping animals and other non-kosher animals: “You shall not eat them [tokhlum] for they are a detestable thing” (Leviticus 11:42). The Sages interpret this verse as though it said ta’akhilum, do not feed them to others. The verse comes to warn adults concerning minors, i.e., not only is it prohibited for adults to eat these items themselves, they may also not feed them to minors. What, is it not the case that this means adults must say to children: Do not eat, and prevent them from transgressing? The Gemara rejects this explanation: No, it means that an adult may not feed the minor non-kosher food directly by direct action, but this does not prove that one must stop a child from eating non-kosher food of his own accord.

⁶⁶ Come and hear, as the verse states: “No soul of you shall eat blood” (Leviticus 17:12). This serves to warn adults concerning minors. What, is it not the case that this means adults must say to children: Do not eat blood? The Gemara responds: No, here, too, it means that an adult may not feed minors by direct action.

⁶⁷ Come and hear, as the verse states: “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 reiteration of “speak” and

“and say” comes to warn adults concerning minors. What, is it not the case that this means adults must say to children: Do not become impure? The Gemara rejects this: No, it is possible to interpret that an adult should not render children impure by direct action.

⁶⁸ The Gemara adds: And all these three cases are necessary, despite the fact that they apparently teach the same halakha, i.e., that adults may not feed minors forbidden food. As, had the tanna taught us only the case of repugnant creatures,

⁶⁹ we would have said that the halakha is stringent in this case because they are prohibited by any amount, i.e., a creeping animal or insect is prohibited on pain of lashes even if it is very small, provided that it is a whole creature (Tosafot). However, with regard to eating blood, which is not a Torah prohibition unless there is at least the volume of a quarter-log, one might say that there is no prohibition against directly feeding minors, as this prohibition is more lenient. And had the tanna taught us only the case of blood, we would have said that they were stringent with regard to blood because there is the punishment of karet for eating blood. However, for creeping animals, whose consumption does not entail karet, one might say that this halakha does not apply.

⁷⁰ And had the tanna taught us only these two cases, we would have said it is because their prohibitions apply equally to all Jews. However, in the case of ritual impurity, which is a mitzva for priests alone, one might say that there is no prohibition against directly rendering minors ritually impure. And had the tanna taught us only the case of ritual impurity, we would have said that the case of priests is different and more stringent, because the Torah includes extra mitzvot for them. However, with regard to these prohibitions of creeping animals and blood, one might say that there is no prohibition against directly feeding minors. Therefore, it was necessary to state all these cases.

⁷¹ § The Gemara cites another relevant source with regard to a minor who eats the meat of unslaughtered animals. Come and hear: If two brothers, one of whom is a deaf-mute and the other one halakhically competent, were married to two halakhically competent sisters, and the deaf-mute married to the halakhically competent sister died, what should the halakhically competent brother married to the halakhically competent sister do? His brother’s wife is released without levirate marriage or ḥalitza, due to the prohibition with regard to a wife’s sister.

⁷² If the halakhically competent brother married to the halakhically competent sister died, what should the deaf-mute brother married to the halakhically competent sister do? He divorces his wife with a bill of divorce, which is as valid as their original marriage. And his brother’s wife is forbidden to him forever. He must divorce his wife, as the levirate bond applies by Torah law, whereas his marriage is valid by rabbinic law. However, in practice he is unable to consummate levirate marriage with the yevama or perform ḥalitza with her.

⁷³ The Gemara inquires: Why should he divorce his wife with a bill of divorce? Let her continue to live with him, as a deaf-mute is in the same category as a minor who eats the meat of unslaughtered animals, for he is not legally competent. Consequently, even if he were to engage in sexual relations with her, this would not be considered a transgression. The Gemara answers: If the matter concerned the deaf-mute alone, this would be the case. However, here he must divorce her due to the prohibition that applies to her, as his wife is legally competent, and just as she is forbidden to him, he is also forbidden to her.

⁷⁴ Come and hear: If two halakhically competent brothers were married to two sisters, one of whom is a deaf-mute and the other one halakhically competent, and the halakhically competent brother

married to the deaf-mute sister died, what should the halakhically competent brother married to the halakhically competent sister do? The deaf-mute is released due to the prohibition with regard to a wife's sister. If the halakhically competent brother married to the halakhically competent sister died, what should the halakhically competent brother married to the deaf-mute sister do? He divorces his wife with a bill of divorce, as the halakhically competent sister came before him for levirate marriage, and the legal status of her levirate bond is higher than that of his marriage to his wife, a deaf-mute. And he releases his brother's wife, who is not a deaf-mute, by means of *ḥalitza*, as they are both competent and can therefore perform *ḥalitza*.

⁷⁵ The Gemara again asks: But why should he divorce his wife with a bill of divorce? Let her continue to live with him, as a deaf-mute is in the same category as a minor who eats the meat of unslaughtered animals. The Gemara answers as above: He must divorce her due to the prohibition that applies to him.

⁷⁶ Rava said: Come and hear: If two brothers, one of whom is a deaf-mute and the other one halakhically competent, were married to two sisters, one of whom is a deaf-mute and the other one halakhically competent, and the deaf-mute brother married to the deaf-mute sister died, what should the halakhically competent brother married to the halakhically competent sister do? The deaf-mute woman is released due to the prohibition with regard to a wife's sister. If the halakhically competent brother married to the halakhically competent sister died, what should the deaf-mute brother married to the deaf-mute sister do? He divorces his wife with a bill of divorce, and his brother's wife is forbidden to him forever.

⁷⁷ Rava elaborates: But here is a case where there is no prohibition that applies to her and there is no prohibition that applies to him, as they are both deaf-mutes who are not prohibited to each other, and yet it is taught that he divorces his wife with a bill of divorce. Rav Shemaya said: This is a rabbinic decree due to the danger of permitting a yevama to a member of the public. Since people might think that the deaf-mute sister is his full-fledged wife, they are likely to conclude that it is permitted for this yevama to marry someone other than the yavam, like any other sister of the wife of the yavam. However, in actual fact she is not the sister of the wife of her yavam, as the deaf-mutes are not married by Torah law, and she may not marry any other man because she is a yevama whose yavam cannot marry her or perform *ḥalitza*. For this reason, the Sages decreed that this deaf-mute husband must divorce his wife. In sum, this source too does not provide conclusive proof with regard to the question of a minor who eats meat from unslaughtered animals.

Chapter 15

¹ MISHNA: With regard to a woman who went, she and her husband, overseas, if there was peace between him and her, i.e., the couple were not fighting at the time, and there was also peace in the world, i.e., there was no war at that time, and the woman came back by herself and said: My husband died, she may marry on the basis of her own testimony. Likewise, if she said: My husband died, and they did not have children, but her husband had a brother, she may enter into levirate marriage.

² If there was peace between him and her when they left but there was war in the world, or if there was a quarrel between him and her and peace in the world, and she came and said: My husband died,

she is not deemed credible, as she may be mistaken or lying. Rabbi Yehuda says: She is never deemed credible when she testifies that her husband died, unless she came crying and her clothing was torn, in which case it is apparent that she is speaking the truth. They said to him: This is an incorrect distinction. Rather, both this woman who cries and this woman who does not cry may marry on the basis of their own testimony.

³ GEMARA: The tanna of the mishna taught the clause: Peace between him and her, because later he wanted to teach the clause: A quarrel between him and her. Likewise, he taught: Peace in the world, because he wanted to teach afterward: War in the world. In other words, the fact that there was peace between them or peace in the world is of importance only because the opposite is the case in other situations dealt with in the mishna. Therefore, the tanna emphasized the lack of disruptions in the first case cited by the mishna.

⁴ Rava said: What is the reason that one does not rely on her testimony when there is war? It is because she says what she imagines to be the case: Can it enter one's mind that among all these people who were killed, her husband alone is saved? If you say: Since there was peace between him and her, she guards herself and waits until she actually sees that he died; even so, at times it might happen that his enemies strike him with an arrow or spear and she thinks that he is certainly dead due to the wound, and yet this is no proof that he is dead, as there are instances when someone prepares medicine [samterei] for the wounded person and he survives, despite his apparently fatal wound.

⁵ Rava thought to say that famine is not like war, as in the case of a famine she will not say and infer based on what she imagines to be the case. Rava then retracted and said: Famine is like war. Why did he change his mind? This happened because a certain woman came before Rava, and said to him: My husband died in a famine. Seeking to cross-examine her, Rava said to her: Did you do well to save yourself, by running away and leaving him? Did it enter your mind that with that small amount of sifted flour that you left him he could have survived? She said to him: The Master also knows that in a case like this he could not survive. Rava understood from her comment that she did not actually see her husband die, but merely saw that he was weak from hunger, and yet she testified with certainty that he died.

⁶ Rava then retracted again and said: Famine is worse than war in this respect. As in wartime, it is only if she said: My husband died in the war, that she is not deemed credible. This indicates that if in a time of war she says: He died upon his bed, or in some other unrelated manner, she is deemed credible, as she would not err in this case, whereas with regard to a famine she is deemed credible only if she says: He died and I buried him. In other words, during a famine it must be clear that she is testifying about his actual death, and is not basing her claim on an assumption.

⁷ Similarly, a rockslide is like war, as she will say what she imagines to be the case, and she might not meticulously examine the facts to see if he was possibly saved. Furthermore, an outbreak of snakes and scorpions is like war, as she will say what she imagines to be the case.

⁸ In a case of pestilence or a similar plague, some say it is like war, and some say it is not like war. The Gemara explains: Some say it is like war, as she will say what she imagines to be the case, because she assumes that if most everyone died in the plague her husband could not have survived. Conversely, some say it is not like war, because we rely on that which people say in the common expression: For seven years there was pestilence and not a person left, i.e., died, before his time. In

other words, with regard to natural disasters of this kind it is known sometimes that one can avoid harm, and therefore if a woman testifies that her husband died she certainly witnessed his death.

⁹ § A dilemma was raised before the scholars: If she maintains that there is a war in the world, i.e., if the court was not aware of a war in that place, but the wife comes and claims that there was a war, and she went on to say that her husband died in this war, what is the halakha in this case? Do we say: Why should she lie? In other words, if she was lying she would have issued a more advantageous claim. Since she herself informed the court that there was a war, which undermines her claim that her husband died, there is no legitimate reason to suspect her of lying.

¹⁰ Because if she wanted to lie she would have said: There was peace in the world, and the court would have accepted her testimony. Or perhaps it can be argued: Since she has maintained that there was a war and this claim of hers has already been accepted, with regard to her report concerning her husband, she will say what she imagines to be the case, and the argument of: Why would I lie, does not come and undermine the established presumption that there was a war.

¹¹ The Gemara cites a baraita in an attempt to resolve this dilemma. Come and hear: It was taught that if a woman comes and says: They set our house on fire and the house became filled with smoke, or: They set our cave on fire to smoke us out, and she adds: My husband died and I was saved, she is not deemed credible. In this case, she herself related the entire story, and even so her version of events is not accepted. The Gemara answers that this is no proof. There, in the case of the fire, it is different, as one says to her: Just as a miracle occurred for you and you were saved, likewise a miracle might have occurred for your husband and he too survived.

¹² Come and hear a proof from another baraita. If a woman comes and says: A group of gentiles attacked us, or: A group of bandits attacked us, and she adds: My husband died and I was saved, she is deemed credible. This indicates that her testimony is accepted due to the argument of: Why should she lie? The Gemara rejects this proof. There, in that baraita, her testimony is accepted because it stands to reason that she is speaking the truth, in accordance with the opinion of Rav Idi. As Rav Idi said: With regard to a woman, her weapons are upon her. In other words, a woman is generally not killed by thieves, because the very fact of her being a woman protects her. They would most likely rape her and not kill her. Consequently, it is reasonable to assume that she is speaking the truth.

¹³ § The Gemara relates: There was a certain man who got married. At the end of his wedding a fire broke out in the bridal chamber, where the bride and groom were standing, during the ceremony. His wife screamed and said to them: Look at my husband, look at my husband! They went and saw an unrecognizable burnt man fallen down, and a palm of a hand lying there.

¹⁴ Rav Ḥiyya bar Avin thought to say: This is the same as the case of: They set our house on fire and the house became filled with smoke, or: They set our cave on fire to smoke us out, i.e., we cannot rely on her claim that her husband died. Rava said: Is this case comparable to those? There she did not say: Look at my husband, look at my husband. And furthermore, there is another difference: Here, there is a burnt man who has fallen down and a palm that is lying there. In other words, her statement is substantiated by facts.

¹⁵ And why didn't Rav Ḥiyya bar Avin accept her testimony? In his opinion, a burnt man who has fallen down is not conclusive proof, as one might still say: Perhaps another person came to the rescue and the fire burned him. And as for the palm lying there, perhaps the fire burned him and caused a deformity through which he lost his hand, and due to his embarrassment he went and ran away to

somewhere else in the world, but he is still alive. Consequently, Rav Ḥiyya bar Avin did not want to rely upon the testimony of the wife.

¹⁶ § A dilemma was raised before them: In the case of one witness who testifies to the death of someone during a war, what is the halakha? The Gemara explains the sides of the dilemma: The reason that one witness is deemed credible when he provides testimony concerning the death of a husband is because the husband being alive is a matter that is likely to be revealed, and one would not lie in a case of this kind. Here, too, one witness would not lie. Or perhaps the reason that one witness is trusted is because his account is supported by the fact that she herself is exacting in her investigation before she marries again. And here, since sometimes she hates him, and war is a situation that requires especially careful investigation and it is tempting for her to rely on the witness, she is not exacting in her investigation before she marries again, and therefore the testimony of one witness is not accepted.

¹⁷ Rami bar Ḥama said: Come and hear a resolution to this dilemma. Rabbi Akiva said: When I descended to Neharde'a in Babylonia to intercalate the year, I found there the Sage Neḥemya of Beit D'li, and he said to me: I heard that the Sages do not allow a woman to marry in Eretz Yisrael based on the testimony of one witness, apart from Rabbi Yehuda ben Bava, as the other Sages are reluctant to rely on his opinion. And I said [namti] to him: This is so. He said to me: Say to them in my name: Do you know that this country is riddled with troops? This is the tradition that I received from Rabban Gamliel the Elder, that the Sages do allow a woman to marry based on one witness.

¹⁸ The Gemara analyzes this baraita in relation to the issue at hand. What is the significance of his comment that this country is riddled with troops? Isn't he saying: Even though this country is riddled with troops, this is the tradition that I received, that the Sages do allow a woman to marry based on one witness, notwithstanding the war. Apparently, one witness is deemed credible in the case of a missing husband during a time of war.

¹⁹ Rava said: If this is how you interpret the matter, in what way is this country different from any other? In other words, why did Neḥemya of Beit D'li mention a particular place? He should have said: Any place where there are troops. Rather, Rava said: This is what he said: You know that this country is riddled with troops, and I cannot leave the members of my household and come before the Sages, due to the danger. Therefore, I cannot testify in person that this is the tradition that I received from Rabban Gamliel the Elder, that the Sages allow a woman to marry based on one witness. According to this interpretation, his statement has no bearing on the matter at hand.

²⁰ The Gemara continues. Come and hear a baraita that relates an incident involving two Torah scholars who were coming with Abba Yosei ben Simai by boat, and that boat sank. And Rabbi Yehuda HaNasi allowed their wives to marry based on the testimony given by women that these men were dead. But consider: Water, i.e., the sea, is like war with respect to this halakha, as there is room in both cases for conjecture and error. And women, even one hundred of them, are considered as one witness with regard to their testimony about a husband's death. And yet the baraita taught: He allowed them to marry, which indicates that one may rely on one witness even during a war.

²¹ The Gemara rejects this proof. And how can you understand it that way? Apparently, the women testified only that the boat sank, and this is a case of an endless body of water, as the boat sank at sea in a spot from which it is impossible to see the shore. And the halakha is that if a man was on a boat that sank in an endless body of water his wife is prohibited to marry, as there is no proof that he

actually drowned and didn't emerge from the water on a different shore. Rather, one must say: What are the circumstances? That those women said: Those drowned men were brought up before us

²² and we saw them immediately when they came out of the water, and the women stated distinguishing marks that identified these people. As, in this case we do not rely upon the women, but upon the distinguishing marks.

²³ § The Gemara relates: There was a certain man who deposited sesame plants with his friend. Sometime later he said to him: Give me the sesame plants. The friend said to him: You already took them. The owner replied: But they were of such-and-such an amount, and placed in a barrel; go and check that barrel and you will see that I am right. The bailee said to him: You took your sesame plants, and these in the barrel at my house are other ones.

²⁴ The case came before the Sages for a ruling. Rav Ḥisda thought to say: This situation is the same as the situation involving the two Torah scholars who drowned, when they used distinguishing marks to identify them. And we do not say in that case: Those men went elsewhere in the world, and these men who floated up are different people. Here too one may rely upon the distinguishing marks of the sesame plants given by the owner, and there is no reason to think that these sesame plants are different ones.

²⁵ Rava said to Rav Ḥisda: Is it comparable? There they said distinguishing marks that identified the victims. Here, in the case of sesame plants, what distinguishing marks might they have, by which they could be identified? And as for that which he said: They were of such-and-such an amount, one can say it happened by chance that this second time it was the same amount, and there is no proof that these are the same sesame plants.

²⁶ With regard to the same issue, Mar Kashisha, son of Rav Ḥisda, said to Rav Ashi: And are we concerned that perhaps the one guarding the plants moved them from their place? But didn't we learn in a mishna (Ma'aser Sheni 4:11): If one found a vessel on which the letter kuf was written, all objects inside the vessel are designated for a korban, an offering; if the letter mem was written on it, it is ma'aser, tithes; if it was the letter dalet, it is dimua, a mixture of teruma and non-sacred produce; if tet, it signifies tevel, untithed produce; and finally, if it is a tav, it indicates teruma. As during a time of danger, i.e., religious persecution against Jews, they would write, for example, tav instead of teruma. In this case, no concern is expressed that someone might have moved the teruma from that vessel to somewhere else.

²⁷ In response to this claim, Ravina said to Rav Ashi: And aren't we concerned that perhaps someone moved the teruma from their place? Say the latter clause of that same mishna Rabbi Yosei says: Even if one found a barrel on which the full word teruma was written, these contents are non-sacred. As I say: Last year it was full of teruma, and someone removed the contents and replaced them with non-sacred produce. This proves that the possibility that someone moved the original contents is taken into consideration.

²⁸ Rather, say as follows: Everyone agrees that we are concerned that perhaps someone moved the contents of a container from their place, and here, with regard to the marked vessels, they disagree about this issue: The Sage who claims that one may rely on the inscription holds that if it is so, that he moved the teruma, he would have erased the inscription. And the other Sage, Rabbi Yosei, responds that one can say he forgot to do so. Alternatively, he left the label to preserve [panahya] the

contents, so that people would mistakenly think that it contained teruma and would refrain from taking the produce.

²⁹ § The Gemara relates a story that deals with the permission of a woman to remarry. Yitzḥak the Exilarch, son of the sister of Rav Beivai, was walking from Cortva to Spain and died along the way. They sent this message from Spain: Yitzḥak the Exilarch, son of the sister of Rav Beivai, was walking from Cortva to Spain and died. The Gemara asks: Are we concerned about the possibility of two men named Yitzḥak or not? Perhaps there is someone else with the same name, and therefore the mention of his name is not a sufficiently distinguishing mark. Abaye said: We are concerned about this possibility. Rava said: We are not concerned.

³⁰ Abaye said: From where do I say my reasoning that there might be another man with the same name? As a certain bill of divorce was found in the city of Neharde'a, and this passage was written on it: On the colonial [kelonya] side of the city, I, Androlinai of Neharde'a, excused, sent away, and divorced my wife so-and-so. Androlinai's wife requested permission to remarry based on this bill of divorce, but they did not know if he was the man who gave the divorce or if it was given by another man of the same name. And the father of Shmuel sent this question before Rabbi Yehuda Nesia in Eretz Yisrael. And Rabbi Yehuda Nesia sent a message to him: All of Neharde'a must be examined, to see whether there is another man by that name. This shows that one must be concerned that there might be two people with the same name.

³¹ And Rava said: This story provides no proof. If it is so, that there were grounds to suspect that someone else of the same name wrote the bill of divorce, Rabbi Yehuda Nesia should have said: The entire world must be examined, in case there is someone else with the same name somewhere. Since he did not say this, evidently there was no legitimate reason for this suspicion at all. Why, then, did Rabbi Yehuda Nesia send instructions to examine all of Neharde'a? Rather, Rava added, it was due to respect for the father of Shmuel that he sent this message. He did not want to write explicitly that Shmuel's father had inquired unnecessarily, and therefore he wrote his reply in a manner which indicated his partial agreement with the concern.

³² Rava said: From where do I say my reasoning that we are not concerned about two people with identical names? As there were two promissory notes produced in Meḥoza, and these names of the creditors were written on them: Ḥavai bar Nanai and Nanai bar Ḥavai, and Rava bar Avuh collected dinars for them with these promissory notes, without concerning himself with the possibility that they might be referring to other people. And the names Ḥavai bar Nanai and Nanai bar Ḥavai are very common in Meḥoza, i.e., there are certainly other people with these names, and yet he was not worried about this matter. The Gemara asks: And Abaye, how does he answer this proof?

³³ With regard to what should we be concerned in the case of the promissory note? If we are concerned about the possibility of falling, i.e., that the promissory note might have dropped from this person's hand and the other one found it, the former is certainly careful with it so as not to lose it, as he knows there is someone else in the city with the same name. If we are concerned about the possibility that it was given as a deposit for safekeeping, i.e., that the actual owner might have given it to the one in possession of it, since his name is the same as the name of the bailee, the owner would not deposit his contract with him without some insurance.

³⁴ If you say that perhaps the actual owner passed, i.e., transferred the promissory note to this person whose name is the same as his own, i.e., he gave or sold it to him so he may collect it for himself, in

that case the one in possession is entitled to collect the money, as letters of credit are acquired through passing. There is no need for an additional act of acquisition here, which means that the promissory note belongs to the one in possession of it, despite the fact that it was not originally written for him. Consequently, no proof can be brought from this case with regard to whether or not one should be concerned about two people with identical names.

³⁵ The Gemara relates: There was a certain bill of divorce that was found in the city of Sura and the following was written in it: In the city of Sura, I, Anan bar Ḥiyya of Neharde'a, excused and sent away and divorced my wife, so-and-so. And the Sages examined the area from Sura to Neharde'a, throughout almost all of Babylonia, and there was no other Anan bar Ḥiyya than the one they knew, apart from an Anan bar Ḥiyya of Ḥagra who was in Neharde'a. And yet witnesses came and said that on that day, when that bill of divorce was written: Anan bar Ḥiyya of Ḥagra was with us in Neharde'a, not in Sura.

³⁶ Abaye said: Even according to my opinion, by which I say that generally we are concerned about the possibility of someone else with the same name, here we are not concerned. The reason is that the witnesses say the other Anan bar Ḥiyya was in Neharde'a; what, then, is he doing in Sura? Consequently, there is no concern that the bill of divorce was written by the Anan bar Ḥiyya of Ḥagra.

³⁷ Rava said: Even according to my opinion, in which I say that we are not concerned in general, here, when it is established that there definitely is another man by the same name, we are concerned. As for the apparently contradictory testimony, perhaps he went by a flying camel, an extremely fast means of transportation, and was able to travel from Neharde'a to Sura in one day. Alternatively, he might have arrived by a miraculous shortcut. Alternatively, he might have given verbal instructions beforehand for them to write the bill of divorce in a place where he was not physically located.

³⁸ This last answer is as Rav said to the court scribes, and likewise Rav Huna said to the scribes: When you are in a place called Shili, write that the contract was written in Shili, even when the instructions are given to you in a different place called Hini. And likewise, when you are in Hini, write that it was written in Hini, even when the instructions are given to you in Shili.

³⁹ The Gemara returns to the original question: What was the conclusion that was reached about this case involving sesame plants? Do they belong to the one who deposited them, or is the claim of the bailee accepted, that he returned them and placed other sesame plants in the same barrel? Rav Yeimar said: We are not concerned that they are different plants, and Ravina said: We are concerned. The Gemara concludes: And the halakha is that we are concerned about the possibility that the bailee replaced them with others, and we do not rely on the distinguishing marks provided by the claimant in this case.

⁴⁰ § The mishna taught: If there was a quarrel between him and her, her testimony that her husband died is not accepted. The Gemara asks: What are the circumstances of a quarrel between him and her? Rav Yehuda said that Shmuel said: This is a case where people heard her say to her husband: Divorce me. The Gemara asks: Is this proof? All women likewise say this when they are angry; this does not prove that there was an unresolved quarrel left between them. Rather, a quarrel is when she says to her husband: You divorced me, i.e., she claims that she was actually divorced.

⁴¹ The Gemara asks: If she said to her husband that he divorced her, let us believe her claim, in accordance with the statement of Rav Hamnuna. As Rav Hamnuna said: A woman who said to her

husband: You divorced me, is deemed credible. Why? There is a presumption that a woman would not dare to lie in the presence of her husband about a matter which he knows to be untrue. If so, why isn't her claim that she was divorced accepted? This would mean that there is no need for any testimony concerning his death, as the ties between them have already been severed.

⁴² The Gemara answers: In fact, a couple is considered to be quarreling when she says: You divorced me in the presence of two witnesses, so-and-so and so-and-so; and the court asked those men and they said: This matter never happened. In this case it is obvious that there was a terrible quarrel between them, but her claim that she was divorced is not accepted. Consequently, her later claim that her husband is dead is not accepted.

⁴³ § The Gemara analyzes the ruling of the mishna itself. What is the reason that in the case of a quarrel between them the court does not accept her testimony? Rav Ḥanina said: Because she lies, i.e., due to their quarrel she is likely to testify falsely that her husband died. Rav Shimi bar Ashi said: Because she says what she imagines to be the case. When there is peace between them, she examines the matter thoroughly to discover whether he actually died, but if there is a quarrel between them she is not so exacting, as she is pleased to be rid of him. The Gemara asks: What is the difference between these two explanations?

⁴⁴ The practical difference between them is in a case where he initiated the quarrel. In this situation there is no concern that she might knowingly lie, as she loves him. However, due to the quarrel between them she might not be meticulous in her investigations.

⁴⁵ § A dilemma was raised before the Sages: If there was one witness who testified that the husband died, in a case that involved a quarrel between them, what is the halakha? The Gemara explains the different sides of this dilemma: What is the reason that one witness is deemed credible? Is it because it is a matter that is likely to be revealed, and one does not lie in a case of this kind? Here too, one witness would not lie. Or perhaps the reason that one witness is deemed credible is because she herself is exacting in her investigation before she marries again. And here, since there is a quarrel between them, she is not exacting in her investigation before she marries again, despite the testimony of the witness. The Gemara comments: The question shall stand unresolved.

⁴⁶ § The mishna taught that Rabbi Yehuda says that a wife is never deemed credible when she testifies that her husband died, unless she came crying and her clothing was torn, while the Rabbis say she may remarry in any case. It is taught in a baraita: The Rabbis said to Rabbi Yehuda: According to your statement, a crafty woman who knows how to deceive will come with torn clothes crying, and it will be permitted for her to marry. However, a foolish woman who does not know how to deceive will not be permitted to marry. Is this a fair outcome? Rather, both this woman and that woman may marry.

⁴⁷ The Gemara relates: There was a certain woman who came to the court of Rabbi Yehuda. The people sitting there said to her: Lament your husband, tear your clothing, unbind your hair, so that you have the appearance of a mourner, and the court will believe you. The Gemara asks: Did they instruct her to lie? The Gemara answers: They thought, in accordance with the opinion of the Rabbis, that it is permitted for her to marry in any case. However, they were concerned that Rabbi Yehuda would rule that she may not remarry if she did not display her grief, in accordance with his opinion. Therefore, they said that she should do this, so that Rabbi Yehuda would also permit her to marry, and she would avoid any complications.

⁴⁸ MISHNA: Beit Hillel say: We heard that one may accept the testimony of a woman concerning the death of her husband only when she comes from the grain harvest, and when she testified in the same country where he died, and in circumstances similar to the incident that occurred, in which a lenient ruling was issued, as will be explained.

⁴⁹ Beit Shammai said to Beit Hillel: The same halakha applies to a wife who comes from the grain harvest, and one who comes from the olive harvest, and also one who comes from the grape harvest, and even one who comes from one country to another country. Although the incident in question took place during the grain harvest, the Sages spoke of the grain harvest only because it was the present occurrence, i.e., that is what happened in practice, but this is no proof that she is deemed credible only when she arrived specifically from the grain harvest. The mishna comments: Beit Hillel retracted their opinion, and decided to teach in accordance with the opinion of Beit Shammai on this issue.

⁵⁰ GEMARA: It is taught in a baraita that Beit Shammai said to Beit Hillel: According to your statement that this halakha applies solely in circumstances similar to the incident that occurred, if so, I have derived only that it applies in the wheat harvest. From where do I derive that the same applies in the barley harvest? And I have derived only that it applies to one who reaps grain. From where do I derive that this halakha includes someone who harvests grapes, or harvests olives, or harvests dates, or harvests figs?

⁵¹ Rather, that incident which occurred during the grain harvest, and the same is true of all these other circumstances. Here too, concerning a woman who comes from another country, and other, similar cases, the incident that occurred took place in that country, but the same is true of all these other cases.

⁵² And Beit Hillel, how did they respond to this argument? In that same country, where people are commonly found moving from place to place, she is scared to lie, lest her account be contradicted. However, between one country and another country, where people are not commonly found moving back and forth, she is not scared, and therefore she might be lying when she says he died. And Beit Shammai reason: Here too caravans are found, and if he was alive the truth would eventually be revealed.

⁵³ The Gemara asks: What was this incident that occurred? As Rav Yehuda said that Shmuel said: It was at the end [shilfei] of the wheat harvest, and ten people went to harvest wheat. A snake bit one of them and he died, and his wife came and told the court that her husband died. And they sent messengers, who discovered that it happened in accordance with her statement. At that time they said: The woman who says: My husband died, may marry on the basis of this testimony. Furthermore, if she says: My husband died without children, and he has a brother, she enters into levirate marriage. This is the case to which Beit Hillel referred.

⁵⁴ § The Gemara analyzes this dispute. Let us say that Rabbi Ḥananya ben Akiva and the Rabbis, who argued in this case, disagree with regard to the issue that is the subject of the dispute between Beit Shammai and Beit Hillel. As it is taught in a baraita: A person may not carry the waters of purification, i.e., the water containing the ashes of the red heifer for the ritual purification of one who became impure through contact with a corpse, and the ashes of purification, of the red heifer, and transport them on the Jordan River. And one may not transfer them across the river in a boat.

⁵⁵ And one may not stand on one side of the river and throw the ashes to the other side, nor float them upon the water as he crosses, nor ride with them across the river, neither on the back of an animal nor on the back of another person, as this is similar to a boat that passes over the water, unless the legs of the rider were touching the ground. However, one may transport them across the water over a bridge. This prohibition applies to both the Jordan River and all other rivers. Rabbi Ḥananya ben Akiva says: They said this prohibition only with regard to the Jordan, and transporting in a boat, and in circumstances similar to the incident that occurred, when ritual impurity was found in a boat on the Jordan River.

⁵⁶ Let us say that the Rabbis say in accordance with the opinion of Beit Shammai, that when a decree is enacted due to a specific case that occurred, this halakha applies to all similar circumstances. And Rabbi Ḥananya ben Akiva says in accordance with the opinion of Beit Hillel, that the decree applies only in the exact circumstances as the precedent case.

⁵⁷ The Gemara rejects this suggestion. The Rabbis could say to you: We stated our ruling even in accordance with the opinion of Beit Hillel, as there is a difference between the two cases. Beit Hillel state their opinion, that she is not deemed credible when she comes from one country to another, only in that case there, because she is scared. In a nearby place she is scared to give false testimony, as her lie can easily be discovered, whereas in a distant place she is not scared. However, here, concerning the ashes of the red heifer, what difference does it make to me if it is the Jordan River, and what difference does it make to me if it is one of the many other rivers?

⁵⁸ Meanwhile, Rabbi Ḥananya ben Akiva could have said to you: I stated my ruling even in accordance with the opinion of Beit Shammai, as Beit Shammai state their opinion only there, because she herself is exacting in her investigation before she marries again. Since this is the decisive consideration, what difference does it make to me if the place is near, and what difference does it make to me if the place is far? Here, however, the Sages issued their decree due to a specific incident that occurred. And therefore the Sages issued their decree with regard to the Jordan River and in a boat, the circumstances in which the incident occurred. Conversely, the Sages did not issue the decree with regard to other rivers, where the incident did not occur.

⁵⁹ The Gemara explains: What is this incident that occurred, involving the ashes of the red heifer? As Rav Yehuda said that Rav said: An incident occurred involving a person who was transporting waters of purification and ashes of purification on the Jordan River, and in a boat, and an olive-bulk of a corpse was found stuck to the bottom of the boat, which rendered the waters and ashes ritually impure. At that time they said: A person may not carry waters of purification and ashes of purification and transport them on the Jordan River, and in a boat. Later Sages dispute whether this decree applies to similar cases, or only to the exact circumstances of this specific incident.

⁶⁰ MISHNA: Beit Shammai say: A woman who testifies that her husband died may marry, and take the money guaranteed in her marriage contract. Beit Hillel say: She may marry, but she may not take her marriage contract, as qualified witnesses are required for monetary matters. Beit Shammai said to them: If you have permitted a woman potentially forbidden to him, which is a relatively stringent prohibition, based merely upon her own testimony, will we not permit a monetary matter, which is more lenient, as the money can be returned and this sin does not entail such a severe punishment? Beit Hillel said to them: This is no proof, as we find

⁶¹ that the brothers do not come into the inheritance from the deceased brother based on her testimony. Evidently, although this testimony is accepted with regard to forbidden sexual relationships, it is not effective for monetary matters.

⁶² Beit Shammai said to them: But we can learn this halakha from the scroll of the marriage contract, as every husband writes for her that: If you marry another man, take what is written for you in this contract. This shows that her right to receive the money of her marriage contract is dependent upon her eligibility to remarry. In this case, as she is deemed credible when she says her husband died and she may marry again, she is likewise entitled to the money of the marriage contract. And Beit Hillel again retracted their opinion, and decided to teach in accordance with the opinion of Beit Shammai.

⁶³ GEMARA: Rav Ḥisda said: If the woman entered into levirate marriage based upon her own testimony, her yavam comes into the inheritance of the property of his dead brother based on her testimony. He adds: If Beit Shammai taught their halakha that she is entitled to her money, by interpreting homiletically the language of a marriage contract, will we not teach by interpreting homiletically the Torah itself?

⁶⁴ Rav Ḥisda explains: The Merciful One states in the Torah: “He shall succeed in the name of his dead brother” (Deuteronomy 25:6), which is interpreted by the Sages as referring to the right of inheritance of the brother who consummates the levirate marriage. And this man did succeed with respect to the marital relationship, as he consummated the levirate marriage based on the testimony of his yevama that her husband died. Consequently, he takes the place of his brother with respect to his inheritance as well.

⁶⁵ § Rav Naḥman said: A woman came to the court and said: My husband died; permit me to marry. The halakha is that after investigating the matter, they permit her to marry, and also give her her marriage contract. However, if she came and said: Give me my marriage contract, they do not even permit her to marry. What is the reason? Since she came with the money of the marriage contract in mind, she is suspected of lying, and her testimony is rejected.

⁶⁶ However, the following dilemma was raised before the scholars. If she came and said: Permit me to marry and give me my marriage contract, what is the halakha? Since she mentioned the money from her marriage contract, this shows that she came with the marriage contract in mind. Or perhaps every matter a person has in his favor he will say to the court, even if it is not of particular importance. And if you say that the ruling in this case is in accordance with the principle: Every matter a person has in his favor he will say to the court, then in a case where she said: Give me my marriage contract and permit me to marry, what is the halakha?

⁶⁷ The Gemara explains the sides of the dilemma: Here she certainly came with the marriage contract in mind, as she mentioned it first. Or perhaps she said it in this manner since she does not know what will set her free. In other words, she might have thought that taking the money guaranteed by her marriage contract is part of the process that enables her to remarry, but this does not prove that she is focused on the money. The Gemara states that the question shall stand unresolved.

⁶⁸ MISHNA: All are deemed credible when they come to give testimony with regard to the death of a woman’s husband, apart from her mother-in-law, the daughter of her mother-in-law, her rival wife, the wife of her yavam, and her husband’s daughter, her stepdaughter. The reason is that these women are likely to hate her and will lie to her detriment.

⁶⁹ The mishna explains: In the case of a divorce all people, including these women, may bring her bill of divorce and testify that it was written appropriately. What, then, is the difference between a bill of divorce and death? The mishna answers: The difference is that in the case of a bill of divorce the writing proves the accuracy of the testimony, i.e., her testimony is supported by the text of the document itself, whereas with regard to the death of her husband there is no proof apart from the statement of the woman herself.

⁷⁰ GEMARA: A dilemma was raised before the scholars: With regard to the daughter of her father-in-law, who is not the daughter of her mother-in-law, what is the halakha? May she testify to the death of the woman's husband, or is she also under suspicion? The Gemara explains the sides of the dilemma: The reason that the daughter of her mother-in-law is suspected of lying is because she has a mother who hates her daughter-in-law, and therefore the daughter also hates her. But here, there is no mother who hates her, as she is not the mother-in-law's daughter, and therefore she should be deemed credible.

⁷¹ Or perhaps the reason that the daughter of her mother-in-law hates her is that she says: She eats the food [girsena] that my mother prepares. Here too, in the case of the daughter of her father-in-law, she also says: She eats the food of my father's house.

⁷² The Gemara suggests: Come and hear a resolution from the following baraita: All are deemed credible when they come to testify with regard to her except for five women. And if it is so, that the daughter of her father-in-law is also disqualified, there are actually six women. The Gemara rejects this: This is no proof, as perhaps the reason that the daughter of her mother-in-law is disqualified from testifying is that she says: She eats the food of my father's house, and if so, the halakha is no different with regard to her mother-in-law's daughter and no different with regard to her father-in-law's daughter. Since the two women are disqualified for the same reason the Sages did not list these as two separate cases.

⁷³ The Gemara raises a contradiction from another source. But isn't it taught in a baraita: Apart from seven women who are not trustworthy. Apparently that tanna added the daughter of her father-in-law as a separate category. The Gemara answers: That ruling is in accordance with the opinion of Rabbi Yehuda. As it was taught in a baraita: Rabbi Yehuda adds also a father's wife, who hates her stepdaughter, and a daughter-in-law, who hates her mother-in-law.

⁷⁴ The Rabbis said to Rabbi Yehuda: A father's wife is included in the category of the husband's daughter, while a daughter-in-law is included in the category of her mother-in-law. In other words, just as a mother-in-law is suspicious of her daughter-in-law, a daughter-in-law is equally suspicious of her mother-in-law, and they need not be listed separately.

⁷⁵ And Rabbi Yehuda, who counts them separately, can answer: Granted that her mother-in-law hates the daughter-in-law, as she says: She eats the food I prepare; but a daughter-in-law, what is the reason that she hates her mother-in-law? Similarly, granted the husband's daughter, that she hates her father's wife, as she says: This woman eats the food that my mother prepared. However, the father's wife, what is the reason that she hates her husband's daughter?

⁷⁶ The Gemara asks: Rather, what is the reason that Rabbi Yehuda adds these two? Rather, his logic is: In the case of a daughter-in-law, what is the reason that she hates her mother-in-law? Because she reveals to her son everything his wife does. And likewise a father's wife also hates the husband's daughter, because she reveals to her father everything she does. In each case the reason for this

hatred is different from the reason for the hatred of the other woman, the mother-in-law or the husband's daughter, and therefore they belong in a separate category.

⁷⁷ And the Rabbis, who say that the reasons for the hatred are the same and therefore count only five disqualified women, how do they respond to this argument? They cite the verse: "As in water face answers to face, so the heart of man to man" (Proverbs 27:19). That is, if one person hates another, the feeling soon becomes mutual. Here too, there is no need for a separate reason in order that the hatred be reciprocated. The Gemara asks: And Rabbi Yehuda, why doesn't he rely on this verse? Rabbi Yehuda would retort: That verse was written about matters of Torah. In other words, it means that the more one studies Torah, the more Torah he understands.

⁷⁸ § Rav Aḥa bar Avya says: They raise a dilemma in the West, i.e., Eretz Yisrael. With regard to her mother-in-law who comes afterward, what is the halakha? This refers to the mother of the husband's brother, but not her husband's mother, i.e., the wife's future mother-in-law if the wife enters into levirate marriage. Can this woman testify with regard to the future wife of her son? The Gemara clarifies: Does it enter her mind that if this woman's husband died, the widow will happen before the yavam, her son, for levirate marriage, and as the widow, when she then married her son, would eat her food she hates her already, or not?

⁷⁹ Come and hear a resolution to this dilemma. If she said: My husband died and afterward my father-in-law died, she may marry and take her money from the marriage contract, and her mother-in-law is prohibited to remarry; she is not deemed credible to testify for her mother-in-law, as already stated. The Gemara clarifies: What is the reason that her mother-in-law is prohibited to remarry? Is it not because we say: Perhaps her husband did not really die, and she is still her mother-in-law, and her father-in-law did not die either, and the reason that she says this statement is that she intends to ruin her mother-in-law?

⁸⁰ The Gemara elaborates. She reasons: Later, when the husbands arrive, she will not come back and trouble me, because if the mother-in-law relies on this testimony and remarries she will no longer be able to return to her original husband, and she will be out of her daughter-in-law's life. This shows that there is a concern that a daughter-in-law might lie in order to prevent future family relationships from coming into being. Similarly, a woman should be suspected of lying with regard to her future daughter-in-law.

⁸¹ The Gemara rejects this suggestion. Perhaps it is different there, as the daughter-in-law has already felt oppressed by her mother-in-law. In other words, she is suspected of lying because she had previous dealings with that woman, whereas in the case of a future mother-in-law, with whom she had no previous dealings, there is no such concern. Consequently, the dilemma cannot be resolved from this case.

⁸² MISHNA: If one witness says: The man died, and the wife married based on this testimony, and one other witness came and said: He did not die, she need not leave her new husband due to this testimony. However, if one witness comes and says: The husband died, and two witnesses say: He did not die, then even though she married based on the first witness she must leave her new husband. If two witnesses say: He died, and one witness says: He did not die, the testimony of the two witnesses is accepted, and even though she did not yet marry, she may marry.

⁸³ GEMARA: The Gemara infers: The reason in the case of one witness contradicted by another witness is that she already married; however, if she did not yet marry and a second witness comes in

the meantime and contradicts the statement of the first one, she may not marry. The Gemara asks: But didn't Ulla say: Wherever you find that the Torah relies on one witness, his testimony is considered complete proof, as though there are two witnesses present here? If so, the witness who comes and testifies to the opposite is only one witness, and the statement of one witness has no standing in a place where it is contradicted by two witnesses. Why, then, may she not remarry, even *ab initio*?

⁸⁴ The Gemara answers that this is what the mishna said: If one witness says: He died, and they permitted her to marry based on his testimony, and one other witness later came and said: He did not die, she does not leave her initial, permitted state, i.e., the permission she was granted to remarry is still in force, and she may marry *ab initio*.

⁸⁵ § The mishna taught that if one witness says: He died, and two come and say: He did not die, she must leave her new husband. The Gemara asks: This is obvious, as the statement of one witness has no standing in a place where it is contradicted by two witnesses. The Gemara answers: No, it is necessary in a case of people disqualified from giving testimony. In other words, the mishna is referring to two people who are generally disqualified from serving as witnesses. In the case of a missing husband, however, their testimony is accepted in contradiction of the first, qualified, witness. And this is in accordance with the opinion of Rabbi Neḥemya.

⁸⁶ As it is taught in a baraita that Rabbi Neḥemya says: Wherever you find that the Torah relies on one witness, follow the majority of opinions, even if they are disqualified. And the Sages established the testimony of two women against one man in this case like the testimony of two men against one man, i.e., the testimony of the two witnesses negates the earlier testimony of a single witness. The mishna is teaching that even if the first witness was qualified to give testimony, his account is negated by the statements of the two disqualified witnesses who contradicted him.

⁸⁷ And if you wish, say: Anywhere that a qualified witness came initially and testified that he died, even if one hundred women came and contradicted his account, they are considered like one witness, and cannot negate his testimony. However, here it is speaking of a case where a woman came initially and they relied on her testimony to release the wife, and afterward two other women came and contradicted her.

⁸⁸ The Gemara explains: And you can explain the ruling in accordance with the opinion of Rabbi Neḥemya as follows: Rabbi Neḥemya says: Wherever you find that the Torah relies on one witness, e.g., in testimony concerning a woman's missing husband, follow the majority of opinions, and they established two women against one woman like two men against one man. However, in a case involving two women against one man, the latter of whom is a qualified witness, this is like half against half, i.e., they are equal. The testimony of two women has no advantage over that of one male witness, who is considered like two witnesses in testimony concerning a missing husband.

⁸⁹ § The mishna taught: If two witnesses say: He died, and one witness says: He did not die, even if she did not yet marry, she may marry. The Gemara asks: What is the mishna teaching us? If you say it is referring to people disqualified from giving testimony, and this is in accordance with the opinion of Rabbi Neḥemya, who follows the majority of opinions, then this case is identical to that previous case.

⁹⁰ The Gemara answers. This case is also necessary, lest you say that when we follow the majority of opinions, this is only when it leads to a stringency, but when this principle would lead to a leniency,

to permit her to marry based on the majority of opinions, we do not follow the majority opinion. Therefore, the mishna teaches us that there is no difference in this regard, as the majority of opinions is accepted whether this leads to a lenient or a stringent outcome.

⁹¹ MISHNA: If two women who were married to the same man come forward, and one of them says that the husband died, and the other one says he did not die, the one who says he died may marry on the basis of her own testimony, and she takes the money of her marriage contract. And the one who said he did not die may not marry, and does not take the money of her marriage contract.

⁹² If one wife says: He died in a normal manner, and the other one says: He was killed, Rabbi Meir says: Since they contradict one another, these women may not marry. Rabbi Yehuda and Rabbi Shimon say: Since they both agree that he is not alive they may marry, despite the fact that they dispute the circumstances of his demise. If a witness says: He died, and a witness says: He did not die,

⁹³ or one woman says: He died, and another woman says: He did not die, this woman may not marry.

⁹⁴ GEMARA: The mishna taught that if one rival wife says their husband died, while the second maintains that he did not die, the one who says he did not die may not remarry. The Gemara infers: The reason is that the second rival wife said explicitly: He did not die, from which it may be inferred that if she was silent and said nothing, she is permitted to marry based on the testimony of the first. However, this conclusion is problematic, as there is a principle that one rival wife may not testify on behalf of another, and if so, how can she rely on the testimony of her rival wife?

⁹⁵ The Gemara answers that this inference is incorrect, as it was necessary for the mishna to state: He did not die, as it might enter your mind to say that this man did in fact die, and with regard to that which she says: He did not die, she intends to ruin her rival wife. And as for herself she says: Let her die with the Philistines. This is a paraphrase of the verse: “Let me die with the Philistines” (Judges 16:30), which is a shorthand expression for one’s desire to hurt his enemies even if he suffers the same fate himself. In this case it means that she is prepared to testify falsely that their husband did not die, so as to ruin her rival wife. Therefore the mishna teaches us that this is not the case, and she is not permitted to marry based on the testimony of her rival wife.

⁹⁶ § The mishna taught that if one wife says: He died, and one says: He was killed, Rabbi Meir says that as they contradict one another, they may not remarry. The Gemara asks: And let Rabbi Meir also disagree in the first clause, when one witness says the husband died and the other claims he did not die. Rabbi Elazar said: This is taught as a tannaitic dispute. In other words, Rabbi Meir also disagreed with the first clause, and the unattributed opinion in the mishna is that of Rabbi Yehuda and Rabbi Shimon. And Rabbi Yoḥanan said: You can even say that the first clause is in accordance with the opinion of Rabbi Meir, as in this case even Rabbi Meir concedes that any claim of: He did not die, with regard to testimony enabling a woman to remarry, is not considered contradictory.

⁹⁷ The Gemara raises a difficulty with regard to this answer. We learned in the mishna: If one witness says: He died, and one witness says: He did not die, or if one woman says: He died, and another woman says: He did not die, she may not marry. Granted, according to the opinion of Rabbi Elazar, the unattributed statement in this mishna is in accordance with the opinion of Rabbi Meir, that when a rebuttal contradicts the original testimony, one cannot rely upon the testimony that the husband died. However, according to the opinion of Rabbi Yoḥanan, this is difficult. The Gemara answers: Yes, this is difficult.

⁹⁸ MISHNA: In the case of a woman who went, she and her husband, overseas, and she comes and says: My husband died, she may marry, and she takes her marriage contract based on her own testimony. And it remains prohibited for her rival wife to remarry, as a woman cannot testify on behalf of her rival wife. If the rival wife was an Israelite woman married to a priest, she may continue to partake of teruma, as she is not permitted to remarry, and therefore the presumption that the husband is still alive is maintained in relation to her. This is the statement of Rabbi Tarfon.

⁹⁹ Rabbi Akiva says: This is not the way to spare someone from transgression. According to the opinion of Rabbi Tarfon, there is a concern that she might be eating teruma unlawfully. There is no remedy for this situation unless it is prohibited for the rival wife to marry, as she cannot rely on the testimony of her rival wife, and it is also prohibited for her to partake of teruma, lest the other woman was speaking the truth. In other words, the halakha is stringent on both counts.

¹⁰⁰ The mishna discusses a similar case. If a woman said: My husband died and afterward my father-in-law died, she may marry and take her marriage contract, and it is prohibited for her mother-in-law to remarry, as a woman may not testify on behalf of her mother-in-law. If the mother-in-law was the daughter of an Israelite married to a priest, she may partake of teruma; this is the statement of Rabbi Tarfon. Rabbi Akiva says: This is not the way to spare her from transgression; there is no remedy unless it is prohibited for the mother-in-law to marry and also prohibited for her to partake of teruma.

¹⁰¹ GEMARA: The mishna states the dispute between Rabbi Tarfon and Rabbi Akiva with regard to two apparently identical cases. The Gemara explains: And it is necessary to state both of these examples. As, had the mishna stated the dispute only in this first case, I would have said: It is in this case that Rabbi Tarfon said the wife is suspected of lying, because the suffering is physical, i.e., she is jealous of her rival wife, with whom she shares her husband. However, with regard to her mother-in-law, where the suffering is merely verbal and not physical, one might say that he concedes to Rabbi Akiva, i.e., that she is not considered a liar, and therefore it should be prohibited for her mother-in-law to partake in teruma.

¹⁰² And vice-versa: Had the mishna stated the dispute only in this second case, I would have said: It is in this case that Rabbi Akiva said that the mother-in-law must refrain from eating teruma in case the daughter-in-law is not lying, but in this other case of the rival wife, you might say that he concedes to Rabbi Tarfon that she may eat teruma, as a rival wife is certainly not telling the truth. Therefore, it is necessary for the mishna to state the dispute in both two cases.

¹⁰³ § Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Tarfon. The testimony of a woman who is suspected of harboring ill will toward another is entirely rejected with regard to that other person, and no credence is given to her account at all. Abaye said: Likewise, we, too, learn in a mishna (118b): If a woman came and said: A son was born to me overseas, and my son died and afterward my husband died, she is deemed credible in all regards, and she enters into levirate marriage. If she said: My husband died and afterward my son died, which means she is exempt from levirate marriage, she is not deemed credible.

¹⁰⁴ That mishna adds: But in any case, the court is concerned about her statement, and she must perform ḥalitza and she does not enter into levirate marriage. In other words, the court takes into consideration the possibility that she is speaking the truth, and if her son did die after her husband it is prohibited for her to enter into levirate marriage. Abaye infers from the language of the mishna on 118b: It is with regard to her own statement that the court is concerned. This indicates that the court

is not concerned at all about the statement of her rival wife who testified with regard to her. The Gemara concludes: Learn from here that this is the case.

¹⁰⁵ MISHNA: In relation to the dispute between Rabbi Tarfon and Rabbi Akiva in the previous mishna, in which Rabbi Akiva states that one must avoid a possible transgression, the mishna cites two similar cases involving other topics. With regard to one who betrothed one of five women, and he does not know which of them he betrothed, and each one of them says: He betrothed me, if he does not want to marry any of them he gives a bill of divorce to each and every one of them so none will have the status of a woman with regard to whom there is uncertainty whether she is divorced. And he leaves the marriage contract among them and departs. The marriage contract remains in dispute between the women until they clarify which of them is entitled to the money. This is the statement of Rabbi Tarfon.

¹⁰⁶ Rabbi Akiva says: This is not the way to spare someone from transgression, as perhaps the woman he actually betrothed will not receive the money to which she is entitled. There is no remedy unless he gives a bill of divorce and a marriage contract payment to each and every one. And likewise, in the case of one who stole money from one of five people and does not know from which of them he stole, and each one says: He stole from me, he leaves the stolen money among them and departs, and they will decide among themselves how to distribute the money; this is the statement of Rabbi Tarfon. Rabbi Akiva says: This is not the way to spare him from transgression; there is no remedy unless he pays each and every one of them.

¹⁰⁷ GEMARA: The Gemara infers: It is taught in the mishna that he betrothed one of five women, whereas it is not taught that he had sexual intercourse with one of five women, as a different ruling applies in this case. Similarly, with regard to the second case, it is taught that he stole from one of five people, and it is not taught that he purchased an item from one of five people. If so, whose opinion is expressed in the mishna? It is not in accordance with the opinion of the first tanna and it is also not in accordance with the opinion of Rabbi Shimon ben Elazar.

¹⁰⁸ The Gemara elaborates. As it is taught in a baraita that Rabbi Shimon ben Elazar says: Rabbi Tarfon and Rabbi Akiva did not dispute the case of a man who betrothed one of five women and he does not know which of them he betrothed, as everyone agrees in this case that he leaves the money of the marriage contract among them and departs. With regard to what did they disagree? With regard to the case of one who had sexual intercourse with one of them for the purpose of betrothal. Rabbi Tarfon says: He leaves the money among them and departs, while Rabbi Akiva says: He does not fulfill his obligation unless he pays each and every one of them. Since he married in an inappropriate manner, the Sages penalized him by compelling him to pay all the women.

¹⁰⁹ Likewise, Rabbi Tarfon and Rabbi Akiva did not dispute the case of one who purchased an item from one of five people and he does not know from which of them he purchased it. Everyone agrees in this case that he leaves the price of the purchase among them and departs. They disagree only with regard to one who stole from five people, as Rabbi Tarfon says: He leaves the stolen money among them and departs, and Rabbi Akiva says: He does not fulfill his obligation unless he pays the stolen money to each and every one of them. In this case, as he committed a transgression, he must ensure that the stolen money is restored to its proper owner.

¹¹⁰ The Gemara states: From the fact that Rabbi Shimon ben Elazar said that Rabbi Tarfon and Rabbi Akiva do not disagree with regard to the cases of one who betrothed and one who purchased, one

may learn by inference that the first tanna, with whom he disagrees, holds that they do disagree about the cases of betrothed and purchased, whereas with regard to one who had sexual intercourse and one who stole an item Rabbi Tarfon agrees with Rabbi Akiva. With this in mind, who is the author of the mishna?

¹¹¹ The Gemara elaborates: If the mishna is in accordance with the opinion of the first tanna, let it teach the cases of betrothed and also purchased, but not that of one who stole or one who had intercourse, as the first tanna maintains that Rabbi Tarfon agrees with Rabbi Akiva in those cases. If it is in accordance with the opinion of Rabbi Shimon ben Elazar, let it teach the cases of one who had sexual relations and that of one who stole. Rabbi Shimon ben Elazar holds that Rabbi Tarfon and Rabbi Akiva disagree in the case of one who had sexual relations, not in the case of a man who betrothed one of five women. Likewise, he maintains that they disagree in the case of one who stole from five people, not one who purchased an item from five people.

¹¹² The Gemara answers: Actually, the mishna is in accordance with the opinion of Rabbi Shimon ben Elazar, and what is the meaning of the term: Betrothed? It means that he betrothed one of the women by means of sexual intercourse. And the mishna taught the term betrothed to convey to you the far-reaching nature of the stringent opinion of Rabbi Akiva.

¹¹³ The Gemara explains: As, although this man performed an act that violated a prohibition that applies by rabbinic law, i.e., he did not have licentious sexual relations with her but rather engaged in intercourse for the purpose of betrothal, which is in violation of a rabbinic prohibition that one may not betroth a woman by sexual intercourse *ab initio*, even so Rabbi Akiva penalizes him. And the mishna taught the case of one who stole so as to convey to you the far-reaching nature of the lenient opinion of Rabbi Tarfon, as although he performed an act that violated a prohibition that applies by Torah law, nevertheless he does not penalize him even in this case.

¹¹⁴ MISHNA: In the case of a woman who went, she and her husband, overseas, and her son was with them, and later she came back and said: My husband died and afterward my son died, she is deemed credible. It is permitted for her to remarry, and she is exempt from levirate marriage. The reason is that she had children when she left, and therefore she retains her presumptive status of one who is exempt from levirate marriage. However, if she said: My son died and afterward my husband died, she is not deemed credible, i.e., she may not enter into levirate marriage. And yet we are concerned and give some credence to her statement, in case she was actually widowed by a childless husband, and therefore she performs *ḥalitza* to exempt her from the levirate bond with her yavam, and she does not enter into levirate marriage.

¹¹⁵ If she went with her childless husband and returned alone and testified: A son was born to me overseas, and she further said: My son died and afterward my husband died, she is deemed credible and may even enter into levirate marriage, as she was presumed to be childless when she left and consequently she retains that presumptive status. However, if she said: My husband died and afterward my son died, she is not deemed credible for the purpose of exempting her from levirate marriage, but the court is concerned about her statement. And therefore she must perform *ḥalitza* and she does not enter into levirate marriage.

¹¹⁶ If she said: A yavam was born for me overseas, i.e., when the family left the country her husband did not have a brother, and she claims that in the meantime a brother was born to her husband, and she also said: My husband died and afterward my yavam died, or: My yavam died and afterward my

husband died, in either case she is deemed credible. This is because when she left she was not presumed to require levirate marriage, and the suggestion that her husband now has a brother is based solely on her testimony.

¹¹⁷ However, if she went, she and her husband and her yavam, overseas, and upon her return she said: My husband died and afterward my yavam died, or: My yavam died and afterward my husband died, she is not deemed credible, as a woman is not deemed credible if she says: My yavam died, in order that she may marry another man. And she is not deemed credible if she says that her sister died, in order that she may enter the house of her sister's husband. And a man is not deemed credible if he says: My brother died, so that he may enter into levirate marriage with his brother's wife, and he is not deemed credible when he says that his wife died, in order that he may marry his wife's sister. The Sages accepted impaired testimony of this kind only when there was a concern about creating a situation of a deserted wife.

¹¹⁸ GEMARA: Rava raised a dilemma before Rav Naḥman: In the case of a man who confers possession of a bill of divorce to his wife, i.e., he appoints an agent to take the bill of divorce to his wife, when she has a potential yavam, what is the halakha if her husband dies before she is divorced? One might say that since she hates her yavam, receiving the bill of divorce is for her benefit, as this act renders her prohibited to him, and it is a principle that one may act in a person's interest in his absence. If so, as soon as the husband gives the bill of divorce to the agent she is divorced. Or perhaps, since she sometimes loves her yavam, this bill of divorce is to her disadvantage, and one may not act against a person's interest in his absence. Consequently, she is not divorced until the bill of divorce reaches her possession.

¹¹⁹ Rav Naḥman said to Rava that we learned an answer to this dilemma in the mishna: And we are concerned about her statement, and she must perform ḥalitza and she does not enter into levirate marriage. The mishna states that the court gives her statement some credence in either case, both when her testimony would exempt her from levirate marriage and when it would allow her to marry her yavam. This indicates that levirate marriage is considered neither in her interest nor a disadvantage for her. Rather, its classification is uncertain.

¹²⁰ § Ravina said to Rava: With regard to one who confers possession of a bill of divorce to his wife through an agent in a situation when there was a quarrel between them, what is the halakha? The Gemara explains both sides of the question: Since she has a quarrel with him, the bill of divorce might be considered for her benefit. Or perhaps, her physical comfort is preferable to her, as she prefers to remain married despite the quarrel between her and her husband. Come and hear a resolution, as Reish Lakish said: There is a popular idiom among women: It is better to sit as two [tan du] than to sit lonely as a widow, i.e., a woman prefers the companionship of any husband over being alone.

¹²¹ Abaye said a similar popular expression: One whose husband is small as an ant, she places her seat among the noblewomen, as she considers herself important merely by virtue of being married. Rav Pappa said a different maxim: One whose husband is a wool comber [naftza], a lowly occupation, she calls him to sit with her at the entrance to the house, to display herself as a married woman.

¹²² Similarly, Rav Ashi says: One whose husband sells cabbage heads [kulsa] does not require lentils for her pot. She is so happy she is married that she does not mind even if he does not provide her

with food. The Gemara comments: A Sage taught: And all of these women who appear so satisfied with their marriage, they all commit adultery and attribute the children to their husbands. This is another reason why they are so keen to be married. This shows that even when there are quarrels between a couple, the wife still prefers the status of a married woman, and therefore the bill of divorce is not considered in her interest.

Chapter 16

¹ MISHNA: In the case of a woman whose husband and rival wife traveled to a country overseas, and witnesses came and told her: Your husband died, she shall not marry any other man, in case she requires levirate marriage with her brother-in-law, i.e., yavam, in which case she is prohibited from marrying anyone else. And she also shall not enter into levirate marriage until she knows whether she, i.e., her rival wife, is pregnant. If her rival wife bears a child to her late husband, she does not have a levirate bond with her brother-in-law, and she is therefore prohibited from marrying him.

² If she had a mother-in-law overseas, but her late husband had no brothers, she need not be concerned that a brother to her husband may have been born. But if her mother-in-law departed from her town pregnant, this widow should be concerned that perhaps her late husband now has a brother, with whom she is obligated in levirate marriage. Rabbi Yehoshua says: Even in such a case she need not be concerned and may marry whomever she wishes.

³ GEMARA: The Gemara asks: What is implied by the extra word: She, in the expression in the first clause of the mishna: Whether she, i.e., her rival wife, is pregnant? The Gemara answers that it teaches us this: We are concerned about a possible pregnancy of this rival wife who went overseas with her husband, but we are not concerned about the possibility that he married another rival wife overseas and sired a child by her.

⁴ It was taught in the mishna: She shall not marry any other man and shall not enter into levirate marriage until she knows whether her rival wife is pregnant. The Gemara asks: Granted, she may not enter into levirate marriage, because perhaps her rival wife is pregnant, and if so, this widow would encounter the Torah prohibition proscribing a brother's wife. If a child is born to her late husband, levirate marriage is not required and she is prohibited from marrying her brother-in-law. But why should she not marry another man? Follow the majority of women, and as most women become pregnant and give birth, it is probable that her rival wife did have a child.

⁵ Shall we say that the mishna follows the opinion of Rabbi Meir, who is concerned about the minority? There is a minority of women who do not give birth, and Rabbi Meir takes this minority into consideration and requires the widow to wait and clarify whether or not she is required to enter into levirate marriage.

⁶ The Gemara rejects this: You can even say that the mishna follows the opinion of the Rabbis. When the Rabbis follow the majority, it is an evident majority, which is extant and can be examined. For example, in a situation where a piece of meat is found in front of nine stores selling kosher meat and one store selling non-kosher meat, if it is not known from which store the meat came, it may be assumed that it came from one of the stores that sells kosher meat. And similarly, the Sanhedrin reaches its decisions by a majority vote of its members. But with regard to a non-evident majority,

which is based solely upon general statistical information, such as the assertion that most women become pregnant and give birth, even the Rabbis do not follow the majority.

⁷ The Gemara challenges: But the case of a minor boy or minor girl, as pertains to levirate marriage, is dependent upon a non-evident majority, and nevertheless the Rabbis follow the majority in their ruling, as it is taught in a baraita: A minor boy or minor girl may not perform ḥalitza and may not enter into levirate marriage; this is the statement of Rabbi Meir. The Rabbis said to Rabbi Meir: You have aptly stated that they may not perform ḥalitza, since “man” (Deuteronomy 25:7), i.e., an adult male, is written in the section of the Torah pertaining to ḥalitza. Though an adult female is not mentioned explicitly, we employ an analogy based on juxtaposition of the woman to the man and require that the female involved in ḥalitza be an adult as well. But what is the reason that they may not enter into levirate marriage, about which the Torah’s phraseology does not specifically indicate adults?

⁸ He said to them: I am concerned about the minor boy, lest he be confirmed as a sexually underdeveloped man when he grows up, and I am concerned about the minor girl, lest she be confirmed as an ayilonit, a sexually underdeveloped woman, when she grows up. Then levirate marriage would not apply, and they would end up encountering a forbidden relative if they consummated the levirate marriage. And the Rabbis hold: Follow the majority of minor boys, and most minor boys are not sexually underdeveloped when they grow up. Likewise, follow the majority of minor girls, and most minor girls are not in the category of ayilonit when they grow up. This indicates that the Rabbis disagree with Rabbi Meir even with regard to a non-evident majority. Rather, it is clear that the mishna is following Rabbi Meir, who is concerned about the minority.

⁹ The Gemara asks: In what manner did you establish the mishna? You established it in accordance with the opinion of Rabbi Meir. However, say the latter clause: If she had a mother-in-law overseas, she need not be concerned that her mother-in-law may have given birth to another son. Why should she not be concerned about this? Follow the majority of women, and most women become pregnant and give birth. The minority become pregnant and miscarry. And among all women who give birth, half of the children are male and half are female. Therefore, we can join the minority who miscarry to the half who give birth to females, and then the male children born would be only the minority. Nevertheless, if the mishna actually follows Rabbi Meir, who is concerned about minority circumstances, let him be concerned that a yavam might have been born, necessitating a levirate marriage.

¹⁰ The Gemara rejects this: Perhaps, since the widow is legally presumed to be permitted to marry a man from the general public, since her husband had no known brothers, Rabbi Meir is not concerned about the minority. The Gemara challenges: If so, in the first clause of the mishna, where the widow is legally presumed to require levirate marriage, as her husband had no children, she should be permitted to enter into levirate marriage without concern that her rival wife might have given birth.

¹¹ The Gemara answers that Rav Naḥman said that Rabba bar Avuh said: In the first clause of the mishna, which relates to a prohibition proscribing a brother’s wife when levirate marriage does not apply, which bears the punishment of karet, they were concerned about the minority possibility because of the severity of the prohibition. But in the latter clause of the mishna, which relates to an ordinary prohibition, that of a woman whose husband died childless marrying without performing

ḥalitza, the prohibition is not so severe. Therefore, they were not concerned about the minority and relied upon the presumption.

¹² Rava said in opposition to this contention: Now since this prohibition is by Torah law and that prohibition is by Torah law, what difference is it to me if it is a prohibition bearing the punishment of karet and what difference is it to me if it is an ordinary prohibition? If both prohibitions are by Torah law there is no justification for distinguishing between a severe prohibition and a minor one! Rather, Rava said that we must reject this contention, and say:

¹³ In the first clause of the mishna, the legal presumption is that this widow is obligated to enter into levirate marriage, but in a majority of cases she will actually be permitted to marry a man from the general public, because it is statistically probable that her rival wife had a child. A legal presumption is not as significant as a majority, meaning that the majority carries more weight than the presumption, and she should be permitted to marry immediately. But bring the minority who miscarry into consideration, and join this to the legal presumption, and it becomes similar to an even balance of half and half. Those who miscarry detract from the strength of the majority, causing it to be equal in legal significance to the legal presumption. Therefore, the ruling is that she shall not marry any man who is not her yavam and she shall not enter into levirate marriage either.

¹⁴ However, in the latter clause, the legal presumption is that the widow is permitted to marry a man from the general public, since her late husband had no brothers initially. And in a majority of cases her mother-in-law will not have had another son, and therefore the widow will actually be permitted to marry a man from the general public. Consequently, the possibility that her husband has a brother, necessitating levirate marriage, is not taken into account because it is a minority of a minority, i.e., it is a minority and it contradicts the legal presumption, and even Rabbi Meir is not concerned about a minority of a minority.

¹⁵ § It was taught in the mishna that in the case of a woman whose husband and rival wife went overseas and then her husband died, she shall not marry and shall not enter into levirate marriage until she knows whether her rival wife is pregnant. The Gemara asks: But must she wait indefinitely? She should be permitted to perform ḥalitza on account of the uncertainty and then marry another man.

¹⁶ Ze'eiri said: In order for herself [le'atzma] to be permitted to marry, she must wait three months after performing ḥalitza, since every woman must wait three months after her husband's death before she marries again. Additionally, due to the concern for the possibility that her fellow wife may be pregnant, she must wait nine months, after which time that wife would have given birth had she been pregnant, and then she performs ḥalitza whichever way you look at it. If her rival wife gave birth in the meantime, she is permitted to marry anyone she wishes, and the ḥalitza is superfluous; if her rival wife did not give birth, necessitating levirate marriage, she is exempted by the ḥalitza. However, she may not perform ḥalitza earlier because ḥalitza performed while any wife of the deceased husband is pregnant is ineffective.

¹⁷ Rabbi Ḥanina said: For those concerns relating to herself she must wait three months, as explained, but for concerns related to her fellow wife's possible pregnancy she must wait indefinitely, until it is verified whether or not that wife gave birth. The Gemara challenges Rabbi Ḥanina's opinion: But let her perform ḥalitza whichever way you look at it, since, whatever happened, after nine months she may certainly perform ḥalitza.

¹⁸ Abaye bar Avin and Rabbi Ḥanina bar Avin both say in explanation of Rabbi Ḥanina's opinion: It is a rabbinic decree lest there be viable offspring of that other wife. If so, her ḥalitza is superfluous, since she was exempt from both levirate marriage and ḥalitza; and then it transpires that you necessitate an announcement on her behalf stating that she is permitted to the priesthood, as a woman who has undergone ḥalitza is forbidden to a priest, but in this case it has become clear retroactively that she did not undergo ḥalitza.

¹⁹ The Gemara asks: And so let an announcement be necessary for her if a viable offspring is found. The Gemara answers: Perhaps there will be people who were present at the ḥalitza ceremony but were not present at the announcement that she is permitted to marry a priest, and if this woman marries a priest they will mistakenly say: They are permitting a ḥalutza to marry a priest.

²⁰ The Gemara deliberates further about this: We learned in a mishna (Yevamot 118b): If a woman says: A son was born to me in a country overseas, and she also said: My son died, and then my husband died, she is deemed credible. However, if she said: My husband died and then my son died, she is not deemed credible about the sequence of events, but even so one must be concerned about her statement that her husband died childless. Consequently, she must perform ḥalitza, but she may not enter into levirate marriage.

²¹ The Gemara says: Just as there is concern about an announcement for the priesthood, let us be concerned that perhaps witnesses will eventually come and testify that the sequence of events was as she said, rendering her ḥalitza superfluous. And then it transpires that you necessitate an announcement on her behalf stating that she is permitted to the priesthood, and nevertheless the mishna instructs her to perform ḥalitza. Rav Pappa said: There it is referring only to a divorced woman, who was divorced from a previous husband, so that she is already prohibited from marrying a priest in any case. Rav Ḥiyya, son of Rav Huna, said: It is referring to a case where she said: He and I were hiding alone with our son in a cave. Consequently, there is no concern that witnesses will come and testify about the sequence of the events.

²² MISHNA: If there are two sisters-in-law married to two childless brothers who testify about their marital status, and this one says: My husband died, and that one says: My husband died, although each one of them is deemed credible with regard to her own status as a widow, this one is prohibited from marrying due to the possibility that the husband of that other sister may be alive, obligating her in levirate marriage, and that one is prohibited from marrying due to the husband of this sister, according to the same rationale. Although each is accorded credibility as to her own husband's death, the halakha is that sisters-in-law are among the five types of women not accorded credibility with regard to each other's permissibility to marry because of possible conflicts of interest.

²³ If this one has witnesses to her husband's death, and that one does not have witnesses, then the one who has witnesses is prohibited from marrying, as there are no witnesses to the death of her yavam to exempt her from levirate marriage; but the one who has no witnesses is permitted to marry based on her own testimony that her husband died combined with the witnesses' testimony exempting her from levirate marriage. If this one has children and that one has no children, then the one with children is permitted to marry, as she herself is deemed credible with regard to her husband's death, and her children exempt her from levirate marriage. But the one without children is prohibited from marrying, as the death of her yavam has not been corroborated independently of her sister-in-law's testimony.

²⁴ If there were two additional yevamin with whom these two widows entered into levirate marriage, and then the yevamin died childless, the women are prohibited from marrying, since the concern about an additional living yavam still remains. Rabbi Elazar says: Since these women were permitted to marry the living brothers-in-law, as the testimony of each was deemed credible with regard to her own status, they are permitted, from then on, to marry any man because their statements, taken together, indicate that neither one is obligated to enter into levirate marriage.

²⁵ GEMARA: It was taught in a baraita: If this one has witnesses that her husband died and also has children, and the other has neither witnesses nor children, they are both permitted to marry. This is because the woman who has children is exempt from levirate marriage, and the woman who has no children may rely upon the witnesses' testimony that her yavam died.

²⁶ It was taught in the mishna: If they both entered into levirate marriage and then the yevamin they married died, they are prohibited from marrying. Rabbi Elazar says: Since they were permitted to marry the yevamin, they are permitted to any man.

²⁷ Rava raised a dilemma: What is Rabbi Elazar's reasoning? Is it because he holds in general that one rival wife may testify for another rival wife about her husband's death, and he similarly holds that all of the five types of women who are presumed to have a conflict of interest with each other may testify for one another nonetheless? Or perhaps it is because she would not cause herself injury. Although she would be suspected of lying and saying that her husband died in order to harm her rival wife, if she herself enters into levirate marriage it can be assumed that she was telling the truth, because if she does so while her husband is actually alive, she would be committing incest with her brother-in-law. Consequently, her rival wife is also permitted to marry on the basis of her testimony.

²⁸ The Gemara asks: What is the practical difference between the two reasons?

²⁹ The Gemara responds that Rabbi Elazar's reasoning could make a practical difference with regard to allowing the rival wife to marry before the woman herself, i.e., the woman who testified that her husband died, remarries. If you say that according to Rabbi Elazar, one rival wife may testify for another, then although the woman who testified that her husband died has not married, we allow her rival wife to marry. Since the woman's report is deemed credible with regard to herself, it is also deemed credible with regard to her rival wife. However, if you say that Rabbi Elazar's reasoning is due to the presumption that she would not cause herself injury, then if she has actually married we may allow her rival wife to marry, but if she has not married, we may not allow her rival wife to marry, in case she lied in order to cause harm to her rival wife.

³⁰ What is the basis of Rabbi Elazar's ruling? The Gemara suggests: Come and hear a resolution based upon the wording of the baraita itself: Rabbi Elazar says: Since they were permitted to marry the brothers-in-law, they are now permitted to marry any man. Granted, if you say that his reason is because she would not cause herself injury, this is the reason that if she has actually married, as in this case, where each woman entered into levirate marriage, we may allow her rival wife to marry.

³¹ But if you say the reason is because one rival wife may testify for another, then although she herself has not married, it should still be permitted for her rival wife to marry, and it would be unnecessary for Rabbi Elazar to state his opinion in a case where the women had already entered into levirate marriage. Rather, conclude from this that Rabbi Elazar's reason is because she has already married, and she would not cause herself injury by marrying if her original husband had not died.

³² The Gemara rejects that and suggests that Rabbi Elazar stated his opinion to the Rabbis in accordance with their own statement, as follows: According to my own opinion, one rival wife may testify for another, and although she, herself, has not married, nevertheless we may allow her rival wife to marry. But even according to your own opinion, admit, in any event, that where she has actually married we may allow her rival wife to marry because she would not cause injury to herself. But the Rabbis, rejecting this, say that she acts upon the premise: “Let me die with the Philistines” (Judges 16:30), i.e., a woman may even harm herself by remarrying while her original husband is still alive, in order to harm her rival wife by causing her to remarry as well.

³³ The Gemara suggests another solution. Come and hear the following baraita: In the case of a woman who went with her husband to a country overseas, and who later came and said: My husband died, she is permitted to marry and collect the widow’s compensation from her marriage contract, but her rival wife is prohibited from doing so. Rabbi Elazar says: Since she is permitted to marry, her rival wife is also permitted. This indicates that Rabbi Elazar holds that the rival wife is permitted to marry because the wife who testified that her husband has died is permitted to do so, even if the latter has not actually remarried yet. The Gemara rejects this proof: Say that Rabbi Elazar means: Since she was permitted and has married.

³⁴ The Gemara asks: If Rabbi Elazar’s reason is that she would not cause herself injury, how can her rival wife be permitted to marry? Let us be concerned that perhaps she, i.e., the woman who claimed that the husband was dead, came with a bill of divorce and is therefore permitted to remarry though the husband is alive. And the fact that she says this, i.e., that her husband is dead, is intended only to injure her rival wife, who will remarry, thinking that the husband is dead, and will suffer the severe consequences of adultery.

³⁵ The Gemara then validates this concern. If she actually married an Israelite, which is permitted for a divorced woman, then indeed one must consider the possibility that she is actually divorced and not widowed, and the rival wife is not permitted to marry. However, here we are dealing with a case where she married a priest, who is prohibited from marrying a divorced woman, and therefore she must actually be a widow, as she would not damage herself by entering into a forbidden marriage.

³⁶ MISHNA: One may testify that a man died only if he can testify about seeing the countenance [partzuf] of the face with the nose, as this allows one to identify the individual with certainty. Although there are distinguishing marks [simanim] on his body and his personal belongings, which appear to indicate his identity, one may not rely on these as identification. Furthermore, one may not testify that a person died until his soul actually departs. And even if one saw him cut open and severely wounded, or crucified, or with a wild animal eating parts of him, he may not testify that he died. Additionally, one may testify to someone’s death only when the body was witnessed up to three days following death and not after that, since the appearance may change due to decomposition.

³⁷ Rabbi Yehuda ben Bava says: One cannot establish general guidelines for this matter because not every person, nor every place, nor every hour is identical. Decomposition is not uniform. It occurs at different rates in different situations.

³⁸ GEMARA: The Sages taught in a baraita: If the witnesses saw his forehead but not the countenance of the face, or if they saw the countenance of the face but not his forehead, they may not testify that it is he, until they see both of them with the nose. Abaye said, and some say it was Rav Kahana who said: What is the verse from which it is derived that one may testify that a man died

only if one sees his face? The verse is: “The show of their face does witness against them” (Isaiah 3:9), which indicates that one clearly recognizes another only upon seeing his face.

³⁹ The Gemara relates that Abba bar Marta, who is also known as Abba bar Minyumi, had been loaned money by members of the Exilarch’s house. Since he did not want to be seen by these violent people, he brought wax [kira], stuck it to a strip of worn-out fabric, and stuck all of that to his forehead in order to alter his appearance. He passed before them and they did not recognize him [beshakru]. This shows how much a person’s face changes when the appearance of his forehead is altered.

⁴⁰ § We learned in the mishna that, although there are distinguishing marks on a dead person’s body and clothing, one may not rely on these as identification. The Gemara asks: Is this to say that distinguishing marks are not recognized as valid identification by Torah law, and while a rabbinic ordinance allows one to rely upon them to remedy certain situations, for testimony about a person’s death, the Sages require the stringencies of Torah law?

⁴¹ But the Gemara raises a contradiction, based upon the following baraita: If an agent charged with delivering a bill of divorce to a woman lost it, and then he found it tied to a purse, or a money bag [arnekei], or a ring, or if it was found among his personal belongings, even after a long time, it is valid, i.e., one may rely upon the distinguishing marks on these objects to positively identify the document, and the agent may then deliver it to the woman. This indicates that distinguishing marks are sufficient to identify an object even by Torah law.

⁴² Abaye said: This is not difficult. That baraita is in accordance with the opinion of Rabbi Eliezer ben Mahavai, while this mishna is in accordance with the opinion of the Rabbis; as it is taught in a baraita: One may not testify about a person’s identity based upon the position of a mole on his body. Rabbi Eliezer ben Mahavai says: One may testify based on a mole. What, is it not about this issue that they disagree: One Sage, Rabbi Eliezer ben Mahavai, holds that distinguishing marks are recognized as valid identification by Torah law, and one Sage, the anonymous first tanna, representing the majority of the Rabbis, holds that distinguishing marks are recognized as a means of identification only by rabbinic law and are therefore insufficient to permit a Torah prohibition?

⁴³ Rava said: It is possible that everyone agrees that distinguishing marks are recognized as valid identification by Torah law, and here they are disagreeing about whether such a mole is commonly found on his peer, i.e., anyone very similar to him, which would undermine its usefulness as a means of identification. One Sage, the anonymous first tanna, holds that such a mole is commonly found on his peer and therefore is not sufficient for identification. And one Sage, Rabbi Eliezer ben Mahavai, holds that it is not commonly found on his peer and is therefore an unambiguous distinguishing mark sufficient for identification.

⁴⁴ And there are those who say otherwise: Here they are disagreeing about whether a mole is likely to change in appearance and size after death. One Sage, the anonymous first tanna, holds that it is likely to change after death. It is insufficient for identification because it may have looked different when the person was alive. And one Sage, Rabbi Eliezer ben Mahavai, holds that it is not likely to change after death and is reliable for identification. This marks the end of one version of the discussion about this issue.

⁴⁵ And there are those who say that Rava said: Everyone agrees that distinguishing marks are relied upon by rabbinic law. However, this is referring to ordinary distinguishing marks. Marks that are

exceptionally unusual may be relied upon even according to Torah law. And here, in the dispute between the Rabbis and Rabbi Eliezer ben Mahavai, it is about whether a mole

⁴⁶ is an unambiguous distinguishing mark that they disagree. One Sage, Rabbi Eliezer ben Mahavai, holds that a mole is an unambiguous distinguishing mark and may be relied upon by Torah law. Consequently, if a man's corpse was identified in this manner, his wife may remarry. And one Sage, the anonymous first tanna, holds that a mole is not an unambiguous distinguishing mark.

⁴⁷ The Gemara asks: According to the first version, that Rava said that distinguishing marks are recognized as valid identification by Torah law, there is a question: Isn't it taught in the mishna: Although there are distinguishing marks on his body and his personal belongings, one may not rely on these as identification, implying that distinguishing marks are not valid identification by Torah law?

⁴⁸ The Gemara answers: The mishna's intent is that ordinary distinguishing marks on one's body, which constitute only weak evidence to a person's identity, e.g., that he was tall or short, are not valid identification. Additionally, one cannot rely upon distinguishing marks on his personal belongings, as we are concerned about borrowing, i.e., perhaps the deceased had borrowed the clothes he was wearing from someone else. The Gemara asks: But if we are concerned about borrowing, then, with regard to returning lost property, how can we return a donkey based solely upon distinguishing marks on the saddle? Why don't we consider the possibility that the saddle was borrowed?

⁴⁹ The Gemara answers: People do not normally borrow a saddle because it bruises the donkey, as the saddle must fit exactly to the donkey's measurements. The Gemara raises further objections based upon the baraita cited earlier: If he found the lost bill of divorce tied to a purse, or a money bag, or a ring, he may rely upon the distinguishing marks on those items and deliver the bill of divorce to the woman. But how can we return it and not be concerned that these belongings may have been lent to someone else whose bill of divorce is tied to them?

⁵⁰ The Gemara answers: The case of the ring is referring to a signet ring, which one does not lend, because he is concerned about forgery, i.e., that the borrower might use it to forge his consent on documents without his knowledge. With regard to a purse or a money bag, people consider it a bad omen to lend them out and do not lend them to others. And if you wish, say that the reason not to permit a woman to remarry and not to accept that her husband is dead based upon the distinguishing marks found on his personal belongings is that the distinguishing marks referred to are only general ones, e.g., he wore white or red clothing, but they are not unambiguous distinguishing marks.

⁵¹ § We learned in the mishna: And even if one saw him cut open [meguyyad] and severely wounded, one may not testify that he died. The Gemara asks: Is this to say that a person who is cut open is fit to live for much time afterward? The Gemara raises a contradiction from what was taught in a mishna (Oholot 1:6): A dead person renders other people and objects impure only when his soul actually departs, even if he is cut open and severely wounded, and even if he is clearly dying. From this we may deduce that he does not yet render others ritually impure, as he still has some life in him, but he is not fit to live for much time afterward.

⁵² Abaye said: The contradiction raised is not difficult: This mishna here is in accordance with the opinion of Rabbi Shimon ben Elazar, while that mishna from tractate Oholot is in accordance with the opinion of the Rabbis, as it is taught in a baraita: One may testify about the death of a person who is cut open, but one may not testify about a crucified person. Rabbi Shimon ben Elazar says: Even

concerning a person who is cut open, one may not testify that he is dead because his wound can be scorched, and this cauterization of the wound may stop the flow of blood and allow him to survive.

⁵³ The Gemara challenges this: But can you establish the mishna to be in accordance with the opinion of Rabbi Shimon ben Elazar? Isn't it taught in the latter clause (121a): An incident occurred in Asya in which they lowered a certain man into the sea on a rope, and when they pulled the rope back to land only his leg came up in their hands. They were not certain whether he was alive or dead. The Sages said: If his leg was cut from the knee and above, his wife may marry, as he would not survive such a wound; if his leg was cut only from the knee and below, she may not marry. This indicates that someone cut open in the first manner is assumed to be dead. If this follows Rabbi Shimon ben Elazar's opinion, why doesn't it say that there is a concern that he might be alive even if the leg was cut from the knee and above?

⁵⁴ The Gemara answers: Water is different, as it aggravates the wound. Since he was in the water, it can be assumed that such a wound will certainly lead to death.

⁵⁵ The Gemara asks: But didn't Rabba bar bar Hanna say: I myself saw an Arab who took his sword [safseira] and cut open his camel, and the camel died so quickly that it could not even cease its braying before it died? This indicates that a living being that is cut open has no chance of surviving. Abaye said: That camel was emaciated and weak, causing it to die immediately, but a normal camel would not have died so quickly.

⁵⁶ Rava said a different resolution to the apparent contradiction between the mishna here and the mishna in tractate Oholot: The mishna here is referring to a case where the man was cut open with a white-hot knife, and everyone agrees that one may not testify to the death of a person wounded in such a manner, as the wound would close due to the heat.

⁵⁷ § It was taught in the mishna: Or even if one saw that a wild animal was eating parts of him, one may not testify that he died. Rav Yehuda said that Shmuel said: They taught this only where the animal was eating from a place on his body that does not cause his soul to depart, i.e., does not inevitably lead to death, such as his hand or foot. But if the animal was eating from a place on his body that does cause his soul to depart, one may testify to his death.

⁵⁸ And Rav Yehuda said that Shmuel said: If someone cut a man's two passageways, the trachea and the esophagus, or most of the way through the two passageways, and the maimed person fled, one may testify to his death.

⁵⁹ The Gemara challenges that conclusion: Is that so? But didn't Rav Yehuda say that Shmuel said: If someone cut a man's two passageways, or most of the way through the two passageways, and the maimed person gestured and thereby communicated: Write a bill of divorce for my wife, then these onlookers should write it and deliver it to her. Since only a living person may give a bill of divorce, this indicates that the maimed man is considered alive. The Gemara answers: He is still alive at the moment, but he will eventually die from the wound. Consequently, he may appoint an agent to deliver a bill of divorce to his wife, but after a while one may testify that he is dead.

⁶⁰ The Gemara asks: If that is so, that such a wound is definitely fatal, one who unintentionally wounds another in this manner should be exiled on his account, in accordance with the halakha of one who unintentionally kills another. Why is it taught in a baraita: If one unintentionally cut the two passageways of another person, or most of the thickness of the two, he is not exiled? The Gemara

answers: But it was stated with regard to that baraita that Rav Hoshaya said: We are concerned that perhaps the wind aggravated his condition and actually caused his death, in which case the perpetrator is not culpable for the death and should not be exiled. Alternatively, perhaps he, the maimed person,

⁶¹ hastened his own death. For instance, if the maimed man convulsed intensely, injuring himself, the perpetrator is not culpable for the death and should not be exiled. The Gemara asks: What is the practical difference between these two considerations, that the wind or the victim himself hastened his death?

⁶² The Gemara explains: There is a practical difference between them in a case where one cut someone in a house of marble that was closed on every side, in which there was no wind, and the victim convulsed. Alternatively, there is a difference in a case where one cut the victim outside, where there is wind, and the victim did not convulse at all.

⁶³ § It was taught in the mishna that one may testify to someone's death only when he saw the corpse within three days of the individual's death. However, Rabbi Yehuda ben Bava says: Not every person, nor every place, nor every hour is identical. A dilemma was raised before the Sages: Did Rabbi Yehuda ben Bava disagree with the Rabbis with the intent to rule more leniently and hold that sometimes one may testify to the identity of one who died even if he did not see the body within three days of his death? Or, did he disagree with the intent to rule more stringently and hold that sometimes one may not testify even if he saw the body within three days of the individual's death?

⁶⁴ Come and hear a solution: A certain man drowned in a place called Carmi, and they drew him out of the water near Bei Hedya after three days, and Rav Dimi from Neharde'a allowed his wife to marry. And furthermore, a certain man drowned in the Tigris River, and they drew him out of the river onto the Bridge of Shabistana, and Rava allowed his wife to marry based upon his friends' testimony, although the body was seen only five days after death.

⁶⁵ Granted, if you say Rabbi Yehuda ben Bava disagreed with the intent to rule more leniently, these Sages who acted here, allowing these women to marry, acted in accordance with the opinion of Rabbi Yehuda ben Bava. But if you say he disagreed with the intent to rule more stringently, in accordance with whose opinion did these Sages act? The Gemara answers: Water is different, since it contracts the body, preventing it from bloating and changing shape.

⁶⁶ The Gemara wonders about this: But didn't you say (120b) that water aggravates a wound by causing additional swelling? The Gemara answers: This applies when there is a wound, but when there is no wound, the water contracts the body and thereby prevents the shape of the face from changing. The Gemara comments: And this applies only in a case where they drew him out of the water and viewed him at that time. But if the viewing was delayed for some time after the body was drawn from the water, it certainly will have become very bloated, making it impossible to positively identify.

⁶⁷ MISHNA: If a man fell into the water and did not come out, whether the body of water has a visible end or does not have a visible end, his wife is prohibited from remarrying. There is no absolute proof that the man died, as it is possible that he emerged from the water some distance away. Rabbi Meir said: An incident occurred involving a certain person who fell into the Great Cistern and emerged only after three days. This is evidence that sometimes one may survive a fall into water, even when everyone assumes he is dead.

⁶⁸ Rabbi Yosei said: An incident occurred involving a blind man who descended to immerse for ritual purity in a cave, and his guide descended after him, and they disappeared there, and they remained there long enough for their souls to have departed, and the Sages permitted their wives to marry because they had disappeared into the water and not emerged. And there was another incident in Asya in which they lowered a certain man into the sea on a rope, and when they pulled the rope back to land only his leg came up in their hands, and they were not certain whether he was alive or dead. The Sages said: If his leg was cut from the knee and above, his wife may marry, as he did not survive such a wound; if his leg was cut only from the knee and below, she may not marry.

⁶⁹ GEMARA: The Sages taught: If a man fell into the water, whether the body of water has a visible end or does not have a visible end, his wife is prohibited from marrying; this is the statement of Rabbi Meir. And the Rabbis say: If he fell into a body of water with a visible end, his wife is permitted to marry, but if he fell into a body of water with no end, his wife is prohibited from marrying.

⁷⁰ The Gemara asks: What are the circumstances defining a body of water with a visible end? Abaye said: Any body of water where one stands in one place and can see the shore in all four directions is considered water with a visible end, since anyone emerging from the water would be seen. However, if the body of water is so large that it is impossible to see its shore on all sides, the individual may have emerged at a place where he could not be seen by others standing at the place where he fell in.

⁷¹ There was a certain man who drowned in the lake in a place called Samkei. Rav Sheila allowed his wife to marry based on the testimony of witnesses who saw that he entered the water and did not emerge. Rav said to Shmuel: Come, let us excommunicate him for having issued this ruling. Shmuel said to him: Let us first send him a message and clarify whether he had a sufficient reason to issue this ruling.

⁷² They sent him the following question: When a man disappears in an endless body of water, is his wife a forbidden or a permitted woman, i.e., may she remarry? He sent back to them: His wife is forbidden. They asked him further: Is the lake of Samkei a body of water with a visible end or an endless body of water? He sent a response to them: It is an endless body of water, since one cannot see the water's edge on every side. They then asked him: If so, what is the reason that the Master, i.e., Rav Sheila, acted this way, allowing the wife to remarry?

⁷³ He answered them: I erred in my reasoning. I thought: Since the waters are gathered and stagnant and not flowing like a river, they are considered as a body of water with a visible end. But that is not so. Since there are waves in this body of water, say that the waves carried him away from our sight, allowing him to emerge without being seen.

⁷⁴ In light of this response, Shmuel recited this verse about Rav: "No mischief shall befall the righteous" (Proverbs 12:21). Since the righteous Rav waited and did not excommunicate Rav Sheila, he was prevented from causing him injustice. Rav Sheila had been mistaken and had not intentionally violated the decree of the Sages prohibiting a woman from remarrying on the basis of her husband having disappeared into an endless body of water. Rav recited this verse about Shmuel: "But salvation lies in much counsel" (Proverbs 11:14), since it was Shmuel's advice that caused Rav to wait.

⁷⁵ It is taught in a baraita that Rabbi Yehuda HaNasi said: An incident occurred involving two people who were fishing with nets on the Jordan River, and one of them entered a cave containing a pond of

fish next to the shore. Meanwhile, the sun set and the one who had entered the cave could not see the cave's opening and did not exit, so his friend thought he had drowned. His friend waited long enough for his soul to have departed and came and notified the man's household that he had drowned. The following day the sun rose, and the man in the cave recognized the opening of the cave and exited through it. And he came and found profuse eulogizing in his house. Rabbi Yehuda HaNasi said about this: How great are the words of the Sages, who said: If a man fell into a body of water with a visible end, his wife is permitted to marry, but in a case of water with no end, his wife is prohibited from marrying.

⁷⁶ The Gemara asks: If so, even in the case of a body of water with a visible end, let us also be concerned about a cave containing a pond of fish. Even if the individual did not emerge for a long period of time, it is possible that he entered a cave and is still alive. The Gemara answers: A cave containing a pond of fish is not common in a body of water with a visible end.

⁷⁷ Rav Ashi said: That which the Sages said, that if a man fell into an endless body of water, his wife is prohibited from remarrying, applies only to an ordinary person who is not well known and could slip away secretly and live in anonymity, hiding the fact that he survived. But it does not apply to a Torah scholar, because if he would emerge from the water, publicity would be generated and the news of his survival would spread. The Gemara rejects this: That is not so. It is no different for an ordinary man and it is no different for a Torah scholar. After the fact, i.e., if she remarried, yes, she may remain with her new husband, but she may not remarry *ab initio*.

⁷⁸ § It is taught in a baraita: Rabban Gamliel said: Once I was traveling on a boat, and from a distance I saw a boat that shattered and sank. And I was grieved over the apparent death of the Torah scholar who was on board. And who was it? Rabbi Akiva. But when I disembarked onto dry land, he came, and sat, and deliberated before me about halakha. I said to him: My son, who brought you up from the water? He said to me: A plank from the boat came to me, and I bent my head before each and every wave that came toward me. The waves did not wash me off of the board, and I reached the shore.

⁷⁹ From here the Sages stated: If wicked people come upon a person, he should bend his head before them. That is, he should temporarily restrain himself and not fight them, and he will therefore be saved. After this parenthetical statement, the Gemara returns to Rabban Gamliel's story. I said at that moment: How great are the words of the Sages, who said: If a man fell into a body of water with a visible end, his wife is permitted to remarry. But in a case of an endless body of water, his wife is prohibited from remarrying.

⁸⁰ It is taught in a baraita: Rabbi Akiva said: Once I was traveling on a boat, and I saw a certain boat sinking at sea, and I was grieved over the apparent death of the Torah scholar who was on board. And who was it? Rabbi Meir. But when I disembarked at the province of Cappadocia, he came, and sat, and deliberated before me about halakha. I said to him: My son, who brought you up from the water? He said to me: One wave carried me to another, and that other wave to another, until I reached the shore, and a wave cast me up onto dry land. I said at that moment: How great are the words of the Sages, who said: If a man fell into a body of water with a visible end, his wife is permitted to remarry. But in a case of an endless body of water, his wife is prohibited from remarrying.

⁸¹ § The Sages taught: If an individual fell into a lion's den, one may not testify about him that he died, since the lions might not have killed him. If he fell into a pit filled with snakes and scorpions,

one may testify about his death, since it is certain that they killed him. Rabbi Yehuda ben Beteira says: Even if he fell into a pit filled with snakes and scorpions, one may not testify about him that he died, because we are concerned

⁸² that perhaps he is a charmer [ḥabbar] of snakes and scorpions who knows magic or some stratagem to keep them from harming him. And the first tanna holds that we need not be concerned about this possibility, as, due to the pressure of his body falling on top of them, they will harm him, even if he could control them under other circumstances.

⁸³ The Sages taught: If one fell into a blazing furnace, one may testify about him that he has died. If he fell into a boiling cauldron filled with wine or oil, one may also testify about him that he has died. In the name of Rabbi Aḥa, they said: If he fell into a cauldron of oil, one may testify about him that he has died, because this ignites the fire even more. Through the force of his fall, oil will splash into the fire and increase the heat of the cauldron. However, if he fell into a cauldron of wine, one may not testify about him that he has died, because when wine splashes into the fire it extinguishes the fire. They said to him: At first it partially extinguishes the fire but eventually it ignites it even more, and therefore it can be assumed that he has died.

⁸⁴ § The mishna stated that Rabbi Meir said: An incident occurred involving a certain individual who fell into the Great Cistern and emerged after three days. It is taught in a baraita: They said to Rabbi Meir: One does not mention miraculous acts to teach general halakha. The Gemara asks: What about that story defines it as an example of miraculous acts? If we say the fact that he did not eat or drink for three days and still survived is miraculous, but isn't it written: "Fast for me, and neither eat nor drink three days, night or day" (Esther 4:16), demonstrating that one may survive this experience naturally?

⁸⁵ The Gemara answers: Rather, the miraculous element is that he did not sleep during those three days, as Rabbi Yoḥanan said: If one says: I hereby take on an oath that I will not sleep for three days, the court flogs him for taking an oath in vain, and he may sleep immediately because it is impossible to remain awake for three consecutive days.

⁸⁶ The Gemara asks: And according to Rabbi Meir, what is the reason this was not a miraculous incident? The Gemara answers that Rav Kahana said: There were several levels of arches built on top of other arches within the Great Cistern, and he supported himself on the arches and slept. And the Rabbis said that they were made of marble and it was impossible to hold onto them and sleep. And Rabbi Meir assumed that it is inconceivable that he didn't grasp some part of an arch for a short time and sleep a little, and therefore this incident does not qualify as a miracle.

⁸⁷ The Sages taught: An incident occurred involving the daughter of Neḥunya the well digger, who fell into the Great Cistern, and they came and notified Rabbi Ḥanina ben Dosa and asked that he pray for her. After the first hour, he said to them: She is at peace and unharmed. After the second hour, he said to them: She is at peace. After the third hour he said to them: She has ascended from the cistern.

⁸⁸ When she came to Rabbi Ḥanina ben Dosa, he said to her: My daughter, who pulled you up from the cistern? She said to him: A male sheep, i.e., a ram, happened by and sensed me in that cistern, and there was an old man leading him who pulled me out. They said to Rabbi Ḥanina ben Dosa: Are you a prophet with knowledge of what is happening far away? He said to them, using a figure of speech from the Bible: "I am not a prophet, nor the son of a prophet am I" (Amos 7:14). Rather, I reasoned as follows: Could it be that concerning the endeavor that the righteous Neḥunya is engaged in, i.e.,

digging for the benefit of the public, his offspring would stumble upon its fruits and thereby be killed? I therefore knew that God would certainly save her.

⁸⁹ Rabbi Abba said: Even so, the son of Nehunya the well digger died of thirst, and the merit of his father, who attended to the water supply, did not protect him, as is stated: “And around Him it storms [nisara] mightily” (Psalms 50:3), which teaches that the Holy One, Blessed be He, is exacting with His surroundings, i.e., the righteous who are close to Him, up to a hairsbreadth [sa’ara], so that even slight deviations can elicit severe punishment. Rabbi Ḥanina said: This idea is derived from here: “A God dreaded in the great council of the holy ones, and feared by all that are about Him” (Psalms 89:8). This indicates that God is most feared by those that are nearest to Him, i.e., the righteous, because He is more exacting of them.

⁹⁰ MISHNA: Even if one heard from the women, who were saying: So-and-so died, this is sufficient in order to testify to his death. Rabbi Yehuda says: Even if one heard from the children, who were saying: We are going to eulogize and bury so-and-so, that is also sufficient. Furthermore, one may rely upon someone mentioning that a man died, regardless of whether the speaker intends to testify and thereby allow the man’s wife to remarry or whether he does not intend to offer formal testimony.

⁹¹ Rabbi Yehuda ben Bava says: With regard to a Jew who offers this information, it may be relied upon even if he intends for his statement to be considered formal testimony. However, with regard to a gentile, if he intended to testify, his testimony is not considered valid testimony. His statement is relied upon only when he does not intend to state it as formal testimony.

⁹² GEMARA: With regard to relying on what children said, that they are going to eulogize and bury so-and-so, the Gemara asks: Perhaps they will not go; perhaps they only assumed that the individual would die, but in the end he didn’t. The Gemara answers: Rav Yehuda said that Shmuel said: It is referring to a situation where the children say: We are coming from eulogizing and burying so-and-so.

⁹³ The Gemara asks: Since they are children, perhaps it was merely a grasshopper with which they played that died, and they brought it out as if to its funeral, calling it by the name of the individual suspected to be dead, and their statement should not be considered valid proof of his death. The Gemara answers: It is referring to a situation where the children say: Such and such rabbis were there; such and such eulogizers were there, so that it is clear that they were referring to an event that truly occurred.

⁹⁴ § It was taught in the mishna: With regard to a gentile, if he intended to testify, his testimony is not considered valid testimony. Rav Yehuda said that Shmuel said: They taught this only in a case where he intended to permit the woman to remarry through his testimony, but if he merely intended to testify about the man’s death, his testimony is considered testimony. The Gemara asks: How do we know the intention of the gentile? Rav Yosef said: If he came to the court and said: So-and-so died, allow his wife to marry, this is an instance of intending to permit her to remarry. If he said simply: He died, this is an instance of merely intending to testify.

⁹⁵ This was also stated by other amora’im. Reish Lakish said: They taught this only when one intended to permit the woman to remarry, but if he merely intended to testify about the man’s death, his testimony is considered valid testimony. Rabbi Yoḥanan said to him: Didn’t such an incident occur involving Rabbi Oshaya the Distinguished, who permitted women to marry based upon the testimony of gentiles while he was with eighty-five Elders? He said to the Elders: They taught that

one may not rely upon a gentile's testimony only when he intended to permit the woman to remarry, but if he merely intended to testify about the man's death, his testimony is considered valid testimony. But the Rabbis did not concur with him on this, and they maintained that one may not rely upon the testimony of a gentile at all.

⁹⁶ The Gemara asks: But, if that is so, what about that which is taught in the mishna: With regard to a gentile, if he intended to testify, his testimony is not considered valid testimony, which implies that if the gentile does not intend to testify, his statement may be relied upon? How can you find a case where one would rely on his statement? The Gemara answers: One may rely on a gentile's statement when he speaks offhandedly, without any intention to testify. Like that gentile who was going around saying: Who is from the house of Ḥivvai; who is from the house of Ḥivvai? Ḥivvai has died. And based upon this report, Rav Yosef allowed Ḥivvai's wife to marry. There was also a certain gentile who was going around saying: Alas for the brave horseman who was in Pumbedita, for he is dead. And Rav Yosef, and some say Rava, allowed his wife to marry.

⁹⁷ § There was also a certain gentile who was going around saying: Who is from the house of Ḥasa? Ḥasa has drowned. Rav Naḥman said: By God! The fish have eaten Ḥasa. The Gemara relates: Due to Rav Naḥman's statement, although he did not issue a court ruling permitting it, Ḥasa's wife went and married, and no one said anything to her to protest this action. Rav Ashi said: Learn the following from this incident: That which the Sages said, that if a man fell into an endless body of water, his wife is prohibited from remarrying, this applies only *ab initio*, but if someone married her, we do not take her away from him.

⁹⁸ There are those who say that Rav Naḥman actually issued a ruling and allowed his wife to marry. He said: Ḥasa is a great man; if it was so that he emerged from the water the incident would have generated publicity. Since nothing was heard from Ḥasa in a long while, it can be assumed that he died. The Gemara comments: That is not so. It is not different if he is a great man and it is not different if he is not a great man. If a woman remarried based on testimony that her husband drowned in an endless body of water, after the fact, yes, she may remain married, but she may not remarry *ab initio*.

⁹⁹ The Gemara relates that a certain gentile said to a Jew: Harvest the fodder and give it to my animals on Shabbat, and if not, I will kill you like I killed so-and-so the Jew, for I said to him: Cook me a pot of food on Shabbat, and he didn't cook it for me, so I killed him. The wife of the missing Jew heard the gentile say that he killed her husband, and she came before Abaye to ask if she was permitted to remarry. He deferred the ruling in her case

¹⁰⁰ for three pilgrim Festivals, on which the Sages gather together to study, but he could not resolve this uncertainty on any of those occasions. Rav Adda bar Ahava said to her: Go before Rav Yosef, whose knife is sharp, i.e., he has keen insight into halakhic matters, and ask him to decide your case.

¹⁰¹ She went before him and he resolved the case based on this baraita: With regard to a gentile who was selling fruit at the market and said: These fruits are from the first three years of the tree's growth [*orla*]; or they are from *Azeka*, i.e., land tilled on the Sabbatical Year, the produce of which it is prohibited to eat; or they are fourth-year produce, which it is prohibited to eat outside of Jerusalem, he has said nothing of consequence. His statement is not deemed credible, since it is possible that he intended only to enhance the reputation of his goods, as he thought that his produce would fetch a higher price if he described it in that fashion. Rav Yosef derived from this baraita that in the case of

the missing Jew, the gentile's statement could not be relied upon, as he may have stated it only to promote his own agenda.

¹⁰² Abba Yudan of Sidon said: An incident occurred involving a Jew and a gentile who traveled on the road, and later the gentile came and said: Alas for the Jew who was with me on the road, for he died, and I buried him. And the Sages relied upon this statement and allowed his wife to marry.

¹⁰³ And there was another incident involving a group of people who had been taken prisoner, each of whom was shackled with a collar [kolar] around his neck, and they were walking to Antokhya. And some time later a certain gentile came and said: Alas for the group of collared people, for they died, and I buried them. And the Sages allowed their wives to marry. And there was yet another incident involving sixty people who were walking to the siege [karkom] of Beitar, and later a gentile came and said: Alas for those sixty people who were walking on the road to Beitar, for they died, and I buried them. And the Sages allowed their wives to marry.

¹⁰⁴ MISHNA: Witnesses may testify that an individual died even if they saw his corpse only by candlelight or by moonlight. And the court may allow a woman to marry based on the statement of a disembodied voice proclaiming that her husband died. There was an incident with regard to a certain individual who stood at the top of a mountain and said: So-and-so, son of so-and-so, from such and such a place died. They went and found no person there, but even so they relied upon the statement and allowed the wife of the individual declared dead to marry.

¹⁰⁵ And there was another incident in Tzalmon, a city in the Galilee, where a particular man said: I am so-and-so, son of so-and-so. A snake bit me and I am dying. And they went and found his corpse but could not recognize him, yet they went ahead and allowed his wife to marry based on what he said in his dying moments.

¹⁰⁶ GEMARA: Rabba bar Shmuel said: It was taught in a baraita that Beit Shammai say: The judges of a court may not allow a woman to marry based on the statement of a disembodied voice; they require actual testimony. And Beit Hillel say: The judges may allow a woman to marry based on the statement of a disembodied voice. The Gemara asks: What is Rabba bar Shmuel teaching us here? This is simply our mishna, since the decisive ruling follows Beit Hillel's opinion. The Gemara answers that he teaches us this: That if an anonymous mishna or baraita is found that states that the judges may not allow a woman to marry under such circumstances, it is simply the opinion of Beit Shammai, and is not the accepted ruling.

¹⁰⁷ With regard to the incident where they heard a disembodied voice but went and found no person there, which is mentioned in the mishna, the Gemara asks: Perhaps it was a demon. Rav Yehuda said that Rav said: They saw that he had the form of a person, so they knew it was not a demon. The Gemara asks: They, i.e., demons, also appear similar to people. The Gemara answers: They saw that he had a shadow.

¹⁰⁸ The Gemara asks: But they also have a shadow. The Gemara answers: It was a case where they saw that he had a shadow of a shadow. The Gemara asks: But perhaps they also have a shadow of a shadow? Rabbi Ḥanina said: Yonatan the demon expert said to me: They have a shadow, but they do not have a shadow of a shadow.

¹⁰⁹ The Gemara asks: And perhaps it was a rival wife, or some other enemy of that man's wife, who cried out that her husband was dead and then fled, in order to trick her into disgracing herself by

remarrying while her husband was still alive? The Gemara answers: The school of Rabbi Yishmael taught: During a period of danger, one may write and give a bill of divorce to a woman, although the witnesses do not know the husband, because we do not raise many suspicions at such a time. This case was similar to a period of danger in that they did not find witnesses that her husband died, and therefore the court did not require further clarification.

¹¹⁰ MISHNA: Rabbi Akiva said: When I descended to Neharde'a, in Babylonia, to intercalate the year, I found the Sage Neḥemya of Beit D'li. He said to me: I heard that the Sages in Eretz Yisrael do not allow a woman to remarry based on the testimony of a single witness, except for Yehuda ben Bava. And I told him: That is so. He said to me: Tell the Sages in my name: You know that the country is confounded by army troops, and I cannot come myself. I declare that I received this tradition from Rabban Gamliel the Elder, that the court may allow a woman to remarry based on the testimony of a single witness.

¹¹¹ Rabbi Akiva continues: And when I came and presented the matter before Rabban Gamliel of Yavne, the grandson of Rabban Gamliel the Elder, he rejoiced at my words and said: We have found a companion who agrees with Rabbi Yehuda ben Bava, and since his lenient opinion is no longer the opinion of a lone Sage, it may now be relied upon.

¹¹² As a result of this event, Rabban Gamliel remembered that people were murdered in Tel Arza, and Rabban Gamliel then allowed their wives to remarry based on only one witness. And from then onward they established as protocol to allow a woman to remarry based on hearsay testimony, a slave's testimony, a woman's testimony, or a maidservant's testimony. Rabbi Eliezer and Rabbi Yehoshua say: The court may not allow a woman to remarry based on only one witness. Rabbi Akiva says: The court may not allow a woman to marry based on the testimony of a woman, nor based on the testimony of a slave, nor based on the testimony of a maidservant, nor based on the testimony of close relatives.

¹¹³ GEMARA: The Gemara asks: Does Rabbi Akiva hold that the court may not allow a woman to remarry based on another woman's testimony? But isn't it taught in a baraita: Rabbi Shimon ben Elazar says in the name of Rabbi Akiva: A woman is trusted to bring her own bill of divorce and affirm in court that it was written and signed properly, and that trust is based on the following a fortiori inference: If women, e.g., a rival wife, whom the Sages said are not deemed credible to say that another woman's husband died, are nevertheless trusted to bring their bills of divorce, then is it not logical that this woman herself, who is deemed credible to say that her husband died, should be trusted to bring her own bill of divorce?

¹¹⁴ This statement indicates that according to Rabbi Akiva, it is specifically the women who the Sages mentioned who are not deemed credible. In general, a woman is deemed credible, and another woman is permitted to remarry on the basis of her testimony. The Gemara answers: This is not difficult. Here, where Rabbi Akiva disqualified the testimony of a woman, it was before they established the protocol that a woman may be permitted to remarry on the basis of another woman's testimony. There, where he allowed it, it was after they established that protocol.

¹¹⁵ MISHNA: They said to Rabbi Akiva: Do we not rely upon a woman's testimony? After all, an incident occurred involving Levites who traveled to Tzoar, the city of date palms. And one of them became ill, and they brought him to an inn [pundak] to rest, while they continued on their travels. Upon their return to the inn they said to the innkeeper, who was a woman: Where is our friend? She

told them: He died, and I buried him. And based on her testimony they allowed his wife to remarry. And shouldn't a priestess, or any Jewish woman who testifies that a man died, be deemed as credible as an innkeeper?

¹¹⁶ Rabbi Akiva said to them: When a woman will be as convincing as the innkeeper, then she shall also be deemed credible. The innkeeper brought them his staff, and his bag, and the Torah scroll that was in his possession, thereby providing supporting evidence to reinforce her claim.

¹¹⁷ GEMARA: The mishna assumed that an innkeeper is less trustworthy than an ordinary woman, such that the Rabbis argued that if the innkeeper was deemed credible, it should be obvious that an ordinary woman should be deemed credible. The Gemara asks: What was unfavorable about the innkeeper that made her less trustworthy than an ordinary woman? Rav Kahana said: She was a gentile innkeeper, and she was therefore deemed credible only because she was speaking offhandedly when she said that the man died and this is his staff, and this is his bag, and this is the grave in which I buried him. And similarly, Abba, son of Rav Minyumi, son of Ḥiyya, taught: She was a gentile innkeeper, and she was speaking offhandedly, saying that this is his staff, and this is his bag, and this is the grave in which I buried him.

¹¹⁸ But didn't they say to her: Where is our friend? This indicates that she was answering their question rather than speaking offhandedly. The Gemara explains: Once she saw them, she cried. They said to her: Where is our friend? Then she said to them: He died, and I buried him. Since she cried before being questioned, the crying was considered the beginning of her account, and she is considered to have been speaking offhandedly.

¹¹⁹ § The Sages taught: An incident occurred involving a certain individual who came to testify before Rabbi Tarfon with regard to a woman whose husband had died. He said to him: My son, how do you come to know testimony that the husband of this woman died? He said: He and I were traveling on the road together, and a troop of soldiers chased after us. He hung onto an olive branch, and tore it off to use as a heavy staff to intimidate the soldiers, and forced the troop to withdraw.

¹²⁰ After this heroic act I said to him, admiring his bravery: Lion [arye], may your strength continue to be firm. He said to me: From where do you know that my name is Arye? That is what they call me in my city: Yoḥanan, son of Rabbi Yehonatan, the lion from the village Shiḥayya. After a while, he fell sick and died, and consequently the fellow traveler knew his name and could testify about him. And Rabbi Tarfon allowed his wife to marry based on this testimony.

¹²¹ The Gemara asks: But didn't Rabbi Tarfon require inquiry and interrogation of the witness? Isn't it taught in a baraita: An incident occurred involving a certain person who came before Rabbi Tarfon to present testimony that a woman's husband died. He said to him: My son, how do you know this testimony? He told him: He and I were traveling on the road together, and a troop of soldiers chased after us. He hung onto a fig branch, and tore it off, and forced the troop to withdraw by intimidating the soldiers with the branch. I said to him: May your strength continue to be firm, lion. He said to me: You have intuited my name well, for that is what they call me in my city: Yoḥanan, son of Yonatan, the lion from the village Shiḥayya. The man concluded his story: After a while, he fell sick and died.

¹²² Rabbi Tarfon said to him, in order to check his story: Did you not tell me that the dead man said that his name was Yoḥanan, son of Yonatan, from the village Shiḥayya, which is called Lion? He replied to him: No. Rather, this is what I told you: He told me that he is called Yoḥanan, son of

Yonatan, the lion from the village Shiḥayya. Then Rabbi Tarfon cross-examined him in this manner two or three times, and the witness repeatedly kept his statements consistent, so Rabbi Tarfon allowed his wife to marry. In this version of the story, the mere report of events does not seem sufficient. An interrogation of the witness is also necessary.

¹²³ The Gemara answers: This is a dispute between tanna'im, as it is taught in a baraita: The court does not examine witnesses who give testimony concerning the marital status of women by means of the standard procedures of inquiry and interrogation; this is the statement of Rabbi Akiva. Rabbi Tarfon says: The court must examine them utilizing these means.

¹²⁴ The Gemara comments: And they disagree about the statement of Rabbi Ḥanina, as Rabbi Ḥanina said: By Torah law, both cases of monetary law and cases of capital law require scrutiny by means of inquiry and interrogation of witnesses, as it is stated: "You shall have one law" (Leviticus 24:22), indicating that the legal procedures must be the same for each area of halakha. Consequently, since inquiry and interrogation are required for capital law (Deuteronomy 13:15), they are required for cases of monetary law as well.

¹²⁵ And for what reason did the Sages say that cases of monetary law do not require inquiry and interrogation of witnesses? So as not to lock the door in the face of potential borrowers. If the procedures for litigation in cases of monetary law were too rigorous, people would be very hesitant to lend money.

¹²⁶ And with regard to what do they disagree in the case of testimony that allows a woman to remarry? They disagree as follows: One Sage, Rabbi Akiva, holds that since there is the payment of the marriage contract for the woman to take when her husband dies, it is considered to be like cases of monetary law and does not require inquiry and interrogation procedures. And one Sage, Rabbi Tarfon, holds that since, based on this testimony, we permit a previously married woman to marry anyone in the world, and if her previous husband is still alive, her subsequent relationship will be considered adultery, which is a capital offense, it is considered to be like cases of capital law, which require the inquiry and interrogation procedures.

¹²⁷ The tractate finishes on a positive note: Rabbi Elazar said that Rabbi Ḥanina said: Torah scholars increase peace in the world, as it is stated: "And all your children shall be taught of the Lord, and great shall be the peace of your children" (Isaiah 54:13). This indicates that because the children will be Torah scholars, who are taught of the Lord and His Torah, they will live in great peace, and peace will thereby be increased for the entire world.