

The Soncino Babylonian Talmud



YEVOMOS

BOOK II

Folios 20a-40b

CHAPTERS II - IV

TRANSLATED INTO ENGLISH WITH NOTES
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that he may divorce her with a letter of divorce and that he may remarry her',¹ let it there also be said, 'And perform the duty of a husband's brother unto her,'² the former levirate attachment still remains with her' and, consequently, she should require *Halizah* [also]! — There the case is different; since Scripture stated, 'And take her to him to wife',² as soon as he married her she becomes his wife in every respect. If so, [the same deduction should be applied] here also! — Surely the All Merciful has written, 'And perform the duty of a husband's brother unto her'.² And why the differentiation?³ - It stands to reason that permission⁴ should be applied to that which is [also otherwise] permitted,⁵ and that prohibition⁶ should be applied to that which is [also otherwise] prohibited.⁷

According to R. Simeon, however, who stated, 'Because when he was born he found her permitted, and she was never forbidden to him even for one moment',⁸ a brother, if this reason is tenable,⁹ should be allowed to take in levirate marriage his maternal sister whom his paternal brother had married prior to his birth, dying subsequently, since, when he was born, he found her permitted.¹⁰ — Whither did the 'prohibition of sister' vanish?¹¹ — Here, also, whither did the prohibition of 'the wife of the brother who was not his contemporary' vanish! — The one¹² is a prohibition which can never be lifted; the other¹³ is a prohibition which may be lifted.¹⁴

MISHNAH. A GENERAL RULE HAS BEEN LAID DOWN¹⁵ IN RESPECT OF THE DECEASED BROTHER'S WIFE:¹⁶ WHEREVER SHE IS PROHIBITED¹⁷ AS A FORBIDDEN RELATIVE, SHE¹⁸ MAY NEITHER PERFORM THE *HALIZAH* NOR BE TAKEN IN LEVIRATE MARRIAGE. IF SHE IS PROHIBITED BY VIRTUE OF A COMMANDMENT¹⁹ OR BY VIRTUE OF HOLINESS,²⁰ SHE MUST PERFORM THE *HALIZAH* AND MAY NOT BE

TAKEN IN LEVIRATE MARRIAGE. IF HER SISTER IS ALSO HER SISTER-IN-LAW,²¹ SHE²² MAY PERFORM THE *HALIZAH* OR MAY BE TAKEN IN LEVIRATE MARRIAGE.²³ PROHIBITED BY VIRTUE OF A COMMANDMENT' [REFERS TO] THE SECONDARY DEGREES IN RELATIONSHIP FORBIDDEN BY THE RULING OF THE SCRIBES. 'PROHIBITED BY VIRTUE OF HOLINESS' [REFERS TO THE FOLLOWING FORBIDDEN CATEGORIES]: A WIDOW TO A HIGH PRIEST;²⁴ A DIVORCED WOMAN, OR ONE THAT HAD PERFORMED *HALIZAH* TO A COMMON PRIEST;²⁵ A FEMALE BASTARD OR A NETHINAH²⁶ TO AN ISRAELITE;²⁷ AND A DAUGHTER OF AN ISRAELITE,²⁷ TO A NATHIN²⁸ OR A BASTARD.

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

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

IF HER SISTER IS ALSO HER SISTER-IN-LAW [etc.]. Whose sister? If the sister of her who is forbidden by Virtue of an ordinance of the Scribes be suggested, fit may be objected,] since, Pentateuchally, she³² is subject to the levir, he would³³ come in marital contact with the sister of her who is connected with him by the levirate bond! — It means the sister of her who is prohibited to him as a forbidden relative.

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

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

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

A WIDOW TO A HIGH PRIEST. An unqualified ruling is laid down making no distinction between a Nissu'in³⁸ widow and an Erusin³⁸ widow. Now, one can well understand the reason the case of a Nissu'in widow [since marriage with her is forbidden by] a positive³⁹ and a negative precept,⁴⁰ and no positive precept⁴¹ may override both a negative and a positive precept. In the case, however, of an Erusin widow [marriage with whom is forbidden by] a negative precept only,⁴² let the positive precept⁴¹ override the negative⁴⁰ one? — R. Giddal replied in the name of Rab: Scripture stated, Then his brother's wife shall go up to the 'gate,⁴³ where there was no need to state his brother's wife;⁴⁴ why then was 'his brother's wife' specified?

[To indicate that] there is a case of another⁴⁵ brother's wife who goes up for *Halizah* but does not go up for levirate marriage.⁴⁶ And who is she? One of those prohibited⁴⁷ by a negative precept.⁴⁸

Might it⁴⁹ not be said [to include also] such as are subject to the penalty of *Kareth*?⁵⁰ — Scripture said, If the man like not to take,⁵¹ if he likes, however, he may take her in levirate marriage, [hence it is to be inferred that] whosoever may go up to enter into levirate marriage may also go up to perform *Halizah* and whosoever may not go up to enter into levirate marriage⁵² may not go up to perform *Halizah* either. If so, the same should apply also to those forbidden by a negative Precept! — But, surely, the All Merciful has included them [by the expression] 'His brother's wife'. What ground is there for such differentiation?⁵³ —

1. *Supra* 8b, q.v. for notes, *infra* 39a.
2. Deut. XXV, 5'
3. Lit., 'and what did you see', i.e., why apply the first part of the text to one case and the second part of the same text to the other?
4. To give ordinary divorce without submitting to *Halizah*. and to remarry, which is derived from And take her to him to wife.
5. Ordinary levirate.
6. Implied in the words 'And perform the duty of a husband's brother unto her'.
7. I.e., 'the wife of his brother who was not his contemporary'.
8. *Supra* 19b, q.v. for notes.
9. Lit., 'but from now'.
10. When he was born she was already his 'brother's wife'.
11. Lit., 'whither did it go?'
12. Prohibition of a sister.
13. A brother's wife.
14. Where the brother died without issue. When the first brother died childless the prohibition of 'brother's wife' was removed and thus the widow was permitted to the second brother. Her connection with the first thus having come to an end, the third brother, as her legitimate levir through the second brother, may consequently marry her.
15. Lit., 'they said'.
16. Whose husband died without issue.
17. To marry the levir.
18. The rival, and much more so the forbidden relative herself.

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19. Or 'an ordinance of the Scribes'. The term [H] is discussed *infra*.
20. [H] v. *infra*.
21. In the case where two sisters were married to two brothers who died childless, and both widows become subject to levirate marriage with a third brother towards whom one of them stood in any kind of forbidden relationship as, say, that of mother-in-law or daughter-in-law.
22. The sister of the forbidden relative.
23. Since the forbidden relative may never marry the levir, her sister does not come under the prohibition of 'the sister of his Zekukah' i.e., of 'the woman related to him by the levirate bond'.
24. Whose holy status precludes him from marrying a widow. V. Lev. XXI, 13f.
25. Where his brother unlawfully married such a woman and died without issue. The levir must not marry her on account of his holy status. v. Lev. XXI, 7.
26. V. [Glos.](#)
27. Who is forbidden on the ground of the sanctity of Israel to marry such types.
28. V. [Glos.](#)
29. In addition to the forbidden relatives actually enumerated.
30. Who stated (*supra* 12a) that such a woman may neither perform *Halizah* nor be taken in levirate marriage.
31. In interpretation of our Mishnah.
32. The woman forbidden by the ordinance of the Scribes.
33. Should he marry her sister.
34. Lev. XXI, 6.
35. Lev. XXVII, 34 which refers to all the priestly commandments laid down in that book.
36. Surely, a person disobeying the Rabbis is indeed a wicked man!
37. I.e., marriages forbidden by the rulings of the scribes are designated as 'prohibited by virtue of holiness' because these restrictions are designed to promote self-sanctification and as a barrier and a safeguard against marriage with those who are Pentateuchally forbidden.
38. V. [Glos.](#)
39. Lev. XXI, 13. And he shall take a wife in her virginity.
40. Ibid. v. 14, A widow ... shall he not take.
41. That of the levirate marriage.
42. V. *supra* n. 6. The positive precept (v. n. 5) is not infringed since she is still a virgin.
43. Deut. XXV, 7.
44. Since the pronoun implied in [H] (then she shall go up) sufficiently indicates the subject which has been previously mentioned.
45. Cf. BaH a.l. Cur. edd., 'one'.

46. I.e., a brother's wife not coming under the obligation of levirate marriage as the one spoken of previously in the text.
47. Lit., 'guilty of'.
48. A widow to a High Priest. V *supra* p. 117, n. 6.
49. The text, His brother's wife.
50. And so subject them also to *Halizah*.
51. Deut. xxv, 7'
52. Such as those who are subject to *Kareth*.
53. Lit., 'what did you see', i.e., why include the one and exclude the other?

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This¹ stands to reason, since betrothal of those forbidden by a negative precept is valid while the betrothal of those subject to *Kareth* is not valid.

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

Raba raised an objection: He who is wounded in the stones or has his privy member cut off, a man-made saris,⁵ and an old man, may either participate in *Halizah* or contract levirate marriage. How?⁶ If these died and were survived by brothers and by wives, and those brothers arose and addressed a Ma'amar to the widows, or gave them letters of divorce, or participated with them in *Halizah*, their actions are legally valid;⁷ if they had intercourse with them, the widows become their lawful wives.⁸ If the brothers died and they⁹ arose and addressed a Ma'amar to their wives, or gave them divorce, or participated with them in *Halizah*, their actions are valid,⁷ and if they had intercourse

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with them, the widows become their lawful wives but they¹⁰ may not retain them, because it is said in the Scriptures — He that is wounded in the stones or hath his privy member cut off shall not enter [into the assembly of the Lord].¹¹ Now, if it could be assumed that those forbidden by a negative precept are Pentateuchally subject to *Halizah* and not to levirate marriage, why should the widows become their lawful wives if they¹² had intercourse with them?¹³

But, said Raba, [say rather that] an Erusin widow is forbidden¹⁴ by both a positive and a negative precept, for it is written in the Scriptures, They shall be holy unto their God.¹⁵ What, however, can be said in respect of a bastard or a Nethinah?¹⁶ — It is written, And sanctify yourselves.¹⁷ If so,¹⁸ all the [negative precepts of the] Torah should be regarded as positive and negative since it is written in the Scriptures, And sanctify yourselves!¹⁷ But, said Raba, [the fact is that]¹⁹ an Erusin widow is forbidden²⁰ as a preventive measure against the marriage of a Nissu'in widow.²¹ What, however, can be replied in respect of a bastard and a Nethinah?²² — [The prohibition in] the case where a precept is applicable²³ is a preventive measure against [a marriage] where no precept is applicable. If so, let one's paternal brother's wife not be allowed levirate marriage as a preventive measure against marriage with the wife of his maternal brother! — 'We All Merciful made levirate marriage dependent on inheritance²⁴ [and the relationship] is, therefore, well known.²⁵ A woman, then, who has no children should not be taken in levirate marriage as a preventive measure against the marriage of a woman who has children! — The All Merciful made levirate marriage dependent on [the absence of] children, [and the fact²⁶ would be] well known. The wife of one's contemporary brother should not be taken in levirate marriage as a preventive measure against marriage with the wife of one's brother who was not one's contemporary! — The All Merciful has made it²⁷ dependent on dwelling together²⁸ [and the fact]²⁹ is well known. All

women should not be taken in levirate marriage as a preventive measure against the marriage of a woman incapable of procreation! — This³⁰ is unusual.³¹ A bastard and a Nethinah also are unusual!³² — But, said Raba, [this is the reason]: The first act of Intercourse³³ is forbidden³⁴ as a preventive measure against a second act of intercourse.³⁵

It has been taught likewise: If they³⁶ had intercourse [with any of the forbidden women] they acquire [her as wife] by the first act of intercourse, but may not keep her for a second act of intercourse.³⁷

Subsequently Raba, others say R. Ashi, said: The statement I made³⁸ is valueless,³⁹ for Resh Lakish said, 'Wherever you come upon a combination of a positive and a negative precept and⁴⁰ you are able to act in conformity with both, well and good; but if not, the positive precept must override the negative'.⁴¹ Similarly here⁴² it is possible to perform *Halizah*, whereby one is enabled to keep the positive as well as the negative precept.

An objection was raised: If they³⁶ had intercourse [with any of the forbidden women] they acquire [her as wife]!⁴³ — This is indeed a refutation.

It was stated: Concerning an act of intercourse between a High Priest and a widow⁴⁴ [there is a difference of opinion between] R. Johanan and R. Eleazar. One maintains that it does not exempt her rival,⁴⁵ and the other maintains that it does exempt her rival.⁴⁶)

1. The inclusion of the one who is prohibited by a negative precept and the exclusion of those who are subject to *Kareth*.
2. Lit., 'he taught to sides'.
3. As defined in our Mishnah. I.e., a woman forbidden by Rabbinic ordinance but who is Pentateuchally permitted and subject to levirate marriage. Intercourse with her consequently exempts her rival.
4. With whom marriage is forbidden, and her *Halizah* only exempts her rival.

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

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In the case of a Nissu'in widow they both agree¹ that it does not exempt, since no positive precept may override a combination of a positive and a negative precept.² They differ, however, in the case of an Erusin widow. He who maintains that it³ exempts [does so because] a positive precept supersedes a negative one; and he who maintains that it³ does not exempt holds that the positive precept here does not supersede the negative one since [in this case] *Halizah* is possible.⁴

An objection was raised: If they⁵ had intercourse [with any of the forbidden

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women] they acquire [her as wife]!⁶ — This is indeed a refutation. May this⁷ be assumed to provide a refutation of the view of Resh Lakish also?⁸ -Resh Lakish can answer you: I said it only in the case where the precept is fulfilled; here, however, *Halizah* as a substitute for the levirate marriage is not a fulfillment of the precept.⁹

Raba said: Where in the Torah may an allusion be found to [the prohibition of] relations in the second degree?¹⁰ It is said, For all these abominations have the men of the land done;¹¹ the expression, these¹² implies grave abominations, from which it may be inferred that there are milder ones. And what are these? The cases of incest of the second degree. What proof is there that 'these'¹² is an expression of gravity? — Because it is written in the Scriptures, And the mighty¹³ of the land he took away.¹⁴ May it be assumed that this view¹⁵ differs from that of R. Levi? For R. Levi said: The punishments for [false] measures are more rigorous than those for [marrying] forbidden relatives; for in the latter case the word used is El,¹² but in the former Eleh.¹⁶ — El implies rigor, but Eleh implies greater rigor than El.¹⁷ Is not Eleh written also in connection with forbidden relatives?¹⁸ — That [Eleh has been written] to exclude [the sin of false] measures from the penalty of *Kareth*.¹⁹ In what respect, then,²⁰ are they²¹ more rigorous? — In the case of the former,²² repentance is possible; in that of the latter²³ repentance is impossible.²⁴

Rab Judah said: It²⁵ may be derived from the following: Yea he pondered, and sought out, and set in order many proverbs,²⁶ in relation to which 'Ulla said in the name of R. Eleazar, 'Before Solomon appeared, the Torah was like a basket without handles; when²⁷ Solomon came he affixed handles²⁸ to it.

R. Oshaia said: It²⁵ may be derived from the following: Avoid it, pass not by it; turn from it, and pass on.²⁹

Said R. Ashi: R. Oshaia's interpretation may be represented by the simile³⁰ of a man who guards an orchard. If he guards it from

without, all of it is protected. If, however, he guards it from within, only that, section in front of him is protected but that which is behind him is not protected. This statement of R. Ashi, however, is mere fiction.³¹ There,³² the section in front of him, at least, is protected; while here were it not for the prohibition of incest of the second degree, one would have encroached upon the very domain of incest.

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

Said Abaye to R. Joseph: This,³⁵ surely, is Pentateuchal!³⁶ — It is Pentateuchal' but the Rabbis have expounded it.³⁷ All the Torah, surely- was expounded by the Rabbis!³⁸ But [the fact is that the prohibition³⁹ is] Rabbinical, while the Scriptural text is [adduced as] a mere prop.⁴⁰

Our Rabbis taught: Who are the forbidden relatives in the second degree?⁴¹ — His mother's mother, his father's mother, his father's father's wife, his mother's father's wife, the wife of his father's maternal brother, the wife of his mother's paternal brother, the daughter-in-law of his son daughter-in-law his daughter. A man is permitted to marry the wife of his father-in-law and the wife of his step-son but is forbidden to marry the daughter of his step-son. His step-son is permitted to marry his⁴² wife and his⁴² daughter. The wife of his step-son may say to him, 'I am permitted to you though daughter is forbidden to you'.

Is not the daughter of, his step-son forbidden, it being written in the Scriptures, Her son's daughter or her daughter's daughter?⁴³ — As he wished to state in the latter clause, 'The wife of his step-son may say to him, "I am permitted to you though my daughter is forbidden to you"', and though my daughter is forbidden to you Pentateuchally the Rabbis did not forbid me as a preventive measure', he stated in the previous clause also 'the daughter of his step-son'. If so,⁴⁴ could not the wife of his father-in-law also say, 'I am

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permitted to you and my daughter is forbidden to you', since she is his wife's sister?⁴⁵ -The prohibition of the one⁴⁶ is permanent;⁴⁷ that of the other is not.⁴⁸

Rab said: Four [categories of] women [forbidden in the second degree] are subject to a limitation.⁴⁹ Of these Rab knew⁵⁰ three: The wife of a mother's⁵¹ paternal brother, the wife of a father's⁵² maternal brother, and one's daughter-in-law.⁵³ Ze'iri, however, adds also the wife of his mother's father. Said R. Nahman b. Isaac: Your mnemonic sign is, 'Above that of Rab'.⁵⁴ Why does not Rab include it?⁵⁵ — Because she⁵⁵ might be mistaken for the wife of one's father's father.⁵⁶ And Ze'iri? — Thither⁵⁷ one usually goes,⁵⁸ but hither⁵⁹ one does not usually go.⁶⁰

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

1. Lit., 'all the world do not differ'.
2. The levirate marriage is consequently illegal.
3. The act of intercourse.
4. Which would not conflict with the negative precept, while the requirements of the positive one would also be complied with.
5. V. *supra* p. 121, n. 5.
6. V. *supra* p. 121, n. 12.
7. The Baraitha cited.
8. Who stated (*supra* 20b) that whenever it is possible to observe the positive, as well as the negative precept, the rule of the abrogation of the one by the other is not to be applied.
9. It is only a ritual to be observed where levirate marriage cannot take place. The precept of levirate marriage, however, is not thereby fulfilled.
10. Lit., 'whence an allusion to seconds from the Torah'.
11. Lev. XVIII, 27, dealing with incest.
12. [H]
13. [H] which is analogous to [H]
14. Ezek. XVII, 13, describing the serious and grave position of Judah
15. Of Raba.
16. [H] Deut. XXV, 16. This implies that the sin of incest is of a milder nature.
17. El and Eleh have the same meaning, but the additional eh ([H]) at the end of the latter is taken to imply additional punishment.
18. Lev. XVIII, 26. [H]
19. Since the expression of 'abomination' has been applied in the Pentateuchal text to both false measures and forbidden relations, it might have been assumed that the sin of the former

is, like the latter, subject to *Kareth*. Hence the need for the excluding word.

20. If the penalty of *Kareth* is inflicted for the sin of incest only and not for that of false measures.
21. The punishments for false measures.
22. Incest, so long as there was no Issue.
23. False measures.
24. V. B.B. 88b. One cannot by mere repentance make amends for robbing. The return of the things robbed must precede penitence. In the case of false measures it is practically impossible to trace all the individual members of the public that were defrauded.
25. An allusion to the prohibition of relations in the second degree.
26. Eccl. XII, 9.
27. Lit., 'until'.
28. [H], sing. [H], 'ear' or 'handle'. The Heb. [H] (E.V. he pondered) is regarded as denominative of [H], 'he made handles', i.e., he added restrictions to the commandments of the Torah, such as the prohibitions of incest of the second degree, which helped to preserve the original precepts of the Torah as handles are an aid to the preservation of the basket.
29. Prov. IV, 15; an allusion to the Torah. One must add restrictions to its precepts, such as those of incest of the second degree, in order to keep away from any possible infringement of its original precepts.
30. Lit., 'the parable of R. Oshaia, to what may the thing be compared?'
31. [H] v. B.M., Sonc. ed. p. 47, n. 1.
32. The orchard.
33. Lev. XVIII, 30, dealing with incest.
34. Or 'make a keeping to my keeping', a protection to my protection', i.e., 'add restrictive measures to safeguard my original precept'.
35. R. Kahana's text.
36. Why then is this class of incest described as of the 'second' degree?
37. Hence it must come under the second degree.
38. And yet no one would describe those laws as of the second degree!
39. Of incest of the second degree.
40. Heb., *Asmakta*, v. [Glos.](#)
41. Of incest.
42. The step-father's.
43. Lev. XVIII, 17. Why include it among incest of the second degree?
44. [If this is the reason for including Pentateuchal prohibition in this list].
45. [And thus let him also include the daughter of his mother-in-law.]
46. Lit., that', the daughter of his step-son.
47. Lit., 'it is definite to him'.
48. The daughter of his mother-in-law is permitted to him after the death of her sister, his wife.

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49. Lit., 'break' i.e., only they themselves are forbidden but not their descendants or ancestors in the descending or ascending line. In the case of the other relatives in the second degree of incest the prohibition extends throughout all generations in the ascending, and descending lines.
50. Lit., 'held in his hand'.
51. But not, e.g., of a mother's mother's.
52. Not of a father's father's.
53. This case is discussed *infra*.
54. Ze'ri's addition to the limitations is one generation above that of Rab. While the latter stops at the second generation (that of father and mother) the former goes as far as the third (mother's father).
55. Ze'ri's addition, a mother's father's wife.
56. Who is Pentateuchally forbidden. Were a limit to be set in the case of the former, a similar limit would erroneously be set to the latter.
57. To the family of one's father.
58. I.e., there is frequent social intercourse between the members of the family on the paternal side.
59. One's mother's family.
60. No mistake, therefore, could occur between a mother's father and a father's father. Hence no preventive measure is necessary.

Yebamoth 21b

Pentateuchal, it being written in the Scriptures, Thou shalt not uncover the nakedness of thy daughter-in-law?¹ — Read, 'the daughter-in-law of his son'. But is there any limitation² for the daughter-in-law of one's son? Surely it was taught: His daughter-in-law is a forbidden relative, and the daughter-in-law of his son is a forbidden relative of the second degree; and the same principle is to be applied to one's son and son's son to the end of all generations!³ — But read, 'the daughter-in-law of his daughter' for R. Hisda said: I heard from a great man—And who is he? R Ammi- [the following statement]: 'The daughter-in-law was forbidden only on account of the daughter-in-law'; and when the soothsayers⁴ told me, 'You will be a teacher', I thought, 'If I would be a great man⁵ I would explain it⁶ on my own; and should I be a Scripture teacher of little children I would ask the Rabbis who come to the school house.⁷ Now I am in a position to explain it on my own: The daughter-in-law of

one's daughter was forbidden only on account of the daughter-in-law of one's son.

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

An inquiry was made: What [is the law in respect of] the wife of a mother's maternal brother? Did the Rabbis forbid as a preventive measure only the wife of a father's maternal brother and the wife of a mother's paternal brother because in these cases there is a paternal strain,¹⁰ but where there is no paternal strain¹¹ the Rabbis did not pass any preventive measure, or is there no difference? R. Safra replied: She herself¹² is forbidden as a preventive measure; shall we come and superimpose a preventive measure upon a preventive measure! Said Raba: Are not others¹³ forbidden as a preventive measure to a preventive measure? His mother, e.g., is a forbidden relative, his mother's mother is a forbidden relative of the second degree, and yet was his father's mother forbidden as a preventive measure against his mother's mother¹³ And what is the reason? Because they are both called 'grandmother'¹⁴ His father's wife is a forbidden relative, his father's father's wife is a forbidden relative of the second degree, and yet was his mother's father's wife forbidden as a preventive measure against his father's father's wife! And what is the reason? Because they are both called 'grandfather'.¹⁵ The wife of his father's paternal brother is a forbidden relative, the wife of his father's maternal brother is a forbidden relative of the second degree, and yet was the wife of his mother's paternal brother forbidden as a preventive measure against the wife of his father's maternal brother! And what is the reason? Because they are both called uncle!¹⁵ What, then, is the law?¹⁶ Come and hear: When R. Judah b. Shila came¹⁷ he stated that In the West¹⁸ the rule was laid down¹⁹ that whenever a female²⁰ is a forbidden relative the wife of the male²¹ is

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forbidden in the second degree as a preventive measure; and Raba remarked: 'Is this a general rule? Surely one's mother-in-law is a forbidden relative and yet is one's father-in-law's wife permitted, the daughter of his mother-in-law is a forbidden relative and yet is the wife of the son of his mother-in-law permitted, his step-daughter is a forbidden relative and yet is the wife of his step-son permitted, the daughter of his step-daughter is a forbidden relative and yet is the wife of the son of his step-son permitted'; what, then, does R. Judah b. Shila's [reported rule] include? Does it not then include the case of the wife of a mother's maternal brother, since 'wherever a female²² as a forbidden relative²³ the wife of the male²⁴ is forbidden in the second degree as a preventive measure'²⁵

What is the difference between those²⁶ and this?²⁷ — In this case²⁷ she becomes related to him by one act of betrothal;²⁸ in those cases²⁹ they do not become related to him until two acts of betrothal have taken place.³⁰

R. Mesharsheya of Tusaneya³¹ sent to R. Papi: Will our Master instruct us as to what is the law concerning the wife of the father's father's [paternal]³² brother, and a father's father's sister?³³ Seeing that the degree below is incest,³⁴ has a preventive measure been issued in respect also of the degree above,³⁵ or perhaps [not]. since the relationship has branched off?³⁶ Come and hear: Who are the forbidden relatives of the second degree [etc.];³⁷ and these³⁵ were not enumerated among them!³⁸ — Some might have been mentioned and others omitted.³⁹ What other omissions were made such as to justify this omission also? — The forbidden relatives of the second degree, of the School of R. Hiyya,⁴⁰ were also omitted.

Amemar permitted the wife of one's father's father's brother and one's father's father's sister. Said R. Hillel to R. Ashi:⁴¹ 'I saw the [list of] forbidden relatives of the second degree of Mar the son of Rabana⁴² and sixteen were written down as forbidden cases. Would they not be the eight of the Baraita,⁴³ the six of the School of R. Hiyya,⁴⁴ and these two,⁴⁵ in

all sixteen? — But according to your view there should be seventeen, since there is also the case of the wife of a mother's maternal brother, who in accordance with our decision is forbidden!' — 'This is no difficulty.

1. Lev. XVIII, 15; why then did Rab include her among those of the second degree?
2. V. *supra* p. 125, n. 6.
3. Ker. 14b.
4. [H] lit., 'Chaldeans', known for their extensive practice of divination and soothsaying.
5. I.e., if 'teacher' implied a teacher of scholars at the academy.
6. R. Ammi's vague statement.
7. [Lit., 'House of Assembly', the synagogue to which was attached the school for children.]
8. In that family there were both a daughter-in-law of Bar Zithai's son and a daughter-in-law of his daughter, and permission to marry the latter might easily have led to the erroneous conclusion that the former also was permitted.
9. Cf. n. 7' *mutatis mutandis*.
10. Lit., 'side of father'.
11. As in the case of the wife of a mother's maternal brother, here under discussion.
12. The wife of a mother's paternal brother.
13. Lit., 'all of them'. v. Rashi, a.l.
14. Lit., 'all of them call her of the house of grandmother'. Hence the necessity for a preventive measure.
15. Cf. previous note *mutatis mutandis*. All of which shows that we do superimpose a Preventive measure upon a preventive measure.
16. With respect to the wife of a mother's maternal brother.
17. From Palestine to Babylon.
18. Palestine.
19. Lit., 'they said'.
20. In any degree of relationship.
21. In the same degree of relationship as the female.
22. In any degree of relationship.
23. Such as a mother's maternal sister.
24. In the same degree of relationship as the female.
25. Hence the wife of a mother's maternal brother must be forbidden as a relative in the second degree.
26. The cases pointed out by Raba.
27. The wife of a mother's maternal brother. v. n. 4.
28. The betrothal of the woman by his mother's maternal brother.
29. Pointed out by Raba.
30. In the case of the wife of his father-in-law, for instance, her relationship to him is dependent on (a) his betrothal of his own wife whereby

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her father becomes his father-in-law, and (b) the betrothal by his father-in-law of his wife; and similarly in all the other cases pointed out by Raba.

31. [Prob. for Astunia near Pumbeditha (Obermeyer p. 229. n' 1.); cf. Keth., Sonc. ed. p. 715, n. 4.
32. Cf. Rashi a.l.
33. Paternal or maternal.
34. The wife of a father's paternal brother, and a father's paternal or maternal sister.
35. The cases cited in the inquiry, which are a generation higher.
36. Lit., 'divided' or 'removed'.
37. *Supra* 21a.
38. Which seems to prove that these were not forbidden.
39. Lit., 'he taught and left over'; though the others might be equally forbidden.
40. *Infra* 22a.
41. Who held the same opinion as Amemar. V. Tosaf. a.l. s.v. [H].
42. Or Rabina.
43. *Supra* 21a.
44. *Infra* 22a.
45. Those of Amemar, agreed to by R. Ashi. V. *supra* p. 128. n. 20.

Yebamoth 22a

Those two which resemble one another¹ are reckoned as one, and thus [the total is] sixteen.' 'But, after all, I saw that these were written down as forbidden!'² The other said to him: 'Granted that this is so, would you have relied upon that list, if the cases had been written down as permitted? "Has Mar the son of Rabana signed them?" [you would have argued]. Now then that they have been written down as forbidden, [you might also argue]. "Mar the son of Rabana has not signed them".'

It was taught at the School of R. Hiyya: The third generation of his son,³ of his daughter,⁴ of the son of his wife⁵ or of the daughter of his wife⁶ [is forbidden as incest of the] second degree; the fourth generation⁷ through his father-in-law⁸ or his mother-in-law² [is forbidden as incest of the] second degree.

Said Rabina to R. Ashi: Why is the wife included in the ascending line¹⁰ and not included in the descending line?¹¹ -In the case of the ascending line, where the prohibition is

due to his wife, she is included; in the descending line, where the prohibition is not due to his wife,¹² she is not included. But, surely, there is the case of the son of his wife and the daughter of his wife whose prohibition is due to his wife who is, nevertheless, not included! — As he enumerated three generations in the descending line on his side¹³ and did not include her, he also enumerated three generations in the descending line on her side¹⁴ and did not include her.

Said R. Ashi to R. Kahana: Are the second degrees of incest of the School of R. Hiyya subject to the limitation¹⁵ or not? Come and hear what Rab said: 'Four [categories of forbidden] women are subject to a limitation',¹⁶ but no more. But is it not possible that Rab was only referring to that Baraita!¹⁷

Come and hear: 'The third' and 'the fourth',¹⁸ which implies the third and fourth generations only but no further. But is it not possible [that this meant] from the third generation onwards¹⁹ and from the fourth generation onwards!¹⁹

Raba said to R. Nahman, 'Has the Master seen the young scholar who came from the West²⁰ and stated: The question was raised in the West whether the second degrees of incest were forbidden as a preventive measure among proselytes or not?' — The other replied: Seeing that even in respect of actual incest, but for the fear that they might be said to have exchanged a [religion of] stricter for [one of] more easy-going sanctity, the Rabbis would not have imposed upon them any preventive measures,²¹ is there any question [that they should have done so in respect of] the second degrees?

Said R. Nahman: As the subject of proselytes has come up,²² let us say something about them: Maternal brothers may not tender evidence;²³ if, however, they did, their evidence is valid.²⁴ Paternal brothers may tender evidence without challenge.²⁵

YEVOMOS – 20a-40b

Amemar said: Even maternal brothers may tender evidence without challenge. And why is this case different from incest?²⁶ — Matters of incest lie in everybody's hands;²⁷ evidence is entrusted to *Beth Din*, and [they know that] one who has become a proselyte is like a child newly born.²⁸

MISHNAH. IF ONE HAS ANY KIND OF BROTHER,²⁹ [THAT BROTHER] IMPOSES UPON HIS BROTHER'S WIFE THE OBLIGATION OF THE LEVIRATE MARRIAGE AND IS DEEMED TO BE HIS BROTHER IN EVERY RESPECT. FROM THIS IS EXCLUDED A BROTHER BORN FROM A SLAVE OR A HEATHEN.³⁰ IF ONE HAS ANY KIND OF SON, [THAT SON] EXEMPTS HIS FATHER'S WIFE FROM THE LEVIRATE MARRIAGE, IS LIABLE TO PUNISHMENT FOR STRIKING OR CURSING [HIS FATHER]. AND IS DEEMED TO BE HIS SON IN EVERY RESPECT. FROM THIS IS EXCLUDED THE SON OF A SLAVE OR A HEATHEN.³¹

GEMARA. What does the expression ANY KIND include? Rab Judah said: It includes a bastard. Is not this obvious? Surely, he is his brother! — It might have been assumed that 'brotherhood'³² here should be deduced from 'brotherhood' in the case of the sons of Jacob;³³ as there they were all legitimate and untainted, so here also [the brothers must be] legitimate and untainted; hence we were taught [that it is not so]. [Might we still suggest that it is so?] — Since he³⁴ has at any rate the power to confer exemption from the levirate marriage³⁵

1. Amemar's cases, both of whom are related to one through one's father (paternal grandfather's brother's wife, and paternal grandfather's sister) and both are one degree above that of actual incest.
2. While according to Amemar and R. Ashi (v. *supra* p. 128, n. 20) these are permitted! [The text is difficult. Read with MS.M.: But after all I saw (the list) and sixteen were written down as forbidden.]
3. I.e., his son's son's daughter, his son's daughter being forbidden as actual incest, v. Lev. XVIII, 10.

4. His daughter's son's daughter; his daughter's daughter coming under the prohibition of actual incest. Cf. n. 7.
5. Cf. note 7, *mutatis mutandis*.
6. Cf. note 8, *mutatis mutandis*.
7. From his wife.
8. His father-in-law's mother's mother who is the fourth generation from his wife. (A father-in-law's mother comes under the prohibition of actual incest).
9. His mother-in-law's mother's mother. Cf. previous note.
10. V. previous three notes.
11. Regarding, for instance, his son's son's daughter as of the third generation and not of the fourth, as would have been the case had his wife (his son's mother) been included.
12. Since, as has been explained *supra* 40, Lev. XVIII, 10 refers to a son born from a woman whom he had outraged.
13. The third generation of his son or daughter born from a woman he had outraged.
14. The third generation of the son or daughter of his wife.
15. V. *supra* P. 125, n. 6.
16. *Supra* 21a.
17. Which enumerated (*supra* 1.c.) eight cases only of the second degrees of incest, but none of those of the School of R. Hiyya.
18. I.e., the School of R. Hiyya *supra* included in the second degree only the third generation in the descending, and the fourth generation in the ascending line.
19. Are forbidden in the second degree of incest; but those of the nearer generations are forbidden as actual incest.
20. Palestine.
21. Biblically, the proselyte is regarded as a newborn child and all his previous family ties are severed. It is only Rabbinically that he was subjected to the laws of incest.
22. Lit., 'to our hand'.
23. Since the family relationship in their case is a certainty, and a relative is ineligible as a witness.
24. As, Biblically, the proselyte is deemed to be a newborn child without any relatives. V. *supra* p. 130, n. 10.
25. Lit., 'as from the start', since in: their case no brotherly relationship is recognized, the heathens having been known to indulge in promiscuous intercourse.
26. Which is applicable to a proselyte also. If he married, for instance, his maternal sister he must divorce her (*infra* 98a).
27. Marriages are not, as a rule, arranged with the aid of the *Beth Din*, and, should a proselyte be permitted to live with his sister, some people might infer that such a marriage was

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permitted to an Israelite also. Hence the prohibition.

28. The *Beth Din* who know this law would not allow a brother of an Israelite to give evidence though this would be allowed to a brother of a proselyte.
29. This is explained in the Gemara. Lit., 'from any place'.
30. Such children assume their mother's status of inferiority, and are not regarded as one's paternal brothers.
31. Cf. n. 9.
32. Brethren in the context of the levirate relationship, Deut. XXV, 5.
33. Gen. XLII, 13, twelve brethren.
34. A bastard.
35. A woman whose husband died without leaving any issue from their union may, nevertheless, be exempt from the requirements of the levirate marriage if that husband had a bastard son.

Yebamoth 22b

he also has the power to impose the obligation of the levirate marriage.¹

AND IS DEEMED TO BE HIS BROTHER IN EVERY RESPECT. In respect of what, in actual practice? — That he is to be his heir and that he² may defile himself for him. Is not this obvious, he being his brother! — Whereas it is written, Except for his kin, that is near unto him,³ and a Master had said that 'his kin' refers to his wife, while [on the other hand] it is written, A husband among his people shall not defile himself, to profane himself,⁴ [which verses taken together mean],⁵ some kind of husband may defile himself and some kind of husband may not, and how [is this to be understood]? He may defile himself for his lawful wife but may not defile himself for his unlawful wife; and so here it might have been assumed that he may defile himself for a legitimate brother but may not defile himself for an illegitimate brother; hence it was taught [that it is hot so]. Might we still suggest that it is so? In that case she is liable at any moment to be sent away,⁶ but here he is his brother.

FROM THIS IS EXCLUDED A BROTHER BORN FROM A SLAVE OR A HEATHEN.

What is the reason? Scripture stated, The wife and her children shall be the master's.⁷

IF ONE HAS ANY KIND OF SON, [THAT SON] EXEMPTS, etc. What does ANY KIND include? — Rab Judah said: It includes a bastard. What is the reason? — Because Scripture stated, And have no [en lo] child⁸ which implies 'hold an inquiry² concerning him.'¹⁰

AND IS LIABLE TO PUNISHMENT FOR STRIKING [HIM]. But why? One should apply here the Scriptural text, Nor curse a ruler of thy people.¹¹ only when he practices the deeds of thy people!¹² — As R. Phinehas in the name of R. Papa said [elsewhere] 'When he repented', so here also it is a case where he repented. Is such a persona however, capable of penitence? Surely we learnt: Simeon b. Menasya said, That which is crooked cannot be made straight.¹³ refers to him who had intercourse with a forbidden relative and begot from her a bastard! — Now, at any rate, he is practicing 'the deeds of thy people'.¹⁴

Our Rabbis taught: He who has intercourse with his sister who is also the daughter of his father's wife¹⁵ is guilty¹⁶ on account of both his sister and his father's wife's daughter. R. Jose son of R. Judah said: He is only guilty on account of his sister but not of the daughter of his father's wife.

What is the Rabbis' reason? Observe, they would say, it is written, The nakedness of thy sister, the daughter of thy father, or the daughter of thy mother,¹⁷ what need was there for The nakedness of thy father's wife's daughter, begotten of thy father, she is thy sister?¹⁸ In order to intimate that he is guilty on account of both his sister and his father's wife's daughter. And R. Jose son of R. Judah? — Scripture stated, She is thy sister,¹⁹ you can hold him guilty on account of his sister, but you cannot hold him guilty for his father's wife's daughter. And to what do the Rabbis apply the expression, 'She is thy sister'? — They require it [for the deduction] that a man is guilty on account of his sister who is the

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daughter of his father and the daughter of his mother,²⁰ thus indicating that no prohibition²¹ may be deduced by logical argument.²² And R. Jose son of R. Judah?²³ — If so, the All Merciful should have written 'thy sister', what need was there for 'she is'? To indicate that you may hold him guilty on account of 'thy sister' but you cannot hold him guilty on account of 'his father's wife's daughter'. And the Rabbis? Although 'thy sister' was written, It was also necessary to write 'she is'; in order that no one should suggest that elsewhere a prohibition may be deduced by logical argument and that the All Merciful has written here, 'thy sister'²⁴ because Scripture takes the trouble to write down any law that may be deduced a minori ad majus; hence did the All Merciful write 'she is'.²⁵

And R. Jose son of R. Judah? — If so, the All Merciful should have written [the expression], 'She is 'thy sister' in the other verse.²⁶

And to what does R. Jose son of R. Judah apply the phrase Thy father's wife's daughter?²⁷ — He requires it for [the deduction]: Only she with whom your father can enter Into marital relationship, but a sister born from a slave or a heathen²⁸ is excluded, since your father cannot enter with her into marital relationship.²⁹

Might it not be said to exclude a sister born from one whom his father had outraged? — You cannot say this owing to Raba's statement. For Raba pointed out a contradiction: It is written In Scripture, The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover,³⁰ thus it follows that her³¹ son's daughter and her daughter's daughter are permitted; but [below] it is written, Thou shalt not uncover the nakedness of a woman and her daughter; [thou shalt not take] her son's daughter or her daughter's daughter.³² How then [are these to be reconciled]? The one³³ refers to a case of outrage,³⁴ the other³² to that of lawful marriage.

1. Upon the wife of any son of his father. However, since he is debarred from marrying her, he frees her by *Halizah*, v. *supra* 20a.
2. Even if he is a priest. Cf. Lev. XXI, 1ff.
3. Ibid. v. 2.
4. Ibid. v. 4. The Talmudic rendering of the verse differs slightly from E.V. which render husband kgc as 'chief',
5. In order to remove the apparent contradiction.
6. The husband is not allowed to live with her. Hence she cannot be regarded as his wife.
7. Ex. XXI, 4, referring to a slave. The case of the heathen is explained *infra*.
8. Deut. XXV, 5. [H].
9. [H] 'examine', 'search', 'investigate'. The Aleph ([H]) of [H] is interchangeable with the 'Ayin ([H]) of [H]
10. I.e., inquire whether he has been survived by ANY KIND OF SON. Cf. B.B. 115a, Sonc. ed.. p. 474 nn. 6ff.
11. Ex. XXII. 27.
12. This father, however, who is guilty of incest did not practice the deeds of his people! Why then should his son be punished for his action against such a man?
13. Eccl. I, 15.
14. Though he cannot clear his past he may turn over a new leaf.
15. I.e., the offspring of a lawful marriage.
16. V. *infra* p. 201, n. 16. and Mak. 13a.
17. Lev. XVIII, 9, referring to the offspring of an intercourse, whether as a result of marriage or outrage.
18. Ibid. v. II. This, surely, is only are petition of one of the cases dealt with in v. 9.
19. Lev. XVIII, 11.
20. Who was not his father's lawful wife; in the case, for instance, when he and his sister were born from one whom their father had outraged. This case could not be deduced from Lev. XVIII, 9, since the sister born as a result of outrage,' spoken of there, is one who is the daughter of the father or of the mother, while the expression Thy father's wife's daughter refers to one born from a lawful marriage.
21. Such, e.g.. as intercourse with a sister born from the same woman whom their father had outraged.
22. If a sister who is the daughter of only one of his parents is forbidden, how much more so a sister who is the daughter of both his parents. V. Mak., Sonc. ed. pp. 18 and 26.
23. How does he meet the argument of the Rabbis?
24. Lit., 'and if you would say what need was there for "thy sister" what the All Merciful has written'.
25. Only she is, i.e., only in this case, where Scripture had explicitly stated it, is the prohibition in force; but elsewhere, where Scripture has not explicitly stated the

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prohibition, the inference a minori ad majus cannot bring a prohibition into force.

26. In Lev. XVIII, 9' which speaks of a sister born from a woman his father had outraged. Since, however, it was inserted in v. 11 which speaks of a sister born from a marriage it must have been meant to imply. as R. Jose said *supra*, that one 'is only guilty of incest with his sister but not with that of the daughter of his father's wife'.
27. Lev. XVIII, II.
28. The betrothal of either of whom is not considered valid.
29. V. Kid. 68a.
30. Lev. XVIII, 10.
31. One's wife's.
32. Lev. XVIII, 17.
33. Lit., 'here'; Lev. XVIII. 10.
34. In which case a man may not marry the daughter of his own son or the daughter of his own daughter, and may marry the daughter of the son or the daughter of the daughter whom the outraged woman had from another husband; since he himself is not her lawful husband. As in the case of one's own son and one's own daughter, though the offspring of a woman he outraged, they are legally regarded as son and daughter. so is the sisterhood and brotherhood of such children regarded as legal.

Yebamoth 23a

Might it not be suggested that it excludes those who are subject to the penalties of negative precepts?¹ — R. Papa² replied: The betrothal of those forbidden under negative precept is valid,³ for it is written in the Scriptures, If a man have two wives, the one beloved and the other hated;⁴ can it be said that the Omnipresent loves the one⁵ or hates the other?⁶ But 'beloved' means beloved in her marriage;⁷ 'hated' means hated in her marriage;⁸ and yet the All Merciful has said *if ... have*.⁹ Might it be taken to exclude those who are liable to *Kareth*?¹⁰ — Raba replied: Scripture said, The nakedness of thy sister, the daughter of thy father, or the daughter of thy mother, whether born at home, or born abroad,¹¹ whether your father is told, 'You may keep her' or whether your father is told, 'Let her go',¹² the All Merciful said, 'She is thy sister'.

Will you suggest [that what is meant is]: Whether your father is told, 'You may keep her' or whether your father is told, 'Let her go'. the All Merciful said, 'She is thy sister', to include his sister from a slave and a heathen! — Scripture stated, The father's wife's daughter,¹³ only she with whom your father can enter into marital relationship, but a sister from a slave or a heathen is excluded.¹⁴ And what ground is there for this?¹⁵ — It is logical to include those subject to *Kareth* since generally¹⁶ their betrothal is valid.¹⁷ On the contrary! A slave and a heathen should have been included since on embracing the Jewish faith, betrothal with himself is also valid! — When any of these adopts the Jewish faith she becomes a different person.¹⁸

Whence do the Rabbis deduce the exclusion of a slave and a heathen? — They deduce it from The wife and her children shall be her master's.¹⁹ And R. Jose son of R. Judah? — One text refers to a slave and the other to a heathen. And both are required; for had we been informed [concerning the exclusion of the] slave, it might have been thought [that this was so in her case] because she has no recognized ancestry, but not in that of a heathen who has recognized ancestry. And had we been informed [of the exclusion of the] heathen, it might have been assumed [that this was so in her case] because she stands under no obligation in relationship to the observance of commandments,²⁰ but not in that of a slave who is [in some respects] attached to the observance of the commandments.²¹ Hence both were required.

With reference to the Rabbis, we have discovered [the reason for the exclusion of a] slave; whence do they derive [the exclusion of the] heathen? And should you suggest that we might derive it by inference from the slave, those²² were surely needed!²³ R. Johanan replied in the name of R. Simeon b. Yohai: Scripture stated, For he will turn away thy son from following Me;²⁴ 'thy son born from an Israelitish woman is called thy son²⁵ but 'thy son who was born from a heathen is not called thy son²⁵ but her son.²⁶ Said Rabina:

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From this it follows²⁷ that the 'son of your daughter' who derives from a heathen is called 'thy son'.²⁸ Does this imply that Rabina is of the opinion that if a heathen or a slave had intercourse with a daughter of Israel the child is considered fit!²⁹ — Though he is admittedly no bastard neither is he considered fit; he is rather regarded³⁰ as a tainted Israelite.³¹

But does not that text³² occur in connection with the seven nations?³³ — For he will turn away³² includes all who turn away. This is satisfactory if we follow R. Simeon who expounds³⁴ his own reasons for Scriptural precepts;³⁵ whence, however, do the Rabbis³⁶ derive it according to their view?³⁷ — Who is the Tanna³⁸ who disputes the opinion of R. Jose son of R. Judah? It is R. Simeon.

1. If his father, e.g., had married a bastard, who is forbidden by a negative Precept. the daughter from such a union should not be regarded as his legitimate sister.
2. Aruch reads, 'Raba'.
3. Hence the sisterhood must also be deemed legal.
4. Deut. XXI, 15.
5. Lit., 'is there a loved one before the Omnipresent'.
6. I.e., the husband's love or hatred could not obviously influence a divine law; why then should his love or hatred be mentioned at all?
7. I.e., permitted to marry him.
8. I.e., forbidden to marry.
9. [H], (rt. [H] 'to be'). i.e., the betrothal is Sc. remains valid.
10. I.e., a daughter from such a marriage which is legally invalid should not be deemed one's legal sister.
11. Lev. XVIII, 9.
12. Whether he is permitted to live with her ([H] at home) or not ([H] abroad).
13. Lev. XVIII, 11.
14. Since betrothal or marriage with either is invalid.
15. Lit., 'and what do you see', to apply the excluding text to a slave and a heathen. and the including one to those subject to *Kareth*. Why not reverse the application?
16. Lit., 'to the world', to those who are not forbidden relatives.
17. The betrothal of a slave or a heathen, however, is always invalid.
18. And is no longer regarded as a heathen or slave.
19. Ex. XXI, 4.
20. A heathen is under no obligation to observe the precepts of the Torah.
21. A slave must observe certain commandments. V. Hag. 40.
22. The texts speaking of the slave and the heathen, *supra*.
23. In connection with their own context. They are not available for any deduction.
24. Deut. VII, 4. The pronoun he in this clause must, according to Talmudic exposition, refer to the antecedent son in v. 3 'thy daughter thou shalt not give unto his son, and not to son in the clause, nor his daughter shalt thou take unto thy son. Had the reference been to the latter the reading in v. 4 would have been, for SHE (i.e., the heathen woman) will turn away thy son. 'He' must consequently refer to the heathen husband of the Israelitish woman who would turn away the son of his Israelitish wife, the (grand)son of her father. The son of his son born from the heathen. however, is obviously not called his (grand)son since, 'For he will turn, etc.' does not apply to him.
25. [H] thy son or grandson.
26. I.e., he is a heathen like his mother.
27. Cf. *supra* n. 5.
28. V. Kid. Sonc. ed. p. 345 nn. 5, 6.
29. This is a question in dispute, *infra* 450. [Cf. parallel passage in Kid. 68b where the reading is, the child is a Mamzer, a reading to which Tosaf. (s.v. [H]) gives preference.]
30. Lit., 'called'.
31. For further notes, v. Kid., Sonc. ed. p. 345ff
32. Deut. VII, 4, from which deduction has just been made.
33. Enumerated in Deut. VII, I. How, then, could the same text be applied to other nations?
34. Even where Scripture assigns no reason.
35. V. B.M. 115a; the explicit reason, For he will turn, etc. given here is consequently superfluous and may be used for the deduction mentioned.
36. Who do not assign reasons for Biblical precepts unless Scripture itself supplies them.
37. The text, For he will turn, etc. being required as a reason for the precepts enunciated in that context itself.
38. Designated *supra* as 'the Rabbis'.

Yebamoth 23b

MISHNAH. IF A MAN BETROTHED ONE OF TWO SISTERS AND DOES NOT KNOW WHICH OF THEM HE HAS BETROTHED, HE MUST GIVE A LETTER OF DIVORCE TO THE ONE AS WELL AS TO THE OTHER.¹ IF HE DIED,² LEAVING A BROTHER,³ THE LATTER

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MUST PARTICIPATE IN THE *HALIZAH* WITH BOTH OF THEM.⁴ IF HE HAD TWO BROTHERS,³ ONE IS TO PARTICIPATE IN THE *HALIZAH*⁵ AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.⁶ IF THEY ANTICIPATED [THE *BETH DIN*] AND MARRIED THEM⁷ THEY ARE NOT TO BE [PARTED FROM] THEM.⁸ IF TWO MEN BETROTHED TWO SISTERS AND THE ONE DOES NOT KNOW WHOM HE BETROTHED AND THE OTHER DOES NOT KNOW WHOM HE BETROTHED, THE ONE MUST GIVE TWO LETTERS OF DIVORCE AND THE OTHER MUST ALSO GIVE TWO LETTERS OF DIVORCE. IF THEY DIED AND THE ONE LEFT A BROTHER AND THE OTHER ALSO LEFT A BROTHER, THE ONE BROTHER MUST PARTICIPATE IN THE *HALIZAH* WITH THE TWO WIDOWS AND THE OTHER ALSO MUST PARTICIPATE IN THE *HALIZAH* WITH THE TWO WIDOWS.⁹ IF ONE¹⁰ LEFT ONE BROTHER AND THE OTHER LEFT TWO, THE ONE BROTHER MUST PARTICIPATE IN THE *HALIZAH* WITH THE TWO WIDOWS¹¹ AND [AS REGARDS] THE TWO, ONE PARTICIPATES IN THE *HALIZAH*¹² AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.¹³ IF THEY ANTICIPATED [THE *BETH DIN*] AND MARRIED THEM,¹⁴ THEY ARE NOT TO BE DEPRIVED OF THEM.¹⁵ IF ONE¹⁰ LEFT TWO BROTHERS AND THE OTHER¹³ ALSO LEFT TWO, ONE BROTHER OF THE ONE PARTICIPATES IN THE *HALIZAH* WITH ONE WIDOW AND ONE BROTHER OF THE SECOND PARTICIPATES IN THE *HALIZAH* WITH THE OTHER WIDOW, [AND THEN THE OTHER] BROTHER OF THE FIRST MAY CONTRACT LEVIRATE MARRIAGE WITH THE *HALUZAH* OF THE SECOND¹⁶ AND [THE OTHER] BROTHER OF THE SECOND MAY CONTRACT THE LEVIRATE MARRIAGE WITH THE *HALUZAH* OF THE FIRST. IF BOTH¹⁷ ANTICIPATED [THE *BETH DIN*] AND PARTICIPATED IN THE *HALIZAH*,¹⁸ THE [OTHER] TWO MUST NOT BOTH CONTRACT THE LEVIRATE MARRIAGE,¹⁹ BUT ONE MUST PARTICIPATE IN THE *HALIZAH*²⁰ AND THE OTHER MAY THEN CONTRACT THE LEVIRATE MARRIAGE.²¹ IF BOTH²² ANTICIPATED [THE

BETH DIN]²³ AND MARRIED²⁴ THEY ARE NOT TO BE DEPRIVED OF THEM.²⁵

GEMARA. Is it to be inferred from here that even betrothal which cannot culminate in connubial intercourse²⁶ is also valid?²⁷ — Here we are dealing with the case where they were known²⁸ but were later confused. This may also be proved by deduction, since it was stated, AND HE DOES NOT KNOW²⁹ and it was not stated 'and it was not known'³⁰ This proves it.

What, then, does our Mishnah teach us?³¹ — The second clause was necessary:³² IF HE DIED AND LEFT A BROTHER, THE LATTER MUST PARTICIPATE IN THE *HALIZAH* WITH BOTH OF THEM. IF HE HAD TWO BROTHERS, ONE IS TO PARTICIPATE IN THE *HALIZAH* AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE, only *Halizah* must be first and the levirate marriage afterwards, but not the levirate marriage first, since, thereby, he might infringe [the interdict against] the sister of her who is connected with him by the levirate bond.³³

IF TWO MEN BETROTHED TWO SISTERS, etc. Does this imply that a betrothal which cannot culminate in connubial intercourse is also valid?³⁴ — Here also it is a case where they were known.³⁵ but were subsequently confused. This may also be proved by deduction, since it was stated, AND THE ONE DOES NOT KNOW,³⁶ and it is not stated 'and it is not known'.³⁷ This proves it.

What, then, does our Mishnah teach us?³⁸ — It was necessary to have the latter clause,³⁹ IF THEY DIED... AND ONE LEFT ONE BROTHER AND THE OTHER LEFT TWO, THE ONE BROTHER MUST PARTICIPATE IN THE *HALIZAH* WITH THE TWO WIDOWS AND, [AS REGARDS] THE TWO, ONE PARTICIPATES IN THE *HALIZAH* AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.⁴⁰ Is not this obvious, being in the same case as the first clause?⁴¹ — It might have been assumed that [levirate marriage

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should be forbidden in the case of] two brothers as a preventive measure against the case Of one, hence we were taught [that it was not so], and also that *Halizah* must be first and the levirate marriage afterwards, but the levirate marriage must not take place first, for thereby, one might infringe [the interdict against] a *Yebamah*'s marriage to a stranger.⁴²

IF ONE LEFT TWO BROTHERS AND THE OTHER ALSO LEFT TWO, etc. What need was there again for this statement? It is, surely, the same!⁴³ — It might have been assumed that [the marriage should be forbidden] as a preventive measure against marrying without previous (*Halizah*),⁴⁴ hence we were taught [that no such measure Was enacted].⁴⁵ Wherein does this case differ from the following in which we learned: In the case of four brothers two of whom were married to two sisters, and those who were married to the sisters died, behold their widows may only perform the *Halizah* but may not be taken in levirate marriage [by either of the levirs]?⁴⁶ — What a comparison!⁴⁷

1. He is forbidden to live with either since each might be 'his wife's sister'.
2. Without issue.
3. Who survived him.
4. Since it is not known which is his sister-in-law. He may not marry the one and submit to *Halizah* from the other, because the sister of a *Haluzah* (v. [Glos.](#)) is Rabbinically forbidden. Even prior to the *Halizah* with the one he may not marry the other; for if she is not his sister-in-law she is still forbidden to him as the sister of his *Zekukah* (v. [Glos.](#))
5. With one of the widows.
6. With the other, subsequent to the *Halizah* of the first. This procedure is safe in either case; if the second widow is really his sister-in-law he is legally entitled to marry her. But even if she is not, she is no longer forbidden as the sister of the first who was his *Zekukah* since the *Halizah* has severed the bond.
7. Each brother married one of the sisters.
8. Since each of them is entitled to marry one of the widows either as his *Yebamah* (v. [Glos.](#)) or as a stranger. The question of the forbidden marriage of the sister of a *Zekukah* does not arise, since both are now married, and the marriage of the *Zekukah* to the one brother has severed her levirate bond with the other.

9. Neither may marry any of the widows since either might happen to be the sister of his *Zekukah*.
10. Of the deceased.
11. For the reasons explained *supra* p. 138, n. 9.
12. And thus, in case she is the actual *Yebamah*, severs the levirate bond between her and the brothers. Her sister may then be married by the other brother in any ease: If she is the sister-in-law he may rightly marry her; and if not, she is no longer forbidden as the sister of a *Zekukah* in view of the fact that the *Halizah* of the other had severed that bond.
13. V. previous note.
14. Each brother married one of the sisters.
15. V.p. 138. n. 13.
16. This Procedure enables both widows to marry, because in the case of each it may be said: If she is his *Yebamah*, he may marry her since his brother did not participate in the *Halizah* with her but with her sister who was a Perfect stranger to him, and the *Halizah* with her is of no legal value. If, on the other hand, she is not his *Yebamah*, he may certainly marry her as a stranger. The question of the 'sister of a *Zekukah*' does not arise, since that bond has in any case been severed by the *Halizah* in which his brother had participated with her sister.
17. Brothers of one of the deceased.
18. With both widows.
19. One brother with the one widow and the other with the other widow; because whichever widow any one of them would desire to marry might be the sister of his [H].
20. With one 'of the widows.
21. With the other sister. For the reason cf. *supra* p. 139, n. 4.
22. The second two brothers.
23. After *Halizah* was performed with the first.
24. Each one of them one of the sisters.
25. Cf. *supra* p. 138. n. 13.
26. It is now assumed that even at the time of the betrothal it was not known which of the sisters was betrothed; when, for instance, the man said 'I betroth one of you' and both appointed an agent to receive on their behalf the token of betrothal. In such a case the man may have no connubial intercourse with either of the women since each might be his wife's sister.
27. Since our Mishnah requires him to give a letter of divorce to each. Why then did this question remain a matter in dispute between Abaye and Raba in Kid. 51a?
28. At the time of the betrothal, as to which was, and which was not the betrothed one. Hence it was a betrothal which could culminate in connubial intercourse.
29. I.e., now.
30. Which would have implied that the identity of the betrothed was never known.

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31. If the betrothal was valid and the man does not know now whom he betrothed it is self-evident that both women must be divorced!
32. And because of the second the first also had to be stated.
33. His *Zekukah*. V. *supra* p. 138, n. 11,
34. Cf. *supra* p. 140, n. 11.
35. V.p. 140. n. 12.
36. I.e., now,
37. V.p. 140, n. 14.
38. V.p. 140, n. 15.
39. And because of the second the first also had to be stated.
40. This indicates that *Halizah* must take place first.
41. Where it was stated that if there were two brothers one submits to *Halizah* first while the other may subsequently contract the levirate marriage.
42. Lit., 'a *Yebamah* for the street'. A *Yebamah* who is subject to the levirate marriage may not be married by a stranger before the levir has submitted to *Halizah*. For further notes on the whole passage v. Kid., Sonc. ed. pp. 26off.
43. As the one already made earlier in our Mishnah: ONE PARTICIPATES IN THE HALIZAH AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE. There it is a case of two brothers and here also of two groups of two, one of each participating in *Halizah* and the other contracting levirate marriage.
44. And each of the two brothers so marrying would infringe the prohibition against marriage of a doubtful *Yebamah* and the sister of a *Zekukah*.
45. This could not have been inferred from the previous clause where only one marriage takes place. The fact that at least one of the sisters may not be married and must perform *Halizah* only, would sufficiently indicate that in the case of the other also *Halizah* by one brother must precede the marriage by the other. Where, however, as here, both sisters are married it might well have been considered likely that the law requiring previous *Halizah* might be overlooked.
46. 'Ed. V, 5, *infra* 26a. [According to Rashi (he question is from the concluding part of that Mishnah which reads, 'If they had forestalled (the *Beth Din*) and married them, they must put them away', whereas in our Mishnah it is ruled that they are not to be parted. Aliter: In our Mishnah levirate marriage may take place after *Halizah* had been performed, whereas in the other Mishnah no levirate marriage is allowed at all for fear it is contracted before *Halizah*. v. Tosaf. ha-Rosh.]
47. Lit., 'thus now'.

Yebamoth 24a

There,¹ if one is to follow the view of him who said that a levirate bond does exist,² a levirate bond exists;³ and if one is to follow him who said⁴ that it is forbidden to annul the precept of levirate marriage,⁵ well, it is forbidden to annul the precept of levirate marriage. Here, however, it is possible to assume that every one will happen to get his own.⁶

IF BOTH ANTICIPATED [THE *BETH DIN*] AND MARRIED THEY ARE NOT TO BE PARTED FROM THEM, etc. Shila recited: Even if both were priests.⁷ What is the reason?⁸ — Because a *Haluzah* is only Rabbinically forbidden,⁹ and in the case of a doubtful *Haluzah*¹⁰ the Rabbis enacted no preventive measures.¹¹ But is a *Haluzah* only Rabbinically forbidden? Surely it was taught: From Put away¹² one might only infer the prohibition concerning a divorced woman; whence that of a *Haluzah*? Hence it was explicitly stated, And a woman!¹³ The prohibition is really Rabbinical, and the Scriptural text is a mere prop.¹⁴

MISHNAH. THE COMMANDMENT OF THE LEVIRATE MARRIAGE DEVOLVES UPON THE [SURVIVING ELDER BROTHER]. IF A YOUNGER BROTHER, HOWEVER, FORESTALLED HIM, HE IS ENTITLED TO ENJOY THE PRIVILEGE.

GEMARA. Our Rabbis learned: And it shall be, that the firstborn¹⁵ implies¹⁶ that the commandment of the levirate marriage devolves upon the [surviving elder brother];¹⁷ that she beareth¹⁵ excludes a woman who is incapable of procreation, since she cannot bear children: shall succeed in the name of his brother,¹⁵ in respect of inheritance.¹⁸ You say, 'in respect of inheritance';¹⁹ perhaps it does not [mean that]. but, 'in respect of the name':²⁰ [If the deceased, for Instance, was called] Joseph [the child] shall be called Joseph; If Johanan he shall be called Johanan! — Here it is stated, shall succeed in the name of his brother¹⁵ and elsewhere it is stated, They shall be called after the name of their brethren in their inheritance,²¹ as the

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'name' that was mentioned there [has reference to] inheritance, so the 'name' which was mentioned here [has also reference] to inheritance. That his name be not blotted out¹⁵ excludes a eunuch²² whose name is blotted out.

Said Raba: Although throughout the Torah no text²³ loses its ordinary meaning, here the *Gezerah Shawah*²⁴ has come and entirely deprived the text of its ordinary meaning.²⁵

But apart from the *Gezerah Shawah*, would it have been thought that 'name' actually signifies 'a name'? To whom, then, does the All Merciful address the instruction!²⁶ If to the levir, the wording should have been, 'shall succeed in the name of thy brother'; if to the *Beth Din*, the wording should have been, 'shall succeed in the name of his father's brother'!²⁷ — It is possible that the All Merciful thus addressed the *Beth Din*: Tell the levir, 'He²⁸ shall succeed to the name of his²⁹ brother'; but the *Gezerah Shawah* has come and deprived the text entirely [of its ordinary meaning].

Now that it has been stated that Scripture speaks of the elder brother only, why not assume that the firstborn must perform the duty of the levirate marriage and that any ordinary brother may not contract a levirate marriage at all!³⁰ — If so, what need³¹ was there for the All Merciful to have excluded the 'wife of his brother who was not his contemporary'?³²

R. Aha objected: Might it not be suggested that the exclusion³³ had reference to a mother's firstborn son!³⁴ -You could not possibly have assumed that,³⁵ since the All Merciful has made levirate marriage dependent on inheritance, and the right of inheritance derives from the father and not from the mother.³⁶ But might It not be suggested that where there is a firstborn the commandment of the levirate marriage shall be observed;³⁷ where, however, there is no firstborn the commandment of the levirate marriage shall not be observed?³⁸ Scripture stated, And one of them died;³⁹ does not this

include also the case where the firstborn died,⁴⁰ and so the All Merciful has said that the younger shall perform the duty of the levirate marriage?

But perhaps⁴¹ [the text speaks of a case] where the younger died, and the All Merciful says that the firstborn shall perform the duty of the levirate marriage? — Surely, the All Merciful has excluded the wife of his brother who was not his contemporary!⁴²

May it be suggested that where there is no firstborn the younger brother, if he forestalled [the *Beth Din*],⁴³ is entitled to the privilege,⁴⁴ but that where there is a firstborn the younger brother, even if he forestalled him, is not entitled to the privilege? — Scrip. stated, If brethren dwell together,⁴⁵ the dwelling of one brother was compared to that of the other.⁴⁶ May it be suggested that where there is a firstborn one turns to the eldest⁴⁷ but where there is no firstborn one does not turn to the eldest?⁴⁸ Why, then, did Abaye the Elder teach that the commandment to perform the duty of the levirate marriage is incumbent Upon the elder brother; if he refuses, the younger brother is approached;⁴⁹ if he also refuses,⁵⁰ the elder is approached again!⁵¹ — [Scripture has designated him] as the firstborn;⁵² as with the firstborn the cause is his birthright, so with the elder brother the cause is his Seniority. Might it be said that when the firstborn performs the duty of the levirate marriage he also takes the inheritance⁵³ but when an ordinary brother performs the duty of the levirate marriage, he⁵⁴ does not take the inheritance?⁵³ Scripture stated, Shall succeed in the name of his brother⁵⁵ and behold he has succeeded!⁵⁶

But since the All Merciful called him the firstborn,⁵⁷

1. Where both sisters are bound by the levirate tie.
2. Between the levir and his deceased brother's widow from the moment death took place.
3. Consequently both widows are forbidden in levirate marriage, each being in relation to the other a sister of one's Zekukah. But such prohibition is never removed even when one of

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- them subsequently performed the *Halizah* with one of the brothers and has thus severed her levirate bond, for once a *Yebamah* is prohibited to her deceased husband's brother for a single moment, she is in the same category as a widow of a brother who died with issue.
4. The reason why none of the surviving brothers may marry one of the two widows.
 5. Were one brother to be allowed to marry one of the widows he would not be able either to contract levirate marriage or to participate in *Halizah* with the other widow (she being forbidden to him as 'his wife's sister'), should the other brother happen to die before he married that widow; and thus the entire precept of levirate marriage would in such a case be annulled.
 6. Now, if the widow whom one of them had married was really his *Yebamah*, the other must be a total stranger to him and to the other brother; and since this might be said in the case of each pair of brothers where the marriage had already taken place. They are not, in the face of such a possibility, to be parted (Rashi). [According to the alternative interpretation (*supra* p. 142, n. 4.) in face of such a possibility the Rabbis saw no reason for enacting the preventive measure forbidding levirate marriage after *Halizah* had been performed.]
 7. Who are forbidden to marry a *Haluzah*.
 8. One of them, surely, must inevitably have married a *Haluzah* since, in case she is not his *Yebamah*, she is the betrothed of the stranger with whose brother (v. our Mishnah) she had performed *Halizah*'
 9. To marry a Priest.
 10. As here where each brother can claim that the one he married was his *Yebamah*.
 11. The prohibition consequently does not apply. Hence they may continue to live with the widows they had married.
 12. Lev. XXI, 7, speaking of priests.
 13. *Ibid.* which proves that the prohibition is Pentateuchal.
 14. *Asmakta*, v. [Glos.](#)
 15. Deut. XXV, 6.
 16. Lit., 'from here (it is deduced)'.
 17. The text of Deut. XXV, 6. being connected with v. 5 preceding it, thus: Her husband's brother shall ... take her to him to wife (v. 5) and he shall be the firstborn (*ibid.* v. 6). [H] in [H] may be rendered either, *and it shall be* (as E.V.) or *and he* (i.e., the *levir*) *shall be* as the Talmud here renders it.
 18. Only the brother who marries the widow, and no other brother, is entitled to the inheritance of the deceased.
 19. Taking the 'brother' who marries the widow as the subject of 'shall succeed'. (Cf. *supra* n. 3)'
 20. The subject of 'shall succeed' being 'the child' that will be born from the levirate union.
 21. Gen. XLVIII, 6.
 22. Since he is incapable of procreation, his wife is exempt alike from *Yibbum* and *Halizah*.
 23. Though it had been given a Midrashic interpretation.
 24. V. [Glos.](#) [H] the word analogy between the expression 'name' in the two cited texts.
 25. So that despite the ordinary meaning of the text, the child born from the levirate union need not be named after the deceased.
 26. About the name.
 27. Consequently, name in this text could not possibly have borne its ordinary meaning, but must have that given to it in the exposition *supra*. viz., that *Beth Din* are instructed to hand over the inheritance of the deceased to the levir who married his widow. An objection against Raba!
 28. The child that will be born.
 29. The levir's.
 30. Neither when there is, nor when there is not, a firstborn.
 31. Lit., 'why to me'.
 32. He would in any case have been excluded since he was not the firstborn.
 33. Of the 'wife of a brother who was not his contemporary'.
 34. Who was the paternal brother of the deceased.
 35. That a mother's firstborn should be regarded as the legal firstborn in respect of the levirate marriage.
 36. Hence there was no need to exclude him. The exclusion consequently indicates that by firstborn, in this context, any elder brother was meant.
 37. Either by the firstborn or by any other of the brothers, and that for this reason the exclusion of 'a brother who was not his contemporary' was necessary.
 38. At all; by any brother.
 39. Deut. XXV, 5, which refers to all cases, even to that where there were only two brothers.
 40. Since the text does not specify any particular case.
 41. Lit., 'and say'.
 42. Were it as suggested this exclusion would be unnecessary. Cf. *supra* p. 145, nn. 6 and 13.
 43. Married before the *Beth Din* could prevent him.
 44. Of the levirate marriage.
 45. Deut. XXV, 5.
 46. All brothers must be equal in respect of the levirate marriage.
 47. If the other brothers refused to marry the widow it should be his duty to marry her.

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48. Not being the firstborn it is no more his duty to marry the widow than it is that of his brothers.
49. I.e., all the brothers are approached in the order of seniority. V. Tosaf. s.v. [H], a.l., and cf. Rashi a.l.
50. I.e., when the youngest of all has also refused to marry the widow.
51. Now, since the brothers are approached in the order of seniority, it is obvious that it is always the eldest, not necessarily the firstborn, upon whom the duty of the levirate marriage devolves!
52. V. *supra* p. 144, n. 3.
53. Of his deceased brother.
54. The ordinary brother.
55. Deut. XXV, 6.
56. Hence any brother who marries the widow is entitled to the inheritance of the deceased.
57. And not merely 'the elder' or 'the eldest'.

Yebamoth 24b

what practical ruling was thereby intended?¹ — To impair his rights; As a firstborn does not take a double portion in his father's prospective property² in the same way as he does in that which is already in his possession,³ so does this one⁴ take no [double]⁵ portion in [his father's] prospective property⁶ as he does in that which is already in his possession.⁷

MISHNAH. IF A MAN IS SUSPECTED OF [INTERCOURSE]⁸ WITH A SLAVE WHO WAS LATER EMANCIPATED, OR WITH A HEATHEN WHO SUBSEQUENTLY BECAME A PROSELYTE, LO, HE MUST NOT MARRY HER.⁹ IF, HOWEVER, HE DID MARRY HER THEY NEED NOT BE PARTED.¹⁰ IF A MAN IS SUSPECTED OF INTERCOURSE⁸ WITH A MARRIED WOMAN¹¹ WHO, [IN CONSEQUENCE,] WAS TAKEN AWAY FROM HER HUSBAND,¹² HE MUST LET HER GO EVEN THOUGH HE HAD MARRIED HER.¹³

GEMARA. This implies that she may become a proper proselyte.¹⁴ But against this a contradiction is raised. Both a man who became a proselyte for the sake of a woman and a woman who became a proselyte for the sake of a man, and, similarly, a man who became a proselyte for the sake of a royal board, or for the sake of joining Solomon's servants,¹⁵ are no proper proselytes. These

are the words of R. Nehemiah, for R. Nehemiah used to Say: Neither lion-proselytes,¹⁶ nor dream-proselytes¹⁷ nor the proselytes of Mordecai and Esther¹⁸ are proper proselytes unless they become converted at the present time. How can it be said, 'at the present time'? — Say 'as at the present time'!¹⁹ -Surely concerning this it was stated that R. Isaac b. Samuel b. Martha said in the name of Rab: The *Halachah* is in accordance with the opinion of him who maintained that they were all proper proselytes. If so, this²⁰ should have been permitted altogether!²¹ - On account of [the reason given by] R. Assi. For R. Assi said,²² Put away from thee a froward mouth, and perverse lip's, etc.²³

Our Rabbis learnt: No proselytes will be accepted in the days of the Messiah.²⁴ In the same manner no proselytes were accepted in the days of David nor in the days of Solomon.²⁵ Said R. Eleazar: What Scriptural [support is there for this view]? — Behold he shall be a proselyte who is converted for my own sake,²⁶ he who lives with you shall be settled among you,²⁷ he only who 'lives with you' in your poverty shall be settled among you; but no other.

IF A MAN IS SUSPECTED OF INTERCOURSE WITH A MARRIED WOMAN, etc. Rab said: [This²⁸ must be confirmed] by witnesses.²⁹ Said R. Shesheth: It seems³⁰ that Rab made this statement while he was sleepy and about to doze off;³¹ for it was taught: 'If a man is suspected of intercourse with a married woman who, in consequence was taken away from her husband³² and was subsequently divorced by another man,³³ he³⁴ need not part with her once he has married her'. Now, how is this to be understood? If it is a case where witnesses³⁵ are available, of what avail is it that another man stepped in and checked the rumor?³⁶ [Must we] not then [conclude that this is a case] where there were no witnesses;³⁵ and the reason³⁷ is because another man stepped in and checked the rumor, but had that not happened she would have been taken

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away from him?³⁸ — Rab can answer you: The same law, that where witnesses³⁵ are available she is taken away from him and that where no witnesses are available she is not taken away, applies also to the case where no other man stepped in and checked the rumor, but this it is that was meant: 'Even if another man stepped in and checked the rumor it is not proper for him³⁹ to marry her'.⁴⁰

An objection was raised: This⁴¹ has been said in the case only where she had no children,⁴² but if she has children⁴² she must not be divorced.⁴³ If, however, witnesses to the seduction⁴⁴ presented themselves, she must go away from him⁴⁵ even if she had ever so many children!⁴⁶ — Rab explains our Mishnah as dealing with the case where she has children and witnesses against her are available.

What, however, impels Rab to explain our Mishnah as dealing with a case where she has children and where witnesses against her are available, and to give as the reason why she is to be taken away, because witnesses are available, and [to imply that] if witnesses are not available she is not taken away; let him rather explain [our Mishnah as dealing with the case] where she has no children [and has to be taken away] even though no witnesses are available! Raba replied: Our Mishnah presented a difficulty to him. What point was there [he argued] for using the expression 'WAS TAKEN AWAY'?⁴⁷ It should have been stated 'he parted from her';⁴⁸ but any such expression as '*was taken away*' implies 'by the Beth Din' and the *Beth Din* take away only where witnesses are available.⁴⁹

If you prefer I may say that Baraitha⁵⁰ represents the view of Rabbi;⁵¹ for It was taught: When a pedlar⁵² leaves a house and the woman within is fastening her *sinnar*,⁵³ since the thing is ugly she must, said Rabbi, go.⁵⁴ If spittle is found⁵⁵ on the upper part of the curtained bed, since the thing is ugly,⁵⁶ she must, said Rabbi, go.⁵⁴

1. For all practical purposes, as it has been shown, the elder or eldest brother has the same privileges as the firstborn; why, then, was the

expression [H], (firstborn) used instead of [H] (elder or eldest) which would have included the firstborn?

2. Property which was not in his father's possession at the time of his death.
3. At the time he died.
4. The levir who marries the widow and is given a double share (his and that of the deceased) in the inheritance of their father.
5. Rashi. [*Aliter*: the levir inherits only such property of the deceased brother as had been in the latter's possession at the time of his death. Any property that fell into his possession subsequent thereto he shares equally with the other brothers. On this view the levir has no claim to the share which the deceased brother would have been entitled to in the property of their father had he survived the father, v. Nimmuke Joseph and Me'iri.]
6. V. *supra* note 3.
7. V. note 4.
8. [H] lit., 'spoken against' 'having to be a defendant'. Rt. [H] 'to plead', 'sue'.
9. Since such a marriage might confirm the rumor.
10. Lit., 'they do not take out of his hand'.
11. Lit., 'the wife of a man'.
12. Lit., 'and they (i.e., *Beth Din*) took her out from under his hand'. He was ordered to divorce her.
13. Because the woman is Biblically forbidden to both husband and seducer. (V. Sot. 27b).
14. Even though her conversion was solely due to her desire to contract the marriage.
15. To enter the king's employ.
16. [H] 'proselytes of lions', those who, like the Samaritans (II Kings XVII, 25), were converted to Judaism by the fear of divine visitation.
17. [H] 'proselytes of dreams', those who embraced Judaism in response to a dream or the advice of a dreamer.
18. V. Esth. VIII, 17. Those who from similar motives of expediency adopt the Jewish faith.
19. In the dire days after the Hadrianic Wars, when the proselyte is not actuated either by motives of fear or of gain. Now, how is this Baraitha to be reconciled with Our Mishnah?
20. The marriage of the proselyte spoken of in our Mishnah.
21. Lit., 'even as at the start'. Why then was it stated, HE MUST NOT HARRY HER?
22. In explaining the reason for the prohibition of marrying the proselyte. (Rashi); v. Keth., Sonc. ed. p. 123. n. 5'
23. Prov. IV, 24. Owing to the rumor of Previous Intercourse one should not contract such a marriage. V. *supra* p. 147, n. 10.

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24. When Israel will be Prosperous and Prospective proselytes will be attracted by worldly considerations.
25. During Israel's heyday. V. previous note.
26. Or *who is converted while I am not with you* (v. Rashi, a.l.) i.e., while Israel is in exile and forsaken by God.
27. Isa. LIV, 15, according to the Midrashic interpretation of R. Eleazar. The rt. [H] which E.V. renders 'to gather' is here interpreted 'to become a proselyte', 'to be converted'.
28. The suspicion.
29. Who were present during the misconduct.
30. Lit., 'I would say'.
31. Lit., 'dozing and lying'.
32. V. *supra* p. 147. nn. 9' 12 and 13.
33. To whom she was married after her first husband had divorced her.
34. The paramour.
35. V. *supra* note 3.
36. By his marriage. The testimony of the witnesses surely caused her to be permanently prohibited to the paramour.
37. Why the paramour need not divorce her once he has married her.
38. How then could Rab maintain that she is taken away Only where there are witnesses?
39. The paramour.
40. Only if he already married her may she in this case remain with him.
41. That the paramour must divorce her.
42. From the first husband.
43. A divorce would be regarded as a confirmation of the suspicion, and the children would thereby be tainted as bastards.
44. Lit., 'uncleanness'.
45. The paramour.
46. Which shows, contrary to the Opinion of Rab, that when she has no children 'she is to part from her paramour even where witnesses are not available.
47. [H], lit., 'they (i.e. *Beth Din*) took her away'.
48. [H], lit., 'he (i.e., the husband) brought her out'.
49. No wife may be taken away from her husband because of a mere rumor or suspicion.
50. Which requires a wife who had no children to leave her husband even where no witnesses are available.
51. Who forbids a wife to her husband even on the grounds of a rumor or suspicion. According to the other Rabbis, however, who are the majority, the woman, as Rab said, need not be taken away where no witnesses are available, even if she has no children.
52. [H] Rashi explains *Rokel* as dealer in women's perfumes.
53. The [H] was a kind of breech-cloth or petticoat women wore as a matter of chastity (v. Rashi, a.l.).

54. Even if there were no witnesses that misconduct took place.
55. After the peddler had left the house.
56. Only the woman lying face upwards could have spat on that spot. Intercourse may, therefore, be suspected.

Yebamoth 25a

If shoes¹ lie under the bed, since the thing is ugly,² she must, said Rabbi, go.³ 'Shoes'?⁴ One can surely see whose they are! — Say rather the marks⁵ of shoes.⁶

The law is in accordance with the view of Rab,⁷ and the law is in accordance with the view of Rabbi.⁸

This, then, represents a contradiction between one law and the other! — There is no contradiction. One⁹ refers to a rumor that had ceased;¹⁰ the other, to a rumor that had not ceased. Where the rumor has not ceased, though no witnesses are available, [the law is] according to Rabbi; where the rumor has ceased but witnesses are available [the law is] according to Rab.

For how long [must a rumor continue in order to be regarded] as uninterrupted? Abaye replied: Mother¹¹ told me that a town rumor¹² [must remain uncontradicted for] a day and a half. This has been said Only in the case where It was not interrupted in the meantime. If, however, it was interrupted in the meantime, well, it was interrupted.¹³ This, however, is only when the interruption was not due to intimidation, but if it was due to intimidation, well, it was due to intimidation.¹⁴ This,¹⁵ however, has been said only in the case where no enemies are about, but where enemies are about, well, it must have been the enemies who published the rumor.¹³

We learned elsewhere: If a man divorced his wife because of a bad name,¹⁶ he must not remarry her; if on account of a vow he must not remarry her.¹⁷ Rabbah son of R. Huna¹⁸ sent to Rabbah son of R. Nahman: Will our Master Instruct us as to whether he¹⁹ must part with her if he did remarry her? The

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other replied: We have learnt It: IF A MAN IS SUSPECTED OF INTERCOURSE WITH A MARRIED WOMAN WHO [IN CONSEQUENCE] WAS TAKEN AWAY FROM HER HUSBAND²⁰ HE MUST LET HER GO EVEN THOUGH HE HAS MARRIED HER!²¹ He said to him: Are these two cases at all alike? There²² she was taken away,²³ here he²⁴ had let her go.²⁵

And Rabbah son of R. Nahman?²⁶ — In our Mishnah also we learned, 'He let her go'.²⁷ But even now, are they at all alike? Here²⁸ it is the husband;²⁹ there³⁰ it is the seducer!³¹ — The other replied: They are indeed alike.³² For here³⁰ the Rabbis said, 'he³³ must not marry her, and if he did marry he must let her go' and there²⁷ also the Rabbis would Say, 'he³⁴ must not remarry her and if he did remarry he must let her go'. This, however, is not [much of an argument]. There³⁰ he lends color to the rumor,³⁵ while here it might well be assumed that he³⁴ investigated the rumor and found it to be groundless.

MISHNAH. A MAN WHO BRINGS A LETTER OF DIVORCE FROM A COUNTRY BEYOND THE SEA³⁶ AND STATES, 'IT WAS WRITTEN IN MY PRESENCE AND IT WAS SIGNED IN MY PRESENCE', MUST NOT MARRY THE [DIVORCER'S] WIFE.³⁷ [SIMILARLY, IF HE STATES]. 'HE DIED', 'I KILLED HIM', OR 'WE KILLED HIM', HE MUST NOT MARRY HIS WIFE. R. JUDAH SAID: [IF THE STATEMENT IS], 'HE DIED', 'I KILLED HIM', 'WE KILLED HIM', THE WOMAN MAY NOT MARRY [ANY ONE];³⁸ [IF, HOWEVER, IT IS], 'WE KILLED HIM', THE WOMAN MAY MARRY AGAIN.³⁹

GEMARA. The reason then⁴⁰ is because he came FROM A COUNTRY BEYOND THE SEA, in which case we have to entirely upon him;⁴¹ but [had he come] from the Land of Israel, in which case we need not depend upon him,⁴² would he have been allowed to marry the divorcer's wife? But, surely, when the Statement is, 'HE DIED', in which case we do not depend entirely upon him since a Master said, 'a woman⁴³ makes careful inquiry before she marries'⁴⁴ and yet it was stated, HE MUST NOT MARRY HIS WIFE! — There,⁴⁵

no document exists, but here⁴⁶ a document⁴⁷ does exist. For thus we have learned: Wherein lies the difference between [the admissibility of] a letter of divorce and [that of evidence of] death?⁴⁸ In that the document⁴⁷ supplies the proof.⁴⁹

[SIMILARLY, IF HE STATES], 'HE DIED', 'I KILLED HIM', OR 'WE KILLED HIM', HE MUST NOT MARRY HIS WIFE. Only he, then, must not marry his wife, she, however, may be married to another man? But, surely, R. Joseph said: [If a man stated], 'So-and-so committed pederasty with me against my will', he and any other witness may be combined⁵⁰ to procure his execution; [if, however, he said], 'with my consent',⁵¹ he is a wicked man concerning whom the Torah said, Put not thy hand with the wicked to be an unrighteous witness!⁵² And were you to reply that matrimonial evidence⁵³ is different because the Rabbis have relaxed the law in its case,⁵⁴ surely, [it may be pointed out], R. Manasseh stated:

1. So MSS. Cur. edd. add. 'overturned'.
2. The shoes indicating the presence of an unknown stranger on the bed.
3. Even if there were no witnesses that misconduct took place.
4. So MSS. Cur. edd. add. 'overturned'.
5. Lit., 'place of', i.e., the shoes have left marks on the floor.
6. Cur. edd. contain the following addition. 'Overturned under the bed, said Rabbi, since the thing is ugly she shall go'. All this with the exception of the first word is enclosed in parentheses. Cf. Rashal.
7. That no rumor or suspicion is to be relied upon in forbidding a wife to her husband. Only the evidence of witnesses may be acted upon.
8. Cf. *supra* p. 150, n. 7.
9. The law according to Rab.
10. I.e., when a contradictory rumor obtained currency.
11. His foster-mother. V. Kid. 31b.
12. [H], 'suspicion' or 'gossip'.
13. And it cannot any more be regarded as 'an uninterrupted rumor'.
14. The force of the rumor is not thereby impaired.
15. That an uninterrupted rumor is relied upon.
16. Suspected immorality.
17. V. Git., Sonc. ed. pp. 200ff, q.v. notes.

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18. So Emden. Cur. edd: Omit 'R'.
19. Who divorced his wife 'because of a bad name'.
20. [So MS.M. in conformity with the text of our Mishnah. Cur. edd.: and he had let her go.]
21. So also in the case under discussion, though he married her, he must part from her.
22. In our Mishnah.
23. By the *Beth Din* acting on the evidence of witnesses.
24. Her husband at his own discretion.
25. And the prohibition to remarry her is only Rabbinical. Hence it is possible that once he has remarried her he need not part from her.
26. How can he draw a comparison between two dissimilar cases?
27. Though there were no witnesses. Consequently, the woman is forbidden to her paramour Rabbinically only on the ground of suspicion (cf. *supra* p. 148. n. 10) and yet it was stated that he must part with her, which proves that even where the prohibition to marry is Rabbinical only (cf. *supra* note 9) the woman must be parted from the man.
28. Rabbah b. R. Huna's enquiry.
29. Whose remarriage of his former wife is obviously not suggestive of any immorality.
30. Our Mishnah.
31. Whose marriage with the woman undoubtedly lends color to the rumored suspicion. In such circumstances it is quite reasonable to order their separation. How can this, however, be used as an example for the case in the enquiry? (Cf. *supra* n. 13).
32. Since the prohibition in both cases is only Rabbinical.
33. Her paramour.
34. The woman's former husband.
35. Lit., 'he enforces the rumor'. Cf. *supra* n. 15.
36. [H], lit., 'country of the sea', a term applied to all countries of the world exclusive of Palestine and Babylonia.
37. Since the validity of the divorce is entirely dependent on his word (v. *infra* n. 6) he may be suspected of giving false evidence with a view to marrying the woman himself. As, however, a woman is permitted to marry even if only a single witness had testified to the death of her husband, she is allowed to marry any other man.
38. Having admitted murder he cannot any longer be regarded as a reliable witness.
39. This is explained *infra*.
40. Why the man who brings the letter of divorce may not marry the divorcer's wife.
41. The divorce not being valid unless the carrier of the letter of divorce can testify that it was written and signed in his presence. (V. Git. 20).
42. Reliance being placed on the qualified scribes of Palestine, there is no need for the carrier of a letter of divorce to declare that he witnessed the writing and the signing of it.
43. Ab death of whose husband is attested by one witness Only.
44. And for this reason is allowed to remarry. *Infra* 53 b, 115a. 116b.
45. In the case of evidence of death.
46. Divorce.
47. The letter of divorce.
48. I.e., why are certain relatives accepted as legally qualified carriers of a letter of divorce but not as witnesses to the death of a husband?
49. V. Git. 23b, *infra* 117a.
50. The two together forming a pair of witnesses, the minimum required for bringing about a man's condemnation by a court of law.
51. Was the crime committed.
52. Ex. XXIII, which shows that a man who admitted a criminal offence may not act as a witness at all!
53. In allowing a woman to marry on the evidence of the death of her husband.
54. In other cases two witnesses are required and in this case one is sufficient.

Yebamoth 25b

'One who is Rabbinically regarded as a robber¹ is eligible to be a witness in matrimonial matters;² one, however, who is Biblically regarded as a robber is ineligible to act as witness in matrimonial matters;³ would it then be necessary to assume that R. Manasseh holds the same opinion as R. Judah?⁴ - R. Manasseh can answer you: My statement may be reconciled even with the view of the Rabbis, but the reason of the Rabbis⁵ here is the same as that of Raba. For Raba said, 'A man is his own relative and consequently⁶ no man may declare himself wicked'.

Must it then be assumed that R. Joseph⁷ is of the same opinion as R. Judah?⁸ — R. Joseph can answer you: 'My Statement may be in agreement even with the view of the Rabbis, but matrimonial evidence⁹ is different, since the Rabbis relaxed the law in its case;¹⁰ and it is R. Manasseh who adopted the view of R. Judah'.

'I KILLED HIM', etc., 'WE KILLED HIM' ... MAY MARRY, etc. What is the practical difference between 'I killed him' and 'we

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killed him'?¹¹ — Rab Judah said: [Our Mishnah speaks of the case] where he said, 'I was present together with his murderers' — 12 Has it not, however, been taught: They said to R. Judah, 'It once happened that a robber when led out to his execution in the Cappadocian Pass¹³ said to those present,¹⁴ "Go and tell the wife of Simeon b. Kohen that I killed her husband when I entered Lud" [others Say: When he entered Lud], and his wife was permitted to marry again!'¹⁵ He answered them: Is there any proof from there? [It was a case] where he said, 'I was present together with his murderers'.¹² But it was stated, 'a robber'! — He was apprehended on account of robbery.¹⁶ But it was stated, 'led out to his execution'! — [He was sentenced by] a heathen court of law who executed without due investigation.¹⁷

MISHNAH. A SAGE WHO HAS PRONOUNCED A WOMAN FORBIDDEN TO HER HUSBAND BECAUSE OF A VOW¹⁸ MUST NOT MARRY HER HIMSELF.¹⁹ IF, HOWEVER, A WOMAN MADE A DECLARATION OF REFUSAL²⁰ OR PERFORMED *HALIZAH* IN HIS PRESENCE, HE MAY MARRY HER, SINCE HE [WAS BUT ONE OF THE] *BETH DIN*.²¹

GEMARA. This implies that if he had disallowed her vow, he would have been permitted to marry her!²² What then are the circumstances?²³ If [he acted] alone, could one disallow a vow? Surely²⁴ R. Hiyya b. Abin said in the name of R. Amram that it was taught: The disallowance of vows is to be carried out by three! If, however, three were Present, would they be suspected? Surely we learned, IF, HOWEVER, A WOMAN MADE A DECLARATION OF REFUSAL OR PERFORMED *HALIZAH* IN HIS PRESENCE, HE MAY MARRY HER, SINCE HE [WAS BUT ONE OF THE] *BETH DIN*!-The fact is that [he acted] alone, and²⁵ as R. Hisda said in the name of R. Johanan, 'By a fully qualified individual',²⁶ so here also it is a case of one fully qualified individual.²⁶

IF A WOMAN MADE A DECLARATION OF REFUSAL, OR PERFORMED *HALIZAH*, etc. The reason, then,²⁷ is because

[he was one of a] *Beth Din*,²⁸ but had he been one of a group of two only. would he not [have been permitted]? Wherein, then, does this case differ from the following concerning which it was taught:²⁹ If witnesses signed on [a document relating to] a purchased field or on a letter of divorce, the Rabbis do not apprehend such collusion!³⁰ — It is this very thing that he taught us,³¹ viz., that the opinion of him who said that a declaration of refusal may be made in the presence of two is to be rejected and that one is to infer³² that a declaration of refusal must be made in the presence of three.³³

The question was raised: If he³⁴ married her³⁵ must he part from her? R. Kahana said: Though he married, he must part from her. R. Ashi said: Once he has married, he need not part from her.

R. Zuti at the School of R. Papa recited [a teaching] in accordance with the opinion of him who said that if he³⁴ married her³⁵ he need not part from her. Said the Rabbis to R. Ashi: Is this³⁶ a tradition or a matter of opinion? He answered them: It is a Mishnah: If a man is suspected of intercourse with a slave who was subsequently emancipated, or with a heathen who subsequently became a proselyte, lo, he must not marry her; if, however, he did marry her the marriage need not be dissolved. Which proves

1. A gambler, for instance, who is not Biblically forbidden to act as a witness. V. R.H. 220.
2. V. note 4.
3. Which proves that even in matrimonial matters a murderer (a man Biblically regarded as wicked) is not eligible as a witness.
4. Who in our Mishnah rejected the evidence of the man who admitted murder. The *Halachah* being according to the Rabbis who are the majority, would R. Manasseh ignore the majority in favor of a minority?
5. For admitting the evidence of a man who announced himself as a murderer.
6. As no relative is admitted as witness.
7. Who does not admit the evidence of the man who declared himself a murderer, (*supra* 25a).
8. V.p. 154, n. 9.
9. V.p. 154, n. 4.

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10. V. *supra* p. 154, n. 5. Hence they also admitted the evidence of one who declared himself to be a murderer.
11. In either case he admitted murder.
12. But did not himself participate in the crime.
13. Or 'ford'.
14. Lit., 'to them'.
15. Tosef. Yeb. IV; which proves that the evidence of a murderer is accepted.
16. V. n. 10. He was Only present during the robbery.
17. The condemned man, however, was not a murderer.
18. Which the woman made. If she vowed, for instance, to derive no benefit from her husband, and he did not annul her vow; and on consulting the Sage and finding no ground for the remission of her vow (v. Ned. 22b), her vow was not disallowed and her husband was consequently forbidden to her.
19. To avoid the suspicion that his motive in forbidding the woman was to marry her himself.
20. V. [Glos.](#) s.v. *Mi'un*.
21. Declarations of refusal and the performance of *Halizah*, unlike the disallowance or confirmation of vows, must always take place in the presence of a court of three; and a court of three would not be suspected.
22. If her husband subsequently divorced her or died.
23. Lit., 'in what are we engaged'.
24. Cur. edd. add in parentheses. 'Rab said'.
25. As to the difficulty of the implication that one individual should be in a position to disallow vows.
26. A Mumhe (v. [Glos.](#)) who, like a lay court of three, is empowered to disallow vows by himself. Ned. 78b, B.B. 120b, 121a.
27. Why the Sage may marry the woman in question.
28. Which consists of no less than three members.
29. Cur. edd., we learned'.
30. Lit., 'this thing'. They do not, as a precaution against collusion, forbid the witnesses the subsequent purchase of the field from the buyer. or the marriage with the woman n whose divorce they assisted. This obviously shows that even a group of two is not to be suspected!
31. By mentioning *Beth Din* which implies three members.
32. From the mention of *Beth Din* in our Mishnah.
33. And not, as has been assumed, that only three are not to be suspected. Two also are above suspicion.
34. The Sage referred to in our Mishnah (Rashb. and Asheri). The Sage or the man who delivered a letter of divorce mentioned in the

previous Mishnah (Rashi and Maimonides). V. Wilna Gaon, Glosses, a.l.

35. The woman who was forbidden to her husband or the one divorced (v. previous note).
36. The statement R. Ashi made.

Yebamoth 26a

that [once a woman was married she] is not taken away because of a mere rumor; and so here also [the woman married] is not to be taken away because of a rumor.

MISHNAH. IF ALL THESE¹ HAD WIVES² WHO [SUBSEQUENTLY] DIED, [THE OTHER WOMEN]³ ARE PERMITTED TO MARRY THEM.⁴ IF THEY⁵ WERE MARRIED TO OTHERS⁵ AND WERE [SUBSEQUENTLY] DIVORCED,⁶ OR WIDOWED, THEY MAY BE MARRIED TO THESE.⁷ THESE⁸ ARE ALSO PERMITTED TO THEIR⁶ SONS OR BROTHERS.⁹

GEMARA. Only if they¹⁰ died¹¹ but not if they were divorced.¹² Said R. Hillel to R. Ashi: Surely, it was taught: Even if they were divorced! — This is no difficulty: The one¹³ refers to the case where they led¹⁴ a quarrelsome life;¹⁵ the other,¹⁶ where they¹⁷ had no quarrels.¹⁸ If you prefer I might say that the one as well as the other [refers to the case] where there were no quarrels, and yet there is no difficulty: The former¹⁶ is a case where the husband had led on [to the divorce];¹⁹ in the latter,²⁰ she led on to the divorce.

IF THEY WERE MARRIED, etc. It was now assumed that death²¹ has reference to the case of death,²² and divorce²³ to that of divorce.²⁴ Must it then be said that our Mishnah²⁵ is in disagreement the delivery of the letter of divorce by the messenger, or the evidence of the man who testified to their husbands' deaths. with the view of Rabbi? For had it been in agreement with Rabbi, [a third marriage would not have been allowed], for he said that two occurrences constitute a *hazakah*.²⁶ — No;²⁷ death²⁸ [has reference] to divorce,²⁹ and divorce²⁸ to death.³⁰

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THESE ARE ALSO PERMITTED TO THEIR SONS OR BROTHERS. Wherein is this different from the following where it was taught:³¹ A man who is suspected of intercourse with a woman is forbidden to marry her mother, her daughter and her sister.³² -It is the usual thing for women to pay frequent visits to other women;³³ it is not usual, however, for men to pay frequent visits to other men.³⁴ Or [this] also:³⁵ Women who do not cause one another to be forbidden by their cohabitation³⁶ do not particularly mind one another;³⁷ men, however, who do cause one another to be forbidden by their cohabitation³⁸ do mind one another.³⁴ If so,³⁹ [the same law⁴⁰ should] also [apply to] one's father!⁴¹ -The meaning is, 'There is no need',⁴² [thus]: There is no need [to state that the law⁴⁰ is applicable to] one's father before whom a son is shy;⁴³ but [in the case of] one's son⁴⁴ before whom a father⁴⁴ is not shy it might have been assumed [that this law was] not [to be applied], hence we were informed [that the same law was applicable to a son also].

CHAPTER III

MISHNAH. [IN THE CASE OF] FOUR BROTHERS, TWO OF WHOM WERE MARRIED TO TWO SISTERS, IF THOSE WHO WERE MARRIED TO THE SISTERS DIED, BEHOLD. THESE⁴⁵ MUST PERFORM *HALIZAH* BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE [BY THE BROTHERS].⁴⁶ IF THEY HAD ALREADY⁴⁷ MARRIED THEM, THEY MUST DISMISS THEM. R. ELIEZER SAID: BETH SHAMMAI HOLD THAT THEY MAY RETAIN THEM, AND BETH HILLEL HOLD THAT THEY MUST DISMISS THEM. IF ONE OF THE SISTERS⁴⁸ WAS FORBIDDEN TO ONE [OF THE BROTHERS] UNDER THE PROHIBITION OF INCEST,⁴⁹ HE IS FORBIDDEN TO MARRY HER BUT MAY MARRY HER SISTER,⁵⁰ WHILE TO THE SECOND BROTHER BOTH ARE FORBIDDEN. [IF ONE SISTER]⁴⁸ WAS FORBIDDEN BY VIRTUE OF A COMMANDMENT⁵¹ OR BY VIRTUE OF HOLINESS⁵¹ SHE MUST PERFORM THE

HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. IF ONE OF THE SISTERS⁴⁸ WAS FORBIDDEN TO ONE BROTHER UNDER THE LAW OF INCEST AND THE OTHER SISTER WAS FORBIDDEN TO THE OTHER UNDER THE LAW OF INCEST, SHE WHO IS FORBIDDEN TO THE ONE IS PERMITTED TO THE OTHER AND SHE WHO IS FORBIDDEN TO THE OTHER IS PERMITTED TO THE FIRST. THIS IS THE CASE CONCERNING WHICH IT HAS BEEN SAID: WHEN HER SISTER IS HER SISTER-IN-LAW⁵² SHE MAY EITHER PERFORM *HALIZAH* OR BE TAKEN IN LEVIRATE MARRIAGE.⁵³

GEMARA. This then⁵⁴ implies that a levirate bond exists;⁵⁵ for if no levirate bond exists, observe this point: These widows come from two different houses,⁵⁶ let one brother take in levirate marriage the one and the other brother the other!⁵⁷ — As a matter of fact it may still be assumed that no levirate bond exists⁵⁵ [but the levirate marriage is nevertheless forbidden] because he⁵⁸ is of the opinion that it is forbidden to annul the precept of levirate marriage, it being possible that while one of the brothers married [one of the widowed sisters] the other brother would die,⁵⁹ and the precept of levirate marriage would be annulled.⁶⁰ If so,⁶¹ [the same applies to] three [brothers] also!⁶² — This may be regarded as the case of 'There is no need, etc.';⁶³ thus: There is no need to state three,⁶⁴ since the precept of levirate marriage would inevitably have to be annulled;⁶⁵ but [in the case of] four⁶⁶ [it might have been assumed that] one need not take precautions against [possible] death,⁶⁷ hence we were informed [that even in such a case levirate marriage is forbidden].⁶⁸ If so,⁶⁹

1. Lit., 'and all of them'. The Sage, the messenger who brought a letter of divorce and the man who testified to the death of a husband. (V. previous two Mishnahs, *supra* 250, 25b).
2. At the time of their action which resulted in enabling the women there mentioned to marry.
3. I.e. the women concerned in their respective actions. V. previous note.
4. Having had their own wives at the time they were engaged in the other women's affairs they

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are not to be suspected of any ulterior motives.
Cf. *supra* p. 153, n. 2 and p. 155, n. 12.

5. After the decision of the Sage,
6. By their second husbands.
7. Cf. *supra* p. 157, n. 6.
8. V.p. 157, n. 8.
9. The prohibition being limited to themselves.
10. The wives of the Sage, messenger and witness (cf. *supra* p. 157, n. 6).
11. Lit., 'they died, yes'; only then is it permissible for the husbands to marry the women whom they had helped to obtain permission to marry.
12. It being possible that their action in favor of the women and the subsequent divorces were dictated by the same ulterior motive.
13. The Baraitha quoted by R. Hillel.
14. Before their respective husbands had acted in favor of the other women.
15. With their husbands. It is consequently obvious that the divorces were due to the domestic differences, and that the husband's subsequent actions were not dictated by ulterior motives.
16. That implied in our Mishnah.
17. V. *supra* note 5.
18. As husbands and wives lived in peace until the former had met the other women, there is good reason to suspect that the divorces were due to these meetings.
19. Hence there is cause for suspicion.
20. V. *supra* note 8.
21. Of the second husbands with whom marriage had taken place in the meanwhile.
22. In the second clause of the Previous Mishnah but one (*supra* 25a), where evidence was given that the woman's first husband had died or was killed.
23. Cf. *supra* n. 16.
24. Where a letter of divorce was brought by a messenger, (v. the first clause of the Mishnah *supra* 25a).
25. Which allows a woman to marry a third husband though her first two husbands had died or divorced her.
26. V. [Glos.](#) An established characteristic or defect in the woman, physical or moral, which confirms her as the cause of the death of her husbands or as the cause of the divorces. Hence, she should not have been permitted ever to marry again.
27. Our Mishnah does not differ from Rabbi.
28. V.p. 158, n. 16.
29. V.p. 158, n. 19.
30. V. *supra* p. 158, n. 17. Hence no two husbands died or divorced the same woman, and no *Hazakah* could, therefore, have been constituted.
31. Cur. edd., 'we learned'.
32. Because there is reason to suspect that the marriage was planned by the man as a mere means of bringing him into closer association and intimacy with his paramour. Why, then, is this suspicion disregarded in the case of our Mishnah?
33. Misconduct may, therefore, occur and suspicion (v. previous note) is justified.
34. And suspicion that any intimate intercourse might take place would, therefore, be groundless.
35. May be said in reply.
36. With one another's husbands. The husband is not forbidden to his wife if cohabitation occurred between him and another woman.
37. V. note 8.
38. With one another's wives. The wife of one with whom the other cohabited is forbidden to her husband.
39. That men are watchful of one another, and that consequently there is no ground for suspicion.
40. Permitting the marriage of any of the women in question.
41. Why, then, does our Mishnah mention sons and brothers only?
42. Lit., 'it is not required he said'.
43. And would not venture to be too intimate with his wife.
44. Or brother.
45. The sisters.
46. The reason is explained in the Gemara, *infra*.
47. Lit., 'anticipated' (the ruling of the court).
48. In the case mentioned in the first paragraph of our Mishnah.
49. E.g., as a mother-in-law.
50. Who is not forbidden on account of her rival since the latter is biblically forbidden to the levir and cannot be regarded as his *Zekukah* (v. [Glos.](#)).
51. The term is used in the Mishnah *supra* 20a and discussed in the Gemara *loc. cit.*
52. The wife of her husband's brother.
53. V. *supra* 20a. Cf. *supra* p. 162, n. 6.
54. The first clause of our Mishnah.
55. Between the widow of a deceased childless brother and his surviving brothers, in consequence of which each widow being a *Zekukah* (v. [Glos.](#)), is forbidden as the sister of a *Zekukah*.
56. They are the widows of two different husbands and neither of them stands in any marital relationship with any of the surviving brothers (v. previous note).
57. A levirate bond then obviously does exist. That being so, why has the question of the existence of a levirate bond remained a matter of dispute in Ned. 742 and *supra* 17b?
58. The author of our Mishnah.
59. And thus be prevented from marrying the other widow.

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60. Because the surviving brother would then not be able either to marry, or to participate in the *Halizah* with the second widow who by that time will have become his wife's sister. If, however, *Halizah* only is performed with one brother and the death of the other should occur before the second widow had performed *Halizah* with him, no difficulty would arise, since the first brother may then participate in the *Halizah* of the second also.
61. That the reason for the prohibition of the levirate marriage with the widowed sisters is not the existence of a levirate bond but the endeavor to prevent the annulment of the precept of levirate marriage.
62. If two of them died childless and both their widows become subject to the levirate marriage or *Halizah* of the third. In this case too the third brother must only participate in *Halizah*; for, should he marry one of the sisters, the other would be forbidden, as the sister of his wife, either to marry him or to perform *Halizah* with him.
63. Lit., 'it is not required, do we say'.
64. That where one of three brothers survived, no levirate marriage must take place.
65. Were he to marry one of the widows. Cf. *supra* p. 162, n. 8.
66. Brothers, two of whom survived.
67. And that consequently one brother should marry one of the widows and the other brother the other.
68. Because provision must always be made against possible death.
69. v. previous note.

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the same applies to five brothers also!¹ -The possibility that two might die² need not be taken into consideration.

Rabbah³ son of R. Huna said in the name of Rab: If three sisters who are sisters-in-law fell to the lot of two brothers who are their brothers-in-law, one of the brothers participates in her *Halizah* with one, and the other brother participates in the *Halizah* with the other, but the third,⁴ requires *Halizah* from both. Said Rabbah to him: Since you say that the third widow requires submission to *Halizah* by both brothers, you must be holding the opinion that a levirate bond exists⁵ and that the *Halizah* is of an impaired character,⁶ and that as an impaired *Halizah* it must go the round of all the brothers;⁷ but if

so, [the same should apply to] the first [two sisters] also!⁸ — If they² had become subject [to the levirs] at the same time the law would indeed have been so;¹⁰ [the statement of our Mishnah, however,] was required only in the case where they become subject [to the levirs] one after another. When the first sister became subject to the obligation of the levirate marriage. Reuben¹¹ participated in her *Halizah*;¹² when the second came Under the obligation. Simeon¹³ participated in her *Halizah*;¹⁴ when the third came under the obligation.¹⁵ if the one brother participated in her *Halizah* he removed his own levirate bond,¹⁶ and when the other participated in the *Halizah* he likewise removed his own levirate bond. But, surely. Rab said that no levirate bond exists!¹⁷ — This statement¹⁸ he made in accordance with the opinion of him who maintains that a levirate bond does exist.

Samuel, however, stated that one brother participates in the *Halizah* with all of them. But consider: We have heard Samuel say that a proper *Halizah* is required for Samuel said:

1. Two of whom who were married to two sisters died and three survived. In this case also, if provision is to be made against the possibility of death, no levirate marriage should be allowed to any of the three survivors, since it might happen that two of the survivors would also die and the last and only surviving brother would be precluded from levirate marriage and *Halizah* because the widows would then be his wife's sisters.
2. Lit., 'for the death of two'.
3. So Emden. Cur. edd., 'Raba'.
4. Lit., 'the middle one'.
5. V. *supra* p. 162, n. 3'
6. Since each brother may only participate in *Halizah* with the widow but may not, as she is the sister of his *Haluzah* (v. [Glos.](#)), marry her. Such a *Halizah* is not of the same validity as one which is the alternative of a permitted levirate marriage.
7. The levirate bond between the widow and the other brothers cannot be dissolved by such a *Halizah* with one of them. [Me'iri seems to have had a shorter and smoother text: ... that a levirate bond exists and that an impaired *Halizah* must go the round of all the brothers'.]
8. Since they, like the third, are subject to the levirate bond, and with them also only *Halizah*, but not levirate marriage may take place, and

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their *Halizah* also is consequently of an impaired character.

9. All the three sisters.
10. *Halizah* would have had to be performed by every one of them with every brother.
11. I.e., the first brother. Reuben was Jacob's first son (Gen. XXIX, 32).
12. This was a proper *Halizah* since at that time he could have married her if he wished.
13. I.e., the second brother. Simeon was the second son of Jacob. (Cf. Gen. XXIX, 33)
14. This also was a proper *Halizah* since he could marry her if he wished. She is no longer the sister of his Zekukah (v. [Glos.](#)) since the first brother had already performed with that Zekukah proper *Halizah* and had thereby severed the levirate bond between her and Simeon as well as between her and himself.
15. Levirate marriage is no more possible since, in the case of each brother, she is the sister of his *Haluzah*, while exemption from *Halizah* cannot be granted because the prohibition to marry the sister of one's *Haluzah* is only Rabbinical and cannot supersede the Biblical precept which requires *Halizah* where no levirate marriage takes place.
16. Which otherwise could not have been severed. V. previous note.
17. *Supra* 17b.
18. Reported *supra* by Rabbah b. R. Huna.

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if he¹ participated in the *Halizah* with the sisters, the rivals are not exempt;² how then should Reuben,³ where the *Halizah* of Simeon⁴ has the force of a valid *Halizah*,⁵ participate in an impaired *Halizah*?⁶ — By saying. 'One brother participates in the *Halizah* with all of them' he also meant 'the third widow'.⁷ But surely, 'All of them' was stated!⁸ -As the majority is on his side⁹ it may be described as 'All of them'. If you prefer I might say: Only in respect of exempting one's rival¹⁰ did Samuel say that proper *Halizah* was required; as regards exempting herself, however, [any *Halizah*]¹¹ sets her free.¹²

[To turn to] the main text,¹³ Samuel said: If he¹⁴ participated in the *Halizah* with the sisters, the rivals are not exempt;¹⁵ if with the rivals. the sisters are exempt.¹⁶ If he¹⁷ participated in the *Halizah* with the one¹⁸ who had been divorced,¹⁹ her rival is not thereby exempt;²⁰ if with the rival²¹ the divorced

woman is exempt — 22 If he¹⁷ participated in the *Halizah* with one¹⁸ to whom he addressed a Ma'amar, her rival is not thereby exempt;²³ if with the rival,²⁴ the widow to whom the Ma'amar had been addressed is exempt.²⁵

In what respect are the sisters different that [by their *Halizah*] the rivals should not be exempted? Apparently because [each one of them] is 'his wife's sister' through the levirate bond;²⁶ [but for this very reason] the sisters also, if he participated in the *Halizah* with their rivals, should not be exempt, since those are the rivals of 'his wife's sister' through the levirate bond!²⁷ — Samuel holds the opinion that no levirate bond exists. But, surely, Samuel said that a levirate bond did exist!²⁸ - He was here speaking in accordance with the view of him who maintains that a levirate bond does not exist. If so,²⁹ why are not the rivals exempt when he participated in the *Halizah* with the sisters? One can well understand why Rachel's³⁰ rival is not exempt; for, as he had already participated in the *Halizah* of Leah³¹ and only subsequently participated in the *Halizah* of Rachel, Rachel's *Halizah* is a defective one;³² but Leah's rival should be exempt!³³ — When he³⁴ said that 'The rivals are not exempt', he meant indeed the rival of Rachel. But, surely, he used the expression 'rivals'!³⁵ — Rivals generally. If so,³⁶ how could the sisters be exempt if he participated in the *Halizah* with their rivals? Is Rachel exempt by the *Halizah* of her rival!³⁷ Surely we learned: A man is forbidden to marry the rival of the relative of his *Halizah*³⁸ — Samuel also [is of the same opinion] but draws a distinction according to the manner in which³⁹ one began or did not begin: If one began with the sisters⁴⁰ he must not finish with the rivals,⁴¹ for we learned, 'A man is forbidden to marry the rival of the relative of his *Haluzah*';⁴² but if he began with the rivals⁴³ he may finish even with the sisters,⁴⁴ for we learned, 'A man is permitted to marry the relative of the rival of his *Haluzah*'.⁴⁵

R. Ashi said: Your former assumption⁴⁶ may still be upheld, and [yet no difficulty⁴⁷ arises]

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because the levirate bond is not strong enough to make the rival equal to the forbidden relative herself.⁴⁸

It was taught in agreement with the view of R. Ashi: If the levir participated in the *Halizah* with the sisters, their rivals are not thereby exempt; but if with the rivals, the sisters are thereby exempt. What is the reason? Obviously⁴⁹ because he is of the opinion that a levirate bond exists and that that bond is not strong enough to make the rival equal to the forbidden relative herself.

R. Abba b. Memel said: Who is the author of this?⁵⁰ Beth Shammai; for we learned: Beth Shammai permit the rivals to the [surviving] brothers.⁵¹ If so,⁵² let them⁵³ be taken in levirate marriage also!⁵⁴ [This is] in agreement with R. Johanan b. Nuri who said: Come, let us issue an ordinance that the rivals perform the *Halizah* but do not marry the levir.⁵⁵ But did not a Master say that they had hardly time to conclude the matter before confusion set in?⁵⁶ — R. Nahman b. Isaac replied: After him⁵⁷ they re-ordained it.

The question was raised:

1. A levir whose two deceased childless brothers were survived by two widows who were sisters, each of whom had also a rival.
2. Because the *Halizah* with the sisters is defective, the levir not being in a position to marry either of them. Cf. *supra* p. 263, n. 11,
3. Cf. *supra* note 2,
4. cf. note 4.
5. Simeon, having participated in no *Halizah*, the second sister is not the sister of his *Haluzah*.
6. In the case of Reuben who had already participated in the *Halizah* of one sister, the *Halizah* with the second is a *Halizah* performed by the sister of his *Haluzah*, which is not a completely valid operation.
7. I.e., the second brother, after he participated in the *Halizah* with the second widow, also participates in the *Halizah* with the third (who is now the sister of his as well as of his brother's *Haluzah*): and there is no need, according to Samuel, for a defective *Halizah* to go the round of all the surviving brothers.
8. How- then could the expression 'all' refer to the second and third widows only?
9. Simeon having participated in the *Halizah* of two widows out of the three.

10. As he actually said, 'The rivals are not exempt'.
11. Even a defective one.
12. In the case of the three widows mentioned above, where there are no rivals, the defective *Halizah* is, therefore, valid even according to Samuel.
13. A passage from which was cited *supra* top of page.
14. V.p. 164, n. 10.
15. V.p. 164, n. 11.
16. As the prohibition to marry the rivals is not so severe as that of the sisters, the *Halizah* with the former is of greater validity and force than that with the latter. Cf. *supra* p. 163, n. 11.
17. The levir.
18. Of two sisters-in-law, widows of the same brother.
19. By the levir prior to the *Halizah*.
20. A *Halizah* after a divorce is defective, since the levirate bond had already been partially severed by the divorce that preceded it.
21. Since no letter of divorce was given to her.
22. *Infra* 51a.
23. Since the *Halizah* alone does not in this case exempt the widow; a divorce also, owing to the Ma'amar, being required.
24. To whom no Ma'amar had been addressed.
25. *infra* 53a.
26. In consequence of which he may marry neither of them and the *Halizah* in which he participates is for this reason of a defective character.
27. A rival taking the place of a forbidden relative, being subject to the same restrictions as the relatives, is also forbidden to be taken in levirate marriage.
28. *Supra* 18b.
29. That no levirate bond exists and the *Halizah* with the sisters is consequently perfectly valid.
30. I.e., the sister who was second to perform the *Halizah*. Rachel was Jacob's second, Leah his first wife (v. Gen. XXIX, 23-28).
31. I.e., the first sister. Cf. previous note.
32. Because Rachel cannot any more be married to him owing to her being the sister of his *Haluzah*.
33. Leah's *Halizah* having been perfect, since the levir could have married her if he wished.
34. Samuel.
35. The plural.
36. That the expression of 'rivals' refers only to rivals of the sister who was second to perform the *Halizah* and not to those of the first also.
37. Would the sister of a *Haluzah* be exempt by the *Halizah* of her rival?
38. *Infra* 40b. As he cannot marry the rival of Rachel who is his *Haluzah*'s sister, his *Halizah* with her would be of a defective character which, consequently, could not exempt Rachel.

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39. Lit., 'he said'.
40. Participated in the *Halizah* with one of them.
41. By participating in the *Halizah* with the rival of the second sister. Such *Halizah* would not exempt the sister.
42. Much more so the relative herself. The *Halizah*, therefore, being defective, would have to be performed by both the second sister and her rival.
43. If he participated in the *Halizah* with the rival of the first sister.
44. He may participate in *Halizah* not only with the rival of the second sister and thus exempt the sister herself, but also with the second sister and thus exempt her rival.
45. Rachel (the second sister), being the relative of Leah (the first sister) who is the 'rival' of the *Haluzah*, is consequently permitted to marry the levir, and her *Halizah* is, therefore, perfectly valid and exempts also her rival.
46. That the rivals are not exempted by the *Halizah* of the sisters, owing to its defectiveness which is due to the existence of the levirate bond (cf. *supra* p. 164, n. 21).
47. As to why the *Halizah* of the rival of the relative of a *Haluzah* should be more valid than that of the relative of the *Haluzah* herself (v. *supra* p. 266, n. 2).
48. The Rabbis who forbade the marriage of a Zekukah owing to the levirate bond did not extend the prohibition to her rival. The *Halizah* of the latter is, therefore, more valid and exempts also the former.
49. Lit., 'not'?
50. The Baraitha quoted.
51. *Supra* 132, 'Ed. Iv, 8; as marriage with the rivals is permitted, their *Halizah* also (cf. *supra* p. 163, n. 11) is perfectly valid.
52. That the Baraitha quoted represents the view of Beth Shammai.
53. The rivals.
54. Why then was only *Halizah* mentioned?
55. *Supra* 13b, 14b.
56. *Supra* 15a, q.v. notes.
57. R. Johanan b. Nuri.

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Between the one¹ who was given² a letter of divorce and the other¹ to whom a Ma'amar had been addressed² who is to be preferred?³ Is she who was divorced to be preferred,⁴ or is, perhaps, she to whom the Ma'amar had been addressed to be preferred since she is nearer to him in respect to intercourse? — R. Ashi replied, Come and hear: R. Gamaliel, however, admits⁵ that a letter of divorce⁶

after a Ma'amar,⁷ and a Ma'amar⁶ after a letter of divorce⁸ is valid.⁹ Now, if a letter of divorce has the preference,¹⁰ the Ma'amar after it should have no validity; and if the Ma'amar has the preference, the divorce after it should have no validity. Consequently it must be concluded that they have both equal validity. This proves it.

R. Huna¹¹ said in the name of Rab: If two sisters who were sisters-in-law became subject to one levir, the one is permitted¹² when he¹³ has participated in her *Halizah*; and the other is permitted¹⁴ when he has participated in her *Halizah*. If the first¹⁵ died¹⁶ he¹⁷ is permitted [to marry] the second,¹⁸ and there is no need to state that if the second¹⁹ died¹⁶ the first is permitted,¹⁴ since, as a sister-in-law who was permitted,²⁰ then forbidden²¹ and then again permitted,²² she returns to her former state of permissibility. R. Johanan, however, said: If the second¹⁹ died¹⁶ he¹⁷ is permitted to marry the first,²³ but if the first²⁴ died he is forbidden to marry the second.¹⁹ What is the reason? Because any sister-in-law to whom the injunction. Her husband's brother shall go in unto her²⁵ cannot be applied at the time of her coming under the obligation of the levirate marriage²⁶ is, indeed,²⁷ like the wife of a brother who has children and is, consequently, forbidden. But does not Rab hold the same view?²⁸ Surely Rab said: Any woman to whom the injunction, Her husband's brother should go in unto her²⁵ cannot be applied at the time of her coming under the obligation of the levirate marriage is, indeed, like the wife of a brother who has children and is, consequently, forbidden!²⁹ - That statement³⁰ applies only to the case where the woman is faced with the prohibition of 'a wife's sister', which is Pentateuchal;³¹ here, however, [the prohibition due to] the levirate bond is only Rabbinical.³²

R. Jose b. Hanina raised the following objection against R. Johanan:³³ IN THE CASE OF FOUR BROTHERS, TWO OF WHOM WERE MARRIED TO TWO SISTERS, IF THOSE WHO WERE

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MARRIED TO THE SISTERS DIED, BEHOLD, THESE MUST PERFORM HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. But why? Let one of the brothers take on the duty of participating in the *Halizah* with the second widow, and thus place the first widow, in relation to the second, in the category of a deceased brother's wife that was permitted-then forbidden, and then again permitted,³⁴ and thus she would return to her former state of permissibility! — The other replied: I do not know who was the author of the statement concerning the sisters.³⁵ But let him rather reply that the meaning of the expression of MUST PERFORM THE HALIZAH, which had been used, indeed signifies that only one is to perform the *Halizah*!³⁶ -The expression used was THEY MUST PERFORM THE HALIZAH.³⁷ Then let him reply that the expressions THEY MUST PERFORM THE HALIZAH³⁷ refers to women generally³⁸ who perform the *Halizah*!-It was stated, BEHOLD THESE.³⁹ Let him, then, reply that [this is a case] where *Halizah* was already performed by the first!⁴⁰ -[The expression] THESE MUST PERFORM HALIZAH

1. Of two widows of the same husband who was survived by one brother.
2. By the surviving brother.
3. In respect of the *Halizah*, if that *Halizah* is to exempt the rival. None of these widows may be taken in levirate marriage: the one, because a letter of divorce was given to her, and the other, because she is the rival of the former. The only question is, which of the two should perform the *Halizah* and which should thereby be exempt.
4. I.e., shall she perform the *Halizah* and thus exempt her rival? Cur. edd. add., 'because he began with her with *Halizah*'. Rashal (Glosses. a.l.) reads, 'divorce' for '*Halizah*'. Both additions are absent in MSS, v. Tosaf. s.v. [H])
5. Though he holds that a divorce to one of the widows of his deceased brothers after a divorce to her rival is invalid (*infra* 50a).
6. To one of the widows of his deceased childless brother.
7. That had been first addressed to the other widow, her rival.
8. Given first to the other.
9. *Infra* 51a. Lit., 'there is'. If the Ma'amar was made first, the subsequent divorce forbids the

marriage of the second and also that of the first, the Ma'amar to her not being regarded as actual marriage, and if the divorce was first and the Ma'amar afterwards, the second widow also requires a divorce, the divorce of the first not having the force of *Halizah* to invalidate the Ma'amar addressed to the second.

10. Over the Ma'amar.
11. Asheri: Judah.
12. To marry any stranger.
13. The levir.
14. To marry any stranger.
15. Widow; the one whose husband died first, and who became subject to the levirate marriage before the other.
16. Before she had performed the *Halizah* with the levir.
17. The levir.
18. Since death had severed his levirate bond with the first, and the surviving widow is no longer the sister of a Zekukah.
19. The widow of the brother who died after the first, and who became subject to the levirate marriage after the subjection of the first.
20. To the levir. At the time she became subject to him there was no other Zekukah.
21. When her sister's husband died.
22. When her sister died.
23. V. note 2, because at the time she became subject to the levirate marriage she was permitted to him.
24. V. note 2.
25. Deut. XXV, 5.
26. As in this case where she was forbidden to the levir, as 'the sister of his Zekukah', at the time she came under the obligation of the levirate marriage through her husband's death.
27. Lit., 'behold'.
28. That had been advanced by R. Johanan.
29. *Infra* 30a, 111b.
30. Of Rab, just quoted.
31. As in the case of three brothers two of whom were married to two sisters (*infra* 30a) in connection with which Rab made his statement.
32. And is, therefore, removed as soon as one of the sisters dies.
33. The same objection applies to Rab also (Rashi). Cf. however, Tosaf. s.v. [H] a.l.
34. V. *supra* 2 p. 169, nn. 7, 11.
35. I.e., the Mishnah is not authoritative. —
36. Lit., 'she performs the *Halizah*, (namely) one', i.e., the second widow.
37. [H] the pr. particip. plural.
38. In similar circumstances.
39. Which implies the two spoken of.
40. So that the other, who is not exempted by that of the first, must also perform *Halizah*.

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Yebamoth 28a

is an instruction as to what it is the proper thing to do.¹ Let him reply that it² was a preventive measure against the possibility of the levir's participating first in the *Halizah* of the first!³ — It was stated, **BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE**, i.e., the law of the levirate marriage is not applicable here at all.⁴ Let him, then, reply that it⁵ was a preventive measure in case he⁶ might die,⁷ it being forbidden to annul the precept of levirate marriage!⁸ — R. Johanan makes no provision against possible death.⁹ Then let him reply that it⁵ is the ruling of R. Eleazar¹⁰ who said that so long as she remained forbidden to him for one moment she is forbidden to him for ever!¹¹ — Since the latter clause [represents the view of] R. Eleazar,¹² the first clause cannot represent his view. Then let him reply that it¹³ is a case where they¹⁴ fell under the obligation¹⁵ at the same time, and that it represents the opinion of R. Jose the Galilean who maintains that it is possible to ascertain simultaneity!¹⁶ — The Tanna would not have recorded an anonymous Mishnah in agreement with the view of R. Jose the Galilean. Let him reply [that it¹³ is a case] where it is not known which¹⁷ came under the obligation¹⁵ first!¹⁸ — If that were the case¹⁹ how could it have been stated,²⁰ **EVEN IF THEY HAD ALREADY MARRIED THEM THEY MUST DISMISS THEM!** In the case of the first,²¹ at least, one can understand [the reason],²² since he can be told, 'Who permitted her to you'?²³ In the case, however, of the second,²⁴ the levir²⁵ could surely claim, 'My friend²⁶ has taken the second in levirate marriage²⁷ and I take the first'²⁸ This, then,²⁹ is the reason why he³⁰ said to him,³¹ 'I do not know who was the author of the statement concerning the sisters'.³²

We learned: **IF ONE OF THE SISTERS WAS FORBIDDEN TO ONE [OF THE BROTHERS] UNDER THE PROHIBITION OF INCEST,³³ HE IS FORBIDDEN TO MARRY HER BUT MAY MARRY HER SISTER, WHILE TO THE SECOND**

BROTHER BOTH ARE FORBIDDEN. It was now assumed that his mother-in-law³⁴ came under the obligation³⁵ first.³⁶ Now, why [should both sisters be forbidden]?³⁷ Let the son-in-law undertake the duty of marrying first that sister who is not his mother-in-law,³⁸ and his mother-in-law, in relation to the other levir, would thereby come into the same category as a sister-in-law that was permitted,³⁹ then forbidden,⁴⁰ and then permitted again,⁴¹ who returns to her former state of permissibility! R. Papa replied: [They are forbidden] in a case where she who was not his mother-in-law came under the obligation⁴² first.⁴³

R. ELIEZER SAID: BETH SHAMMAI HOLD, etc. The following was taught: R. Eliezer said: Beth Shammai hold that they may retain them, and Beth Hillel hold that they must dismiss them. R. Simeon said: They may retain them. Abba Saul said: Beth Hillel uphold in this matter the milder rule, for it was Beth Shammai who said that the women must be dismissed while Beth Hillel said they may be retained.⁴⁴

Whose view does R. Simeon represent?⁴⁵ If that of Beth Shammai,⁴⁶ he is merely repeating R. Eliezer; if that of Beth Hillel,⁴⁶ he is repeating Abba Saul! It was this that he meant: In this matter there is no dispute at all between Beth Shammai and Beth Hillel.

IF ONE OF THE SISTERS, etc. But we have learned this already: When her sister is her sister-in-law she may either perform *Halizah* or be taken in levirate marriage!⁴⁷ — [Both are] necessary. For had the law been stated there⁴⁸ it might have been assumed [to apply to that case alone],⁴⁹ because there is no need to enact a preventive measure against a second brother,⁵⁰ but not [to the case] here where it might be advisable to issue a preventive measure against a second brother.⁵⁰ And had the law been stated here,⁵¹ it might have been assumed [to apply to this case alone] because there is a second brother who proves it⁵² but not [to that case] where no second brother exists.⁵³ [Hence were both] required.

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BY VIRTUE OF A COMMANDMENT, etc.
But we have [already] learned this also:

1. And not as to what is to be done in certain eventualities. Lit., 'for as at the beginning, it was taught'.
2. The provision that both widows are to perform *Halizah* and that none may be taken in levirate marriage.
3. And then he would marry the second, in his erroneous assumption that, as he may participate in the *Halizah* of the second and marry the first, so he may participate in the *Halizah* of the first and marry the second. This, however, does not imply that if he already did participate in the *Halizah* of the second he may not, after her death, marry the first. In this latter case the reason for the marriage with the first would be obvious and would leave no room for erroneous conclusions.
4. Even if *Halizah* was first performed by the second.
5. The provision in our Mishnah that both widows must perform *Halizah* and none of them may be taken in levirate marriage.
6. One of the surviving brothers who intended to marry one of the widowed sisters.
7. After the second brother had married the second widow and had thus become disqualified from marrying or participating in the *Halizah* of the other — who is now forbidden to him as the sister of his wife.
8. And this only is the reason for the prohibition of the levirate marriage with either of the sisters. Had this prohibition been due to the levirate bond, as suggested, the first would certainly have been permitted to marry the levir after *Halizah* with the second, which had severed the levirate bond, had taken place. Consequently, in the case discussed by R. Johanan, where the second died, and the preventive measure is not applicable, the first may indeed be taken in levirate marriage!
9. The ruling in our Mishnah could not, therefore, be due to a preventive measure.
10. BaH a.l. reads, 'Eliezer' throughout the context.
11. *Infra* 1092; while R. Johanan, agreeing with the Rabbis, may disregard this individual opinion.
12. His authorship being specifically stated there.
13. V. note 2, *supra*
14. Both sisters.
15. Of the levirate marriage.
16. *supra* 19a, Bek. 92a
17. Of the two widowed sisters.
18. So that there is no known 'second' widow with whom to participate in the *Halizah*
19. That the prohibition in our Mishnah to marry the two widowed sisters is entirely due to the fact that it is not known which of them was the first to become a widow and which was second; and that, had the fact been known, the first would have been permitted to be taken in the levirate marriage.
20. Lit., '(is it) that why it was stated'!
21. I.e., the levir who married first, Cf. BaH a.l. Cur. edd. read, [H] for [H]
22. Why the woman must be dismissed.
23. Before the marital bond between him and her sister was severed she was forbidden to him as the sister of his Zekukah. Hence he must rightly dismiss her.
24. Levir (v. BaH) who married *after* his brother had married one of the widows. Cur. edd. [H] for [H].
25. When he is ordered to divorce the woman.
26. The levir who married first.
27. I.e., the sister who became widow second; and naturally no one could disprove his contention.
28. Who became permitted to him owing to the previous marriage of her sister who, he claims, was the second widow. The marriage of the second severs the marital bond between the sister and the levirs, and thus liberates the first from the prohibition of 'the sister of one's Zekukah' and brings her under the category of 'permitted, forbidden and permitted again'.
29. Since this last suggested answer is also untenable.
30. R. Johanan, *supra* 27b.
31. R. Jose.
32. Cf. *supra* p. 170. n. 3'
33. If she was, for instance, his mother-in-law.
34. V. previous note. 'Mother-in-law' is taken as an instance of any forbidden relative.
35. Of the levirate marriage.
36. I.e., her husband died before the other brother.
37. To marry the other levir.
38. That widow is permitted to him, because she is neither his forbidden relative nor the sister of his Zekukah, since a forbidden relative is not a Zekukah.
39. Since at the time she became subject to the levirate marriage she was not the sister of a Zekukah.
40. When her sister became the Zekukah of the surviving levirs by the death of her husband.
41. 'When his brother had contracted with her the levirate marriage.
42. Of the levirate marriage.
43. So that his mother-in-law who came under the obligation next was never for one moment permitted even to the other levir.
44. Tosef. v.
45. Lit., 'R. Simeon like whom'. He could not possibly advance a view of his own, since he is

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not sufficiently great to disagree either with Beth Shammai or with Beth Hillel.

46. I.e., if he maintains that what he said was their view.
47. *Supra* 20a, which Implies the law here stated, viz., that he is forbidden to marry the forbidden relative but may marry her sister.
48. And not here.
49. Where one brother only is involved.
50. Who might marry a sister of his Zekukah by mistaking the reason for the levirate marriage of his brother.
51. And not there.
52. That there is a special reason why his brother may marry one of the sisters. The fact that he himself does not marry either of the sisters is sufficient proof that the sister of a Zekukah is forbidden.
53. And people might erroneously infer that the sister of a Zekukah is always permitted.

Yebamoth 28b

If she is forbidden by virtue of a commandment or by virtue of holiness she must perform *Halizah* and may not be taken in levirate marriage!¹ -There¹ it is a question of one forbidden by virtue of a commandment alone,² but here [it is a case of one] forbidden by virtue of a commandment and [by virtue of] her sister.³ Since it might have been assumed that the prohibition by virtue of a commandment shall take the same rank as the prohibition by the law of incest⁴ and [her sister] should, therefore, be taken in levirate marriage, hence we were taught [that the law is not so].

But how could she⁵ possibly be taken in levirate marriage? Since Pentateuchally she⁶ is to submit to him,⁷ he would come in contact with the sister of his Zekukah⁸ -It might have been thought that such provision⁹ was made by the Rabbis for the sake of the precept,¹⁰ hence we were taught [that it was not so].

IF ONE OF THE SISTERS, etc. What need was there again for this statement? Surely, it is precisely identical [with the one before]!¹¹ For what difference is there whether [a woman is forbidden] to one or to two? — [Both are] required. For had the former only¹² been stated, it might have been assumed [that the law was applicable there

only] because there exists a second brother to indicate the cause,¹³ but not here where there is no second brother to indicate it.¹⁴ And if the statement had been made here only it might have been assumed on the contrary that both brothers afford proof in regard to each other,¹⁵ but not in the other case;¹⁶ [hence both were] required.

THIS IS THE CASE CONCERNING WHICH IT HAS BEEN SAID, etc. What is the expression, THIS IS intended to exclude?¹⁷ -To exclude the case [where one sister was forbidden by] Virtue of a commandment to the one [brother]. and [the other sister was forbidden] by virtue of a commandment to the other. But what need was there for this [additional statement]? Surely it is precisely identical [with that mentioned before];¹⁸ for what difference is there whether it relates to one or to two! — It might have been thought that only where there is the necessity of providing for a preventive measure against a second brother do we not say that the prohibition by a commandment takes the same rank as a prohibition by the law of incest,¹⁹ but that where there is no necessity to provide against a second brother we do say that in the case of the one brother the prohibition by a commandment is to be given the same force as the prohibition by the law of incest, and that also in the case of the other brother the prohibition by a commandment is to be given the same force as the prohibition by the law of incest, and that the sisters may consequently be taken in levirate marriage; hence we were taught [that such an assumption is not to be made].

Rab Judah said in the name of Rab and so did R. Hiyya teach: In the case of all these²⁰ it may happen that she who is forbidden to one brother²¹ may be permitted to the other,²² and that her sister who is her sister-in-law may either perform the *Halizah* or be taken in the levirate marriage;²³ and Rab Judah interpreted it²⁴ [as referring to those]²⁵ from one's mother-in-law onward but not to the first six categories. What is the reason?

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Because this²⁶ is only possible in the case of a daughter born from a woman who had been outraged.²⁷ but not in that of a daughter born from a legal marriage.²⁸ [and the author of that Mishnah]²⁹ deals only with cases of legal matrimony and not with those of outraged women.³⁰

Abaye, however, interprets it²⁴ as referring also to a daughter from a woman that had been outraged. because, since [the application of Rab's statement]³¹ is quite possible in her case, it matters not whether she was born from a woman who was legally married or from one that had been outraged; but not to the 'wife of a brother who was not his contemporary' since this³¹ is possible only according to the view of R. Simeon³² and not according to that of the Rabbis and he³³ does not deal with any matter which is a subject of controversy. But R. Safra interprets [it³⁴ as referring] also to the 'wife of a brother who was not his contemporary', and this³⁴ is possible in the case of six brothers in accordance with the view of R. Simeon.³⁵ And your mnemonic is, 'died, born, and performed the levirate marriage; died, born, and performed the levirate marriage'.³⁶ [Suppose. for instance]. Reuben and Simeon³⁷ were married to two sisters, and Levi and Judah were married to two strangers. When Reuben died, Issachar was born and Levi took the widow in levirate marriage. When Simeon died, Zebulun was born and Judah took [the second widow] in levirate marriage. When Levi and Judah subsequently died without issue and their widows fell under the obligation of the levirate marriage before Issachar and Zebulun, she³⁸ who is forbidden to the one³⁹ is permitted to the other⁴⁰ while she⁴¹ who is forbidden to the other⁴² is permitted to the first.⁴³

In the example of 'her sister who is her sister-in-law',⁴⁴ what need was there⁴⁵ for Judah to contract the levirate marriage? Even if Judah did not contract any levirate marriage it is also possible!⁴⁶ — Owing to the rival.⁴⁷ This⁴⁸ satisfactorily explains the case of the rival; what can be said, however, in respect of the

rival's rival?⁴⁹ — If, for instance, Gad and Asher also subsequently married them.⁵⁰

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS, OR TO A WOMAN AND HER DAUGHTER, OR TO A WOMAN AND HER DAUGHTER'S DAUGHTER, OR TO A WOMAN AND HER SON'S DAUGHTER, BEHOLD, THESE⁵¹ MUST⁵² PERFORM THE *HALIZAH*⁵³ BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.⁵⁴ R. SIMEON, HOWEVER, EXEMPTS THEM.⁵⁵ IF ONE OF THEM⁵⁶ WAS FORBIDDEN TO HIM BY THE LAW OF INCEST, HE IS FORBIDDEN TO MARRY HER BUT IS PERMITTED TO MARRY HER SISTER. IF, HOWEVER, THE PROHIBITION IS DUE TO A COMMANDMENT OR TO HOLINESS, THEY MUST PERFORM THE *HALIZAH* BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

GEMARA. It was taught: R. Simeon exempts both from the *Halizah* and the levirate marriage. for it is said in the Scriptures, And thou shalt not take a woman to her sister, to be a rival to her:⁵⁷ when they become rivals to one another,⁵⁸ you may not marry even one of them.

IF ONE OF THEM WAS, etc. What need was there again for this statement? Surely it is the same!⁵⁹ -It was necessary because of the opinion of R. Simeon: As it might have been assumed that, since R. Simeon had said that two sisters were neither to perform *Halizah* nor to be taken in levirate marriage. A preventive measure should be enacted⁶⁰ against two sisters generally.⁶¹ hence we were taught⁶² [that it was not so].⁶³

IF, HOWEVER, THE PROHIBITION IS DUE TO A COMMANDMENT, etc.

1. *Supra* 202, Sanh. 532.
2. Only one sister-in-law being concerned.
3. Since two sisters, the widows of the two brothers, are here involved, and one of them is forbidden not only as the sister of his Zekukah but also by virtue of a commandment.
4. As the one is not regarded as a Zekukah so neither is the other.
5. The sister of one forbidden by virtue of a commandment.

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6. The sister-in-law forbidden by virtue of a commandment.
7. To levirate marriage; her prohibition being only Rabbinical.
8. Which cannot obviously be permitted. What need, then, was there for a law that is so obvious.
9. The permission to marry the sister of his Zekukah.
10. Of the levirate marriage. In order that this precept may be fulfilled they may have removed the prohibition of the marital bond, which is only Rabbinical, in cases where the woman is not forbidden by the law of incest but by virtue of a commandment only.
11. Where one sister-in-law is similarly forbidden to one levir, and he is permitted to marry her sister.
12. Lit., 'there'.
13. Since one brother is forbidden to marry either sister it will be obvious that the brother was permitted to marry one of the sisters for a special reason.
14. Since both brothers marry respectively the two sisters, it might be assumed that any levir may marry the sister of his Zekukah.
15. Since each brother is permitted to marry only one particular sister and not the other, it is obvious that the other is forbidden to him. The law of Zekukah could not consequently be mistaken.
16. Where there is only one brother, and no other brother to indicate that there is a special reason why the sister of his apparent Zekukah, should be permitted to be taken in levirate marriage.
17. THIS IS implies this and no other.
18. In our Mishnah: [IF ONE SISTER] WAS FORBIDDEN BY VIRTUE OF A COMMANDMENT ... SHE MUST PERFORM THE HALIZAH AND MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.
19. V. *supra* p. 174. n. 6.
20. The fifteen forbidden categories enumerated in the Mishnah, *supra* 2af.
21. As a forbidden relative under the law of incest.
22. With whom she is not so closely related.
23. The prohibition of the one under the law of incest removes the marital bond, and her sister who, in consequence, is no longer the 'sister of a Zekukah', may, therefore, be married to, or perform the *Halizah* with the levir to whom the former is forbidden.
24. Rab's statement.
25. Of the fifteen relatives enumerated in the Mishnah mentioned.
26. That two sisters shall be the daughters of two brothers, and that the one forbidden to one brother shall be permitted to the other brother. V. n. 8.
27. If, of four brothers, A, B, C and D, A had a daughter from a woman he had outraged. and B had a daughter from the same woman whom he outraged after A, and these daughters of A and B, who are maternal sisters, married their father's brothers, C and D, who subsequently died without issue, A's daughter is permitted to B (who is her brother-in-law but otherwise a complete stranger) and is forbidden to A her father. For similar reasons A's daughter is permitted to A and forbidden to B. Thus it is possible for two sisters to marry the two levirs respectively because each one of them is a daughter of the other levir to whom she is forbidden by the law of incest.
28. Since the mother of such a daughter would be forbidden to marry her husband's brother, even though she had been divorced by her husband after the birth of that daughter.
29. *Supra* 2a, which is now under discussion.
30. And since the case of a daughter could not be included (v. *supra* nn. 8 and 9), the other five cases which also bear on a daughter had equally to be excluded.
31. V. *supra* p. 176. n. 7.
32. *Supra* 18b. V. also R. Safra's interpretation and notes, *Infra*.
33. Rab or R. Hiyya.
34. Rab's statement.
35. Who in certain circumstances permits the marriage of the 'widow of a brother who was not his contemporary'. V. *supra* 18b.
36. v. *infra*, when (a) death, (b) birth and (c) marriage occurred in this order in the case of both groups of brothers.
37. Jacob's sons, the sequence of whose births is known (v. Gen. XXIX, 32 - XXX, 20), are taken here as an illustration of the possibility of the application of Rab's statement in certain circumstances of birth, death and marriage.
38. The widow of Levi.
39. To Issachar, because he was born before the marriage of Levi had removed the levirate bond between Reuben's widow and the other brothers, and thus came under the prohibition of marrying 'the wife of his brother who was not his contemporary'.
40. To Zebulun who was born after she had married Levi and the levirate bond between her and the other brothers had been removed.
41. The wife of Judah.
42. To Zebulun, to whom the widow of Simeon stands in the same relation as the widow of Reuben to Issachar. (V. *supra* note 9).
43. Issachar who was Simeon's contemporary.
44. *Supra*.
45. In R. Safra's interpretation.
46. For one sister to be forbidden to one brother and permitted to the other, and vice versa. Suppose Reuben died, and then Issachar was

YEVOMOS – 20a-40b

born, and Levi married the widow; then Simeon died, Zebulun was born, and Levi died; and the widows of Simeon and Levi came under the obligation of the levirate marriage with Issachar and Zebulun. Levi's widow is forbidden to Issachar owing to the levirate bond originating from her first husband, Reuben, (v. *supra* p. 177, n. 9) and is permitted to Zebulun (v. p. 177, n. 10), while Simeon's widow is forbidden to Zebulun (v. p. 177, n. 12) and permitted to Issachar (v. p. 177, n. 13). Now, since the point may be illustrated by five brothers, why was it necessary to bring in six?

47. As the Mishnah under discussion (*supra* 2af) speaks of the rivals it was desired to give an illustration which may be applicable to rivals as well as to the forbidden relatives, and this could only be done by assuming that Judah married Simeon's widow. Had he not married her, the rival would have had to be not Judah's but Simeon's wife who would thus be forbidden to Zebulun not as 'rival' but as 'the wife of his brother who was not his contemporary'.
48. The illustration with the six brothers.
49. How is it possible that one rival's rival shall be forbidden to one brother and permitted to the other while the other rival's rival should be forbidden to the other brother and permitted to the first?
50. The first wives of Levi and Judah (the rivals of their second wives, the widows of Reuben and Simeon). If Gad who married, say, the widow of Judah, and Asher who married, say, the widow of Levi died subsequently without issue and were survived by their wives who are now subject to the levirate marriage with Issachar and Zebulun the surviving brothers, Gad's first wife, the rival of his second wife (the widow of Judah) who was the rival of Simeon's wife, is forbidden to Zebulun as the rival's rival of the wife of Simeon who was not his contemporary, but is permitted to Issachar. Similarly Asher's first wife is forbidden to Issachar and permitted to Zebulun.
51. The women enumerated.
52. If their husbands, the two brothers, died without issue.
53. With the third surviving brother.
54. By that brother; since both are related to him by the 'levirate bond' and each is forbidden to him as the consanguineous relative of the woman connected with him by such bond.
55. Even from the *Halizah*. V. Gemara *infra*.
56. The sisters.
57. Lev. XVIII, 18.
58. The levirate bond which subjects both to the same levir causing them to be rivals.

59. As that which had been taught in an earlier Mishnah in the case of four brothers, *supra* 26a.
60. Forbidding levirate marriage even where the prohibition of one is due to the law of incest.
61. Lit., 'of the world'. If permission to marry one of the sisters were given where one is forbidden by the law of incest, it might be mistakenly concluded that levirate marriage is allowed even when none was forbidden by the law of incest.
62. By the statement in our Mishnah that one IS PERMITTED TO MARRY HER SISTER.
63. The similar statement in the earlier Mishnah (*supra* 262) does not prove this point as far as R. Simeon is concerned, since it refers to the view of the Rabbis according to whom the marriage of the sister of a Zekukah is only Rabbinically forbidden and no preventive measure is obviously required against a possible infringement of such a prohibition. According to R. Simeon, however, who regards the marriage of a sister of a stekukah as incest, a preventive measure might have been expected had not our Mishnah proved the contrary.

Yebamoth 29a

But did not R. Simeon state that two sisters¹ are neither to perform the *Halizah* nor to be taken in levirate marriage!² — This³ is a preventive measure against any other case where the prohibition is due to a commandment — 4 This is a satisfactory explanation in respect of herself;⁵ what, however, can be said in respect of her sister?⁶ -The provision was made in the case of her sister as a preventive measure against herself.⁷ But, surely, no such preventive measures were made in the case where one was forbidden as incest!⁸ — A case of incest is different because people are well acquainted with it⁹ and it¹⁰ is well known.¹¹

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS UNMARRIED,¹² AND WHEN ONE OF THE SISTERS HUSBANDS DIED, THE UNMARRIED BROTHER ADDRESSED TO HER¹³ A MA'AMAR,¹⁴ AND THEN HIS SECOND BROTHER DIED, BETH SHAMMAI SAY: HIS WIFE¹⁵ [REMAINS] WITH HIM WHILE THE OTHER IS EXEMPT¹⁶ AS BEING

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HIS WIFE'S SISTER.¹⁷ BETH HILLEL, HOWEVER, MAINTAIN THAT HE MUST DISMISS HIS WIFE¹⁸ BY A LETTER OF DIVORCE¹⁹ AND BY HALIZAH,²⁰ AND HIS BROTHER'S WIFE BY HALIZAH.²¹ THIS IS THE CASE IN REGARD TO WHICH IT WAS SAID: WOE TO HIM BECAUSE OF HIS WIFE, AND WOE TO HIM BECAUSE OF HIS BROTHER'S WIFE.²²

GEMARA. What was THIS IS meant to exclude?²³ — To exclude the statement²⁴ of R. Joshua,²⁵ [and to indicate] that we do not act in accordance with his view but either in accordance with that of R. Gamaliel or that of R. Eliezer.

R. Eleazar said: It must not be assumed that a *Ma'amar* according to Beth Shammai constitutes a perfect *Kinyan*,²⁶ so that, if he²⁷ wishes to dismiss her, a letter of divorce is sufficient; but rather that, according to Beth Shammai, a *Ma'amar* constitutes a *Kinyan* only so far as to keep out the rival.²⁸ Said R. Abin: We also have learned the same thing: Beth Shammai said, 'They may retain them',²⁹ which implies that they may only retain them³⁰ but [that they may] not [marry them] at the outset.³¹

1. Who are both subject to levirate marriage.
2. Owing to the levirate bond which Pentateuchally binds both sisters to the levir. Why, then, should *Halizah* be performed here where Pentateuchally both sisters are subject to the levirate marriage and each is, consequently, forbidden as the sister of a Zekukah?
3. The provision that *Halizah* shall be performed.
4. Were *Halizah* to be discarded in this case, an erroneous conclusion might be formed that it is to be discarded in all cases where the prohibition is due to a commandment (as if it had been due to the Pentateuchal laws of incest). even if the question of the sister of a Zekukah did not arise.
5. The sister forbidden by a commandment.
6. Why is she not exempt from the *Halizah* as the sister of a Zekukah?
7. [H] or [H] 'ill-luck [H] 'her ill-luck'. Others render, 'company'. As the sister who is forbidden by a commandment is subject to *Halizah* (as a preventive measure, for the reason previously stated) so must her sister (so

that one case be not mistaken for the other) be also subject to the same measure.

8. V. our Mishnah: HE IS FORBIDDEN TO MARRY HER BUT IS PERMITTED TO MARRY HER SISTER, and no preventive measure against the sister was enacted.
9. And would know that one sister was forbidden because of incest.
10. The cause why the second sister is taken in levirate marriage.
11. Lit., 'it has a voice'. And no one would in consequence permit elsewhere the marriage of the sister of another Zekukah who is not forbidden by the laws of incest.
12. [H] 'empty'.
13. The widow.
14. V. [Glos.](#)
15. The sister-in-law to whom he addressed the *Ma'amar* though he had not actually married her. A *Ma'amar*, according to Beth Shammai, constitutes legal marriage in this respect. V. *infra*.
16. From levirate marriage and *Halizah*.
17. Since her sister is regarded as legally married she is no more the sister of the levir's Zekukah but of his wife.
18. Cf. *supra* n. 4.
19. Since the *Ma'amar* is partially regarded as marriage.
20. A *Ma'amar*, according to Beth Hillel, does not constitute a proper marriage, and she is now the sister of a Zekukah. V. following note.
21. v. previous note. As the *Ma'amar* did not constitute a proper marriage with her sister she is the sister of a Zekukah who may not contract levirate marriage but must perform *Halizah*.
22. V. *infra* 109a. The second widow who becomes subject to him through the levirate law is not only herself forbidden to marry him (cf. note 10) but deprives him also of the first widow, his virtual wife. (Cf. note 9)-
23. THIS IS implying this but not other cases.
24. Lit., 'that'.
25. *Infra* 109a.
26. V. [Glos.](#), i.e., perfect marriage.
27. The levir.
28. I.e., her rival who is her sister does not cause her to be forbidden to the levir as the 'sister of a Zekukah'.
29. *Supra* 26a, in the case where the levirs married the sisters-in-law before consulting the *Beth Din* as to the permissibility of their action.
30. If they had already married them.
31. Because each one is the sister of a Zekukah. Lit., 'they may retain, yes; for as at the start, not'.

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Yebamoth 29b

Now, if it could be assumed that a *Ma'amar*, according to Beth Shammai, constitutes a perfect *Kinyan*, let the one levir address a *Ma'amar*¹ and constitute thereby a *Kinyan*,² and let the other also address a *Ma'amar*¹ and thereby constitute a *Kinyan*.³ What then! [Is it your inference that] it⁴ keeps the rival completely out?⁵ Let then one levir address a *Ma'amar*¹ and keep her out⁶ and let the other levir also address a *Ma'amar*¹ and keep her out!⁷ What, however, may be said in reply? That a permitted *Ma'amar*⁸ does keep the rival out, while a forbidden *Ma'amar*⁹ does not keep her out; so also here, even according to him who maintains that a *Ma'amar* constitutes a perfect *Kinyan*, only a permitted *Ma'amar*¹⁰ constitutes a *Kinyan*. but a forbidden one⁸ does not.

R. Ashi taught it¹¹ in the following manner: R. Eleazar said: It must not be assumed that a *Ma'amar*, according to Beth Shammai, keeps the rival¹² completely out, and that she does not require even *Halizah*; but rather it¹³ keeps her out¹⁴ and still leaves [a partial bond].¹⁵ Said R. Abin: We also have learned the same thing: Beth Shammai said, 'they may retain them',¹⁶ which implies that they may only retain them¹⁶ but [that they may] not [marry them] at the outset.¹⁷ Now, if it could have been assumed that a *Ma'amar*, according to Beth Shammai, keeps a rival out completely. let the one levir address a *Ma'amar*,¹⁸ and thus keep her out.¹⁹ and let the other also address a *Ma'amar*¹⁸ and so keep her out.²⁰ But. surely. it was taught. BETH SHAMMAI SAY: HIS WIFE [REMAINS] WITH HIM WHILE THE OTHER IS EXEMPT AS HIS WIFE'S SISTER!²¹ — The fact is, a Yebamah who is eligible for all²² is also eligible for a part,²³ a Yebamah who is not eligible for all²⁴ is not eligible for a part.²⁵

Rabbah inquired: Does a *Ma'amar*, according to Beth Shammai, constitute marriage or betrothal? — Said Abaye to him: On what practical issue [does this question bear]? Shall

I say on [the issue] of inheriting from her,²⁶ defiling himself to her²⁷ or annulling her vows?²⁸ Surely, [it could be answered that] seeing that in the case of²⁹ ordinary betrothal³⁰ R. Hiyya taught, that where the wife has only been betrothed³¹ [the husband] is neither subject to the laws of onan³² nor may he defile himself for her.²⁷ and she in his case is likewise not subject to the laws of onan³³ nor may she defile herself for him,³⁴ and that if she dies he does not inherit from her though if he dies she collects her *Kethubah*;³⁵ is there any need [to speak of the case where] a *Ma'amar* had been addressed!³⁶ Rather. [the question is] in respect of introduction into the bridal canopy: Does it³⁷ constitute a marriage and, therefore. no introduction into the bridal canopy is required.³⁸ Or does it perhaps constitute betrothal and, consequently, introduction into the bridal canopy is required? The other replied: If where he did not address to her any *Ma'amar* it is written [in Scripture]. Her husband's brother shall go in unto her,³⁹ even against her will, is there any need [to speak of the case where] he has addressed to her a *Ma'amar*?⁴⁰ The former retorted: Yes;⁴¹ since I maintain that whenever a levir has addressed a *Ma'amar* to his sister-in-law, the levirate bond disappears and she comes under the bond of betrothal. What [then is the decision]? —

Come and hear: In the case of a widow awaiting the decision of the levir.⁴² whether there be one levir or two levirs, R. Eliezer said, he⁴³ may annul [her vows]. R. Joshua said: [Only where she is waiting] for one and not for two.⁴⁴ R. Akiba said: Neither when she [is waiting] for one nor for two.⁴⁵ Now we pondered thereon: One can well understand R. Akiba, since he may hold that no levirate bond exists even in the case of one;⁴⁶ according to R. Joshua, the levirate bond may exist where there is one levir but not where there are two levirs.⁴⁷ According to R. Eliezer, however, granted that a levirate bond exists, one can understand why, in the case of one, he may annul, but why also in the case of two?⁴⁸ And R. Ammi⁴⁹ replied: Here it is a

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case where he addressed to her a *Ma'amar*, and the statement represents the opinion of Beth Shammai who maintain that a *Ma'amar* constitutes a perfect *Kinyan*.⁵⁰ Now, if it be granted that it⁵¹ constitutes a marriage, it is quite intelligible why he may annul her vows. If, however, it be assumed that it constitutes only a betrothal, how could he annul her vows? Surely we learned: The vows of a betrothed girl may be annulled by her father in conjunction with her husband!⁵² -Said R. Nahman b. Isaac: What is meant by annulment? Jointly.⁵³

According to R. Eleazar, however, who holds that a *Ma'amar*, in the opinion of Beth Shammai, constitutes a *Kinyan* only so far as to keep out the rival, how⁵⁴ could the annulment be effected even jointly?⁵⁵ — R. Eleazar can answer you: When I said that it⁵¹ constitutes a *Kinyan* so far only as to keep out the rival, [I meant to indicate] that a letter of divorce was not sufficient⁵⁶ but that *Halizah* also was required;⁵⁷ did I say anything, however, as regards the annulment of vows! And if you prefer I might say. R. Eleazar can answer you: Is it satisfactorily explained according to R. Nahman b. Isaac?⁵⁸ Surely it was not stated 'they may annul' but 'he may annul'!⁵⁹ Consequently this must be a case where he⁶⁰ appeared before a court⁶¹ and⁶² a specified sum for alimony was decreed for her out of his estate; and [this is to be understood] In accordance with the statement R. Phinehas made in the name of Raba. For R. Phinehas stated in the name of Raba: Any woman that utters a vow does so on condition that her husband will approve of it.⁶³

1. To one of the sisters-in-law; since such an action is not forbidden.
2. v. [Glos.](#) i.e., perfect marriage.
3. The prohibition 'as sister of a Zekukah' would consequently be removed and both levirs could properly marry the respective sisters-in-law.
4. The *Ma'amar*.
5. V. *supra* p. 181, n. 17.
6. v. p. 181, n. 17.
7. V. *supra* p. 181, n. 17, and *supra* n. 6. Why, then, was levirate marriage with the two sisters forbidden!

8. One addressed to a sister-in-law in a case where levirate marriage with her was permissible at the time.
9. When two sisters were subject to the levirate marriage before the *Ma'amar* had been addressed.
10. V. note 11.
11. The previous statement of R. Eleazar and R. Abin, etc.
12. The sister-in-law who, like her sister (the other sister-in-law), is subject to the levirate bond.
13. The *Ma'amar*.
14. So that she cannot cause the prohibition of the other to whom the *Ma'amar* had been addressed.
15. Which necessitates her performing the *Halizah* if she wishes to marry a stranger before he levir had properly married her sister.
16. V. *supra* p. 182, n. 1.
17. V. *supra* p. 182, n. 3.
18. v. *supra* p. 182, n. 4.
19. Cf. *supra* p. 181, n. 17.
20. Consequently it must be concluded that a *Ma'amar* still leaves a partial bond, and that before the other sister had performed the *Halizah* the first is forbidden as the sister of one's Zekukah.
21. Which shows that no *Halizah* at all is required!
22. For both levirate marriage and *Halizah*, as in the case of our Mishnah where the *Ma'amar* was addressed to one sister before the death of the husband of the other had subjected that other also to the same levir.
23. To the *Ma'amar* which, in such circumstances, completely keeps out the other when she also, through her husband's subsequent death, comes under the obligation.
24. As in the Mishnah, *supra* 26a, where both widows were equally subject to the levirs at the time the *Ma'amar* had been addressed, and none was eligible for both the levirate marriage and the *Halizah*.
25. I.e., for the *Ma'amar* which, in such a case, does not keep out the sister.
26. As a husband who is the heir of his wife.
27. If he is a priest who may defile himself by attending on the dead bodies of certain relatives of whom a wife is one.
28. A husband may annul the vows of his wife. v. Num. XXX. 7ff
29. Lit.. 'now'.
30. Lit., 'a betrothed in the world', i.e., ordinary betrothal which is Pentateuchally valid.
31. But not yet married.
32. A mourner prior to the burial of certain relatives is called Onan (v. [Glos.](#)) and is subject to a number of restrictions. If his betrothed died he may, unlike one whose married wife died, partake of holy things.
33. She also is allowed to partake of holy things.

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34. During a festival when not only priests but also Israelites and women are forbidden to attend on the corpses of those who are not their near relatives. (V. R.H. 16b). Others render. 'nor need she defile etc'. Cf. Tosaf. a.l., s.v. [H].
35. v. [Glos.](#), in a case where such a document was given to her at the betrothal, prior to the marriage (v. Keth. 89b).
36. A *Ma'amar* is only a Rabbinical enactment. If Pentateuchal betrothal has not the force of a marriage in respect of the laws mentioned, how much less the Rabbinical *Ma'amar*!
37. The *Ma'amar*.
38. She being regarded as his wife even if connubial intercourse took place against her will, and should he wish to part with her, a Get will suffice without additional *Halizah*.
39. Deut. XXV, 5-
40. Where there is, in addition to his claim as levir, the force of the *Ma'amar*.
41. So BaH. a.l.
42. [H] V. [Glos.](#) s.v. Shomereth Yabam.
43. Any one of the levirs.
44. In the latter case neither of the levirs is entitled to annul her vows.
45. Ned. 74a.
46. Hence a levir is never entitled to the privilege of a husband in respect of the annulment of vows.
47. Since it is not known to which of them she is really subject, the bond between them and the widow is necessarily a weak one.
48. Only both together. but not one only, should be allowed to annul her vows.
49. Cur. edd. enclose in parentheses 'b. Ahabah'.
50. Ned. *loc. cit.*
51. The *Ma'amar*.
52. But not by her husband alone. And, since the levir alone may here annul, a *Ma'amar* must have the force of marriage.
53. The levir and her father, as in the case of a betrothal. Hence no proof may be adduced from here as to whether a *Ma'amar* has the force of a marriage or of a betrothal.
54. Not having the force even of a betrothal.
55. Cf. *supra* note 8.
56. In the case of a Yebamah to whom a *Ma'amar* had been addressed.
57. If he did not wish to marry her.
58. Who holds that the father and husband jointly annul the vows of the widow to whom a *Ma'amar* has been addressed.
59. The reading is [H] (sing.). not [H] (plur.). How, then, could he state that two jointly annul her vows!
60. The levir. So BaH a.l. Cur. edd., 'she'.
61. Either before he addressed the *Ma'amar* (according to R. Nahman b. Isaac) or after the *Ma'amar* (according to R. Ammi).

62. As he refused either to marry, or to submit to her *Halizah*.

63. Since she is maintained out of his estate he is regarded by her as husband and her vows are subject to his will. Hence he may also annul them. With the whole passage cf. Ned. 74a. Sonc. ed. pp. 233ff, q.v. notes.

Yebamoth 30a

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND ONE OF THE SISTERS' HUSBANDS DIED AND THE BROTHER WHO WAS MARRIED TO THE STRANGER MARRIED HIS WIFE AND THEN DIED HIMSELF, THE FIRST¹ IS EXEMPT² AS BEING A WIFE'S SISTER, AND THE SECOND IS EXEMPT² AS BEING HER RIVAL. IF, HOWEVER, HE HAD ONLY ADDRESSED TO HER³ A MA'AMAR AND DIED, THE STRANGER IS TO PERFORM THE HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.⁴

GEMARA. The reason⁵ is because he had addressed to her³ a Ma'amar;⁶ had he, however, not addressed a Ma'amar to her,³ the stranger also would have had to be taken in levirate marriage.⁷ This proves, said R. Nahman, that no levirate bond exists⁸ even in the case of one brother.⁹

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND WHEN THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED, ONE OF THE SISTERS' HUSBANDS MARRIED HIS WIFE AND THEN DIED HIMSELF, THE FIRST¹⁰ IS EXEMPT¹¹ IN THAT SHE IS HIS WIFE'S SISTER, AND THE OTHER¹² IS EXEMPT AS HER RIVAL. IF, HOWEVER, HE HAD ONLY ADDRESSED TO HER¹³ A MA'AMAR AND DIED, THE STRANGER MUST PERFORM HALIZAH¹⁴ BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

GEMARA. What need was there again [for the law in this Mishnah]? Surely it is the same:¹⁵ If there,¹⁶ where the wife's sister is only a rival to the stranger¹⁷ it has been said that the

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stranger is forbidden,¹⁸ how much more so¹⁹ here where the stranger is the rival to a wife's sister!²⁰ — The Tanna had taught first this,²¹ while the other²² was regarded by him as a permissible case, and so he permitted her.²³ Later, however, he came to regard it as a case that was to be forbidden;²⁴ and, as it was dear to him,²⁵ he placed it first; while the other Mishnah²⁶ was allowed to stand in its original form.²⁷

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND ONE OF THE SISTERS' HUSBANDS DIVORCED HIS WIFE, AND WHEN THE BROTHER WHO WAS MARRIED TO THE STRANGER MARRIED HIS WIFE, AND THEN THE WIFE OF THE SECOND BROTHER DIED, AND AFTERWARDS THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED ALSO, BEHOLD, SHE²⁸ IS FORBIDDEN TO HIM²⁹ FOR ALL TIME, SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT.³⁰

GEMARA. Rab Judah said in the name of Rab: Any Yebamah to whom the instruction Her husband's brother shall go in unto her³¹ cannot be applied at the time she becomes subject to the levirate marriage, is indeed like the wife of a brother who has children, and is consequently forbidden.³² What new thing does he³³ teach us? Surely we have learned, SHE IS FORBIDDEN TO HIM FOR ALL TIME SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT! — It might have been assumed that this³⁴ applies only to the case where she³⁵ was not suitable for him³⁶ at all during the period of her first subjection;³⁷ but that where she³⁸ was at all suitable for him³⁹ during her first subjection⁴⁰ it might have been assumed that she³⁸ should be permitted, hence, he⁴¹ taught us [that It was not so].

But we have learned this also: If two brothers were married to two sisters, and one of the brothers died and afterwards the wife of the second brother died, behold, she⁴² is forbidden to him for all time, since she was forbidden to him for one moment!⁴³ — It

might have been assumed [that this law is applicable] only there because she was completely forced out of that house;⁴⁴ but here, where she was not entirely forced out of that house,⁴⁵ it might have been said that as she is suitable for the brother who married the stranger she is also⁴⁶ suitable for the other brother,⁴⁷ hence he⁴¹ taught us [that she was not].

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND ONE OF THE SISTERS' HUSBANDS DIVORCED HIS WIFE, AND WHEN THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED HE WHO HAD DIVORCED HIS WIFE MARRIED HER AND THEN DIED HIMSELF- THIS IS A CASE CONCERNING WHICH IT WAS SAID: AND IF ANY OF-THESE DIED OR WERE DIVORCED. THEIR RIVALS ARE PERMITTED.⁴⁸

GEMARA. The reason⁴⁹ is because he⁵⁰ had divorced [his wife first] and [his brother]⁵¹ died afterwards,⁵² but [if the other]⁵¹ had died [first] and he⁵⁰ divorced [his wife] afterwards,⁵³ she⁵⁴ is forbidden.⁵⁵ Said R. Ashi: This proves that a levirate bond exists,⁵⁶ even where two brothers are involved.⁵⁷

But as to R. Ashi's [inference] does not that of R. Nahman⁵⁸ present a difficulty? — R. Ashi can answer you: The same law, that the stranger is to perform the *Halizah* and that she is not to be taken in levirate marriage is applicable⁵⁹ even to the case where no *Ma'amar* had been addressed; and the only reason why *Ma'amar* was at all mentioned⁶⁰ was in order to exclude the ruling of Beth Shammai. Since they maintain that a *Ma'amar* constitutes

1. Widow, who is now also the widow of the second deceased brother.
2. From levirate marriage and *Halizah* with the surviving brother.
3. The first widow.
4. With the surviving brother.
5. Why the stranger is not to be taken in levirate marriage.

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6. Since our Mishnah makes the stranger's exemption dependent on the Ma'amar, whereby she became the first widow's rival.
7. Despite the fact that the first widow is also subjected to the levir for the levirate marriage.
8. Between the widow of the deceased brother and the levirs.
9. As here, where only one brother could possibly marry her, she being forbidden to the other as his wife's sister. Even in such a case the mere subjection of the widow to the levir (to be taken in levirate marriage or to perform the *Halizah*) does not constitute a levirate bond to attach her to him as if she had been his actual wife.
10. Wife of the second deceased brother.
11. From marriage and *Halizah* with the surviving brother.
12. The stranger, whom the second deceased brother had taken in levirate marriage.
13. To the stranger.
14. With the surviving brother.
15. As the law implied in the previous Mishnah.
16. In the previous Mishnah.
17. Who was the first and proper wife.
18. To be taken in levirate marriage.
19. Should the stranger be forbidden to be taken in levirate marriage.
20. Who was the first and proper wife.
21. The second Mishnah.
22. Mishnah, which is now the first.
23. I.e., allowed the stranger to be taken in levirate marriage by the surviving brother, because the prohibition that arose from her husband's 'wife's sister' was imposed upon her later, after she had been lawfully married to her husband and after a period during which, had he died without issue, she would have been permitted to be taken in levirate marriage by his brother. It was not the Tanna's Intention, therefore, to include this case in a Mishnah at all.
24. Since her rival was, after all, the surviving brother's wife's sister.
25. Owing to its novelty.
26. The second Mishnah.
27. Lit., 'did not move from its place'. though in the light of the newly added Mishnah it had obviously become superfluous.
28. The wife of the first brother.
29. The surviving brother.
30. Lit., 'hour'. When her husband died she was forbidden to his brother who was married to her sister as his 'wife's sister'. This prohibition remains permanently in force and is not removed even when her sister subsequently dies and she is no longer the levir's 'wife's sister'.
31. Deut. XXV, 5'
32. Even later when the cause of the prohibition is removed. Cf. our Mishnah.
33. Rab.
34. The law in our Mishnah.
35. The widow of the first brother.
36. The brother who was married to the second sister.
37. I.e., if her sister, the wife of the second brother, did not die until after she had married the brother whose wife was the stranger.
38. The widow of the first brother.
39. The brother who was married to the second sister.
40. If her sister died before she (the first widow) had married the other brother.
41. Rah.
42. The widow of the first brother.
43. *Infra* 32a.
44. When her husband died and she was not permitted to marry his only surviving brother whose wife's sister she was, her connection with her husband's family had been completely severed, she remaining free to marry any stranger.
45. Since she was still under the obligation of marrying the third brother who was married to the stranger.
46. Thanks to the levirate bond with a member of her deceased husband's family.
47. Who was the husband of her sister, now that the latter is dead.
48. The stranger who was taken in levirate marriage was never the rival of the sister of the wife of the surviving brother, since the sister had been divorced before the levirate marriage with the stranger had taken place.
49. Why the stranger who was taken in levirate marriage by one of the husbands of the sisters is permitted to the last surviving brother.
50. The brother who divorced his wife.
51. The first husband of the stranger.
52. So that the stranger was not even for one moment the rival of one of the sisters, either through marriage or through the levirate bond of subjection.
53. In which case the stranger came for a certain period under the levirate bond in respect of the husbands of the two sisters.
54. The stranger.
55. To marry the last surviving brother. Since she was, for a period at least, the rival of one of the sisters, through the levirate bond, she may never be married to the husband of that sister's sister (being forbidden to him as the rival of his wife's sister) even if the sister whose rival she was had been subsequently divorced and ceased to be her rival.
56. Between the widow of a deceased childless brother and the levirs.
57. Since, in the case under discussion, the widow whose husband died before one of the sisters had been divorced was subject to two levirs

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and is, nevertheless, regarded as the rival of the divorced sister, in consequence of which she is forbidden to the last surviving brother.

58. From a Mishnah *supra*, that no levirate bond exists even in the case of one brother.
59. Contrary to R. Nahman's inference.
60. In that Mishnah.

Yebamoth 30b

a perfect *Kinyan*,¹ he taught us² that [the *Halachah* is] not in accordance with Beth Shammai.

But then as to R. Nahman's [inference] does not that of R. Ashi present a difficulty? And should you reply that the same law, that her rival is permitted,³ is also applicable to the case where he⁴ died first and the other brother⁵ divorced his wife afterwards,⁶ what [it could be objected] would THIS IS exclude? It might exclude the case where he⁵ married her⁷ first and then divorced his wife.⁸ This might be a satisfactory explanation if he⁹ holds the view of R. Jeremiah who said, 'Break it up: He who taught the one did not teach the other,'¹⁰ [for, if this is so]. one Tanna may hold the opinion that it is death¹¹ that causes the subjection¹² while the other might be of the opinion that it is the original marriage¹¹ that causes the subjection,¹³ and THIS IS would thus exclude the case where he first married⁷ and then divorced;¹⁴ if, however, he is of the same opinion as Raba who said, 'Both statements may in fact represent the views of one Tanna, it being a case of "this and there is no need to state that"',¹⁵ what does THIS IS exclude?¹⁶ — He⁹ has no alternative but to adopt the view of R. Jeremiah.

And according to Raba,¹⁷ the explanation would be satisfactory if he held the View of R. Ashi,¹⁸ for then, THIS IS would exclude the case of one who died without first divorcing his wife;¹⁹ if, however, he holds the same view as R. Nahman,²⁰ what would THIS IS exclude?²¹ -He²² has no alternative but to accept the view of R. Ashi.

MISHNAH. [IF IN THE CASE OF ANY ONE OF] ALL THESE²³ THE BETROTHAL OR

DIVORCE²⁴ WAS IN DOUBT, BEHOLD, THESE RIVALS MUST PERFORM THE HALIZAH²⁵ BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.²⁶ WHAT IS MEANT BY DOUBTFUL BETROTHAL? IF WHEN HE THREW TO HER A TOKEN OF BETROTHAL²⁷ IT WAS UNCERTAIN WHETHER IT FELL NEARER TO HIM²⁸ OR NEARER TO HER,²⁹ THIS IS A CASE OF DOUBTFUL BETROTHAL. DOUBTFUL DIVORCE? IF HE WROTE A LETTER OF DIVORCE IN HIS OWN HANDWRITING AND IT BORE NO SIGNATURES OF WITNESSES,³⁰ OR³¹ IF IT BORE SIGNATURES BUT NO DATE, OR IF IT BORE A DATE BUT THE SIGNATURE OF ONLY ONE WITNESS, THIS IS A CASE OF DOUBTFUL DIVORCE.

GEMARA. In the case of divorce, however, It is not stated IT WAS UNCERTAIN WHETHER IT FELL NEARER TO HIM OR NEARER TO HER; what is the reason?³² - Rabbah replied: This woman³³ is in a state of permissibility to all men;³⁴ would you forbid her [marriage] because of a doubt?³⁵ You must not forbid her because of a doubt!³⁶ Said Abaye to him: If so, let us also in the matter of betrothal say: This woman³⁷ is in a state of permissibility to the levir;³⁸ would you forbid her³⁹ because of a doubt? You must not forbid her because of a doubt! — There⁴⁰ [it leads] to a restriction.⁴¹ But it is a restriction which may lead to a relaxation! For, sometimes, he would betroth her sister⁴² by betrothal that was not uncertain, or it might occur that another man would betroth her also by a betrothal that was not uncertain and, as the Master has forbidden her rival to be taken in levirate marriage. it would be assumed that the betrothal of the first⁴³ was valid and that that of the latter was not!⁴⁴ —

1. And not even *Halizah* is required.
2. By stating that *Halizah* must be performed.
3. To the third surviving brother.
4. The first husband of the stranger.
5. The brother who divorced his wife.
6. The levirate bond with the stranger, prior to the divorce of his wife, not constituting the one woman a rival of the other.
7. The stranger.

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8. In such a case, since she was actually married, the stranger is regarded as the rival of the third brother's wife's sister, though at the time she becomes subject to him she and his wife's sister have ceased to be rivals.
9. R. Nahman.
10. *Supra* 13a.
11. Of the childless brother.
12. Of the widow to the levir.
13. v. previous note and *supra* p. 65, n. 7.
14. His wife.
15. V. *supra* p. 65, n. 14 and cf. p. 65, n. 12, so that even if marriage of the stranger took place prior to the divorce of the other, the former, after divorce had taken place, is permitted, even according to the Tanna of our Mishnah.
16. When the levirate marriage is permitted in both these cases.
17. Who holds that the subjection to the levirate marriage is caused by the death of the childless brother, and that the rival is permitted to the surviving levir even if the deceased had married her prior to his divorcing his wife, who is the sister of the surviving levir's wife.
18. That a levirate bond exists.
19. And without marrying the stranger who would, nevertheless, be forbidden to the surviving third brother on account of the levirate bond.
20. That no levirate bond exists.
21. In view of the fact that levirate marriage is permitted in all cases except one, where the second brother took the stranger in levirate marriage and did not divorce his wife, a case which was explicitly stated and required no expression like THIS IS to exclude it.
22. Raba.
23. Fifteen relatives enumerated in the first Mishnah of the Tractate, *supra* 2af.
24. On the part of the deceased childless brother.
25. Since it is possible that the betrothal was, or that the divorce was not valid, and they are consequently the rivals of a forbidden relative.
26. It being possible that the betrothal was not, or that the divorce was valid and they are, therefore, not rivals of a forbidden relative.
27. While they were both standing in a public domain and a distance of exactly eight cubits intervened between them.
28. I.e., within the four cubits nearest to him.
29. Within her four cubits. The person within whose four cubits the object rested is deemed to be the legal possessor.
30. A document in one's own handwriting, even though it is not signed by witnesses, is within certain conditions and limitations deemed to be valid. V. B.B. 175b.
31. Where it is not in his own handwriting.
32. Why should not even *Halizah* on the part of the rival, be required in such a case?
33. The rival.
34. Lit., 'to the market', i.e., the public. The rival of a forbidden relative, not being subject to levirate marriage or *Halizah*, is permitted to marry any one she desires.
35. The possibility that the forbidden relative's divorce was valid.
36. The doubt here being whether the forbidden relative was divorced at all. In the three cases of divorce mentioned in our Mishnah, however, the prohibition is not due to doubtful divorce but to a defect or an irregularity in the document itself.
37. The rival.
38. Had her husband died childless before he married the forbidden relative.
39. To be taken in levirate marriage.
40. The case of doubtful betrothal.
41. The prohibition to marry the levir.
42. The sister of the one whose betrothal was doubtful.
43. Since her rival is forbidden.
44. Because, in the first case, he betrothed his wife's sister; and, in the second, he betrothed a married woman. In the latter case, the betrothal being regarded as invalid, the woman might illegally marry another man. In the former case, should he die without issue, his maternal brother might illegally marry her, believing her never to have been the wife of his brother.

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Since she is required to perform *Halizah* it is sufficiently known that it¹ is a mere restriction.² If so, let him, in the case of divorce also,³ state it,⁴ and require her to perform *Halizah*, and it will be sufficiently known that it⁵ was a mere restriction!⁶ — Were you to say that she was to perform *Halizah* it might also be assumed that she may be taken in levirate marriage.⁷ But here also,⁸ were you to say that she is to perform *Halizah*, she might also be taken in levirate marriage!⁷ -Well, let her be taken in levirate marriage and it will not matter at all since thereby she only retains her former status.²

Abaye raised the following objection against him:¹⁰ If the house collapsed upon him¹¹ and upon his brother's daughter.¹² and it is not known which of them had died first, her rival must perform *Halizah*¹³ but may not contract the levirate marriage.¹⁴ But why? Here also it

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may be said, 'This woman finds herself in the status of permissibility to all,¹⁵ would you forbid her [marriage on the basis] of a doubt? You must not forbid her [on the basis] of a doubt!' And should you suggest that here also the prohibition is due to a restriction, [it may be retorted that] it is a restriction which may result in a relaxation, for should you say that she is to perform the *Halizah* she might also be taken in levirate marriage! — In respect of divorce which is of frequent occurrence the Rabbis enacted a preventive measure;¹⁶ in respect of the collapse of a house which is not of frequent occurrence the Rabbis did not enact any preventive measure. Or else:¹⁷ In the case of divorce, where the forbidden relative is demonstrably alive, were her rival to be required to perform *Halizah*, it might have been thought that the Rabbis¹⁸ had ascertained that the letter of divorce was a valid document,¹⁹ and the rival might, therefore, be taken in levirate marriage. In the case of a house that has collapsed, however, could the Rabbis¹⁸ have ascertained [who was first killed] in the ruin!²⁰

Have we not learned a similar law in the case of divorce? Surely we learned: If she²¹ stood in a public domain, and he²² threw it²³ to her, she is divorced if it fell nearer to her; but if nearer to him she is not divorced. If it was equidistant,²⁴ she is divorced and not divorced. And when it was asked, 'What is the practical effect of this',²⁵ [the reply was] that if he was a priest she is forbidden to him;²⁶ and if she is a forbidden relative, her rival must perform the *Halizah*.²⁷ We do not say, however, that were you to rule that she must perform *Halizah* she might also be taken in levirate marriage!²⁸ -Concerning this statement, surely, it was said: Both Rabbah and R. Joseph maintain that here we are dealing with two groups of witnesses, one of which declare that it²³ was nearer to her and the other declares that it²³ was nearer to him, which creates a doubt involving a Pentateuchal [prohibition] — 29 Our Mishnah, however, speaks of one group.³⁰ where the doubt involved is only Rabbinical.³¹

Whence is it proved that our Mishnah speaks of one group? — On analogy with betrothal:³² As in betrothal only one group is involved so also in divorce³³ one group only could be involved. Whence is it known that in betrothal itself only one group is involved? Is it not possible that it involves two groups of witnesses! — If two groups of witnesses had been involved, she would have been allowed to contract the levirate marriage, and no wrong would have been done.³⁴ Witnesses stand and declare that it³⁵ was nearer to her,³⁶ and you say that she may be taken in levirate marriage and no wrong will be done!³⁷ Furthermore, even where two groups of witnesses are involved the doubt is only Rabbinical, since it might be said 'Put one pair against the other and let the woman retain her original status'!³⁸ This indeed is similar to [the incident with] the estate of a certain lunatic. For a certain lunatic once sold some property, and a pair of witnesses came and declared that he had effected the sale while in a sound state of mind, and another pair came and declared that the sale was effected while he was in a state of lunacy. And R. Ashi said: Put two against two

1. The prohibition to take her in levirate marriage.
2. And is not due to the fact that the betrothal of the forbidden relative was valid.
3. As in the case of betrothal.
4. The case of uncertainty as to whether the letter of divorce rested nearer to the husband or nearer to the wife (v. our Mishnah).
5. The *Halizah*.
6. Seeing that levirate marriage was forbidden to her.
7. And by marrying the rival of a forbidden relative one might become subject to the penalty of *Kareth*.
8. In the case of doubtful betrothal.
9. Of being permitted to marry the levir.
10. Rabbah.
11. Who was childless.
12. To whom he had been married.
13. With the daughter's father, the brother of the deceased. Though the dead woman was his forbidden relative, since it is possible that she had been killed before the man, her rival becomes subject to the obligation of performing *Halizah*.

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14. *Infra* 67b. Since it is also possible that the man was killed first and the rival remained forbidden to the levir as the rival of his daughter.
15. v. *supra* p. 192, n. 12.
16. That wherever the divorce is doubtful the rival must not perform *Halizah* in order that this performance might not lead also to levirate marriage.
17. It may be replied.
18. The scholars or experts who dealt with the case.
19. And the forbidden relative was no more the wife of the deceased.
20. It would be obvious, therefore, that the requirement of *Halizah* was a mere restriction.
21. The wife.
22. The husband.
23. The letter of divorce.
24. Lit., 'half on half'.
25. The statement that she is divorced and not divorced.
26. A priest must not marry or continue to live with a divorced woman.
27. Git. 78a.
28. Which shows that even in the case of divorce no preventive measure has been enacted.
29. As two witnesses declare that the letter of divorce was nearer to the woman, and as evidence of two witnesses is Pentateuchally valid, the possibility that her rival is no more the rival of a forbidden relative must be taken into consideration, and she cannot be permitted to marry a stranger without previous *Halizah* with the levir.
30. One witness of which is contradicting the other.
31. Hence, in the matter of betrothal, where the rival enjoyed the status of permissibility to the levir, the law that *Halizah* is required in the case of such contradictory evidence could well be applied, since she cannot be deprived of her status by the evidence of the single witness who states that the token of betrothal was nearer to her. In the case of divorce, however, where the rival has the status of permissibility to marry any stranger, the law that *Halizah* is required in the case of contradictory evidence of two single witnesses could not be applied. since the evidence of one witness is not sufficient to deprive her of that right. particularly as it can also be claimed that were she required to perform *Halizah* she might be taken in levirate marriage also.
32. Divorce and betrothal being mentioned side by side in this Mishnah.
33. Had it been included in our Mishnah.
34. Since the evidence of one pair would have been sufficient to confirm the rival in her status of permissibility to the levir. Hence, as levirate

marriage was forbidden it cannot be a case of two groups of witnesses.

35. The token of betrothal.
36. Thus presenting a Pentateuchal doubt (cf. *supra* p. 195. n. 9).
37. This, surely. might result in the breach of a Pentateuchal law!
38. Why. then, even in the case of divorce itself, when the two groups of witnesses cancel each other, should the rival, who was hitherto in a state of permissibility to marry anyone. be required to perform *Halizah*!

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and let the land remain in the possession of the lunatic! — Rather, said Abaye. Its friend telleth concerning it:¹ that which was taught in connection with betrothal² is also to be applied to divorce,³ and what was taught in connection with divorce⁴ is also to be applied to betrothal.

Said Raba to him: If its friend telleth concerning it' what was the object of stating THIS IS?⁵ -Rather, said Raba, whatever is applicable to betrothal⁶ is also to be applied to divorce, but certain points are applicable to divorce,⁷ which cannot be applied to betrothal. And THIS IS⁸ which was mentioned in the case of divorce is not to be taken literally. as THIS IS was used in connection with betrothal⁹ only because it was also used in connection with divorce.

What was THIS IS mentioned in connection with betrothal meant to exclude? — To exclude the question of date which is inapplicable to betrothal.¹⁰ And wherefore was no date ordained to be entered in [documents of] betrothal? This¹¹ may well be satisfactorily explained according to him who holds [that the date is required In a letter of divorce]¹² on account of the usufruct,¹³ since a betrothed woman has no [need to reclaim] usufruct — 14 According to him, however, who holds [that it¹⁵ was ordained] on account of one's sister's daughter.¹⁶ the insertion of a date should have been ordained [in the case of betrothal also].¹⁷ — Since some men betroth with money¹⁸ and others betroth with a

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document the Rabbis did not ordain the inclusion of a date.

Said R. Aha son of R. Joseph to R. Ashi: What about the case of a slave of whom some acquire possession by means of money and others by means of a deed, yet the inclusion of a date has nevertheless been ordained by the Rabbis! — In that case¹⁹ acquisition is generally by means of a deed; here,²⁰ it is generally by means of money. If you prefer I might say: Because it is impossible.²¹ For how should one proceed? Were it²² to be left with her, she might erase it.²³ Were it²² to be left with him, it might happen that the betrothed might be his sister's daughter and he would shield her.²⁴ Were it to be left with the witnesses-well, if they remember²⁵ they could come and tender their evidence;²⁶ and if they do not,²⁷ they may sometimes consult the document and then come and tender evidence, while the All Merciful said, 'out of their mouth'²⁸ but not out of their writing. If so, let the same argument²⁹ be applied to divorce also! — There,³⁰ it³¹ comes to save her,³² here,³³ it³¹ comes to condemn her.³⁴

MISHNAH. IN THE CASE WHERE THREE BROTHERS WERE MARRIED TO THREE WOMEN WHO WERE STRANGERS [TO ONE ANOTHER]. AND ONE OF THEM HAVING DIED³⁵ THE SECOND BROTHER ADDRESSED TO HER³⁶ A MA'AMAR³⁷ AND DIED, BEHOLD, THESE³⁸ MUST PERFORM HALIZAH³⁹ BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE; FOR IT IS SAID. AND ONE OF THEM DIED [ETC.] HER HUSBAND'S BROTHER SHALL GO IN UNTO HER.⁴⁰ ONLY SHE WHO IS BOUND TO ONE LEVIR⁴¹ BUT NOT SHE WHO IS BOUND TO TWO LEVIRS.⁴² R. SIMEON SAID: HE MAY TAKE IN LEVIRATE MARRIAGE WHICHEVER OF THESE HE WISHES⁴³ AND THEN PARTICIPATE IN THE HALIZAH WITH THE OTHER.⁴⁴

GEMARA. If, however, the levirate bond with two levirs⁴⁵ is Pentateuchal,⁴⁶ even *Halizah* should not be required! — But it⁴⁷ is only Rabbinical,⁴⁸ a preventive measure having been enacted against the possible assumption

that two sisters-in-law coming from the same house⁴⁹ may both be taken in levirate marriage. Then let one be taken in levirate marriage and the other be required to perform *Halizah*! — A preventive measure has been enacted against the possible assumption that one house was partially built

1. Job XXXVI, 33. [H], (E.V., the noise thereof) is here rendered its friend. The text is taken to imply that passages in close proximity are to be compared to one another and what is applicable to one is to be applied to the other also.
2. The case of uncertainty as to whether the token of betrothal fell nearer to the man or nearer to the woman.
3. When a similar doubt has arisen with reference to a letter of divorce that had been thrown in, similar circumstances.
4. IF A MAN WROTE IN HIS OWN HANDWRITING, etc. (V. our Mishnah).
5. Which implies some exclusion.
6. UNCERTAIN WHETHER IT WAS NEARER TO HIM, etc. (V. our Mishnah).
7. v. *infra* for further explanation.
8. Which implies that only that which was specified and no other doubt is applicable, v. *supra* p. 196, n. 10.
9. Where THIS IS excludes the question of date, which is not applicable to it but to divorce only.
10. The date does not matter in a document whereby betrothal is effected. V. *infra*.
11. Why no date was required.
12. v. Git. 26b.
13. Which the wife is entitled to reclaim from her husband, in respect of her estate, from the date of her letter of divorce, though the document itself may not have been delivered to her until a much later date. v. Git. 17a.
14. The man who betrothed her having no right whatsoever to the usufruct of her estate until actual marriage has taken place. Cf. Keth. 51a.
15. The insertion of a date to a letter of divorce.
16. Who was his wife and had committed adultery. Her uncle, in his desire to protect her, might supply her with an undated letter of divorce which would enable her to escape her due punishment by pleading that the offence had been committed after she had been divorced.
17. Since a betrothed woman also possessing an undated document of betrothal could protect herself against punishment for adultery, by pleading that the offence had been committed prior to the betrothal.
18. Where a date is, of course, inapplicable.
19. A slave.

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20. Betrothal.
21. Usefully to insert a date in a deed of betrothal.
22. The deed.
23. The date. V. *supra* p. 197, n. 12 and cf. p. 197, n. 11.
24. By erasing the date. V. previous note.
25. The date of the betrothal.
26. Of what use, then, is the deed?
27. Remember the date.
28. Cf. Deut. XVII, 6, At the mouth of two witnesses, etc., which is taken to imply that evidence must be given from memory (the witnesses' own mouth) and not from information obtained from a written document. V. Git. 71a.
29. Used in respect of betrothal, that there is no safe or proper place to keep the deed.
30. In the case of divorce.
31. The document.
32. Unless she produced it, were she ever to be accused of adultery. she would certainly be condemned since she was known as a married woman. The letter of divorce being her sole protection, it being the sole proof that her married state had ended, she should in her own interest carefully preserve it intact for fear that should she tamper with it, the deed may be declared invalid. (Cf. Tosaf. s.v. [H] a.l.).
33. The case of betrothal.
34. The document is proof that she had passed out of her unmarried state and that henceforward she is forbidden to all men except her betrothed. She (or any friend of hers) is not anxious to preserve such a document; and, should an accusation of adultery ever be brought against her, she could either destroy it or erase the date and claim her previously confirmed status of an unmarried woman. Hence no date was ordained to be included.
35. Without issue.
36. The widow of the deceased brother.
37. v. [Glos.](#)
38. The two widows.
39. With the surviving brother.
40. Deut. xxv, 5.
41. Is to be married by him.
42. The first to whom she was bound by the levirate tie and the second to whom she is bound by the Ma'amar. A Ma'amar of a levir, unlike his levirate marriage. cannot sever the bond between the widow and her deceased husband-the levirate tie.
43. v. *supra* 19a. If the Ma'amar has the validity of marriage, the surviving levir is marrying his second brother's wife, and if a Ma'amar is invalid he is marrying either the wife of his first brother or the wife of the second.
44. The levirate marriage of the one cannot exempt the other from the *Halizah*, since it is

possible that a Ma'amar is invalid and the two widows are consequently of different brothers. He may not marry the two, since a Ma'amar may be valid and he would thus be marrying two widows of the same brother.

45. According to the Rabbis of our Mishnah.
46. Since they forbade the levirate marriage in such a case.
47. The levirate bond with two levirs.
48. Pentateuchally a Ma'amar is not binding. and the two widows consequently are of two different brothers and may both be married.

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and partially pulled down.¹ Well, let the assumption be made!² — Had he first contracted the levirate marriage and then participated in the *Halizah*, no objection could be raised — 3 The preventive measure, however, has been enacted against the possibility of his participating in the *Halizah* first and contracting the levirate marriage afterwards and thus placing himself under the prohibition of That doth not build up,⁴ the All Merciful having said, 'Since he had not built⁵ he must never again build'.⁶

Raba said: If he⁷ gave a letter of divorce in respect of his Ma'amar, her rival⁸ is permitted;⁹ but she herself is forbidden, because she might be mistaken for one who is the holder of a letter of divorce.¹⁰ Others say that Raba said: If he¹¹ gave a letter of divorce in respect of his Ma'amar even she herself becomes permitted.¹² What is the reason? — Because what he has done to her he has taken back.¹³

MISHNAH. IF TWO BROTHERS WERE MARRIED TO TWO SISTERS, AND ONE OF THE BROTHERS DIED, AND AFTERWARDS THE WIFE OF THE SECOND BROTHER DIED, BEHOLD, SHE¹⁴ IS FORBIDDEN TO HIM¹⁵ FOREVER, SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT.¹⁶

GEMARA. Is not this obvious? If there,¹⁷ where she¹⁸ was not entirely excluded from that house¹⁹ it has been said, 'No',²⁰ how much more so here²¹ where the widow is completely excluded from that house!²² -The Tanna had taught first this,²¹ while the

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other²³ was regarded by him as a permissible case,²⁴ and so he permitted it — 25 Later, however, he came to regard it as a case that was to be forbidden;²⁶ and, as it was dear to him²⁷ he placed it first; while our Mishnah was allowed to remain in its original form.²⁸

Our Rabbis learned: If he²⁹ had intercourse with her,³⁰ he is guilty on account of both 'his brother's wife'³¹ and 'his wife's sister';³² so R. Jose. R. Simeon said: He is guilty on account of 'his brother's wife' on[y]. But, surely, it was taught that R. Simeon said: He is guilty on account of 'his wife's sister' only! — This is no difficulty: There, it is a case where the surviving brother had married first³³ and the deceased had married afterwards;³⁴ here it is a case where the deceased had married first and the surviving brother afterwards.³⁵ As to R. Simeon, in the case where the deceased had married first and the surviving brother married afterwards, let her, since the prohibition of wife's sister cannot take effect, be permitted even to contract the levirate marriage! — R. Ashi replied: The prohibition of wife's sister remains suspended, and as soon as the prohibition of brother's wife is removed³⁶ the prohibition of wife's sister comes into force; hence It cannot be treated as non-existent.³⁷

Does, then, R. Jose hold the view that one prohibition may be imposed upon another? Surely, it was taught: A man who committed a transgression which involves two death penalties³⁸ is punished by the severer one. R. Jose said: He is to be dealt with In accordance with that prohibition which came into force first.³⁹ And it was taught: How is one to understand R. Jose's statement that sentence must be in accordance with the prohibition which came into force first? [If the woman was first] his mother-in-law⁴⁰ and then became also a married women, he is to be sentenced for [an offence against] his mother-in-law; if she was first a married woman and then became his mother-in-law, he is to be sentenced for [an offence against] a married woman!⁴¹ —

1. And the same procedure would unlawfully be followed in the case of two widows of the same brother.
2. What objection can be raised against it?
3. Lit., 'thus also', the assumption would not have mattered.
4. [H] Deut. XXV, 9.
5. I.e., refused to marry his brother's widow, but participated in her *Halizah*.
6. Must never marry the other widow. The imperfect [H] may be rendered as a past, present or future.
7. The second brother who had addressed a Ma'amar to the first brother's widow. V. our Mishnah.
8. I.e., his first wife.
9. To the third surviving brother if the second also died without issue. The two widows are no longer rivals since the divorce has annulled the Ma'amar, and they, being the widows of two different brothers, are now coming from two different houses.
10. That was given to her in respect of the levirate bond as well as of the Ma'amar, v. *infra* 52b. Such a sister-in-law is forbidden under the prohibition of That doth not build up (v. *supra* and notes 3, 4 and 5) since in her case the levirate bond also had been severed.
11. V. note 6.
12. And she is thus subject to the third brother as the widow of the first.
13. The Ma'amar by which he bound her he has himself annulled.
14. The widow.
15. The surviving brother.
16. Prior to his wife's death and after the death of her husband, however short that period may have been, she was forbidden to him as his wife's sister.
17. The third Mishnah, on fol. 30a *supra*, where there were three brothers involved, two of whom were married to two sisters and one to a stranger.
18. The widow of the first brother.
19. For though she had been forbidden to the second brother, who was married to her sister, she was permitted to the third and she remained in the family.
20. I.e., she has been forbidden to the second brother, after the death of the third brother who had married her, owing to the original prohibition which may have lasted one moment only. even after his wife (her sister) had died.
21. Our Mishnah where only two brothers are involved.
22. When her husband died there was not a single brother whom she was permitted to marry. What need, then, was there for our Mishnah?
23. v. note 1.

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24. Since, there, she was not entirely forced out of the family.
25. Hence he did not consider it necessary to enunciate It 10 a Mishnah.
26. As, after all, in the case of the second brother, the levirate marriage was for a time forbidden to her.
27. Owing to its novelty and its wider range.
28. Lit. — 'did not move from its place'. Though in the presence of the other Mishnah it is indeed superfluous.
29. The levir.
30. The widow (v. our Mishnah), while his wife was still alive.
31. Since she is exempt from the levirate marriage she is forbidden to the levir as any widow of a brother who has issue.
32. So that if the offence was committed unwittingly he is liable to bring two sin-offerings.
33. One of the sisters; and thus the prohibition of 'wife's sister' came into force first.
34. The other sister. The added prohibition of 'brother's wife' could not take effect where one prohibition was already in force.
35. Cf. previous two notes mutatis mutandis.
36. [H], lit., 'to split', hence removed'.
37. Lit., 'it is not removed'. The levirate marriage is consequently forbidden.
38. Intercourse, for instance, with a mother-in-law (which is punishable by burning) who was at the time a married woman (the penalty for which is strangulation).
39. Tosef. Sanh. XII, Sanh. 81a.
40. Having been a widow or divorcee at the time of his marriage.
41. Though the penalty in this case (strangulation) is lighter than that for an offence against a mother-in-law (burning). This proves that one prohibition may not be imposed upon another. Had it been otherwise, the severer penalty should have been inflicted though the prohibition which had caused it came into force later.

Yebamoth 32b

R. Abbahu replied: R. Jose admits¹ where the latter prohibition is of a wider range.²

This is satisfactory in the case where the surviving brother had married³ first and the deceased had married⁴ afterwards, since the prohibition, having been extended in the case of the brothers, had also been extended in his own case.⁵ What extension of the prohibition is there, however, where the deceased had

married³ first⁶ and the surviving brother had married⁴ afterwards?⁷ And were you to reply: Because thereby⁸ he is forbidden to marry all the sisters,⁹ [it may be retorted that] such is only a comprehensive prohibition!¹⁰

The fact is, said Raba, he is deemed¹¹ to have committed two offences,¹² but is liable for one only.¹³

Similarly when Rabin came¹⁴ he stated in the name of R. Johanan: The offender is deemed¹¹ to have committed two offences, but he is only liable for one. What practical difference does this¹⁵ make? — That he must be buried among confirmed sinners.¹⁶

This¹⁷ is a question on which opinions differ. For It was stated: A common man¹⁸ who performed some Temple service on the Sabbath, is. R. Hiyya said, liable for two offences.' Bar Kappara said: He is only liable for one.¹⁹ R. Hiyya jumped up and took an oath. 'By the Temple',²⁰ [he exclaimed]. 'so have I heard from Rabbi:²¹ two!' Bar Kappara jumped up and took an oath, 'By the Temple. thus have I heard from Rabbi:²¹ one!' R. Hiyya began to argue the point thus: Work on the Sabbath was forbidden to all [Israelites,] and when it was permitted in the [Sanctuary], it was permitted to the priests, hence it was permitted to the priests only, but not to common men. Here, therefore, is involved the offence of Temple service by a common man, and that of the desecration of the Sabbath. Bar Kappara began to argue his point thus: Work on the Sabbath was forbidden to all [Israelites]. but when it was permitted in the Sanctuary, it was permitted [to all], hence only the offence of Temple service by a common man is here involved.

A priest having a blemish who performed [some Temple] services²² while unclean is. R. Hiyya said, guilty of two offences. Bar Kappara said: He is guilty of one offence only. R. Hiyya jumped up and took an oath, 'By the Temple. thus have I heard from Rabbi: two!' Bar Kappara jumped up and took an oath, 'By the Temple, thus have I heard from

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Rabbi: one! R. Hiyya began to reason: [Temple service during one's] uncleanness was forbidden to all; and when it was permitted in the Sanctuary,²³ it was permitted to priests who had no blemish — Hence it must have been permitted only to priests who had no blemish, but not to those who had. Consequently, both the offence of service being done by one with a blemish and that of service during one's uncleanness are here involved. Bar Kappara began to reason thus: [Temple service during] uncleanness was forbidden to all. When it was permitted at the Sanctuary,²⁴ was [universally] permitted.²⁵ Consequently, only one offence, that of service by one who had a blemish, is involved.

A common man who ate Melikah²⁶ is. R. Hiyya said, guilty of two offences. Bar Kappara said: He is guilty only of one. R. Hiyya jumped up and took an oath, 'By the Temple, so I heard from Rabbi: two!' Bar Kappara jumped up and took an oath, 'By the Temple, so I heard from Rabbi: one!' R. Hiyya began to reason thus: *Nebelah*²⁷ was forbidden to all; and when it was permitted in the Sanctuary²⁸ it was permitted in the case of the priests. Hence it must be permitted to priests only and not to common men. Consequently, both the offence of consumption²⁹ by a common man, and that of Melikah are here involved. Bar Kappara began to reason: *Nebelah*²⁷ was forbidden to all; and when it was permitted in the Sanctuary²⁸ it was [universally] permitted — Consequently, only the offence due to consumption²⁹ by a common man is here involved.

1. That one prohibition may be imposed upon another.
2. [H] lit., 'a prohibition which adds', i.e., one which causes an object (or a person) to be forbidden to others to whom it was not previously forbidden. Hence he admits the imposition of the prohibition of 'brother's wife' upon that of 'wife's sister', even where the latter prohibition was already in force, because the former, unlike the latter, is applicable not only to him alone but to the other brothers also. In the case, however, of a married woman who became his mother-in-law where the first prohibition was of a wider range (the woman

being forbidden to all men except her husband) and the later one (forbidden to him only) of a restricted range, the second prohibition cannot be imposed upon the first. The reason why in the case of a mother-in-law who became a — married woman the sentence is to be that for an offence against a mother-in-law is not because the latter (which is of a wider range) cannot be imposed upon the former, but because wherever two penalties are to be inflicted the severer one (burning) supersedes the lighter one (strangulation).

3. One of the sisters.
4. The other sister.
5. V. *supra* p. 202, n. 9.
6. Bringing Into force the prohibition of brother's wife which is applicable to all brothers.
7. Adding the prohibition of wife's sister which, being applicable to himself only, is of a more restricted range, and cannot consequently be imposed on that of brother's wife, which preceded it.
8. By marrying the other sister.
9. While before this marriage the widow only was forbidden.
10. [H] lit., 'a prohibition which includes'. The additional prohibition includes the widow in the same manner only as it does the other sisters but, unlike an Issur Mosif (the prohibition of the wider range, v. *supra* p. 202, n. 9), it does not place any additional restriction as far as the widow herself is concerned upon any other men.
11. Lit., 'I bring upon him'.
12. I.e., in this sense only is R. Jose's statement, that he is guilty of two offences (*supra* 32a), to be understood.
13. Because R. Jose. in fact, does not admit the imposition of one prohibition upon another.
14. From Palestine to Babylon.
15. The fact that he is theoretically guilty of two offences.
16. The *Beth Din* had at its disposal two burial places, and offenders who were executed or died were buried in the one or the other according to the degree of their respective offences. (V. Sanh. 46a). The reference here will consequently be to an intentional transgression.
17. Whether one act involving two transgressions is deemed to be one offence or two offences.
18. [H] lit., 'a stranger', i.e., a non-priest.
19. This is explained *infra*.
20. Lit., 'the (Temple) service'.
21. R. Judah the Prince, compiler of the Mishnah.
22. Such as that connected with the rites of a congregational offering which may be performed in certain circumstances by priests

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(v. Yoma 6b). even when they are unclean, provided they are physically fit.

23. Cf. previous note.
24. v. p. 204, n' 7.
25. Even to a priest afflicted with a blemish.
26. [H] (rt. [H] 'to pinch'), applied to the meat, of a fowl whose head was 'pinched off', in accordance with Lev. I, 15.
27. [H] 'a corpse'. 'carrion', applied also to animals that have not been ritually slaughtered and the consumption of which is forbidden.
28. Melikah being permitted to the priests.
29. Of sacrificial meat.

Yebamoth 33a

What is the point at issue between them?¹ -R. Jose's view² with regard to a comprehensive prohibition.³ R. Hiyya is of the opinion that in the case of a comprehensive prohibition R. Jose deems the transgressor guilty of two offences,⁴ while Bar Kappara is of the opinion that he deems him guilty of one offence only.⁵ But what comprehensive prohibition. is here involved? In the case of a common man⁶ this⁷ may well be understood, since at first⁸ he was permitted to do ordinary work though forbidden to perform the Temple service, and when Sabbath came in, as he was now forbidden to do any other work,⁹ so he was also forbidden to perform the Temple service.¹⁰ [Similarly with a priest] who had a blemish,¹¹ since he was at first¹² permitted to eat [of sacrificial meat] though forbidden to perform the Temple service, now that he became defiled, as he was forbidden to eat of sacrificial meat¹³ so he was also forbidden to perform the Temple service.¹⁴ Melikah, however, is only an illustration¹⁵ of prohibitions that set in simultaneously¹⁶ but not of a comprehensive prohibition!¹⁷ - Rather, the point at issue between them¹⁸ is that of simultaneous prohibitions' and R. Jose's view¹⁹ regarding them. R. Hiyya is of the opinion that in the case of simultaneous prohibitions R. Jose deems the transgressor guilty of two offences,²⁰ while Bar Kappara is of the opinion that he deems him guilty of one offence only.²¹ But how are here simultaneous prohibitions possible?²² — In the case of a common man who performed the Temple service on the Sabbath, when, for instance, he

grew two hairs²³ on the Sabbath, so that the prohibitions of Temple service by a common man and of work on the Sabbath have simultaneously arisen.²⁴ [In the case of a priest] who had a blemish, also, when, for instance, he grew two hairs,²⁵ while he was unclean, so that [his disability as] a man with a blemish and his uncleanness²⁵ have simultaneously arisen.²⁶ Or else, if a man cut his finger with an unclean knife.²⁷

Now according to [the statement of] R. Hiyya it is quite possible to explain²⁸ that he²⁹ was taught³⁰ in accordance with the view of R. Jose, and that Bar Kappara was taught in accordance with the view of R. Simeon.³¹ According to [the statement of] Bar Kappara, however,³² did R. Hiyya swear falsely?³³ - Rather, the question at issue between them³⁴ is that of simultaneous prohibitions, and the view of R. Simeon³⁵ on the subject.

One can well understand why R. Hiyya took an oath. He did it in order to weaken the force³⁶ of R. Simeon's view.³⁷ What need, however, was there for Bar Kappara to take an oath? — This is a difficulty.

Now according to [the statement of] Bar Kappara. it is possible to explain³⁸ that when Rabbi taught him he was enunciating the opinion of R. Simeon,³⁹ and that when he taught R. Hiyya he was enunciating the opinion of R. Jose.⁴⁰ According to [the statement] of R. Hiyya. however,⁴¹ did Bar Kappara⁴² tell a lie?⁴³ R. Hiyya can answer you:⁴⁴ When Rabbi taught him, he taught him two instances⁴⁵ only where the transgressor is exempt,⁴⁶

1. R. Hiyya and Bar Kappara.
2. Who maintains *supra* that in certain circumstances a prohibition may be imposed upon a prohibition which is already in force.
3. [H] Cf. *supra* p. 203. n. 8.
4. *Nebelah* and *Melikah*. V. *supra*. no. 3 and 4.
5. And R. Jose's statement *supra* that the transgressor is guilty of two offences is, according to Bar Kappara, applicable only where the surviving brother had married one of the sisters before the deceased had married the other. (V. *supra* p. 203. nn. 1ff and relevant text). R. Simeon's statement, (*supra* 32a) that

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- 'he is guilty on account of brother's wife only', which has been interpreted as referring to the case where the deceased had married prior to the surviving brother, is according to Bar Kappara, to be deleted from the Baraita.
6. Who performed some Temple service on the Sabbath.
 7. That a comprehensive prohibition is involved.
 8. Before the Sabbath.
 9. Owing to Sabbath.
 10. The prohibition being 'comprehensive' in that it included both ordinary work and Temple service. It is not a 'prohibition of a wider range' since the prohibition of Temple service itself was in no way extended.
 11. Cf. *supra*, n. 2.
 12. Prior to his defilement.
 13. Owing to his uncleanness.
 14. The prohibition comprehending the Temple service as well as the consumption of sacrificial meat. Cf. *supra*. n' 5'
 15. Lit., 'it is found'.
 16. [H] 'at once', 'at the same moment'. Before the head of the fowl was pinched off there was only the prohibition of *Nebelah* (v. [Glos.](#)) which included also priests. The two prohibitions of *Nebelah* and *Melikah* as far as common men are concerned had set in simultaneously at the moment of the pinching off of the fowl's head.
 17. Since both have been simultaneous. How then could the dispute on *Melikah* be dependent on the principle of a 'comprehensive prohibition'?
 18. R. Hiyya and Bar Kappara.
 19. V. *supra* p. 205. n. 8.
 20. R. Jose's statement (*supra* 32a). that the transgressor is guilty of the offences of (a) brother's wife and (b) wife's sister, is taken to refer to the case where the two brothers appointed an agent to betroth for them the two sisters, who in turn appointed an agent to act on their behalf. At the moment the agents carried out their mission both prohibitions had set in.
 21. Cf. *supra* p. 205, n. 11.
 22. As has been shown, the instances mentioned, with the exception of *Melikah*, are 'comprehensive prohibitions!'
 23. The marks of puberty.
 24. In this particular case, since prior to the manifestation of the marks of puberty he was considered a minor, and not subject to legal penalties.
 25. I.e., his liability to penalties for performing Temple service under such conditions.
 26. Cf. note 4, *mutatis mutandis*.
 27. Which act caused both the blemish and the uncleanness to set in at the very same instant.
 28. To reconcile the contradictory statements made by R. Hiyya and Bar Kappara both in the name of Rabbi.
 29. R. Hiyya.
 30. By Rabbi. Lit., 'when he taught him (it was)'.
 31. And that Bar Kappara may have misunderstood Rabbi to give him the opinion of R. Jose.
 32. Who asserts that Rabbi recognizes one offence only according to R. Jose.
 33. If R. Jose allows the lighter punishment, how much more so R. Simeon. If R. Hiyya. then, made the statement that Rabbi taught him that a double offence had been committed he could not have spoken the truth since according to Bar Kappara no authority ever held such a view.
 34. R. Hiyya and Bar Kappara.
 35. R. Hiyya maintains that R. Simeon subjected the transgression to one offence only in the case of a 'comprehensive prohibition'; but that in a 'simultaneous prohibition' he admits, like R. Jose, a double offence. Bar Kappara, on the other hand, maintains that R. Simeon disagrees with R. Jose even in regard to simultaneous prohibitions, always admitting one offence only.
 36. By his oath he affirmed that R. Simeon is in favor of the lighter course only in the case of a 'comprehensive prohibition' but not in that of 'simultaneous prohibitions'.
 37. Which is known to favor the lighter penalty.
 38. I.e., to reconcile the contradictory statements. v. *supra*, p. 207. n. 8.
 39. Favoring the lighter penalty.
 40. Who imposes the heavier penalty; but R. Hiyya mistook him to be reporting R. Simeon and thus the discrepancy arose.
 41. Who submitted that the heavier penalty was imposed even by R. Simeon, much more so by R. Jose.
 42. Who submitted that Rabbi taught him that the lighter penalty only was to be imposed.
 43. He could not have spoken the truth if R. Hiyya's report was at all correct. v. note 6.
 44. Bar Kappara did not tell a lie.
 45. The first two—that of a non-priest who performed the Temple service on the Sabbath and that of a priest who had a blemish and performed the Temple service while he was unclean.
 46. From one of the penalties.

Yebamoth 33b

and [thereby he, in fact.] taught him the law of comprehensive prohibition¹ in accordance with the view of R. Simeon. Bar Kappara. however, considered the case of a common man who ate *Melikah* and, as it seemed to be similar to the others, he treated it like the

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others.² When, later, he examined it³ and found it to be possible only as a case of simultaneity of prohibitions. he imagined that as this one³ is a case of simultaneity so are also the others cases of simultaneity;⁴ and as the others are cases where the transgressor is exempt⁵ so [he assumed] is this also one in which the transgressor is exempt.⁵

An objection was raised: If a common man performed some Temple service on the Sabbath, or if a priest having a blemish performed Temple service while he was Levitically unclean, the offences of service by a common man and the desecration of the Sabbath or those of service by a man with a blemish and Levitical uncleanness are here respectively involved. These are the words of R. Jose. R. Simeon who said: Only the offence of service by a common man or that of service by a man with a blemish respectively is here involved.⁶ [The case of] Melikah, however, is here omitted.⁷ Now, on account of whom was it omitted?⁸ If it be suggested. on account of R. Jose⁹ [it may be retorted]. if¹⁰ R. Jose subjects one to two penalties where the prohibition is comprehensive, how much more so¹¹ when it is simultaneous. Consequently It must have been¹² on account of R. Simeon¹³ who thus grants exemption only where the prohibition is comprehensive¹⁴ but imposes both penalties when the prohibitions are simultaneous — 15 This, then, is a refutation against Bar Kappara!¹⁶ This is indeed a refutation.

'If a common man performed some Temple service on the Sabbath'. Of what nature? If slaughtering, slaughtering is permitted by a common man.¹⁷ If reception¹⁸ or carriage.¹⁹ this involves only a mere movement.²⁰ If burning,²¹ surely R. Jose said, 'The prohibition of kindling a fire [on the Sabbath]²² was mentioned separately²³ in order to [indicate that its transgression is] a prohibition only'²⁴ — R. Aha b. Jacob replied: The slaughtering of the bullock of the High Priest,²⁵ and in accordance with the view of him who stated that the slaughtering of the bullock of the High priest on the Day of

Atonement by a common man is invalid.²⁶ If so, what reason is there for mentioning a common man? Even a common priest would have been equally forbidden!²⁷ — What was meant was one who is a common man as far as it is concerned.²⁸

R. Ashi demurred: Was any mention made of sin-offerings or of negative precepts?²⁹ Surely, only forbidden acts were spoken of!³⁰ — The point at issue is whether he is to be buried among confirmed sinners.³¹

MISHNAH. IF TWO MEN BETROTHED TWO WOMEN, AND AS THESE WERE ENTERING INTO THE BRIDAL CHAMBER, THEY EXCHANGED THE ONE FOR THE OTHER, BEHOLD, THEY³² ARE GUILTY OF AN OFFENCE AGAINST A MARRIED WOMAN. IF THEY³² WERE BROTHERS THEY ARE GUILTY ALSO OF AN OFFENCE AGAINST A BROTHER'S WIFE. IF [THE BETROTHED WOMEN] WERE SISTERS, THEY³³ ARE GUILTY ALSO ON ACCOUNT OF THE PROHIBITION, [AND THOU SHALT NOT TAKE] A WOMAN TO HER SISTER.³⁴ IF THESE³⁵ WERE MENSTRUANTS [THEY³³ ARE GUILTY ALSO] ON ACCOUNT OF [THE LAW OF THE] MENSTRUANT.³⁶ THEY³⁵ MUST BE KEPT APART³⁷ FOR THREE MONTHS, SINCE IT IS POSSIBLE THAT THEY ARE PREGNANT.³⁸ IF THEY³⁵ WERE MINORS INCAPABLE OF BEARING CHILDREN, THEY MAY BE RESTORED³⁹ AT ONCE. IF THEY³⁵ WERE PRIESTLY WOMEN THEY ARE DISQUALIFIED FROM THE PRIESTHOOD.⁴⁰

GEMARA. THEY EXCHANGED?⁴¹ Are we discussing wicked men!⁴² Furthermore, [there is the difficulty] of the statement made by⁴³ R. Hiyya, that⁴⁴ sixteen sin-offerings⁴⁵ are here [involved]. Is any sacrifice brought⁴⁶ where the act⁴⁷ was wilful?⁴⁸ Rab Judah replied: Read THEY WERE EXCHANGED.⁴⁹ This⁵⁰ may also be proved by logical reasoning. For in the latter clause it was stated, IF THEY WERE MINORS INCAPABLE OF BEARING CHILDREN THEY MAY BE RESTORED AT ONCE. Now, if the act⁴⁷ had been wilful, would [this⁵¹ have been] permitted! — This is no difficulty. The

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seduction of a minor is deemed to be an outrage, and an outraged woman is permitted to an Israelite.⁵² But, then, what of that which is stated, that **THEY MUST BE KEPT APART FOR THREE MONTHS, SINCE IT IS POSSIBLE THAT THEY ARE PREGNANT**, implying that if they were not pregnant they would be permitted. Now if the act⁵³ had been willful would she be permitted! Consequently⁵⁴ the reading must have been⁵⁵ **THEY WERE EXCHANGED**.⁵⁶ This may be taken as proved.

1. Though when the prohibitions in these cases should happen to be simultaneous, the double penalty would undoubtedly be imposed.
2. Lit., 'mixed it up with them'; as those are cases where the transgressor is exempt from one of the penalties, so' he thought. was that of Melikah.
3. Melikah.
4. I.e., the same law is applicable to them whether the case is that of a comprehensive prohibition' or, like Melikah, one of 'simultaneous prohibitions'.
5. From one of the penalties.
6. Tosef. Yeb. V.
7. Implying that there is no difference of opinion regarding the case where a common man ate of Melikah.
8. I.e., who agrees with whom in this case that it should be excluded from the dispute.
9. I.e., that R. Jose agrees in the case of Melikah with R. Simeon.
10. Lit., 'now'.
11. Lit., 'is it required (to be stated)'?
12. Lit., 'but (is it) not'.
13. Who, despite his opinion that in the two cases mentioned only one penalty is involved, agrees with R. Jose that in Melikah two penalties are involved.
14. As in the two cases mentioned.
15. As in Melikah, v. *supra*.
16. Who maintained *supra* that even in simultaneous prohibitions R. Simeon exempts from one of the penalties.
17. Hence no prohibition of 'service by a common man' is here involved.
18. Of the sacrificial blood in a basin for sprinkling purposes.
19. Bringing the blood near the altar.
20. [H] 'moving an object from place to place'; and such movement on the Sabbath is no punishable offence.
21. Of the sacrifices.
22. In Ex. XXXV, 3.
23. Lit., 'went out'.
24. Shab. 702, Sanh. 35b, 62a, *supra* 6b. A 'prohibition', i.e., a negative commandment that does not involve any of the death penalties of stoning or of *Kareth*.
25. On the Day of Atonement (v. Lev. XVI, 3ff) which happened to fall on a Sabbath.
26. V. Yoma 42a. As it is invalid it is also forbidden on the Sabbath under the death penalties of stoning or *Kareth* which are incurred by the performance of certain kinds of manual labor on the Sabbath.
27. Lit., 'also', since the opinion that disqualifies the common man for this service disqualifies also the common priest.
28. Lit., 'who is a stranger to it, i.e., the particular service, including here even a common priest.
29. Which entail flagellation.
30. Since no actual penalty. either of a sin offering or flagellation, is involved, what matters it whether the two offences are regarded as one or as two? V. next note.
31. V. *supra* p. 204, n. 1. [Aliter: Since no actual penalty is involved the reference might indeed be to 'burning', the practical point at issue being whether he is to be buried among confirmed sinners.]
32. The men if they had intercourse with the women.
33. The men if they had intercourse with the women.
34. Lev. XVIII, 18.
35. The women.
36. Lev. XVIII, 19.
37. Away from their husbands.
38. Children from such a union are bastards and precaution must be taken that they are not allowed to pass as legitimate children.
39. To their husbands.
40. So Rashal. Cur. edd. '*Terumah*'.
41. [H] Hif., 3rd plural.
42. Who had deliberately exchanged their wives.
43. Lit., 'that which he taught'.
44. Lit., 'behold'.
45. Four offerings, (one for each transgression enumerated) by each of the four persons mentioned.
46. Lit., 'is there?'
47. In this case the exchange.
48. V. *supra* notes 9 and 10. For willful transgression other penalties are prescribed!
49. [H] (B.H. [H]), Hof., i.e., accidentally.
50. That the exchange was not a willful act.
51. The immediate restoration of the minors to their husbands.
52. Her husband. V. Keth. 51b.
53. In this case the exchange.
54. Lit., 'but not'.
55. Lit., 'infer from this'.
56. V. *supra* p. 211, n. 17.

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Yebamoth 34a

And who is this Tanna¹ that admits the force² of a 'comprehensive prohibition', a 'prohibition of a wider range' and 'simultaneous prohibitions'?³ -Rab Judah replied in the name of Rab: It is R. Meir; for we learnt:⁴ A man may sometimes consume one piece of food⁵ and incur thereby the penalty of four sin-offerings and one guilt-offering. [If, e.g., a man Levitically] unclean ate suet⁶ that remained over from holy sacrifices,⁷ on the Day of Atonement⁸ R. Meir said: If this happened on⁹ the Sabbath and [the consumer] carried out [the suet] in his mouth, liability is incurred [for this act¹⁰ also].¹¹ They said to him: This¹⁰ is an offence of a different character.¹²

Whose view, however, IS R. Meir¹³ following? If he follows R. Joshua.¹⁴ surely the latter had said that he who made a mistake in respect of a commandment¹⁵ is exonerated!¹⁶ — Rather he follows the view of R. Eliezer.¹⁷ If you prefer I might say: He may, in fact, follow the view of R. Joshua, for R. Joshua's statement, that he who made a mistake in respect of a commandment is exonerated, may only be applicable to the case of the children,¹⁸ where one is pressed for time.¹⁹ but not in such a case as this,²⁰ where time is not pressing.²¹

What about *Terumah*,²² where one is not pressed for time, and he²³ nevertheless exonerates! For we learnt: In the case of a priest who was In the habit of eating *Terumah* and it then transpired that he was the son of a divorced woman or of a *Haluzah*,²² R. Eliezer imposes payment of the principal and of a fifth,²⁴ and R. Joshua exonerates!²⁵ — Surely, in relation to this it was stated that R. Bibi b. Abaye said: We are here speaking of *Terumah*²⁶ on the Eve of Passover when time is pressing.²⁷ If you prefer I might say: [Our Mishnah speaks] of simultaneous prohibitions, and may represent even the View of R. Simeon.²⁸

All these,²⁹ it may well be conceded, may occur [simultaneously] where [the brothers] appointed an agent³⁰ and [the sisters also]

appointed an agent³¹ and one agent met the other;³² but how could such [simultaneity] occur with menstruation?³³ - R. Amram in the name of Rab replied: When the women's menstrual discharge continued from [the men's] thirteenth, until after their thirteenth [birthday], when these become subject to legal punishments; and from their own twelfth, until after their twelfth [birthday], when they themselves become subject to punishments.³⁴

THEY MUST BE KEPT APART. Surely, no woman conceives from the first contact!³⁵ R. Nahman replied in the name of Rabbah b. Abuha: Where contact was repeated. Why, then, did R. Hiyya state, 'Behold sixteen offerings are here involved',³⁶ when, in fact,³⁷ there should be thirty-two?³⁸ And according to your line of reasoning, following the opinion of R. Eliezer who deems they are guilty for every sexual effort, are there not more?³⁹ But [your own answer would be] that he only takes into consideration the first effort. Well, here also, only the first contact is taken into consideration.

Said Raba to R. Nahman:

1. In our Mishnah.
2. Lit., 'to whom there is'.
3. Wherever they can all be applied to the same person. If, e.g., A the brother of B betrothed C the sister of D, C is forbidden to B as 'his brother's wife' and as 'a married woman', both prohibitions having come into force simultaneously. If B subsequently betrothed D, her sister C becomes forbidden to him, by the comprehensive prohibition of 'his wife's sister', (comprehending all the sisters of D inclusive of C). When C becomes a menstruant she is forbidden to B as a menstruant also, this last being a prohibition of a wider range extending as it does the prohibition of the woman to A also.
4. Cur. edd., 'it was taught'.
5. Lit., 'there is one eating'.
6. Forbidden fat.
7. Nothar, v. [Glos.](#)
8. The four sin-offerings are due for the eating of (a) holy food while the man is Levitically unclean, (b) forbidden fat, (c) Nothar and (d) food on the Day of Atonement; while the guilt-offering (Asham Me'iloth) is incurred for the benefit the consumer (even though he were a

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- priest) had from holy things which were to be burnt on the altar.
9. Lit., 'it was'.
 10. Carrying on the Sabbath.
 11. Thus it is shown that R. Meir recognizes the validity of the three kinds of prohibition: When the animal was consecrated, the prohibition of having any benefit from any part of it has been added to that of eating its suet (wider range). and when a piece of the suet became Nothar (since it is thereby forbidden to be offered up on the altar, which is an added restriction) the prohibition of Nothar has also been imposed in respect of its consumption by the priests (again wider range). When the priest becomes unclean and is consequently forbidden to consume any holy meat he is also forbidden to consume the Nothar (comprehensive), and with the advent of the Day of Atonement the prohibition of the consumption of food generally on that day falls also on the Nothar (again comprehensive). Finally, at the moment Sabbath sets in two more prohibitions are imposed (simultaneous) that of carrying on the Sabbath and that of eating on the Day of Atonement (Rashi) or those of carrying on the Sabbath and on the Day of Atonement (Tosaf., s.v. [H]).
 12. Lit., 'it is not from the (same) designation'. Shab. 102a, Shebu. 24b, Ker. 13b.
 13. Who, as has been shown, is represented by the Tanna of our Mishnah who admits the imposition of one prohibition upon another even where the performance of a commandment (e.g. marriage) was intended.
 14. Who is at variance on a similar question with R. Eliezer (Shab. 1370). Both R. Joshua and R. Eliezer were R. Meir's teachers.
 15. I.e., if his intention was to fulfill a precept and, through an error, his act resulted in a transgression. Cf. the case in our Mishnah and v. *supra* n. 1.
 16. While our Mishnah declares the men guilty!
 17. V. *supra*. n. 2.
 18. One of whom had to be circumcised on the Sabbath and by mistake another child was circumcised who was born a day later. Only circumcision which takes place on the eighth day of birth is permitted on the Sabbath. Any other is forbidden like all manual labor.
 19. One is anxious to perform the commandment at its proper time, and one's anxiety that the day shall not pass without its performance may easily result in an error.
 20. Marriage, spoken of in our Mishnah.
 21. One may contract marriage during any time of his life.
 22. V. [Glos.](#)
 23. R. Joshua.
 24. The disqualified priest, having consumed *Terumah* which was forbidden to him, must pay compensation as any layman, as prescribed in Lev. V, 16.
 25. Ter. VIII, 1; Pes. 72b, Mak. 11b.
 26. Containing 'leaven' or any other *Hamez*.
 27. After a certain hour on that day all *Hamez*, would have to be burnt.
 28. Who agrees with R. Meir that simultaneous prohibitions do rank as equal in force, and both may be imposed.
 29. Prohibitions, enumerated in our Mishnah.
 30. To betroth the women on their behalf.
 31. To accept on their behalf the tokens of betrothal.
 32. So that all prohibitions took effect at the very same moment.
 33. Which would naturally occur either before, and thus prevent the other three prohibitions from coming into force; or after, and thus be prevented itself from coming into force.
 34. A male becomes legally liable to punishments on the termination of his thirteenth, and a female on that of her twelfth year of age. If the respective agents of the two parties who were of the same age to a day, met sometime prior to the conclusion of the last day of the year (twelfth of the females and thirteenth of the males), and arranged for the betrothals to take effect on the following day when both parties become 'of age' (as otherwise the betrothals would not be valid) the betrothals and the prohibitions simultaneously come into force.
 35. What, then, is the need for the precaution?
 36. *Supra* 33b.
 37. Since our Mishnah represents the view of R. Eliezer (or Eleazar).
 38. Sixteen for each contact. V. *infra* 92a, Ker. 15a.
 39. Sin-offerings involved.

Yebamoth 34b

Surely Tamar¹ conceived from a first contact! The other answered him: Tamar exercised friction with her finger;² for R. Isaac said: All women of the house of Rabbi who exercise friction³ are designated Tamar. And why are they designated Tamar? — Because Tamar exercised friction with her finger. But were there not Er and Onan?⁴ — Er and Onan indulged in unnatural intercourse.

An objection was raised: During all the twenty-four months⁵ one may thresh within and winnow without;⁶ these are the words of R. Eliezer. The others said to him: Such actions are only like the practice of Er and

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Onan!⁷ -Like the practice of Er and Onan, and yet not [exactly] like the practice of Er and Onan: 'Like the practice of Er and Onan', for it is written in Scripture, And it came to pass, when he went in unto his brother's wife, that he spilt it on the ground;⁸ and 'not [exactly] like the practice of Er and Onan', for whereas there it was an unnatural act, here it is done in the natural way.

[The source for] Onan's [guilt] may well be traced, for it is written in Scripture, That he spilt it on the ground;⁸ whence however, [that of] Er? — R. Nahman b. Isaac replied: It is written, And He slew him also,⁹ he also died of the same death.¹⁰

[The reason for] Onan's [action] may well be understood, because he knew That the seed would not be his;⁸ but why did Er act in such a manner? — In order that she might not conceive and thus lose some of her beauty.

Our Rabbis taught [The woman also] with whom [a man shall lie],¹¹ excludes a bride;¹² so R. Judah. But the Sages say: This excludes unnatural intercourse.

Said Hon son of R. Nahman to R. Nahman: Does this imply that R. Judah is of the opinion that the Torah had consideration for the bride's make-up?¹³ — The other replied: Because no woman conceives from her first contact — 14 On what principle do they differ? — The Rabbis are of opinion that 'carnally'¹¹ excludes the first stage of contact, and 'with whom'¹¹ excludes unnatural intercourse; but R. Judah is of the opinion that the exclusion of unnatural intercourse and the first stage of contact may be derived from 'carnally',¹¹ while 'with whom'¹¹ excludes a bride.

When Rabin came¹⁵ he stated in the name of R. Johanan: A woman who waited ten years after [separation from] her husband, and then remarried, would bear children no more. Said R. Nahman: This was stated only in respect of one who had no Intention of remarrying: if, however, one's intention was to marry again she may conceive.

Raba said to R. Hisda's daughter:¹⁶ The Rabbis are talking about you. She answered him: I had my mind on you.

A woman once appeared before R. Joseph, and said to him: Master, I remained unmarried after [the death of] my husband for ten years and now I gave birth to a child — He said to her: My daughter, do not discredit the words of the Sages. She thereupon confessed, 'I had intercourse with a heathen'.¹⁷

Samuel said: All these women,¹⁸ with the exception of a proselyte and an emancipated slave who were minors, must wait three months.¹⁹ An Israelitish minor, however, must wait three months. But how [was she separated]?²⁰ If by a declaration of refusal,²¹ surely. Samuel said that she²² need not wait!²³ And if by a letter of divorce, surely Samuel has already stated this once! For Samuel said: If she' formally refused him²¹ she need not wait three months; if he gave her a letter of divorce she must wait three months!²⁴ -[It²⁵ was] rather in respect of unlawful intercourse,

1. V. Gen. XXXVIII, 15, 18, 24ff.
2. Having thus destroyed her virginity she was capable of conception from a first contact.
3. To destroy their virginity.
4. Who were married to Tamar prior to the incident with Judah (v. Gen. XXXVIII, 6ff) and her virginity would presumably have been destroyed then.
5. After the birth of a child, i.e., during the period in which the mother is expected to breast-feed her child.
6. Euphemism. This would prevent possible conception which might deprive the young child of the breast feeding of his mother.
7. Which implies that there was natural contact. Cf. *supra* note 5.
8. Gen. XXXVIII, 9.
9. Ibid. 10.
10. For the same offence.
11. Lev. XV, 18.
12. She does not become unclean by the first contact and does not require, therefore, any ritual bathing.
13. Which would be spoiled by the water were she required to perform ritual ablution.
14. Scripture speaking only of intercourse which may result in conception. V. Lev. *ibid.*
15. From Palestine to Babylon.

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16. Whom he married after a period of ten years had passed since the death of her husband, Rami b. Hama.
17. During the ten years.
18. Enumerated *infra* 41a, 42b.
19. Before they marry again.
20. From her former husband.
21. *Mi'un*, v. [Glos.](#)
22. A minor.
23. Three months.
24. Keth. 100b; why, then, should he repeat it here?
25. Samuel's statement.

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the Rabbis having made the provision¹ in the case of a minor² as a precaution against one who is of age.³ But is provision made in the case of a minor as a precaution against one who is of age? Surely we learnt, IF THEY WERE MINORS INCAPABLE OF BEARING CHILDREN THEY MAY BE RESTORED AT ONCE! — R. Giddal replied: This⁴ was a special ruling.⁵ Does this imply that such a case had actually occurred!⁶ — Rather [this is the meaning:] It⁴ was like a special ruling, since the exchange of brides is an unusual occurrence.⁷

[Others adopt] a different reading: Samuel said: All these women,⁸ with the exception of a proselyte and an emancipated slave who were of age, must wait three months.⁹ An Israelitish minor, however, need not wait three months. But how [was she separated]? If by a declaration of refusal,¹⁰ Surely Samuel has already stated this¹¹ one! And if by a letter of divorce, Samuel surely stated that she¹² must wait!¹³ For Samuel said: If she exercise her right of refusal against him, she need not wait three months; if he gave her a letter of divorce she must wait three months! [It was] rather in respect of harlotry, and harlotry with a minor² an unusual occurrence.⁸

Let, however, a preventive measure¹⁴ be made in respect of a proselyte and an emancipated slave with whom harlotry is not unusual! — He holds the same view as R. Jose. For it was taught: Proselytes,¹⁵ captives¹⁵ or slaves¹⁵ who were redeemed, or embraced the Jewish faith

or were emancipated, must wait three months; so R. Judah. R. Jose permits immediate betrothal and marriage.¹⁶ Rabbah said: What is R. Jose's reason? He is of the opinion that a woman who plays the harlot makes use of an absorbent in order to prevent conception.¹⁶

Said Abaye to him: This¹⁷ is intelligible in the case of a proselyte; as her intention is to embrace the Jewish faith she is careful¹⁸ in order to know the distinction between the seed that was sown in holiness and the seed that was sown in unholiness. It¹⁷ is also [intelligible In the case of] a captive and a slave; since on hearing from their masters¹⁹ they exercise care.²⁰ How is this¹⁷ to be applied. however, in the case of one who is liberated through the loss of a tooth or an eye?²¹ And were you to suggest that wherever something unexpected happens²² R. Jose admits,²³ surely it was taught:²⁴ A woman who had been outraged or seduced must wait three months; so R. Judah. R. Jose permits immediate betrothal and marriage!²⁵ — Rather, said Abaye,²⁶ a woman playing the harlot turns over In order to prevent conception.²⁷ And the other?²⁸ — There is the apprehension that she might not have turned over properly.²⁹

IF THEY WERE PRIESTLY WOMEN, etc. Only³⁰ priestly women but not an Israelitish woman?³¹ -Read, 'If they were the wives of priests'.³² Only 'priests' wives,³³ but not Israelites' wives?³⁴ Surely R. Amram said, 'The following statement was made to us by R. Shesheth who threw light on the subject³⁵ from our Mishnah:³⁶ An Israelite's wife³⁷ who was outraged, though she is permitted to her husband, is disqualified from the priesthood.³⁸ — Raba replied: It is this that was meant:³⁹ IF THEY WERE PRIESTLY WOMEN⁴⁰ married to Israelites THEY ARE DISQUALIFIED from eating *Terumah* at their parents' home.⁴¹

1. That three months must be allowed to pass.
2. Though she is not capable of conception.
3. A proselyte and an emancipated slave who were minors are, however, exempt. because,

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being cases of rare occurrence, no preventive measure is required.

4. The ordinance in our Mishnah.
5. [H] lit., 'a ruling of the hour'.
6. But our Mishnah, 'IF THEY WERE MINORS, etc. Obviously speaks of a contingency and not of a fact.
7. And no preventive measure is, therefore, necessary.
8. Enumerated *infra* 41a, 42b.
9. Before they are allowed to marry again.
10. *Mi'un*, v. [Glos.](#)
11. That in such circumstances she need not wait three months.
12. A minor.
13. Three months.
14. To avoid conception and the mingling of legitimate with illegitimate children.
15. In the original the noun is in the sing.
16. Keth. 372.
17. Rabbah's explanation.
18. Cf. *supra* note 1; and has always some absorbent in readiness.
19. Of their impending liberation.
20. Cf. *supra* notes 1 and 5.
21. V. Ex. XXI, 26, where the liberation of the slave comes suddenly. and no previous care would have been exercised by her.
22. Lit., 'of itself', when the woman was not likely to have been prepared with an absorbent.
23. That a waiting period of three months must be allowed.
24. Cur. edd., 'we learned'.
25. Which shows that even when the unexpected happens R. Jose requires no waiting period!
26. The reading in Keth. 372 is 'Rabbah'. Others, 'Raba' (v. Alfasi).
27. Keth. *loc. cit.* No absorbent is needed. Similarly in the case of a liberated captive or slave. Hence no waiting period is required.
28. Why then does he require a waiting period?
29. And conception might have taken place. V. Keth. *loc. cit.*
30. Lit., 'yes'.
31. The wife of a priest. Surely she also is forbidden to her husband!
32. V. previous note.
33. Are forbidden to marry priests.
34. Who were priests' daughters.
35. Lit., 'and lit up our eyes'.
36. I.e., the Mishnah *infra* 53b which was under discussion.
37. A priest's daughter who on the death of her husband returns to her father's house and is permitted again to eat *Terumah*. V. Lev. XXII, 12-13.
38. *Infra* 56af. She may not marry a priest even after the death of her husband.
39. By our Mishnah.
40. I.e., daughters of priests.

41. PRIESTHOOD in our Mishnah referring to the right of eating *Terumah* on their return to their parents' home in their widowhood (v. Lev. XXII, 13). V. *supra* n. 8, and the reading of cur. edd. *supra* p. 211, n. 8.

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CHAPTER IV

MISHNAH. IF A LEVIR PARTICIPATED IN *HALIZAH* WITH HIS DECEASED BROTHER'S WIFE¹ WHO WAS SUBSEQUENTLY FOUND TO BE PREGNANT, AND SHE GAVE BIRTH, HE IS, WHEREVER THE CHILD IS VIABLE,² PERMITTED TO MARRY HER RELATIVES AND SHE IS PERMITTED TO MARRY HIS RELATIVES,³ AND HE DOES NOT RENDER HER UNFIT FOR THE PRIESTHOOD;⁴ BUT WHEREVER THE CHILD IS NOT VIABLE,⁵ THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST. IF A LEVIR MARRIED HIS DECEASED BROTHER'S WIFE¹ WHO IS FOUND TO HAVE BEEN PREGNANT,⁶ AND SHE GAVE BIRTH, HE, WHEREVER THE CHILD IS VIABLE, MUST⁷ DIVORCE HER. AND BOTH ARE UNDER THE OBLIGATION OF BRINGING AN OFFERING;⁸ BUT IF THE CHILD IS NOT VIABLE, HE MAY RETAIN HER. IF IT IS DOUBTFUL WHETHER IT IS A NINE-MONTHS CHILD OF THE FIRST [HUSBAND] OR A SEVEN-MONTHS CHILD OF THE SECOND [HUSBAND]. SHE MUST BE DIVORCED, AND THE CHILD IS LEGITIMATE,⁹ BUT THEY ARE UNDER THE OBLIGATION OF AN ASHAM TALUI.¹⁰

GEMARA. It was stated: In the case of a levir who participated in *Halizah* with a pregnant woman who subsequently miscarried, R. Johanan said, She need not perform the *Halizah* with the brothers; and Resh Lakish said: She must perform *Halizah* with the brothers. 'R. Johanan said, She need not

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perform *Halizah* with the brothers', because the *Halizah* of a pregnant woman¹¹ is deemed to be proper *Halizah* and marital contact with a pregnant woman is deemed to be proper marriage.¹² 'Resh Lakish said: She must perform *Halizah* with the brothers', because the *Halizah* with a pregnant woman is not deemed to be a proper *Halizah*, nor is marital contact with a pregnant woman deemed to be a proper marriage. On what principle do they¹³ differ? — If you wish I might say: In the interpretation of a Scriptural text. And if you prefer I might say: On a logical point. 'If you wish I might say: In the interpretation of a Scriptural text';¹⁴ R. Johanan is of the opinion that the All Merciful said, And have no child,¹⁵ and this man¹⁶ surely has none; while Resh Lakish is of the opinion that And have no [en lo] child¹⁷ implies. 'Hold an inquiry¹⁸ concerning him'.¹⁹ 'And If you prefer I might say: On a logical point'; R. Johanan argues: Had Elijah²⁰ appeared and announced that the woman would miscarry, would she not have been subject to *Halizah* or levirate marriage?²¹ Now also²² the fact is established retrospectively. And Resh Lakish maintains that a fact cannot be said to have been established retrospectively.

R. Johanan raised an objection against Resh Lakish: **WHEREVER THE CHILD IS NOT VIABLE THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST.** This is quite correct according to my view: Since I maintain that the *Halizah* of a pregnant woman is a proper *Halizah* he, consequently, renders her unfit. According to you, however, who maintain that the *Halizah* of a pregnant woman is not proper *Halizah*, why does he render her unfit to marry a priest? — The other answered him: It²³ is only Rabbinical and it is a mere restriction.²⁴

Others say: Resh Lakish raised an objection against R. Johanan: **WHEREVER THE CHILD IS NOT VIABLE THE LEVIR IS FORBIDDEN TO MARRY HER**

RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST. This is quite correct according to my view; since I maintain that the *Halizah* of a pregnant woman is not a proper *Halizah* it was justly stated as a restriction,²⁵ that **HE RENDERS HER UNFIT TO MARRY A PRIEST** but not that 'she requires no *Halizah* from the brothers';²⁶ according to you, however,²⁷ it should have been stated that 'she requires no *Halizah* from the brothers'!²⁸ — The other replied: It should have been indeed,²⁹ only because in the first clause it was stated, **HE DOES NOT RENDER HER UNFIT**³⁰ it was also³¹ stated in the latter clause, **HE RENDERS HER UNFIT.**³²

R. Johanan raised an objection against Resh Lakish: **IF THE CHILD IS NOT VIABLE, HE MAY RETAIN HER.** This is quite correct according to my view; since I maintain that the *Halizah* of a pregnant woman is a proper *Halizah* and marital contact³³ with a pregnant woman is a proper marriage. it was rightly stated **HE MAY RETAIN HER.**³⁴ According to you, however, who maintain that the *Halizah* of a pregnant woman is not a valid *Halizah* and the marital contact³⁵ with a pregnant woman is not a valid marriage, it should have been stated, 'He must repeat contact and only then he may retain her'! — The meaning of **HE MAY RETAIN HER** is that he must repeat contact and then **HE MAY RETAIN HER**, but not otherwise.³⁶

Others say: Resh Lakish raised an objection against R. Johanan: **IF THE CHILD IS NOT VIABLE HE MAY RETAIN HER.** This is quite correct according to my view; since I maintain that the *Halizah* of a pregnant woman is not a valid *Halizah* and marital contact with a pregnant woman is not a valid marriage, it was rightly stated **HE MAY RETAIN HER**, [meaning that] he must repeat contact and then **HE MAY RETAIN HER**, since otherwise this³⁷ would not have been permitted.³⁸ According to you,³⁹ however, it should have been stated, 'If he wishes he may divorce her and if he prefers he may continue

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to live with her'! — It should have been indeed;⁴⁰ only because in the earlier clause it was stated HE MUST DIVORCE HER, it was also stated in the latter clause HE MAY RETAIN HER.

An objection was raised: 'Where a levir married his Yebamah who was found to be pregnant, her rival may not be married, since it is possible that the child would be viable'. On the contrary! If the child were viable her rival would be exempt!⁴¹ — But read: Since it is possible that the child would not be viable.⁴² Now, if it could be imagined that marital contact with a pregnant woman is to be regarded as a valid marriage, why may not her rival be married? She should be exempted through the marital contact of her associate! — Abaye replied: Both⁴³ agree that by marital contact she does not exempt [her rival]; they differ only on the question of *Halizah*. R. Johanan is of the opinion that the *Halizah* of a pregnant woman is a valid *Halizah*, though marital contact with a pregnant woman is not a valid marriage, while Resh Lakish is of the opinion that marital contact with a pregnant woman is no valid marriage, nor is *Halizah* with a pregnant woman a valid *Halizah*. Said Raba: Whatever is your opinion? If marital contact with a pregnant woman is a valid marriage, the *Halizah* of a pregnant woman should be a valid *Halizah*; or if marital contact with a pregnant woman is no valid marriage, the *Halizah* of a pregnant woman also should be no proper *Halizah*; for we have an established rule

1. Whose husband died without issue.
2. Although the child died soon after.
3. Since a viable child was born the *Halizah* is rendered void.
4. She, unlike any other *Haluzah*, may marry a priest. V. n. 3 *supra*.
5. I.e., if it was of a premature birth.
6. Prior to the levirate marriage.
7. Since the levirate marriage should not take place where the deceased brother has had any issue.
8. A sin-offering for their unwitting transgression in contracting a forbidden marriage (one's brother's wife) where the precept of the levirate marriage did not apply. V. *supra* n. 7.

9. Since in either case he has been born from a lawful union: If he is a nine-months child he is the legitimate offspring of the deceased brother; and if he is a seven-months child of the surviving brother, the deceased had died without issue and the marriage between the widow and the surviving brother was accordingly lawful.
10. The offering prescribed for doubtful trespass. V. Lev. V, 17ff and cf. Ker. 17b.
11. Who miscarried.
12. The miscarriage proved that the previous *Halizah* or marriage were lawful.
13. R. Johanan and Resh Lakish.
14. V. BaH a.l. Cur. edd. reverse the order.
15. Deut. XXV, 5.
16. The deceased whose widow has now miscarried.
17. [H].
18. [H] 'consider', 'investigate'. The 'Ayin ([H]) of [H] is interchanged with the Aleph ([H]) of [H].
19. Inquire whether the deceased has been survived by any kind of child. Even a miscarriage is deemed to be a child. Cf. B.B., Sonc. ed., p. 474. nn. 6ff.
20. The prophet, who could predict the future.
21. Of course she would.
22. That she has actually miscarried, though after the *Halizah* or levirate marriage.
23. The prohibition for the woman to marry a priest.
24. One not knowing the circumstances of this particular case would erroneously assume that any other *Haluzah* may also be married to a priest.
25. V. *supra* n. 2. Had not this been specifically stated it might have been assumed that, as the *Halizah* is invalid, she is not rendered unfit at all.
26. Because she does.
27. Who regard the *Halizah* as valid.
28. And the prohibition to marry each other's relatives and his rendering her unfit for a priest would be inferred as self-evident.
29. Lit., yes, thus also'.
30. The ruling concerning *Halizah* not being applicable in this context, since a viable child was born.
31. So in old editions. Cur. edd. omit 'also'.
32. Thus, as in the first clause, omitting all reference to *Halizah*.
33. Of the levir.
34. Emphasis on MAY. No second contact is necessary after the miscarriage, (since the first was valid) and the levir may also, if he wishes, divorce her.
35. Of the levir.
36. Lit., 'it is not enough without such'. V. Emden, a.l. Cur. edd. omit the last two words.
37. The option of either retaining or divorcing her.

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38. Cf. n. 3 *supra*.
39. Who deem the marriage to be valid.
40. Lit., 'yes thus also'.
41. And free to marry. since her deceased husband is now survived by a living child, and neither she nor the other widow is subject to *Halizah* or levirate marriage.
42. So that his mother as well as her rival would be subject to the levir, the former's previous marital contact, during her pregnancy. being invalid.
43. R. Johanan and Resh Lakish.

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that whosoever is subject to the obligation of levirate marriage is also subject to *Halizah*, and whosoever is not subject to the obligation of the levirate marriage is not subject to *Halizah*!¹ Rather, said Raba, it is this that was meant:² Where a levir married his Yebamah who was found to be pregnant, her rival may not be married, because it is possible that the child would be viable, and marital contact with a pregnant woman is no proper marriage nor is the *Halizah* of a pregnant woman proper *Halizah*, while the child does not bring exemption until he is actually born.³

It was taught in agreement with the view of Raba: Where a levir married his Yebamah who was found to be pregnant, her rival may not be married, because it is possible that the child would be viable, and neither marital contact nor *Halizah* but only the child brings exemption; and the child brings exemption only after he is born.

The reason, then,⁴ is because it is possible that the child might be viable, but where the child is not viable her rival is exempt;⁵ does this imply an objection against Resh Lakish?⁶ — Resh Lakish can answer you [that the Baraitha] is thus to be interpreted:⁷ Where a levir married his Yebamah who was found to be pregnant, her rival may not be married; since it is possible that the child may not be viable, and the *Halizah* of a pregnant woman is no valid *Halizah* nor is the marital contact with a pregnant woman a proper marriage; and were you to suggest that one should be guided by the majority of women, and the

majority of women bear healthy children, [it could be retorted that] a child brings no exemption until he is actually born.⁸

Said R. Eleazar: Is it possible that there should exist [such a ruling as] that of Resh Lakish and that we should not have learnt it in a Mishnah? When he went out he carefully considered the matter and found one. For we learned: If people came to a woman whose husband and rival had gone to a country beyond the sea and told her, 'Your husband is dead',⁹ she may neither be married¹⁰ nor be taken in levirate marriage¹¹ until she has ascertained whether her rival¹² is pregnant.¹³ One can well understand why she may not be taken in levirate marriage, since it is possible that the child¹⁴ may be viable and [the levir] would thus¹⁵ infringe the Pentateuchal prohibition against [marrying] a brother's wife: but why should she not perform the *Halizah*? It is possible to understand the reason why she must not perform the *Halizah* within the nine months¹⁶ and also contract a marriage within nine months,¹⁶ since such [procedure would naturally be forbidden on account of the] doubt;¹⁷ but let her perform the *Halizah* within the nine months¹⁶ and be married after the nine months!¹⁸ — But even in accordance with your view,¹⁹ let her perform the *Halizah* and be married after the nine months!²⁰ The fact, however, is that nothing may be inferred from this;²¹ for both Abaye b. Abin²² and R. Hinena b. Abin²² stated:²³ It is possible that the child²⁴ might be viable²⁵ and you would then subject her to the necessity of an announcement²⁶ in respect of the priesthood.²⁷ — Well, let her be subjected!²⁸ — It may happen that someone would be present at the *Halizah* and not at the announcement,²⁶ and would form the opinion that a *Haluzah* was permitted to a priest.

Said Abaye to him: Was it stated, 'She shall neither perform *Halizah* nor be taken in levirate marriage'? The statement, surely, was, 'She shall neither be married nor be taken in levirate marriage'²⁹ without *Halizah*; if *Halizah*, however, had been performed³⁰ she would indeed have been permitted!³¹

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It was taught in agreement with Resh Lakish: Where a levir participated in the *Halizah* with a pregnant woman who subsequently miscarried, she is required to perform *Halizah* with the brothers.

Raba said: The law is in accordance with the views of Resh!!

If on the other hand, a viable child had been born, exemption took effect at his birth, and subsequent marriage would consequently be lawful. As the Mishnah, however, forbids *Halizah* and marriage even after the nine months, unless definite information about the rival had been received, it must be assumed to represent the view of Resh Lakish who deems a *Halizah* invalid wherever the child is not viable and the ceremony took place during pregnancy. Lakish in the following three rulings.³² One is the ruling just spoken of. Another is his ruling in connection with the following Mishnah:³³ If a man³⁴ distributed his property verbally³⁵ and gave to one [son] more and to another less, or if he assigned to the firstborn a share equal to that of his brothers,³⁶ his arrangements are valid.³⁷ If, however, he said, 'As an inheritance',³⁸ his instructions are disregarded.³⁹ If he wrote⁴⁰ either at the beginning or the end or the middle, 'as a gift',⁴¹ his instructions are valid.⁴²

1. *Supra* 3a.
2. By the Baraitha cited.
3. Lit., 'he went forth into the air of the world'.
4. Why the rival is not exempt.
5. On the strength of the marital contact which took place prior to the miscarriage of the child, no repeated contact being necessary.
6. Who does not regard the marital contact of a pregnant woman as a valid marriage
7. Lit., 'thus he taught'.
8. Lit., 'he went forth unto the air of the world'.
9. And has left no issue.
10. To a stranger.
11. By the levir.
12. Who went together with her husband.
13. *Infra* 119a. Only if she learns that her rival is not pregnant may she contract the levirate marriage.
14. That might be born from the rival.
15. By marrying the widow of his brother who did not die without issue.
16. After the death of her husband.

17. It being uncertain whether the child would be viable or not. Should he be viable, neither the *Halizah* nor the marriage would be valid, while exemption on his account would not come into force until his actual birth.
18. This should be permitted according to the view of R. Johanan at all events: If the rival had been pregnant and miscarried or had not been pregnant at all, the *Halizah* was, surely, valid.
19. That *Halizah* is forbidden because of the possibility that the rival was pregnant at the time *Halizah* took place.
20. When all doubt as to pregnancy would have been removed. Why, then, has it been stated that she may not marry until she had ascertained (even though many years have passed), whether her rival had been pregnant.
21. Mishnah. Lit., 'but outside of that'. No support to the view of Resh Lakish may be derived from it.
22. Cur. edd., 'Abaye'.
23. The reason why no *Halizah* may take place.
24. Of the rival.
25. The birth of a viable child renders the *Halizah* invalid and the woman is consequently permitted to marry a priest.
26. That the *Halizah* was unnecessary and therefore invalid.
27. V. *supra* n. 7.
28. Lit., 'required'.
29. [Rashi apparently omits this and reads: 'She shall neither be married' without *Halizah*].
30. Even within nine months.
31. To marry at the end of that period; the Baraitha will then afford no support to Resh Lakish.
32. B.B. 129b, Hul. 77a.
33. Lit., 'because we learned'.
34. Lying on his death-bed.
35. I.e., explicitly intimated his desire and did not die intestate (v. Rashi, a.l.).
36. Lit., 'he made the firstborn equal to them', though Biblically he is entitled to a double portion.
37. Lit., 'his words stand', because a man is entitled to dispose of his property, as a gift, in any manner that may appeal to him.
38. I.e., if he distributed the shares as portions of an inheritance and not as gifts.
39. Lit., 'he said nothing'. One has no right to give instructions which are contrary to the law of the Torah which entitled every son to a portion and the firstborn to a double portion in the father's estate.
40. In disposing of his property in a written will.
41. I.e., used an expression denoting 'gift', even though it was accompanied by one denoting 'inheritance'. If he wrote, for instance, let a certain field (a) be presented to X that he may inherit it (beginning), or (b) inherited by X and

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be presented to him that he may inherit it (middle), or (c) be inherited by X and be presented to him (end).

42. B.B. 126b. V. *supra* note 6. So long as the expression of 'gift' was used, the other expression of 'inheritance' that may have been coupled with it, does not in any way affect the validity of the testator's instructions.

Yebamoth 36b

And [in connection with this] Resh Lakish stated: No possession is ever acquired,¹ unless the testator had said, 'Let X and Y inherit this and that particular field which I have assigned to them as a gift, so that they may inherit them'.² And the third³ is his ruling in connection with the following Mishnah:⁴ If a man assigned all his estate, in writing, to his son⁵ [to be his]⁶ after his⁷ death, the father may not sell it⁸ because it is assigned to the son, and the son may not sell it because it is in the possession of the father. If the father sold the estate, the sale is valid until his death.⁹ If the son sold it, the buyer has no claim whatsoever upon it until the father's death.¹⁰ And it was stated: If the son sold the estate¹¹ during the lifetime of his father, and died while his father was still alive, R. Johanan said: The buyer does not acquire ownership;¹² and Resh Lakish said: The buyer does acquire ownership.¹³ R. Johanan said that 'the buyer does not acquire ownership', because possession of usufruct is like possession of the capital;¹⁴ and Resh Lakish said that 'the buyer does acquire ownership', because possession of usufruct is not like possession of the capital.¹⁵

BUT IF THE CHILD IS NOT VIABLE, etc.
A Tanna taught: It has been said in the name of R. Eliezer that¹⁶ he must put her out by means of a letter of divorce.¹⁷

Said Raba: R. Meir and R. Eliezer taught the same law.¹⁸ R. Eliezer, in the ruling just mentioned, R. Meir [in the following Baraita] wherein it was taught: A man shall not marry the pregnant, or nursing wife of another;¹⁹ and if he married, he must put her out and never remarry her; so R. Meir. But

the Sages said: He shall let her go.²⁰ and at the proper time²¹ he may marry her again.²²

Abaye said to him:²³ How do you arrive at such a conclusion which may possibly be wrong?²⁴ R. Eliezer's ruling might extend to the present case²⁵ only because the levir is encroaching²⁶ upon the prohibition of 'brother's wife', which is Pentateuchal,²⁷ but there,²⁸ where the prohibition is only Rabbinical,²⁹ he may hold the same view as the Rabbis. Alternatively, it is possible that R. Meir's ruling extends only to that case because the prohibition is Rabbinical,²⁹ and the Sages have given more force to their provisions than to those which are Pentateuchal,³⁰ but not to the case here,³¹ where the prohibition is Pentateuchal,²⁶ and people as a rule keep away from it.³²

Raba said: Even according to the ruling of the Rabbis³³ he must let her go from him by means of a letter of divorce.³⁴ Said Mar Zutra: This may also be deduced, since the expression used was 'he shall put her out'³⁵ and not 'he shall let her part'.³⁶ This proves it.

R. Ashi said to R. Hoshaia son of R. Idi: 'Elsewhere it was taught.³⁷ "R. Simeon b. Gamaliel said: Any human child³⁸ that survived for thirty days cannot be regarded as a miscarriage".³⁹ Had he not lived so long,⁴⁰ however, he would have been a doubtful case.⁴¹ But it was also stated: Where he⁴² died within thirty days⁴³ and she⁴⁴ was subsequently⁴⁵ betrothed,⁴⁶ Rabina said in the name of Raba that if she⁴⁴ was the wife of an Israelite⁴⁷ she must perform the *Halizah*⁴⁸ and if she was the wife of a priest⁴⁹ she must not perform the *Halizah*.⁵⁰ R. Mesharsheya⁵¹ said in the name of Raba: The one as well as the other must perform the *Halizah*. Said Rabina to R. Mesharsheya:⁵¹

1. Where two fields were given to two persons and the expression of 'inheritance' was used together with that of 'gift'.
2. Both acquire possession of the respective fields because the testator had used the expression, 'which I have assigned to them as a gift', implying that the gift was made before it was

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- assigned as an 'inheritance' (v. R. Gershom, B.B. 129a).
3. Lit., 'and the other', the third ruling of Resh Lakish, which is an accepted *Halachah*.
 4. Lit., 'because we learned'.
 5. Inserting the formula 'From this day and after my death'. The law that follows applies also to a gift made by any other person.
 6. The sons.
 7. The testator's.
 8. Either the land or its produce.
 9. Lit., 'sold until he dies'. Until then only may the buyer enjoy its usufruct.
 10. B.K. 88b, B.B. 1362.
 11. Assigned to him by his father for possession after his death.
 12. Even after the father's death, since the estate has never come into the son's possession.
 13. After the death of the father, as the representative of the son, who, were he alive, would have been entitled to the inheritance.
 14. Since the usufruct was in the ownership of the father, the capital, i.e., the soil, is also regarded as being in his possession, and the son, therefore, during the lifetime of his father is not entitled to transfer it to the buyer.
 15. B.K. l.c., B.B. 136af. The soil, therefore, was the undisputed property of the son who, consequently, was fully entitled to transfer it to the buyer.
 16. Contrary to the law of our Mishnah which allows the levir to continue his connubial association with his sister-in-law wherever the child is not viable.
 17. Though the death of the child has proved retrospectively that the levirate marriage was lawful, divorce is imposed upon such a union as a penalty for contracting it at a time when, owing to the uncertainty of the result of the pregnancy, it was of doubtful legality.
 18. Lit., 'said one word', that the penalty of divorce is imposed upon any union the legality of which was doubtful at the time the marriage was contracted.
 19. Though she is now a widow or divorced.
 20. V. *infra* for meaning.
 21. Lit., 'and when his time to marry arrives', i.e. at the end of the period of twenty-four months allowed for the nursing of a child.
 22. Sot. 262.
 23. Raba.
 24. Lit., 'from what? perhaps it is not (so)'.
 25. Lit., 'R. Eliezer did not so far say (his ruling) here'.
 26. It being possible that the child would be viable.
 27. For such a serious offence a penalty is rightly imposed.
 28. Marriage with an expectant. or nursing mother.
 29. Biblically one need not wait twenty-four months before marrying her.
 30. As people might be lax in the observance of a Rabbinical law it was necessary to impose a penalty for its non-observance.
 31. Marriage with an expectant Yebamah.
 32. Or 'her', i.e., from marrying an expectant Yebamah. No penalty. therefore, need be imposed upon an occasional offender.
 33. Who permit marriage after the period of twenty-four months had elapsed.
 34. Mere separation is not enough.
 35. [H] Hif. of [H] 'to go out'.
 36. [H] Hif. of [H] 'to separate'.
 37. Cf. Tosaf. Hul. 87b, s.v. ib., and Bek. 49a s.v. [H]. Cur. edd., 'we learned'.
 38. Of doubtful premature birth. Lit., 'among man', opp. to cattle mentioned in the final clause.
 39. Tosef. Shab. XVI, Shab. 135b, Nid. 44b, *infra* 80b; and consequently exempts his mother from levirate marriage and *Halizah*. In the case of a mature birth (cf. prev. note) the child exempts his mother on the first day of his birth. (V. Nid. 43b).
 40. [Rashi: By dying a natural death; Tosaf. If he was killed; for if he died a natural death within thirty days even the Rabbis would regard him as a miscarriage, v. Tosaf, s.v. [H].
 41. And his mother would have had to perform *Halizah* only, but would not have been allowed to contract the levirate marriage.
 42. The child of a sister-in-law whose husband had died without having left any other issue.
 43. Of his birth.
 44. His mother, the widow of his deceased father.
 45. Lit., 'stood up.'
 46. To a stranger; believing that the birth of the child was sufficient to exempt her from the obligations of the levirate marriage and the *Halizah*.
 47. I.e., if the man who betrothed her was an Israelite who may marry a *Haluzah*.
 48. With the levir.
 49. Cf. *supra* 8. A priest may not marry a *Haluzah*.
 50. Were she to perform it. her husband could not subsequently be allowed to live with her. Hence she is granted exemption from *Halizah* by virtue of the child's birth alone.

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Raba said so¹ in the evening, but on the following morning he retracted.² The other exclaimed, "So you have permitted;³ would that you permitted also abdominal fat!"⁴ Now, what is the law here in respect of the pregnant, or nursing wife of another man who

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was married to a priest? Did the Rabbis make any provision for a priest⁵ or not?' — The other⁶ replied:⁷ What a comparison!⁸ [The distinction]⁹ is well justified there;¹⁰ since the Rabbis differ from R. Simeon b. Gamaliel in maintaining that the child is deemed to be sound even though he did not live long enough,¹¹ we may, in the case of a priest's wife, where no other course is open,¹² act in accordance with the view of the Rabbis.¹³ Here,¹⁴ however, in accordance with whose view could we act? If in accordance with that of R. Meir, he surely stated that he¹⁵ must put her out and never remarry her! And if in accordance with the view of the Rabbis, they, surely, stated [that she must be sent away] by means of a letter of divorce!¹⁶

It was stated: [The case of the man who] betrothed a woman¹⁷ within the three [months]¹⁸ and fled, is one concerning which R. Aha and Rafram are at variance. One holds that the man is to be placed under the ban,¹⁹ but the other holds that his flight is sufficient.²⁰ Such an incident once happened, and Rafram ruled,²¹ 'His flight is sufficient'.²⁰

IF IT IS DOUBTFUL WHETHER IT IS A NINE-MONTHS CHILD, etc. Said Raba to R. Nahman. Let the ruling be that one is to go by the majority of women, and the majority of women bear at nine months!²² — The other replied: Our women bear at seven months. 'Are your women', the first retorted, 'the majority of the world!' — 'What I mean', the other replied, 'is this: Most women bear at nine months and a minority at seven, and the embryo in the case of every woman who bears at nine is recognizable after a third of the period of her pregnancy;²³ and in the case of this woman, since her embryo was not recognized after a third of the period of her pregnancy²³ [her presumption to belong to] the majority is impaired'.

If in the case of every woman, however, who bears at nine the embryo is recognizable after a third of the period of her pregnancy. it is obvious that with this [woman], since her embryo had not been recognized after a third of the period of her pregnancy, it must be a

seven-months child of the second²⁴ husband! — But say rather: When a woman bears at nine months, her embryo in most cases is recognizable after a third of her pregnancy. and with this woman, since her embryo was not recognized after a third of the period of her pregnancy, [her presumption to belong to] the majority is impaired.

Our Rabbis taught: The first [child]²⁵ is fit to be a High priest,²⁶ and the second²⁷ is deemed a bastard owing to his doubtful origin.²⁸ R. Eliezer b. Jacob said: He is not of doubtful bastardy.²⁹ What does he³⁰ mean?³¹ — Abaye replied: It is this that he meant, 'The first child²⁵ is fit to be a High priest²⁶ while the second²⁷ is one of doubtful bastardy²⁹ and is consequently forbidden to marry a bastard.³² R. Eliezer b. Jacob³³ said: He is not one of doubtful bastardy but an assured bastard, and is consequently permitted to marry a bastard'. Raba replied: It is this that was meant: 'The first³⁴ is fit to be a High priest³⁵ and the second,³⁶ on account of his doubtful origin,³⁷ is deemed to be an assured bastard and is consequently permitted to marry a bastard; but R. Eliezer b. Jacob said: He cannot be deemed an assured bastard on account of his doubtful origin;³⁷ he is, however, regarded as one of doubtful bastardy and is consequently forbidden to marry a bastard.³⁸ And they³⁹ differ in [the interpretation of a ruling] of R. Eleazar. For we learned: 'R. Eleazar said, persons of confirmed illegitimacy may [intermarry] with others of confirmed illegitimacy, but those of confirmed illegitimacy may not intermarry with those of doubtful illegitimacy;⁴⁰ nor those of doubtful, with those of confirmed illegitimacy; nor those of doubtful, with others of doubtful illegitimacy. And the following are of doubtful legitimacy: The shethuki,⁴¹ the asufi⁴² and the Samaritan.⁴³ And [in connection with this] Rab Judah stated in the name of Rab, 'The *Halachah* is in accordance with the ruling of R. Eleazar, but when I stated this in the presence of Samuel⁴⁴ he said to me, "Hillel taught that the following ten different genealogical classes went up from Babylon:⁴⁵ priests, Levites, Israelites,

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profaned priests,⁴⁶ proselytes, emancipated slaves, bastards, nethinim,⁴⁷ shetkuki⁴¹ and asufi,⁴² and all these may inter marry",⁴⁸ and you state that the *Halachah* is in accordance with the ruling of R. Eleazar!⁴⁹ Now Abaye upholds the opinion of Samuel who stated that the *Halachah* is in agreement with the ruling of Hillel and consequently brings the ruling of R. Eliezer b. Jacob into harmony with the *Halachah* so that there may be no contradiction between the one *Halachah* and the other.⁵⁰ Raba, on the other hand, upholds the opinion of Rab who stated that the *Halachah* is in agreement with the ruling of R. Eleazar, and so he brings the ruling of R. Eliezer b. Jacob into harmony with the *Halachah* in order that there may be no contradiction

1. That *Halizah* must be performed even where the husband is a priest (R. Mesharsheya's version).
2. Exempting the widow from *Halizah* where a priest is involved (Rabina's version).
3. *Var. lec.* 'permitted it'.
4. Shab. 136af.
5. That temporary separation until the twenty-four months had elapsed shall suffice and that, unlike an Israelite, the priest shall not be required to give a divorce. If an Israelite gives a divorce in such circumstances he may remarry the woman after the lapse of the forbidden period. A priest, however, being forbidden to marry a divorced woman, would never again be allowed to remarry her once she had been divorced.
6. R. Hoshai.
7. To R. Ashi.
8. Lit., 'thus now'.
9. Between an Israelite and a priest.
10. Where the child died within the first thirty days of his life and his mother was betrothed to a stranger.
11. The full thirty days.
12. Since a priest is forbidden to marry a divorced woman.
13. In regarding the child as viable and thus exempting the mother from the levirate marriage and *Halizah*.
14. Where the levir married his sister-in-law while she was an expectant, or nursing mother.
15. The levir.
16. V. *supra* 36b and cf. p. 229, nn. 16 and 17.
17. An expectant, or nursing mother who was a widow or divorcee.
18. After she became a widow or divorcee.
19. Until he consents to divorce the woman.
20. He need not be compelled to give her a divorce, and no penalty need be imposed upon him, since his flight may be taken as an indication that it was not his intention to live with her before the lapse of a period of twenty-four months after the birth of a child.
21. Lit., 'said to them'.
22. The child would consequently be deemed to be the son of the first husband, and the marriage of his mother with the levir would be a forbidden union. The levir who thus married unlawfully his brother's wife should bring a sin-offering and not, as stated in our Mishnah, an *Asham Talui*.
23. Lit., 'her days'.
24. Lit., 'last'.
25. Born from the levirate marriage, and in respect of whom it is doubtful whether he is a nine-months child of the deceased or a seven-months one of the levir.
26. His legitimacy is beyond all doubt. If he is the son of the deceased brother he is legitimate, though the subsequent levirate marriage is a forbidden one; and if he is the son of the levir, the levirate marriage itself is a lawful union.
27. Any child after the first, born from the levirate marriage.
28. It being possible that the first child was the son of the deceased, and that the levirate marriage was consequently forbidden under the penalty of *Kareth*. Children born from such a union are bastards.
29. Cur. edd., 'There is no bastard on account of doubt'.
30. R. Eliezer b. Jacob.
31. Does he imply that one cannot be described as a bastard unless his illegitimacy is a certainty?
32. Since it is equally possible that he himself is not a bastard.
33. So BaH a.l. cur. edd. omit the last two words.
34. V. *supra* p. 232, n. 3.
35. V. *loc. cit.* n. 4.
36. V. *loc. cit.* n. 5.
37. V. *loc. cit.* n. 6.
38. Since it is equally possible that he himself is not a bastard.
39. Abaye and Raba in their differing explanations of the Baraita cited.
40. Since it is possible that a person of doubtful legitimacy may in fact be legitimate, and by marrying one whose illegitimacy is established a bastard, contrary to Pentateuchal law, would be 'admitted into the congregation'. (V. Deut. XXIII, 3).
41. [H] (rt. [H] 'to be silent'), he who knows his mother but does not know who was his father (v. Kid. 6); who 'keeps silent' about his origin.

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42. [H] (rt. [H] 'to gather') a child picked up in the street, and whose fatherhood and motherhood are unknown (v. Kid. l.c.); 'a foundling'.
43. Kid. 74a. In all these cases the legitimacy is doubtful: in the first two, because the father is unknown; and in the last, because the Samaritans did not observe all the laws of betrothal, and any Samaritan might be the issue of an illicit union between his father and a woman who had been legally betrothed to another man.
44. After Rab's death, where Rab Judah joined Samuel's academy for a short period.
45. To Judea, in the days of Ezra.
46. Priests born from a forbidden union (cf. Lev. XXI, 7).
47. [H], plur. of *Nathin*, v. [Glos.](#)
48. I.e., each class may intermarry with at least one other class.
49. Kid. 75a. How, in view of Hillel's ruling (v. *supra* n. 1), could the *Halachah* be said to be in agreement with the view of R. Eleazar according to whom certain classes, not being of confirmed illegitimacy, could never intermarry!
50. The *Halachah* is always determined by the teachings of R. Eliezer b. Jacob whose information was well sifted and authoritative. (V. Git. 67a).

Yebamoth 37b

between one *Halachah* and the other.

Said Abaye: Whence do I infer that R. Eliezer b. Jacob treats any doubtful case as a certainty? — [From] what was taught: R. Eliezer b. Jacob said, 'Behold, when a man has intercourse with many women and does not know with which particular woman¹ he had intercourse, and, similarly, when a woman with whom many men had intercourse does not know to which particular man her conception is due, the consequences are that a father will be marrying his daughter and a brother his sister, and the whole world will be filled with bastards,² and concerning this it was said, And the land became full of lewdness'.³ And Raba?⁴ — He can answer you: It is this that was meant, 'What might be the result?'⁵

More than that⁶ was said by R. Eliezer b. Jacob: A man shall not marry a wife in one country and then proceed to marry one in

another country, since [their children]⁷ might marry one another and the result might be that a brother would marry his sister.⁸

But, surely, this could not be [the accepted ruling], for Rab, whenever he happened to visit Dardeshir,⁹ used to announce, 'Who would be mine¹⁰ for the day!' So also R. Nahman, whenever he happened to visit Shekunzib,¹¹ used to announce, 'Who would be mine for the day'!¹² — The Rabbis came under a special category since they are well known.¹³

But did not Raba say: A woman who had an offer of marriage and accepted must allow a period of seven ritually clean days to pass!¹⁴ — The Rabbis sent their representatives and these presented the announcements to the women.¹⁵ And if you prefer I might say: The Rabbis only had them¹⁶ in their private rooms;¹⁷ for the Master said, 'He who has bread in his basket cannot be compared to him who has no bread in his basket'.¹⁸

A Tanna taught: R. Eliezer b. Jacob said: A man must not marry a woman if it is his intention to divorce her, for it is written, Devise not evil against thy neighbor, seeing he dwelleth securely by thee.¹⁹

If the 'doubtful son'²⁰ and the levir came to claim a share²¹ in the estate of the deceased,²² the 'doubtful son' pleading, 'I am the son of the deceased and the estate is mine', while the levir pleads, 'You are my son and you have no claim whatsoever upon the estate', it is a case of money of doubtful ownership,²³ and money the ownership of which is doubtful must be divided.²⁴

Where the 'doubtful son'²⁰ and the sons of the levir came to claim their share²¹ in the estate of the deceased, the 'doubtful son' pleading, 'I²⁵ am the son of the deceased and the estate is mine while the sons of the levir plead, 'You are our brother and you have only a share equal to ours', it was the intention of the Rabbis to submit to R. Mesharsheya that this was a case [identical with that] of a Mishnah wherein we learned, 'He²⁶ does not inherit

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from them²⁷ but they inherit from him',²⁸ since here the case is just the reverse:²⁹ There they tell him, 'produce proof and take [your share]'³⁰ while here he tells them, 'produce proof and take your share'.³¹ R. Mesharsheya, however, said to them, 'Are [the two cases] equal? There, their claim is a certainty³² while his is doubtful,³³ while here both are doubtful!³⁴ If, however, a case is to be compared to a Mishnah it is to the following: That of a 'doubtful son'³⁵ and the sons of the levir who came to claim³⁶ shares in the estate of the levir himself, where they can say to him: produce proof that you are our brother and take your share'.³⁷

If a 'doubtful son'³⁵ and the sons of the levir came to claim³⁶ their shares in the estate of the levir after the levir had received his share in the estate of the deceased, the sons of the levir pleading, 'produce proof that you are our brother and you will receive [your share]', the 'doubtful son' can tell them, 'Whatever you wish: If I am your brother, give me a share among you;³⁸ and if I am the son of the deceased, return to me the half which your father received when he shared the estate with me'.

Said R. Abba in the name of Rab: The judgment must stand.³⁹ R. Jeremiah said: The judgment is to be reversed.⁴⁰

May it be suggested that they⁴¹ differ on the same principle as that which underlies the dispute between Admon and the Rabbis? For we learned: If a man went to a country beyond the sea and [in his absence] the path to his field was lost,⁴² he shall, Admon said, use the shortest cut;⁴³ but the Sages said: He must purchase a path even though it will cost him a hundred *Maneh* or else fly in the air.⁴⁴ And in discussing this [Mishnah it was pointed out] against the Rabbis that Admon was perfectly right; and Rab Judah replied in the name of Rab that here it is a case where [the fields of] four persons surrounded it on its four sides.⁴⁵ But [it was asked] what is Admon's reason? And Raba replied: Where four persons⁴⁶ derive their rights of possession from four persons⁴⁷ or where four persons

derive it from one⁴⁵ all agree that these⁴⁸ can refuse⁴⁹ him; the dispute only concerns one person who derived his rights from four. Admon is of the opinion that he⁵⁰ can tell him, 'At all events⁵¹ my path is in your fields',⁵² while the Rabbis hold that the other can answer him, 'If you will keep quiet, well and good;⁵³ and if not, I will return the deeds to their original owners whom you will have no chance to call to law'.⁵⁴ May it, then, be suggested that R. Abba⁵⁵ holds the view of the Rabbis⁵⁶ and R. Jeremiah⁵⁷ that of Admon?⁵⁸ R. Abba can tell you: I may even hold the view of Admon; he made his ruling there⁵⁹ only because he⁶⁰ can say to him,⁶¹ 'Whatever you wish to plead,

1. Among those who had issue from their unlawful connection.
2. Thus it has been shown that, according to R. Eliezer b. Jacob, even persons of doubtful illegitimacy are described as 'bastards'.
3. [H] Lev. XIX, 29, Tosef. Kid. I.
4. How could he maintain a ruling which is contrary to the statement of R. Eliezer b. Jacob just quoted?
5. [H] Lit., 'this, what is it', a play on the word [H] (cf. Ned. 51a), i.e., R. Eliezer b. Jacob implies the possibility that the consequences might be the bringing of bastards into the world; not that all the issue would be deemed confirmed bastards.
6. I.e., not only did he denounce indiscriminate intercourse, as has just been shown, but he also forbade lawful marriage wherever its consequences might lead to moral chaos.
7. Born in different parts of the world and knowing nothing of each other's parentage.
8. Yoma 18b.
9. [Ardashir, a town near Mahuza. V. Obermeyer pp. 164ff and 175, n. 1.].
10. By marriage.
11. [A town on the eastern bank of the Tigris, v. *op. cit.* p. 190].
12. Yoma 1c. [Rashi: 'for the days' (plur.). He was anxious to establish a home in Shekunzib which he often visited on business affairs and consequently wished to secure a wife to bless his home whenever he would stay there, v. Obermeyer, p. 191].
13. Should there be any issue from their marriages, in whatever part of the world this might happen, it will be well known to everybody who the father is.
14. Nid. 662; because it is possible that the excitement of the proposal and its acceptance has produced menstrual flow, and the woman

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- has thus become Levitically unclean. How, then, could the Rabbis mentioned marry on the very day on which their announcements were made?
15. Seven days prior to the Rabbis' arrival.
 16. The women they married for the day.
 17. Rt. [H] B.H. [H], 'to be alone with one other person'; but no connubial intercourse took place.
 18. Yoma *loc. cit.*, Keth. 62b. The consciousness of having no bread at all intensifies the pangs of hunger, while the presence of bread in the basket, and the knowledge that it may be enjoyed at any moment, mitigates the craving. Similarly, the consciousness of the presence of one's own wife mitigates the sensual desires.
 19. Prov. III, 29; v. Git. 90a.
 20. A son of whom it is not known whether he was a nine-months child of the deceased, or a seven-months one of the levir. (V. our Mishnah).
 21. Lit., 'to divide', or 'to dispute'.
 22. Who died without issue and whose expectant wife had married the levir and bore this 'doubtful son'.
 23. Lit., 'which is thrown into doubt'; none of the disputants has any claim superior to that of the other.
 24. Between the claimants.
 25. Lit., 'that man'.
 26. The son concerning whom it is uncertain whether he was a nine months child of his mother's first, or a seven-months child of her second husband. Cf. *supra* n. 2.
 27. Neither from the sons of his mother's first, nor from those of her second husband. As his claim is indefinite, since he cannot possibly know who his father really was, each group of heirs, whose claim to the estate of their respective fathers is definite and certain, can plead that he is not the son of their father.
 28. *Infra* 100b. When he dies, the two groups of brothers, since they have exactly equal claims upon his estate, are entitled to equal shares in it.
 29. While in the Mishnah cited their claim is certain and his is not, in this case his claim is certain while theirs is not. His claim is certain since at all events he is entitled either to all the estate (if he is the son of the deceased) or to a part at least (if he is the son of the levir), their claim, however, is doubtful since it is possible that he is the son of the deceased and they, as the sons of the levir, have no claim whatsoever upon the estate.
 30. Cf. *supra* note 9.
 31. Cf. *supra* p. 236, n. 11.
 32. They know exactly whose children they are and by virtue of whose rights they advance their claims.
 33. He is not sure whose son he is.
 34. He himself whose claim to heirship is certain is also in doubt as to who exactly his father was and by virtue of whose rights he is entitled to the estate.
 35. V. *supra* p. 236, n. 2.
 36. V. *loc. cit.* n. 3.
 37. Here, as in the Mishnah, one claim is a certainty (that of the sons of the levir) while the other (that of the 'doubtful son') is not.
 38. And the half he already received he would return. This, of course, applies to the case only where one share in the levir's estate exceeds half the estate of the first deceased brother.
 39. Once the levir received a half of the estate of his deceased brother it cannot again be taken away from his heirs. The second claim of the 'doubtful son' is, therefore, invalid.
 40. The sons of the levir must either return to the 'doubtful son' the half which their father had received or allow him in their father's estate a share equal to theirs.
 41. R. Abba and R. Jeremiah.
 42. It being unknown in which of the surrounding fields it lay.
 43. He must be allowed a short path through one of the surrounding fields. V. *infra* for further explanation.
 44. Keth. 109b.
 45. So that each person can plead that it was not in his field, but in one of the others, that the lost path lay.
 46. The respective owners of the four surrounding fields.
 47. Who presented or sold the fields to them.
 48. The present four owners.
 49. Lit., 'reject'.
 50. Whose path was lost.
 51. In whichever field it was lost,
 52. Hence he is entitled to the short cut.
 53. Lit., 'you will keep quiet'. He will sell him a path at a reasonable price (Rashi). Cf., however, Tosaf. s.v. [H].
 54. Lit., 'and you will not be able to talk law with them'. V. *supra* note 3.
 55. Who does not allow the alternative claim of the 'doubtful son'.
 56. Who also disallow the alternate claim of the loser of the field.
 57. Who admits the alternative claim of the 'doubtful son'.
 58. Who also admits the alternative claim in the case of the lost path.
 59. The case of the lost path.
 60. The loser of the path.
 61. The present owner of the fields.

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my only path lies in your fields', but could such a plea be advanced here! And R. Jeremiah can tell you: I may uphold even the view of the Rabbis, for the Rabbis made their ruling there only because he can tell him, 'If you keep silence, well and good, and if not I will return the deeds to their original owners and you will have no chance to call them to law', but could such a plea be advanced here!

Where a 'doubtful son'¹ and a levir came to claim their shares² in the estate of the grandfather,³ the former⁴ pleading, 'I am⁵ the son of the deceased and half of the estate belongs, therefore, to me', while the levir pleads, 'You are my own son and you have, therefore, no share whatsoever', the levir's claim being a certainty⁶ and that of the 'doubtful son' a doubtful one,⁷ doubt may not supersede⁸ a certainty.

Where the 'doubtful son'¹ and the sons of the levir came to claim their shares² in the estate of their grandfather,² the former⁴ pleading, 'I am⁵ the son of the deceased and half of the estate is, therefore, mine'¹⁰ while the sons of the levir plead, 'You are our brother and you have a share like one of us',¹¹ they receive the half which he concedes to them while he receives the third¹² which they concede to him, and thus a sixth¹³ remains,¹⁴ which, being property¹⁵ of uncertain ownership, is to be equally divided.¹⁶

Where the grandfather¹⁷ and the levir [claim their shares] in the estate of the 'doubtful son' or where the grandfather¹⁷ and the 'doubtful son' [claim their shares] in the estate of the levir, the estate is to be regarded as money of uncertain ownership and is to be equally divided.¹⁶

MISHNAH. IF A WOMAN AWAITING [THE DECISION OF] THE LEVIR¹⁸ CAME INTO THE POSSESSION OF¹⁹ PROPERTY,²⁰ BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY SELL IT OR GIVE IT AWAY, AND THAT HER ACT IS LEGALLY VALID. IF SHE²¹ DIED, WHAT SHALL BE DONE WITH HER

KETHUBAH²² AND WITH PROPERTY THAT COMES IN AND GOES OUT WITH HER?²³ BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND²⁴ ARE TO SHARE IT²⁵ WITH THE HEIRS OF HER FATHER;²⁶ AND BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS, [HENCE] THE **KETHUBAH** IS TO REMAIN IN THE POSSESSION OF THE HEIRS OF THE HUSBAND WHILE THE PROPERTY WHICH COMES IN AND GOES OUT WITH HER²³ REMAINS IN THE POSSESSION OF THE HEIRS OF HER FATHER.²⁷ WHERE HE MARRIED HER,¹⁸ SHE IS DEEMED TO BE HIS WIFE IN EVERY RESPECT SAVE THAT HER **KETHUBAH** REMAINS A CHARGE ON HER FIRST HUSBAND'S ESTATE.

GEMARA. Wherein does the first clause²⁸ in which there is no dispute between them²⁹ differ from the final clause³⁰ in which they²⁹ do dispute?³¹ 'Ulla replied: The first clause deals with a woman who became subject to the levirate marriage³² while betrothed, and the final clause with one who became subject to the levirate marriage³² while married. And 'Ulla is of the opinion that the levirate bond³³ of a betrothed woman renders her 'doubtfully betrothed'³⁴

1. V. *supra* p. 236, n. 2.
2. V. *loc. cit.* n. 3.
3. Of the 'doubtful son', the father of the levir and the deceased.
4. Lit., 'the doubtful'.
5. Lit., 'that man'.
6. He knows exactly by virtue of whose, and by virtue of what rights he advances his claim, and he may consequently be regarded as being in actual possession of the estate.
7. He cannot in any way be sure whose son he is and by virtue of whose rights his claim is advanced.
8. Lit., 'take out'.
9. Cf. *supra* note 3.
10. Since it is to be divided into two equal shares between the two sons of the deceased.
11. If for instance, the total number of brothers was three, he is entitled, they claim, to a third of the estate only, and not to a half,
12. V. note 13 *supra*.
13. [H], a sixth of a *Dinar*, hence a 'sixth' generally.

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14. 1 — (1/2 + 1/3) = 1/6.
15. Lit., 'money'.
16. Between the claimants.
17. V. *supra* note 3.
18. [H] the widow of a deceased brother during the period intervening between the death of her husband and the *Halizah* or marriage with the levir.
19. Lit., 'there fell to her'. The assumption now is that this occurred during her 'waiting period'. v. *supra* n. 1,
20. Bequeathed to her by her father or presented to her as a gifts
21. V. *supra* note 1.
22. V. [Glos.](#)
23. Her *Melog* property. v. [Glos.](#)
24. Who is heir to his wife. Husband in this context _ levir.
25. In the Gemara it is explained that this refers to the *Melog* property only. In respect to the *Kethubah* Beth Shammai agree with Beth Hillel.
26. It being a matter of doubt whether the levirate bond with the levir constitutes such a close relationship as that of an actual marriage, the right of heirship as between her husband's heirs and hers cannot be definitely determined and the property must, therefore, be equally divided between them.
27. For further notes v. Keth., Sonc. ed. pp. 507 ff.
28. The case where the widow is alive.
29. Beth Shammai and Beth Hillel.
30. Where the widow had died.
31. Why is the widow in the first case regarded as the confirmed possessor of the property and allowed to dispose of it in any manner she desires, while in the second case her right of possession is in dispute, her rightful heirs not being regarded as the lawful and undisputed successors to her property?
32. Lit., 'when she fell'.
33. Between the widow and the levir, due to the obligations of the levirate.
34. The levirate bond not carrying the same force as actual betrothal.

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and the levirate bond of a married woman renders her 'doubtfully married'.¹ 'The levirate bond of a betrothed woman renders her doubtfully betrothed', for were we to assume that she is regarded as definitely betrothed, [how could both] BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY SELL IT OR GIVE IT AWAY AND THAT HER ACT IS LEGALLY

VALID when we learned: If she came into the possession of property while she was betrothed, Beth Shammai said, she may sell it, and Beth Hillel said, she may not sell it, but both agree that if she had sold or had given it away her act is legally valid!² Consequently³ it must be inferred that the levirate bond of a betrothed woman renders her 'doubtfully betrothed'.⁴ 'The levirate bond of a married woman renders her doubtfully married', for had it been possible to assume that she is regarded as definitely married, [how could] Beth Shammai state that THE HEIRS OF HER HUSBAND ARE TO SHARE IT WITH THE HEIRS OF HER FATHER when we learned: If she came into the possession of property while she was married, both⁵ agree that, if she had sold or given it away, her husband may seize it from the hand of the buyers!⁶ Consequently it must be inferred that the levirate bond of a married woman renders her 'doubtfully married'.⁷

Said Rabbah to him:⁸ Why, then, do they⁹ dispute on [the question of the estate] itself after the death [of the widow]? Let them rather dispute on the question of the usufruct while she is alive! No, said Rabbah, both clauses deal with property which came into her possession while she was married; and the levirate bond of a married woman stamps her as doubtfully married. In the first clause, therefore, where she is alive, she is the certain possessor¹⁰ while they are only doubtful possessors, and doubt cannot override a certainty.¹¹ In the final clause, however, where she is dead, both groups come equally as heirs¹² and are, therefore,¹³ to take equal shares.¹⁴

Abaye pointed out an objection against him:¹⁵ Cannot a doubt, in accordance with the view of Beth Shammai, override a certainty? Surely we learned: [In the case where] a¹⁶ house collapsed upon a man¹⁷ and his father or upon a man¹⁷ and those whose heir he was,¹⁸ and that man had against him the claim of his wife's *Kethubah*¹⁹ or that of a creditor,²⁰ [and in the first case], the heirs of the father plead that the son died first and the

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father afterwards,²¹ while the creditor pleads that the father died first and the son afterwards,²² Beth Shammai hold [that the amount in dispute is] to be divided,²³ and Beth Hillel hold that the estate is to remain in its former status.²⁴ Now here, surely, [the claim of] the heirs of the father is a certainty²⁵ and that of the creditor is only a doubt²⁵ and yet²⁶ the doubtful claim overrides the certainty!²⁷ — Beth Shammai are of the opinion that a bond of indebtedness which is due for repayment is regarded as [already] repaid!²⁸

And whence do you derive this?²⁹ — [From] what we learned: If their husbands³⁰ died before they drank,³¹ Beth Shammai rule that they are to receive their *Kethuboth*³² and that they need not drink,³³ and Beth Hillel rule that they either drink³³ or they do not receive their *Kethuboth*.³⁴ [But how can it be ruled,] 'They either drink', when the All Merciful said, Then shall the man bring his wife³⁵ and he is not there! Consequently [the meaning must be that] as they do not drink they are not to receive their *Kethuboth*.³² Now here, surely, it is a matter of doubt, it being uncertain whether she did play the harlot³⁶ or not,³⁷ and yet the doubt overrides the certainty.³⁸ Consequently³⁹ it must be inferred that a bond of indebtedness which is due for repayment is regarded as already repaid.⁴⁰

Abaye,⁴¹ then,⁴² should have raised his objection from this!⁴³ — [The law of] a wife's *Kethubah* might be different owing to considerations of courtesy.⁴⁴

Then let him⁴⁵ raise his objection from the law of the *Kethubah* in our Mishnah!⁴⁶ They⁴⁷ do not dispute this point.⁴⁸

But do they not? Surely we learned,⁴⁹ IF SHE DIED, WHAT SHALL BE DONE WITH HER *KETHUBAH* AND WITH PROPERTY THAT COMES IN AND GOES OUT WITH HER? BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND ARE TO SHARE IT WITH THE HEIRS OF HER FATHER; BETH HILLEL SAID: THE PROPERTY IS

TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS! — It is this that was meant: IF SHE DIED, WHAT SHALL BE DONE WITH HER *KETHUBAH*? and then [the enquiry] was abandoned. As to PROPERTY THAT COMES IN AND GOES OUT WITH HER, BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND ARE TO SHARE WITH THE HEIRS OF HER FATHER AND BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS.

Said R. Ashi: The inference from the expressions in our Mishnah leads to the same conclusion;⁵⁰ for it was stated, THE HEIRS OF HER HUSBAND ARE TO SHARE WITH THE HEIRS OF HER FATHER⁵¹ and it was not stated 'the heirs of the father [are to share it] with the heirs of the husband'.⁵² This proves it.

[Reverting to the previous question,]⁵³ Abaye replied: The first clause [deals with property] that came into her possession while she was awaiting [the decision of] the levir,⁵⁴ and the latter clause [with such] as came into her possession while she was still with her husband.

1. Cf. *supra* n. 3.
2. Keth. 78a., Sonc. ed. pp. 490ff q.v.
3. Since in the case of a definite betrothal Beth Hillel, contrary to the opinion of Beth Shammai do not allow the widow the right of sale or gift, while in the first clause of our Mishnah they do.
4. Hence Beth Shammai, who concede to the widow the right to sell and to give away even where her betrothal was certain, with all the more reason concede such rights to the widow spoken of in the first clause of our Mishnah where her betrothal is only doubtful. Beth Hillel, too, since in the case of a definite betrothal they agree that a sale or gift that had already taken place is valid, may rightly concede to the widow in the case of doubtful betrothal the full rights of selling and giving away.
5. Beth Shammai and Beth Hillel.
6. Keth. *loc. cit.*
7. And so both Beth Shammai and Beth Hillel, who in the case of a definite marriage recognize the husband's right to seize from the buyers even property that his wife had already

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sold, agree that in the case of our Mishnah, the status of marriage being a matter of doubt, the husband's rights are also a matter of doubt. Hence Beth Shammai might well maintain that the property which is of doubtful ownership should be equally divided between the rival claimants, while Beth Hillel may maintain that the widow's right of possession is to be given priority since she came into the possession of the property at a time when her married status was a matter of uncertainty.

8. 'Ulla.
9. Beth Shammai and Beth Hillel.
10. Since the property is in any case hers.
11. Hence Beth Shammai as well as Beth Hillel agree that she is fully entitled to sell the property or to give it away.
12. Lit., 'those come to inherit' (bis). Had the levirate bond borne the same force as marriage the estate would undoubtedly have become the property of the levir only. Had it not borne the same force as marriage the estate would have been given to her father's heirs only, and the levir would have had no claim whatsoever. The claims of either group are consequently evenly balanced.
13. Since the claim of either is equally doubtful.
14. According to Beth Shammai. Beth Hillel's view, on the other hand, may be justified on the ground that the widow's father's heirs are her certain relatives and are, therefore, entitled to inherit that which was in her possession. No such claim, however, could be advanced by the husband's relatives since the husband himself was never for one moment in definite and undisputed possession of the property in question.
15. Rabbah.
16. Lit., 'the'.
17. Lit., 'upon him'.
18. Brothers, for instance, or other relatives, who had no other heirs but him.
19. V. [Glos.](#)
20. And he left no other money or possessions wherewith to meet his obligations, while those whose heir he was did leave possessions.
21. The son did not consequently inherit from his father whose estate would, therefore, belong to the surviving heirs.
22. And the son had, therefore, inherited his father's estate which may consequently be seized in payment of the son's debts.
23. Between the creditor and the heirs, their respective claims being regarded by Beth Shammai as of equal force.
24. B.B. 157a; With the heirs of the father. The claim of the heirs is regarded by Beth Hillel as a certainty, since they are in possession of the estate either as heirs of the father or as heirs of the son, while the claim of the creditor, being dependent on his being put into possession of the estate by the court, is of doubtful validity, and 'doubt cannot override a certainty'.
25. v. *supra* n. 8.
26. According to Beth Shammai.
27. Lit., 'and doubt comes and takes away from the hands of certainty'. V. *supra* n. 8.
28. Sot. 25a. The amount of the debt is deemed to be in the virtual possession of the creditor. The claims respectively of the heirs and the creditor are, consequently, of equal force. If the father died first his son inherited his estate and the creditor had immediately come into the legal possession of a share of the estate equal to the amount of his debt. If the son died first the heirs come into possession of the entire estate. As it is not known who died first the claims of the two parties are equally doubtful and of equal validity.
29. That Beth Shammai hold the opinion just attributed to them.
30. Of women suspected of illicit intercourse with strangers after they had been warned by their husbands. V. [Glos.](#) s.v. Sotah.
31. The water of bitterness. V. Num. V, 24.
32. Pl. of *Kethubah*, v. [Glos.](#)
33. The water of bitterness. V. Num. V, 24.
34. Sot. 24a, *Keth.* 81a.
35. Num. V, 15; emphasis on man.
36. And has, therefore, lost the right to her *Kethubah*.
37. And is consequently entitled to receive it.
38. Cf. *supra* p. 243, n. 12. Despite the doubt as to whether she is entitled to her *Kethubah* she receives it, according to Beth Shammai; and she thus takes away the amount of her *Kethubah* from the heirs of her husband who are the undoubted successors to his property.
39. Since the rule is that 'doubt cannot override certainty's
40. The *Kethubah* is, therefore, deemed to have been collected as soon as the husband died, and the widow is consequently deemed to be the virtual possessor of such a portion of his estate as would cover the amount of her *Kethubah*.
41. Whose objection to Rabbah, *supra*, was based on a Mishnah from Baba Bathra.
42. Since the principle of virtual possession did not occur to him as the reason for allowing a doubtful claim in face of certain one.
43. The Mishnah just cited which is embodied in the Tractates of Sotah and *Kethuboth* both of which belong to the same order as our Tractate. Since the principles in both Mishnahs are identical, why did Abaye resort to a Mishnah in another order when one was available in our order of Nashim.
44. [H] 'gracefulness', 'loveliness'. It is possible that in order that pleasant and cordial

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relations may exist between husband and wife the law has been enacted that, despite the general rule that 'doubt cannot override a certainty', a woman shall be privileged to collect her *Kethubah* even when her own claim is of a doubtful character and that of her litigants is a certain one. No objection could, therefore, be put forward from such a special case; and Abaye had consequently to resort to a Mishnah in *Nezikin*. Other explanations of [H] (v. Jast.): 'In order to make her attractive', 'that women may be willing to marry'.

45. Abaye.
46. Where, according to Beth Shammai, the heirs of the father (by virtue of his being heir to his daughter, the widow), though their claim is of a doubtful nature, share the amount of the *Kethubah* with the heirs of the husband whose rights to the amount of the *Kethubah* (as the heirs of the husband) are certain. At the moment it is assumed that Beth Shammai's disagreement with Beth Hillel extends to the *KETHUBAH* as well as to the PROPERTY THAT COMES IN AND GOES OUT WITH HER; and 'considerations of courtesy' could not, of course, apply when the woman is dead and the claimants are her male heirs. Cf. *Keth.* 97b.
47. Beth Shammai.
48. They agree with Beth Hillel that the *KETHUBAH* IS TO RETAIN IN THE POSSESSION OF THE HEIRS OF THE HUSBAND. V. *supra* p. 240, n. 8.
49. So MS.M. Cur. edd. 'it was taught'.
50. That Beth Shammai's disagreement with Beth Hillel does not extend to the question of the *Kethubah*.
51. I.e., the former take a share in that which is virtually in the possession of the latter, viz., the *Melog* property which belongs to the heirs of the wife's father.
52. Which would have referred to the *Kethubah* which is in the virtual possession of the husband's heirs,
53. *Supra* 38a, 'Whereby does the first clause, etc.
54. As the levirate bond is not strong enough to give the levir any right over that property, it is generally agreed that she and, in case of her death, her heirs also are entitled to dispose of it in any manner they like.

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And Abaye¹ maintains that a husband's rights² have the same force as his wife's.³ Said Raba to him:⁴ If she came into possession of property while she was still With her husband, no one⁵ would dispute the view

that his rights are superior to hers.⁶ Both [clauses of our Mishnah], however, [deal with property] which came into her possession while she was awaiting [the decision of] the levir; the first clause speaking of one to whom a Ma'amar had not been addressed,⁷ and the final clause, of one to whom a Ma'amar had been addressed.⁸ And Raba is of the opinion that a Ma'amar, according to Beth Shammai, renders [the widow] definitely betrothed and doubtfully married. She is deemed to be definitely betrothed in respect of excluding her rival;⁹ and she is deemed to be doubtfully married in respect of taking a share in the property.¹⁰

A statement was made in the name of R. Eleazar in agreement with Raba and a statement was made in the name of R. Jose son of R. Hanina in agreement with Abaye. Could R. Eleazar, however, have made such a statement? Surely R. Eleazar said: A Ma'amar, according to Beth Shammai, constitutes a *Kinyan* in so far only as to keep out the rival!¹¹ — Reverse [the statements]. If you prefer I might say: There is really no need to reverse [them, for] R. Eleazar can tell you, 'What I said [amounted to this]: that a letter of divorce alone is not enough¹² but that she requires also *Halizah*; did I state, however, that the Ma'amar constitutes no *Kinyan* even in respect of taking a share in her property!¹³

Said R. Papa: The inference from our Mishnah is in agreement with the opinion of Abaye,¹⁴ although 'IF SHE DIED' presents a difficulty.¹⁵ Seeing that it was stated PROPERTY THAT COMES IN AND GOES OUT WITH HER, what is meant by COMES IN and what by GOES OUT? Obviously,¹⁶ 'COMES INTO the possession of her husband'¹⁷ and 'GOES OUT from the possession of her husband into the possession of her father'.¹⁸

'Although IF SHE DIED presents a difficulty': Why should they¹⁹ dispute [on the question of the property] itself, which can arise only in the event of the woman's death,²⁰ let them rather dispute on the question of the

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usufruct which arises even when the woman is still alive!²¹ The fact is that no further objection [can be raised].²²

WHERE HE MARRIED HER, SHE IS DEEMED, etc. For what practical law [was this statement needed]? — R. Jose b. Hanina replied: To indicate that he may divorce her by means of a letter of divorce²³ and that he may remarry her.

'He may divorce her by means of a letter of divorce'; Is not this obvious?²⁴ — It might have been assumed that, since the All Merciful said²⁵ And perform the duty of a husband's brother unto her,²⁶ she retains the obligation of the first levirate relationship²⁷ and so may be set free²⁸ only through *Halizah* but not through a letter of divorce, hence it was necessary to teach us [that the law is not so].

'He may remarry her'; Is not this obvious?²⁹ — It might have been assumed that since he³⁰ has already performed³¹ the commandment which the All Merciful has imposed upon him, she shall now be forbidden to him as the wife of his brother, hence it was necessary to teach us [that he may nevertheless remarry her]. Might it not be suggested that the law is so indeed?³² — Scripture stated, And take her to him to wife;³³ as soon as he has taken her she is deemed to be his wife in every respect.

SAVE THAT HER *KETHUBAH*, etc. What is the reason? — A wife has been given³⁴ to him³⁵ from heaven.³⁶ If, however, she is unable nothing more'. The inference from our Mishnah is undoubtedly in agreement with the view of Abaye, the only difficulty being the one mentioned. to obtain her *Kethubah* from her first [husband], provision was made that she [is to receive it] from the second³⁷ in order that it may not be easy for him to divorce her.³⁸

MISHNAH. THE DUTY OF THE LEVIRATE MARRIAGE IS INCUMBENT UPON THE ELDEST [OF THE SURVIVING BROTHERS].³⁹ IF HE DECLINES, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN.⁴⁰ IF

THEY ALL DECLINE, THE ELDEST IS AGAIN APPROACHED AND HE IS TOLD, 'THE DUTY IS INCUMBENT UPON YOU; EITHER SUBMIT TO *HALIZAH* OR PERFORM THE LEVIRATE MARRIAGE. IF HE⁴¹ WISHED TO SUSPEND ACTION⁴² UNTIL A MINOR⁴³ BECOMES OF AGE, OR UNTIL THE ELDEST⁴³ RETURNS FROM A COUNTRY BEYOND THE SEA OR [UNTIL A BROTHER WHO WAS] DEAF⁴⁴ OR AN IMBECILE [SHOULD RECOVER],⁴⁵ HE IS NOT TO BE LISTENED TO, BUT IS TOLD, 'THE DUTY IS INCUMBENT UPON YOU; EITHER SUBMIT TO *HALIZAH* OR PERFORM THE LEVIRATE MARRIAGE.

GEMARA. It was stated: [On the relative importance of] the intercourse of a younger, and the *Halizah* of an elder brother there is a difference of opinion between R. Johanan and R. Joshua b. Levi. One holds that the intercourse of the younger is preferable and the other holds that the *Halizah* of the elder is preferable. 'One⁴⁶ holds that the intercourse of the younger is preferable,' because the commandment, surely, is to perform the levirate marriage;⁴⁷ and 'the other⁴⁶ holds that the *Halizah* of the elder is preferable', because in the presence of an elder brother the intercourse of the younger is valueless.⁴⁸

We learned, IF HE DECLINED, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN. Does not this mean that he declined to contract the levirate marriage but [was willing] to submit to the *Halizah*? And yet it was stated, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN, which proves⁴⁹ that the intercourse of a younger brother is preferred! — No; he wished neither to submit to *Halizah* nor to perform the levirate marriage. Similarly, then, in the case of the other brothers, [the meaning is that] they declined both *Halizah* and levirate marriage;⁵⁰ why, then, is THE ELDEST AGAIN APPROACHED with the object of bringing pressure upon him? Let pressure be brought to bear upon them!⁵¹ — As the duty⁵² is incumbent upon him, pressure also must be used against him.

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We learned, IF HE WISHED TO SUSPEND ACTION UNTIL A MINOR BECOMES OF AGE ... HE IS NOT TO BE LISTENED TO. But if the intercourse of a minor is to be preferred, why IS HE NOT TO BE LISTENED TO? Let us rather wait, since on becoming of age he might contract the levirate marriage! — Following your view [it might similarly be objected], why [if he wished to wait] UNTIL THE ELDEST RETURNS FROM A COUNTRY BEYOND THE SEA ... HE IS NOT TO BE LISTENED TO? Let us rather wait, since on his return he might contract the levirate marriage!⁵³ The fact is that the performance of a commandment must not be delayed.⁵⁴

1. Since he explains the latter clause to be dealing with property that came into the wife's possession while her husband was still alive.
2. To his wife's *Melog* property.
3. Lit., 'his hand is like her hand'. The husband's rights, according to Beth Hillel, he maintains, are in no way superior to those of his wife. Hence, when he dies and the widow comes only under the levirate bond, the levir's rights, which cannot have the same force as those of a husband, are inevitably inferior to those of the widow. The property, therefore, must remain in the possession of herself or her heirs. Beth Shammai, on the other hand, maintain that a husband's rights have more force than those of his wife. When he dies and the levir steps in by virtue of the levirate bond, the latter's rights, though inferior to those of the husband, are of equal force with those of the widow whose rights also are inferior to those of her husband.
4. Abaye.
5. Lit., 'all the world', even Beth Hillel.
6. Lit., 'his hand is better than her hand', and the husband's heirs would consequently have been entitled to the property.
7. By the levir, before the property came into her possession. The levirate bond alone is not sufficient to effect a transfer of the property to the levir.
8. And after that the property came into her possession. As the Ma'amar, according to Beth Shammai, is regarded as virtual marriage (v. *supra* 29a), the levir also is entitled to the property. Hence it must be divided. Beth Hillel, on the other hand, not regarding a Ma'amar as marriage, deny the levir all rights upon the property which is, therefore, to remain with the heirs of the woman.
9. Her sister who does not cause her to be forbidden to the levir as 'his Zekukah's sister'. V. *supra* 29a.
10. The levir is not entitled to all the property as if he had actually married the widow, but only to a share of it.
11. *Supra* 29a, Ned. 74a.
12. When a Ma'amar had been addressed to the widow.
13. Certainly not. Consequently his statement in agreement with the view of Raba may be perfectly authentic.
14. That the final clause deals with property that came into the woman's possession while she was still living with her husband.
15. This is explained *infra*.
16. Lit., 'not?'
17. At the time they came into her possession.
18. When she dies. The property must consequently have come into her possession when she was still living with her husband, as Abaye maintains.
19. Beth Shammai and Beth Hillel.
20. Lit., 'and after death'.
21. Lit., 'in her life and concerning the fruit'.
22. Lit., 'and'
23. And no *Halizah* is required.
24. Since with the levirate marriage she assumes the status of a married woman.
25. So MS.M. Cur. edd., add, 'It is written, And take her to wife'.
26. Deut. XXV, 5; although it was already stated in the same verse, and take her to wife.
27. So MS.M., cur. edd., 'the levirate relationship of the first'.
28. Lit., 'yes'.
29. Cf. *supra* n. 2.
30. The levir.
31. By his first marriage.
32. That a brother's widow with whom levirate marriage was performed still requires *Halizah* and may not be remarried by the levir after he had divorced her.
33. Deut. XXV, 5; where only the latter part of the verse, And perform the duty of a husband's brother unto her would have been sufficient. V. *supra* 8a.
34. Lit., 'they caused him to acquire'.
35. The levir.
36. He has neither chosen her nor has he undertaken any obligations towards her. She was imposed upon him by the divine law of the levirate marriage. The claim of her *Kethubah* must, therefore, be a charge upon the estate of her first husband whose choice she had been.
37. The levir.
38. Lit., 'that she may not be easy in his eyes to cause her to go out'.
39. V. *supra* 24a.
40. In the descending order of age.

YEVOMOS – 20a-40b

41. The eldest brother present on the spot. (Rashi).
42. Lit., 'he hung' or 'suspended'. [Aliter. He referred (the action) to; v. n. 9].
43. Brother.
44. [H] in Rabbinic literature usually signifies one who is deaf from birth. Hence 'a deaf-mute'.
45. [Tosaf.: He referred her to a deaf brother, etc.].
46. Lit., 'he who'.
47. *Halizah* being merely a substitute for it.
48. Since the duty is, in the first instance, incumbent upon the elder.
49. Since the younger brothers are asked to contract the levirate marriage when the elder expressed his willingness to submit to *Halizah*.
50. Since the same expression of unwillingness is used.
51. If the eldest had only refused marriage but was willing to submit to *Halizah*, as has first been assumed, one could explain our Mishnah to mean that 'THE ELDEST IS AGAIN APPROACHED with a view to *Halizah*'; he being the eldest, *Halizah* also is first offered to him. If, however, he refused both *Halizah* and marriage, as has now been explained, and the object of approaching him is coercion, why should the *Beth Din* be troubled to summon him again in order to coerce him when any of the brothers who happens to be near at hand might just as well be coerced?
52. Of the levirate marriage. V. our Mishnah.
53. So marginal gloss. Cur. ed., 'and submits to *Halizah*'.
54. And this is the only reason why his request is not granted.

Yebamoth 39b

Some say: As regards intercourse all agree that the intercourse of a younger brother is preferred.¹ They only differ on the *Halizah* of a younger brother. And the statement² ran thus: [On the relative importance of] the *Halizah* of a younger, and the *Halizah* of an elder brother there is a difference of opinion between R. Johanan and R. Joshua b. Levi. One holds that the *Halizah* of the elder is preferable, and the other holds that both are of equal importance. 'One³ holds that the *Halizah* of the elder is preferable'⁴ because the commandment surely, is incumbent upon the elder. And the other [maintains that] the statement, 'the commandment is incumbent upon the elder', [was made] in respect of the levirate marriage; in respect of the *Halizah*, however, they are both of equal importance.

We learned, IF THEY ALSO DECLINE, THE ELDEST IS AGAIN APPROACHED. Does not this mean that they declined to contract the levirate marriage but [were willing] to submit to *Halizah*? And yet it was stated, THE ELDEST IS AGAIN APPROACHED, which proves that the *Halizah* of the elder is preferred! — No; they declined the *Halizah* as well as the levirate marriage.

Similarly, in the case of the eldest brother, he declined the *Halizah* as well as the levirate marriage;⁵ why, then, IS THE ELDEST AGAIN APPROACHED with the object of coercing him? Let coercion be used against them!⁶ — As the duty⁷ is incumbent upon him, coercion also must be used against him.

Come and hear: IF HE WISHES TO SUSPEND ACTION ... UNTIL THE ELDEST RETURNS FROM A COUNTRY BEYOND THE SEA ... HE IS NOT TO BE LISTENED TO. But if the *Halizah* of the eldest is preferable why IS HE NOT TO BE LISTENED TO? Let us rather wait, since it is possible that when he returns he will submit to *Halizah*! — Following your view [it might similarly be objected], why [if he wishes to postpone action] UNTIL A MINOR BECOMES OF AGE ... HE IS NOT TO BE LISTENED TO? Let us rather wait, since, on becoming of age, he might contract the levirate marriage!⁸ The fact is that the performance of a commandment must not be delayed.⁹

We learned elsewhere: At first, when the object was the fulfillment¹⁰ of the commandment, the precept of the levirate marriage was preferable to that of *Halizah*; now, however, when the object is not the fulfillment of the commandment, the precept of *Halizah*, it was laid down, is preferable to that of the levirate marriage.¹¹ Rab said: But no coercion¹² may be used.¹³

When they¹⁴ came before Rab he addressed them thus: 'If you¹⁵ wish, submit to *Halizah*; if you prefer, contract the levirate marriage; the All Merciful has given you the choice.'¹⁶

YEVOMOS – 20a-40b

And if the man like not to take his brother's wife,¹⁷ implying, if he likes he may, whenever he wishes, submit to *Halizah* or, if he prefers, contract the levirate marriage.'

Rab Judah also is of the opinion that no coercion may be applied; since Rab Judah has ordained [the following formula] for a deed of *Halizah*: '[We certify] that So-and-so daughter of So-and-so brought before us into court her brother-in-law So-and-so, and we have ascertained him to be the paternal brother of the deceased. We told him, "If you wish to contract the levirate marriage, contract it, and if not, incline¹⁸ towards her your right foot". He inclined¹⁹ towards her his right foot and she removed his shoe from off his foot and spat out before him, a spittle which has been seen by the court upon the ground'.

R. Hiyya b. Iwya in the name of Rab Judah concluded²⁰ as follows: 'And we read before them [the relevant passage] that is written in the Book of the Law of Moses'.

'We ascertained him'. On this, R. Aha and Rabina are in dispute. One says: Through [qualified] witnesses. The other says: Even a relative and even a woman²¹ [may tender the evidence].

The law is that it²² is a mere intimation, and that even a relative and even a woman [may tender the evidence].

'At first, when the object was the fulfillment of the commandment, the precept of the levirate marriage was preferable to that of *Halizah*; now, however, when the object is not the fulfillment of the commandment, the precept of *Halizah*, it was laid down, is preferable to that of the levirate marriage'. Said Rami b. Hama in the name of R. Isaac: It was re-enacted that the precept of the levirate marriage is preferable to that of *Halizah*.

Said R. Nahman b. Isaac to him: Have the generations improved in their morals? — At first they held the opinion of Abba Saul, and finally they adopted that of the Rabbis. For it was taught: Abba Saul said, 'If a levir marries

his sister-in-law on account of her beauty, or in order to gratify his sexual desires or with any other ulterior motive, it is as if he has infringed the law of incest; and I am even inclined to think that the child [of such a union] is a bastard'. But the Sages said, 'Her husband's brother shall go in unto her,²³ whatever the motive'.²⁴

Who is the Tanna of the following statement which our Rabbis taught: 'Her husband's brother shall go in unto her,²³ is a commandment; for originally²⁵ she stood in relation to him in the status of permissibility, then²⁶ she was forbidden to him, and then again²⁷ permitted; consequently it might have been assumed that she reverts to her original status of permissibility, hence it was specifically stated, Her husband's brother shall go in unto her,²³ it is a commandment'. — Who, now, is the Tanna? — R. Isaac b. Abdimi replied. It is [the statement of] Abba Saul, and it is this that he meant: Her husband's brother shall go in unto her,²³ is a commandment; for originally²⁵ she stood in relation to him in the status of permissibility; he could have married her, if he wished, on account of her beauty and he could have married her, if he wished, in order to gratify his sexual desires; then²⁸ she was forbidden to him, and then again²⁹ permitted; consequently it might have been assumed that she reverts to her original status of permissibility,³⁰ hence it was specifically stated, Her husband's brother shall go in unto her³¹ only with the intention of performing the commandment.³²

Raba said: You may even say [that the authorship³³ is that of] the Rabbis,³⁴ and it is this that was meant: Her husband's brother shall go in unto her,³¹ is a commandment; for originally³⁵ she was in the status of permissibility; he could have married her if he wished and, if he preferred, he could have abstained from marrying her; then²⁸ she was forbidden to him, and then again²⁹ permitted; consequently it might have been assumed that she was to revert to her original status of permissibility, so that, if he wished, he might

YEVOMOS – 20a-40b

marry her and, if he preferred, he could abstain from marrying her. [You say,] 'If he preferred he could abstain from marrying her'? Surely she is tied to him;³⁶ can she be set free by no act whatever! — Say rather: [It might have been assumed that] if he wished he might marry her, and, if he preferred, he might submit to *Halizah*, hence it was specifically stated her husband's brother shall go in unto her,³¹ it is a commandment.³⁷

Read, then,³⁸ the first clause: 'It shall be eaten without leaven in a holy place,³⁹ is a commandment;

1. To the *Halizah* of an elder brother.
2. Of the dispute *supra* 39a.
3. Lit., 'he who'.
4. To the *Halizah* of a younger one.
5. V.p. 250, n. 3. *supra*.
6. V.p. 250, n. 4.
7. Of the levirate marriage. V. our Mishnah.
8. Cur. edd. enclose the following in parentheses. 'Or also he might come and contract with her the levirate marriage'.
9. V. *supra* p. 250, n. 7.
10. Lit., 'they had the intention for the name, etc.'
11. Bek. 13a. Keth. 64a.
12. To perform or to submit to *Halizah*.
13. If both parties consent to contract the levirate marriage.
14. Levirate cases.
15. Speaking to the levir.
16. Lit., 'hung upon you'.
17. Deut. XXV, 7.
18. Af. of [H] 'to halt' (Heb. [H]). hence 'incline'. Others: Ethp. of [H] = [H] and [H] (cf. Targ. Ruth IV, 7, 8; Lam. IV, 3) hence 'allow ... to be removed or untied'. 'Turn thy right foot towards her' (Jast.). 'Allow the shoe of your right foot to be removed by her' (Aruk.).
19. Cf. *supra* n. 11.
20. The formula of the certificate of *Halizah*.
21. Who are, as a rule, ineligible as witnesses.
22. The insertion of 'we ascertained him'.
23. Deut. XXV, 5.
24. Tosef. Yeb. VI,
25. Before she married his brother.
26. When she married his brother.
27. When his brother died childless.
28. When she married his brother.
29. When his brother died childless.
30. So that he may marry her with any ulterior motive.
31. Deut. XXV, 5.
32. [H] lit., 'for the commandment', i.e., the fulfillment of the Scriptural text.

33. Of the above cited teaching.
34. The Sages who oppose Abba Saul, *supra*.
35. Before she married his brother.
36. By the levirate bond.
37. [H], a mere commandment, no intention at the performance thereof being particularly essential (cf. n. 5). The duty to contract the levirate marriage far exceeds that of *Halizah* which is only a substitute to be resorted to as a last expedient.
38. If the interpretation of R. Isaac b. Abdimi of the final clause of the Baraita cited is tenable.
39. Lev. VI, 9, dealing with the laws of the meal-offering and the consumption thereof by the priest who performed the rite.

Yebamoth 40a

for originally¹ its status in relation to him was one of permissibility; then² it was forbidden, and again³ permitted; consequently one might assume that it reverts to its first status of permissibility, hence it was specifically stated, 'It shall be eaten without leaven in a holy place,⁴ it is a commandment'. Now, according to Raba who said that it⁵ represents the view of⁶ the Rabbis, one could well explain that what is meant here⁷ is this: 'It shall be eaten without leaven in a holy place⁴ is a commandment, for at first⁸ its status in relation to him was one of permissibility since, if he desired, he could eat it and, if he preferred, he could abstain from eating it; then² it was forbidden, and again³ permitted; consequently it might be assumed that it reverts to its first status of permissibility¹⁰ so that, if he wished, he could eat it and, if he preferred, he could abstain from eating it. — [You say,] 'If he preferred he could abstain from eating it'? Surely it is written in the Scriptures, 'And they shall eat those things wherewith atonement was made¹¹ which teaches that the priests must eat them, and that the owner attains thereby atonement! Say rather: [it might be assumed that] if he wished, he¹² may eat it¹³ himself and, if he preferred, another priest may eat it, hence it was specifically stated, 'It shall be eaten' without leaven in a holy place,¹⁴ it is a commandment.¹⁵ According to R. Isaac b. Abdimi, however, who said that it¹⁶ [represents the view of] Abba Saul, what two

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alternatives¹⁷ exist here?¹⁸ And were you to suggest¹⁹ that if he wished he could eat it¹³ to appease his appetite and, if he preferred, he could devour it gluttonously [can eating gluttonous]y [it may be retorted] be described as proper eating? Surely Resh Lakish said, 'He who eats gluttonously on the Day of Atonement²⁰ is exempt [from *Kareth*],²¹ since [Scripture has stated], Shall not be afflicted!'²² [Were you to suggest], however,²³ that if he wished he could eat it²⁴ unleavened and, if he preferred, he could eat it leavened, surely [it might be retorted] it is written in Scripture, It shall not be baked with leaven their portion²⁵ from which Resh Lakish inferred that even their portion²⁶ must not be baked with leaven! Again [Were you, to suggest],²³ that if he wished he could eat it²⁴ unleavened and, if he preferred, he could eat it as a dumpling,²⁷ how [it could be retorted] is one to imagine [such a dumpling]? If it is unleavened, well, then it is unleavened;²⁸ and if it is not unleavened, the All Merciful, surely, has said without leaven!²⁹ — No;³⁰ it³¹ may indeed be assumed to be unleavened; but the object of the exposition of the Scriptural text³² was to forbid it.³³ In respect of what practical issue, then,³⁴ has it been stated that a dumpling may be regarded as unleavened bread? — [The statement was made] to indicate that a man may perform with it³¹ his duty³⁵ on the Passover. Though he made it first into a dumpling, it is nevertheless designated the 'bread of affliction', since he subsequently baked it in an oven. Consequently a man may perform with it his duty³⁵ on the Passover.

MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE HE IS REGARDED AS ONE OF THE OTHER BROTHERS IN RESPECT OF INHERITANCE.³⁶ IF, HOWEVER, THE FATHER³⁷ WAS LIVING,³⁸ THE ESTATE BELONGS TO THE FATHER.³⁹ HE WHO MARRIES HIS DECEASED BROTHER'S WIFE GAINS POSSESSION OF HIS BROTHER'S³⁷ ESTATE. R. JUDAH SAID: IN EITHER CASE,⁴⁰ IF THE FATHER³⁷ WAS LIVING³⁸ THE ESTATE BELONGS TO THE FATHER.

GEMARA. Is not this⁴¹ obvious? — It might have been presumed that *Halizah* takes the place of the levirate marriage and he receives, therefore, all the estate, hence it was taught [that he does not].⁴² If so,⁴³ why was it stated that HE IS REGARDED AS ONE OF THE OTHER BROTHERS when it should have been stated, he is to be regarded only as one of the brothers! — In truth [this is the purpose of our Mishnah]: It might have been assumed that because he deprived her [of levirate marriage]⁴⁴ he shall be penalized,⁴⁵ hence we were taught [that he does receive a share].

IF, HOWEVER, THE FATHER WAS LIVING, [THE ESTATE BELONGS TO HIM], for a Master said that a father takes precedence over all his lineal descendants.⁴⁶

HE WHO MARRIES HIS DECEASED BROTHER'S WIFE, etc. What is the reason? — The All Merciful said, *Shall succeed in the name of his brother*,⁴⁷ and behold he⁴⁸ has succeeded.

R. JUDAH SAID, etc. Said 'Ulla: The *Halachah* is in agreement with R. Judah, and R. Isaac Nappaha likewise said: The *Halachah* is in agreement with R. Judah.

'Ulla, furthermore, (others say, R. Isaac Nappaha) said: What is R. Judah's reason? — Because it is written in Scripture, And it shall be, that the firstborn that he beareth,⁴⁹ [he is] like the firstborn; as the firstborn has nothing while his father is alive, so has this one⁵⁰ also nothing while his father is alive. If [one were to suggest that] as the firstborn receives a double portion after his father's death so shall this one also receive a double portion⁵¹ after his father's death, [it might be retorted]: Is it written, 'Shall succeed in the name of his father'? It is written, surely, Shall succeed in the name of his brother,⁵² not 'in the name of his father'.⁵³ Might it be suggested that, where the father is not alive to receive the inheritance,⁵⁴ the law of the levirate marriage should be carried out, but where the father is alive [and the levir] does not receive the inheritance the law of the levirate marriage shall not be carried out? — Has the All

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Merciful in any way made the levirate marriage dependent on the inheritance? The levir must contract the levirate marriage in any case, and if any inheritance is available he receives it; if not, he does not receive it.

The Bible teacher, R. Hanina, once sat before R. Jannai, and as he sat there he stated: The *Halachah* is in agreement with R. Judah. The other called out to him: Go out, read Biblical verses outside;⁵⁵ the *Halachah* is not in agreement with R. Judah.

A tanna recited in the presence of R. Nahman: The *Halachah* is not in agreement with R. Judah. The other said to him: In agreement with whom, then? In agreement with the Rabbis? This is surely obvious, [since in a dispute between] one individual and a majority the *Halachah* is in agreement with the majority! — 'Shall I', the first asked him, 'reject it'?⁵⁶ 'No', the other replied, 'you were taught [that] the *Halachah* is [in agreement with R. Judah] which, presenting to you a difficulty,⁵⁷ you reversed;⁵⁸ and in so far as you reversed it your wording is well justified.⁵⁹

MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE HE IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES:⁶⁰

1. Before its ingredients were consecrated.
2. When its ingredients were consecrated as a meal-offering,
3. When the 'handful' (v. Lev. VI, 8) had been offered up upon the altar.
4. V.p. 254, n. 12.
5. The first clause of the Baraitha cited.
6. Lit., 'this, whose'.
7. In the second clause which presumably represents the views of the same authors.
8. Before its ingredients were consecrated.
9. When its ingredients were consecrated as a meal-offering.
10. Cur. edd. enclose 'then it was forbidden ... permissibility' in parentheses.
11. Ex. XXIX, 33.
12. The priest who performed the ceremonial.
13. The meal-offering.
14. Lev. VI, 9, dealing with the laws of the meal-offering.
15. [H] That the first priest (v. *supra* n. 10) shall eat it.
16. The first clause of the Baraitha cited.
17. Analogous to those in the first clause.
18. Acting (a) with, and (b) without the intention of fulfilling the commandment, which are the alternatives in the case of the levirate marriage in the first clause, are obviously inapplicable here, since whatever be the motive of one's eating, no prohibition, such as is the case with levirate marriages, is thereby infringed.
19. As the two alternatives.
20. When eating is prohibited.
21. V. [Glos.](#)
22. And whatsoever soul it be that shall not be afflicted in that same day, he shall be cut off from his people (Lev. XXIII, 29). An excessive meal being injurious to the body is deemed to be an affliction. Now, since such a meal is not regarded as eating in the case of the Day of Atonement, how could it be regarded as proper eating in the case of a meal offering?
23. As the two alternatives.
24. The meal-offering.
25. Lev. VI, 20.
26. That of the priests, the remnants of the meal-offering.
27. [H] (rt. [H] 'to mix'), a paste prepared by stirring flour in hot water.
28. And is not forbidden at all.
29. Take the meal-offering ... and eat it without leaven (Lev. X, 12); what need then was there for repeating the same prohibition in Lev. VI, 9?
30. The eating of the meal-offering with leaven is not one of the alternatives.
31. The dumpling.
32. In the first clause of the Baraitha cited.
33. Lit., 'to prevent'. A meal-offering may not be prepared in the form of a dumpling even though that paste is unleavened.
34. Since a meal-offering which must be unleavened may not be prepared in the form of a dumpling.
35. Of eating unleavened bread. Cf. Ex. XII, 18.
36. Of the estate of the deceased brother.
37. Of the deceased brother.
38. Lit., 'if there is'.
39. A father takes precedence over a brother in respect of inheritance. V. B.B. 115a and *infra*.
40. Whether the levir married, or submitted to the *Halizah* from his sister-in-law.
41. That participation in the *Halizah* does not deprive the levir of his share in his brother's estate.
42. The object of our Mishnah is not to state that the levir is entitled to a share but that he is not entitled to all the estate.
43. That the object of our Mishnah is to indicate his disadvantage. V. *supra* n. 7.

YEVOMOS – 20a-40b

44. *Halizah* with him has placed the widow under the prohibition of marrying any of the brothers.
45. And shall receive no share at all.
46. B.B. 115a. V. *supra* note 4.
47. Deut. XXV, 6.
48. The levir who, according to Rabbinic interpretation (v. *supra* 24a), is the subject of shall succeed.
49. Deut. XXV, 6.
50. The levir.
51. His own and his brother's.
52. *Ibid.*
53. And since he is not entitled to a double portion at the time he steps into the place of his brother he cannot subsequently claim such a portion when he ultimately becomes entitled to a share in the same estate only by virtue of his succession to his father.
54. Which consequently passes over into the possession of the levir.
55. V. Keth., Sonc. ed. p. 328, n, 7.
56. As a superfluous addition.
57. How could the *Halachah* be in agreement with an individual against the rule of a majority?
58. Stating, 'the *Halachah* is not in agreement with R. Judah.
59. Lit., 'you reversed well'. [He, however, forgot that he had reversed it; cf., *supra* 33b, v. Strashun].
60. All relatives that are Biblically forbidden to husband and wife respectively are Rabbinically forbidden to levir and *Haluzah* respectively.

Yebamoth 40b

HE IS FORBIDDEN TO MARRY HER MOTHER, HER MOTHER'S MOTHER AND HER FATHER'S MOTHER; HER DAUGHTER, HER DAUGHTER'S DAUGHTER AND HER SON'S DAUGHTER; AND ALSO HER SISTER WHILE SHE¹ IS ALIVE. THE OTHER BROTHERS, HOWEVER, ARE PERMITTED.² SHE¹ IS FORBIDDEN TO MARRY HIS FATHER AND HIS FATHER'S FATHER;³ HIS SON AND HIS SON'S SON; HIS BROTHER AND HIS BROTHER'S SON. A MAN IS PERMITTED TO MARRY THE RELATIVE OF THE RIVAL OF HIS *HALUZAH* BUT IS FORBIDDEN TO MARRY THE RIVAL OF THE RELATIVE OF HIS *HALUZAH*.

GEMARA. The question was raised: Were relatives of the second degree⁴ forbidden⁵ in the case of a *Haluzah* as a preventive

measure,⁶ or not? Did the Rabbis forbid marriage with relatives of the second degree, as a preventive measure,⁶ only in respect of a relative who is Pentateuchally forbidden,⁷ but in respect of a *Haluzah*⁸ the Rabbis did not forbid relatives of the second degree as a preventive measure, or is there perhaps no difference?⁹ — Come and hear: HE IS FORBIDDEN TO MARRY HER MOTHER AND HER MOTHER'S MOTHER, but 'her mother's mother's mother' is not mentioned!¹⁰ [No.] It is possible that the reason why this relative was omitted¹¹ is because it was desired to state in the final clause, THE OTHER BROTHERS, HOWEVER, ARE PERMITTED, and, were 'her mother's mother's mother' also mentioned it might have been presumed that the brothers are permitted [to marry] her mother's mother's mother only¹² but not her mother's mother or her mother.¹³ Then let 'her mother's mother's mother' be mentioned, and let it also be stated: The brothers are permitted to marry all of them!¹⁴ — This is a difficulty.

Come and hear: SHE IS FORBIDDEN TO MARRY HIS FATHER AND HIS FATHER'S FATHER. 'His father's father,' at any rate, was mentioned. Is not this¹⁵ due to¹⁶ the levir who participated in the *Halizah*, through whom she is the daughter-in-law of his¹⁷ son?¹⁸ — No; this¹⁹ is due to the deceased through whom she is the daughter-in-law of his²⁰ son.²¹

Come and hear: AND HIS SON'S SON, Is not this¹⁹ due to the levir who participated in the *Halizah* through whom she is the wife of his²² father's father?¹⁸ — No; it¹⁹ is due to the deceased through whom she is his²² father's father's brother's wife.²¹ But, surely, Amemar permitted the marriage of one's father's father's brother's wife!²³ — Amemar interprets that²⁴ to refer to the son of the grandfather.²⁵ If so, [HIS SON, AND SON'S SON] are the same as HIS BROTHER AND HIS BROTHER'S SON!²⁶ — Both his paternal brother and his maternal brother were specified.²⁷

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Come and hear what R. Hiyya taught:²⁸ Four [categories of relatives are forbidden]²⁹ Pentateuchally³⁰ and four Rabbinically.³¹ His³² father and his³³ son, his³⁴ brother and his³⁵ brother's son are Pentateuchally forbidden,³⁰ his father's father³⁶ and his mother's father,³⁷ his son's son³⁸ and his daughter's son³⁹ are forbidden Rabbinically.⁴⁰ 'His father's father', at any rate, is mentioned here. Is not this⁴¹ due to the levir who participated in the *Halizah* through whom she is his son's daughter-in-law?⁴² — No; it⁴¹ is due to the deceased⁴³ whose son's daughter-in-law she is.

Come and hear: 'His mother's father'.⁴⁴ Is not this⁴¹ due to the levir who participated in the *Halizah* through whom she is his⁴⁵ daughter's daughter-in-law?⁴⁶ — No; it⁴¹ is due to the deceased⁴⁷ through whom she is his⁴⁵ daughter's daughter-in-law.

Come and hear: 'And his son's son'.⁴⁸ Is not this⁴¹ due to the levir who participated in the *Halizah* through whom she is his father's father's wife?⁴² — No; it⁴¹ is due to the deceased⁴⁷ through whom she is his father's father's brother's wife. But, surely, Amemar permitted the marriage of one's father's father's brother's wife!⁴⁹ — Amemar explains that⁵⁰ to be due to the levir who participated in the *Halizah*,⁵¹ but is of the opinion that relatives of the second degree were forbidden as a preventive measure even in respect of a *Haluzah*.⁵²

Come and hear: 'And the son of his daughter'.⁴⁸ Is not this⁴¹ due to the levir who participated in the *Halizah* through whom she is his mother's father's wife?⁴² — No; it⁴¹ is due to the deceased⁴⁷ through whom she is his mother's father's brother's wife. But, surely, no prohibition as a preventive measure was made in respect of the second degrees of incest!⁵³ Consequently⁵⁴ it must be due to the levir who participated in the *Halizah*,⁵⁵ and thus it may be inferred that relatives of the second degree were forbidden as a preventive measure even in the case of a *Haluzah*. This proves it.

A MAN IS PERMITTED, etc. R. Tobi b. Kisna said in the name of Samuel: Where a man had intercourse with the rival of his *Haluzah* the child [born from such a union] is a bastard. What is the reason? — Because she⁵⁶ remains under her original prohibition.⁵⁷

Said R. Joseph: We also have learned [to the same effect]: A MAN IS PERMITTED TO MARRY THE RELATIVE OF THE RIVAL OF HIS *HALUZAH*. Now, if you grant that the rival is excluded⁵⁸ one can well understand why the man is permitted to marry her sister.⁵⁹ If it be maintained, however, that the rival has the same status as the *Haluzah*, why [should her sister] be permitted [to him]?⁶⁰

May it be suggested that this⁶¹ furnishes an objection against R. Johanan who stated: Neither he⁶² nor the other brothers are subject to *Kareth* either for [the betrothal of] a *Haluzah* or for [the betrothal of] her rival?⁶³ — R. Johanan can answer you: Do you understand it!⁶⁴ Is the sister of a *Haluzah* Pentateuchally forbidden?⁶⁵ Surely Resh Lakish said: Here⁶⁶ it was taught by Rabbi that the prohibition to marry the sister of a divorced wife is Pentateuchal and that that of the sister of a *Haluzah* is Rabbinical!⁶⁷

Why is there a difference [in the law] between the one and the other?⁶⁸ —

1. The *Haluzah* (v. [Glos.](#)).
2. To marry the enumerated relatives of the *Haluzah*.
3. Bomberg ed. adds, 'and his mother's father'.
4. E.g., the *Haluzah*'s mother's mother's mother or her father's mother's mother (Rashi). Cf. *supra* 21a.
5. Rabbinically.
6. Against marriage with relatives of the first degree.
7. I.e., a wife's relatives whose prohibition is specifically stated in the Pentateuch.
8. Whose relatives, even of the first degree, are only Rabbinically forbidden.
9. In respect of the law of incest, between the relatives of a wife who are Pentateuchally forbidden and those of a *Haluzah* who are only Rabbinically forbidden.
10. V. *supra* p. 259, n. 9.
11. Lit., 'that he did not teach'.

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12. Because even in the case of one's wife she is not Biblically forbidden.
13. Who, in the case of one's wife, are Pentateuchally prohibited.
14. And the possible misinterpretation would thus be avoided.
15. Prohibition to marry a father's father.
16. Lit., 'what not, owing to'.
17. The father's father.
18. I.e., a relative of the second degree, which proves that even such relatives were forbidden in respect of a *Haluzah*.
19. V. *supra* note 9.
20. V. *supra* n. 20.
21. In whose case the prohibition is Pentateuchal and provides no answer to our enquiry.
22. The son's son.
23. *Supra* 21b. How, then, according to Amemar, could this case be included among forbidden relatives?
24. The SON'S SON in our Mishnah.
25. The father of both the deceased and of the levir who submitted to the *Halizah*. Our Mishnah is thus interpreted: HIS FATHER is the father of the deceased and of the levir who participated in the *Halizah*; HIS SON, i.e., the son of the FATHER mentioned, who is the brother of the deceased and of the levir who participated in the *Halizah*; and HIS SON'S SON is the son of the son of the father mentioned, to whom the *Haluzah* is forbidden as the wife of his father's brother.
26. V. *supra* n. 1.
27. The former by HIS SON AND HIS SON'S SON (v. *supra* n. 1) and the latter by HIS BROTHER AND HIS BROTHER'S SON, the prohibitions being Pentateuchal since they are due to the woman's relationship with the deceased as his wife, and not to her relationship with the levir as *Haluzah*, the prohibitions resulting from which could only be Rabbinical.
28. In respect of a *Haluzah*.
29. To marry her.
30. Lit., 'from the words of the Torah', i.e., owing to their relationship to the *Haluzah* as the wife of the deceased, and the prohibition to marry whom is specifically mentioned in the Pentateuch.
31. Lit., 'from the words of the Scribes'.
32. The levir's (who participated in the *Halizah*). The prohibition is Pentateuchal, it being due to his brother, the deceased, whose wife and whose father's daughter-in-law the *Haluzah* was.
33. The levir's (v. *supra* n. 8). The *Haluzah* is forbidden to him Pentateuchally as the wife of his father's brother.
34. The levir's (v. *supra* n. 8), who is also the brother of the deceased, and the *Haluzah* is forbidden to him Pentateuchally.
35. The levir's (v. *supra* n. 8), the deceased also having been his father's brother, and the prohibition is consequently Pentateuchal.
36. To whom the *Haluzah* is forbidden as his son's daughter-in-law.
37. The prohibition being that of one's daughter's daughter-in-law.
38. It is now assumed that the prohibition to marry this relative is due to the levir who participated in the *Halizah* through whom she is his father's father's wife.
39. Whose mother's father's wife she was.
40. Cf. *supra* note 7, all being cases of the second degree, forbidden by a provision of the Rabbis only.
41. The prohibition to marry this relative.
42. Which proves that, even in respect of a *Haluzah*, relatives of the second degree are prohibited.
43. In whose case the prohibition is Pentateuchal, and supplies no answer to our enquiry.
44. This is a citation from R. Hiyya's Baraitha *supra*.
45. His mother's father's.
46. V. *supra* n. 2.
47. The prohibition being a preventive measure against the infringement of a Pentateuchal law. Consequently it supplies no proof in respect of our enquiry which is concerned with a preventive measure against an infringement of a Rabbinical law.
48. V. *supra* n. 4.
49. How then could such a case be included among forbidden relatives?
50. 'Son's son' in R. Hiyya's Baraitha.
51. The prohibition being that of 'his father's father's wife', as first assumed.
52. According to those, however, who, contrary to the opinion of Amemar, forbid marriage with a father's father's brother's wife, the prohibition in R. Hiyya's Baraitha might still be attributed to the deceased (v. *supra* n. 7), and the original enquiry as to whether relatives of the second degree were forbidden in the case of a *Haluzah* still remains unanswered.
53. How then could it be suggested that the prohibition is due to the fact that the *Haluzah* is the 'wife of the mother's father's brother' of the deceased?
54. Lit., 'what, not'?
55. The prohibition being that of 'his mother's father's wife' who is a relative of the second degree.
56. The rival.
57. Of 'brother's wife', which is subject to the penalty of *Kareth*. Children born from a union

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that is forbidden under such a penalty are deemed to be bastards.

58. [Lit., 'outside'. Rashi reads: 'Stands outside'.] From the restrictions of the *Haluzah*, the latter not being regarded as her agent or representative.
59. Since she herself remains forbidden to the levir as 'brother's wife', her sister is not the 'sister of a *Haluzah*'.
60. She should be forbidden as the sister of a *Haluzah*! As she is permitted, however, it must be granted that the rival of a *Haluzah* remains under the original prohibition of 'brother's wife', which entails the penalty of *Kareth*. (V. *supra* n. 5).
61. The inference from our Mishnah. (V. *supra* n. 8 second clause).
62. The levir who submitted to *Halizah*.
63. *Supra* 10b; while from the inference of our Mishnah, as has been proved, the penalty for contracting a union with the rival of a *Haluzah* is *Kareth*!
64. R. Joseph's argument.
65. As R. Joseph implies by his assumption that if the rival had the same status as the *Haluzah* her sister would be forbidden.
66. In the following Mishnah to which he refers.
67. The reason why the sister of a rival of a *Haluzah* is permitted is not that assumed by R. Joseph. but the following: As the prohibition of the sister of a *Haluzah* herself is only Rabbinical, the prohibition was not extended to the [.....?]