

Tractate

Yevamos

2a1 through 41a1

14-Yevamos Introduction

Deut 25:5-10 – Torah details the rules of yevamah and of chalitzah.

When Judah's son Er died, Judah commanded Onan to marry Tamar (Er's widow). Eventually, Judah himself, married Tamar and performed yibum.

Boaz did the same for Ruth, though he was a relative, not a brother, to her husband. This marriage to a cousin is called 'geulah', redemption, instead of yibum (Ruth 4:7).

Normally, a person is forbidden to marry his brother's former wife. However, yibum is an exception because the brother died without children.

The yibum marriage occurs with the conjugal act. Kiddushin and chupah are not required.

Yibum may not be possible if

- there is no brother
- the brother died
- she is not eligible for yibum to them or they to her

If that is the case, then she is free to marry anyone.

She can be released by the process of chalitzah by the brother of her husband, if he does not wish to take her as a yebama.

חֲמֵשׁ עֲשָׂרָה נָשִׁים פּוֹטְרוֹת צְרוּתֵיהֶן

15 categories of women exempt their co-wives (due to kinship) from the requirement of chalitzah and yibum

Number 15 = Yud and hay

Nashim = 2 words - Na+Shem, i.e., Ana HaShem

“Please God, release (free) the Jewish people from the suffering and the sufferings suffering...” Rav Zusha

חֲמֵשׁ עֶשְׂרֵה נָשִׁים פּוֹטְרוֹת צְרוּתֵיהֶן

There are 15 women who exempt their wives.

We usually do not open discussion with unfortunate news. However, here, Seder Nashim starts discussing the death of a brother without offspring, a truly tragic situation.

We should not look at it that way. We should realize that this Mishnah starts out by telling us who cannot have yibum. Thereby making the widow free to marry whom she wishes and start a family. That is why they are not called prohibited women, 'areiyyos' but 'nashim' women.

וְאִחֹת אִשְׁתּוֹ

And his wife's sister.

A woman who is not fit for yibum or chalitzah, at the time of her husband's passing, cannot become fit in the future.

At the time of her husband's death, every wife is a mourner who is exempt from fulfilling any mitzvah. Yibum and chalitzah are mitzvahs, from which she is exempt.

Therefore, should we conclude that no one could ever receive yibum or chalitzah?

No, the only conditions that make a woman unfit for yibum or chalitzah are those that are specific to the yavam more than to others. However, a general prohibition would not work to make her unfit.

טַעֲמָא דְּכִתְּב רַחֲמָנָא ,,עָלֶיהָ

Is chalitzah mandatory? If a person has no intent to ever marry, does it have to be performed?

Chalitzah is not done for the wife of a King. Does that mean that since she can't marry anyone, perhaps chalitzah is not needed for a person who does not intend to marry?

The mitzvah of yibum/chalitzah overrides the 'lo saseh', "do not marry your brother's wife". However, only an obligatory mitzvah overrides a 'lo saseh'. Therefore, chalitzah, which overrides the 'lo saseh', must be obligatory and is required, even if there is no intent to marry. When the mitzvah of yibum can never be fulfilled, i.e., the wife of a King, chalitzah is not needed. In fact, there is no mitzvah of chalitzah at all, in regard to the wife of a King.

לֹא תַעֲשֶׂה גְרִידָא מִנָּלָן דְּדָחִי

A positive command overrides a prohibition.

We are not to wear shaatnez - don't do it.

We are required to wear tzitzis - do it.

An 'aseh' supercedes a 'lo saaseh' and therefore, we can wear tzitzis that are made of shaatnez!

לֹא תִלְבֹּשׁ שַׁעֲטָנִים

Don't wear shaatnez.

Two pesukim that relate to shaatnez in the Torah, are:

- Vayikra 19:19, “A mixture of combined fibers shall not come upon you”.
- Devarim 22:11, “You shall not wear, ‘lo tilbosh’, ‘combed fibers’, wool and linen together”. Therefore, without intent to wear and gain benefit from it, you have not violated the shaatnez law.

Is a salesman allowed to sling fabric over his shoulder?

If we only read the sentence from Vayika, one might think that he is not allowed to sling the fabric over his shoulder. However, we learn from the sentence in Devarim, that if the fabric is not worn, and if there is no warmth and no benefit; there is no sin.

Is a person allowed to wear a piece of shaatnez clothing, if he will suffer by doing so?

For example, if he wears a thick cloth in the heat of day. Yes, he is allowed. A person is not liable when he is suffering, due to his being covered with a shaatnez cloth.

Can a tent be made of shaatnez cloth? Yes, as it is not being worn.

כָּל דֶּרֶךְ הַעֲלָאָה אָסוּר רַחֲמֵנָא

All manner of wearing was forbidden.

Rambam rules that garment sellers may carry shaatnez garments on their shoulders, since there is no intention to derive benefit from the garment.

However, Rambam also says that if a person wears shaatnez, even on top of 10 other garments, and even though he receives no benefit; he is in violation.

Are these two opinions contradictory?

No, because wearing in any form is prohibited. Placing on his body, is only prohibited if he derives benefit from it..

It is prohibited to try on a garment that is known to have shaatnez, even if you wish to buy it and later, have the shaatnez removed.

עַד שִׁיהֶא שׁוּעַ טָווִי וְנִז

The word shaatnez is a contraction of the words-

Shavua - smoothed

Tavui - spun

Niz - woven

Rashi - This teaches us that the prohibition applies only if the wool and linen are combed out until smooth, then spun into thread and then woven into fabric.

אִישׁ אָמוֹ וְאָבִיו תִּירָאוּ וְאֶת־שַׁבָּתִי תִשְׁמְרוּ׃
בְּלִפְנֵיכֶם חַיִּיבִין בְּכָבוֹדִי

A person, his mother and father, must observe my Sabbath.
They all are obligated to my honor.

Shabbos overrides a parent's honor. If they tell you to violate Shabbos for them, you must not do so.

When a person honors his father and mother, the spirit of Abaye comes to aid his studies. Why is this?

It is well known that Abaye was an orphan, his name is an acronym of the verse, "Because of you, the orphan finds mercy".... 'asher bichah yerucham yasom'.

This is why Abaye's spirit comes to accompany the person who honors his parents. This was a mitzvah that was denied to him.

Daf Digest

אִישׁ אָמוֹ וְאָבִיו תִּירָאוּ וְאֶת־שַׁבַּתִּי תִשְׁמְרוּ׃
 כּוֹלְכֶם חַיִּיבִין בְּכָבוֹדִי

A person, his mother and father, must observe my Sabbath.

They all are obligated to my honor.

Does the Mitzvah of moving to Eretz Yisroel overrides the mitzvah of kibbud av v'eim?

Avraham was specifically told to go and not to listen to his parents objections, if there were any. Therefore, if not specifically ordered to override your parents request, they come first and you should not go to Eretz Yisroel,

The fact that only Shabbos is stressed as the mitzvah that permits you to override your parents request, tells us that no other situation warrants your overriding the honor due to them.

Others say that since honoring parents and the mitzvah of Shabbos are in the same posuk, it tells us that any mitzvah, including going to live in Eretz Yisroel, permits you to override your parent's objections.

Daf Digest

יָכוֹל אָמַר לוֹ אָבִיו הִיטָמָא שְׂאֵמַר לוֹ אֶל תַּחֲזִיר יָכוֹל יִשְׁמַע לוֹ

One might think that if one's father told him not to return (a lost object), he may think that it is permissible to listen (to his father).

1. Become Tamei (and he is a Kohen).

2. Don't return a lost object (violates Deut 22:3, 'Don't ignore a lost object'). It might be thought that he should listen.

3. Don't talk to such and such a person

Question: Is a child obligated to obey a parent when the request provides no physical benefit to the parent?

Ritva - No - It is outside the scope of the Mitzvah "to honor".

Rosh - (3) - Is a prohibition, i.e., not to speak to an individual out of hatred? No, it is outside the scope of the mitzvah. However, if it did not involve a sin and did not provide physical benefit to the father, the child should comply (especially if there is no loss to the child).

Ex: Please bring me a glass of cold water

- must obey

Please run up and down the stairs two times

- should obey

Please don't go to work today

- loss to child- no physical benefit to parent

Please steal that apple for me

- don't obey – sin

Please don't put on Tefillin today

- don't obey – outside scope of mitzvah

Don't listen. Why? Because "you and your parents are obligated to hold up My honor," says God.

וְלֹא יַעֲשֶׂנוּ קְפִנָּה

Don't make it a shortcut.

This is regards to reverence concerning the Sanctuary.

We do not revere the Sabbath. We revere the One who commanded us regarding the Sabbath, i.e., the One who created the world. That reverence is represented by our observing the Sabbath. So we don't revere the Sanctuary building, but rather He, who commanded us, to revere the Sanctuary.

In the list, given as to how to revere the Sanctuary, we carry some of those restrictions today, in regards to a synagogue. For example: Don't make it a short cut, i.e., don't use it for your personal activities. It is like an exploitation of a holy place for a personal need. Or don't to go in just to call someone out or to deliver a message. Out of respect say a prayer, read a Mishneh or at a minimum just sit down for a few moments, which is itself considered a mitzvah (Tehillim 84:5, "...fortunate are those who sit in your house").

וְמָה עֲבוּרָה שְׁהִיא חֲמוּרָה וְדוּחָה שֶׁבֶת

Capital punishment on Shabbos or Yom Tov.

Execution can defer the offerings in the Bait Hamikdash and supersede Shabbos.

The laws of Shabbos are deferred when offerings in the Bait Hamikdash are necessary, i.e., offerings trump Shabbos, an execution trumps offerings.

Therefore, an execution should trump Shabbos.

However, we have a verse 'lo sivaru', which tells us not to supersede Shabbos.

We have no such verse for Yom Tov, so may we execute someone on Yom Tov?

No, Yom Tov is like Shabbos, except in the matter of preparing food.

Once we know that a posuk prohibits executions on Shabbos, it also prohibits executions on Yom Tov.

בְּחַיֶּיהָ כָּל שְׂבָחֶיהָ

Prohibition of marrying ones wife's sister.

“In her life time” means under all conditions during her life time.

What if the wife has a condition that will cause her death within 1 year,
i.e., she is a tereifah?

Rashi - A tereifah is considered alive.

Ramban - A tereifah, i.e., one who will die (with certainty), within one year, is
considered as if she is not alive. In this case, one would be permitted to marry
his wife's sister.

Rav Tzvi Hersh Eisenstadt the Pischei Teshuvah – agrees with Rashi.

Rav Yosef Shaul Nathanson - the Shoel Umeishiv - agrees with Rambam

Consensus of authorities – As long as his wife is alive, it is prohibited to marry her
sister. This is the case, even if his wife is mortally wounded.

It also teaches us that even if they are divorced, he can't marry his ex-wife's sister,
during his former wife's lifetime.

בְּמַדְוֶמָה לִי שְׂאִין לוֹ מוֹחַ בְּקֶדְקֶדוֹ

Speaking harshly to students

It seems to me that he has no brain in his head.

Koheles 9:17- “The words of scholars are heard if they are presented pleasantly”.

Avos 2:10 – ‘One should treat the honor of his friend like his own’ . Therefore, how do we explain harsh words? For example, Rav Sheishes comments about Rav: “He must have been dozing and drifting into sleep”(and, therefore, was not thinking clearly).

Pesachim 119 – Tosophos describes two types of dozing:

1. Falling into sleep.
2. Dozing that occurs as one is waking up from sleep.

When one dozes as he is awakening, it is likely he will catch an illogical statement, since he is moving toward greater consciousness. When Rav Sheishes says that Rav was dozing and drifting into sleep, he is really complementing Rav, implying that it is clear that if Rav had been conscious, he would not have made such a statement.

1. Try to find a silver lining to the harsh statement.
2. A teacher is supposed to deal firmly with a student who is not diligent in his studies, i.e., “This question indicates that he has no brain in his skull”, said Rabbi about Levi.

בְּמִדּוּמָה לִי שֵׂאִין לוֹ מוֹחַ בְּקֶדְקֶדוֹ

It seems to me that he has no brain in his head.

To illustrate the responsibility of a Rabbi to use harsh words on occasion, they tell the story of the Chasam Sofer, who is known as a very kindly man, extremely careful not to hurt feelings or to speak Lashon Hara.

He read a letter sent by a “progressive” Rabbi to the government that could be harmful to the Jewish community. The man’s first name started with an A, the last name with a C and he signed it ‘Rabbi’.

The Chasam Sofer pointed out that the initials spelled out ‘Acher’ - a name for the Apostate Rabbi.

אֵלֶּא אִיהוּ שְׁלִיחוֹתָא דְאַחִים קְעָבִיד

Reish Lakish v R Yochanan

He, who does the chalitzah, does the agency or all the brothers.

Reish Lakish - A brother who gave chalitzah is prohibited from marrying the woman. If he did marry her, he gets lashes. The other brothers are faced with the original restriction not to marry a brother's wife and therefore, if they did, they would get 'keres', be 'cut off'.

Reb Yochanan says - No, once chalitzah is given, all brothers have the same prohibition not to marry the person to whom you gave chalitzah. They are subject only to lashes, not keres.

R Yochanan considers the act of the one brother who delivered chalitzah, as representing all the brothers and the wife who accepted, does so representing all the co-wives.

Once this is done, no other brother ever had the responsibility to fulfill the mitzvah and no other wife was ever required to obtain chalitzah.

צֵרֶת סוֹטָה אֶסוּרָה

The co-wife of an adulteress, is prohibited.

A woman lived apart from her husband and became pregnant. He accused her of adultery. She claimed she was forced, her lover claimed it as consensual. The husband died. The Gemara rules that yibum is not done for an adulteress, but is there still a need for chalitzah?

Rambam rules-She is also exempt from chalitzah. Since she is an Eruvah to her husband, she is exempt from both yibum and chalitzah.

Shulchan Aruch rules like Rambam.

Raivad and Rema teach that she needs chalitzah.

Therefore, a Sfek Sfeika exists that she needs chalitzah, so we do it for her.

In this case, especially since she claims it was against her will and therefore, she is not an adulteress, she needs chalitzah before she is permitted to remarry.

לֹא יִשְׁפּוֹךְ אָדָם מִי בּוֹרוֹ וְאַחֵרִים צָרִיכִים

Don't pour out the water that someone else might need.

What is this statement doing in the midst of this topic?

A woman who is freed by chalitzah to marry someone else: The Rabbanim decreed that a chalitzah cannot marry a Kohen. The act is too much like a divorce.

A man, who had several wives, died. One of his wives had been a divorcee when he married her. His brother may choose any of the wives to perform yibum or chalitzah and the others go free.

If he decides to perform chalitzah, is it better to do so with the divorcee or with one of the other wives?

If he does chalitzah with one of the other wives, she is like a divorcee. regarding being prohibited from marrying a Kohen. Whereas the divorcee is already prohibited and is no more prohibited after chalitzah. A pure case of 'don't pour out the water, or 'be considerate of the needs of others'.

לֹא יִשְׁפּוֹךְ אָדָם מִי בּוֹרוֹ וְאַחֲרִים צְרִיכִים לָהֶם

A person may not empty his cistern if another might be in need of the water it holds.

Therefore, share an empty seat in a taxi, pick up hitch hikers (if safe), etc.

בָּנִים הָרִי הֵם כְּסִימָנִים

Having a child is like signs of physical maturity.

Even if a boy or a girl does not demonstrate the signs of physical maturity and are under the age of 13 or 12, they are considered adults if they produce a child.

There was a case where a boy under the age of 13, believed he was fulfilling the law of yibum and his dead brother's wife became pregnant. If having a child is a sign of maturity, they are married. If he is still a minor, there is no marriage with His brother's wife, who is not allowed to him, ever. He must, when he becomes of age, give her chalitzah. There is a dispute, but logic would suggest that, just as in the case of a girl having a baby indicates maturity, so also, for under age boys.

בָּנִים הָרִי הֵם כְּסִימָנִים

Having a child is like signs of physical maturity.

Regarding the marriages of minors, giving birth is a sign of puberty.

This discussion, regarding the possibility of minor girls becoming pregnant, suggests child abuse with a child who does not know their own mind and are not at an age of consent. How could the Chachamin sanction this?

Earlier generations might have been different.

A reason may be:

- Persecution might cause one to lose one's property and the dowry might not be available in the future, better to solidify a currently available opportunity.
- It may be hard to find a suitable 'Chassan' on later and one is at hand now.
- A married man was exempt from military service.
- Young girls were abducted and forced to marry gentiles, it was better to get them married early, for their protection.

הָאִי תָנָא סָבֵר מִיתָה מַפְלֵת
וְהָאִי תָנָא סָבֵר נִשְׁוֹאִין הָרֵאשׁוֹנִים

One says the husband's death causes her to fall to the yibum. The other tanna says the original marriage causes her to fall to the yibum.

The position of authority in a community traditionally was passed on to the son.

Does this right to pass on the position to his son, begin at the time the person first accepts the position or when the father decides to give up the position?

If #1- It belongs to him, he may decide to forgo it. It is his.

If #2 -The right begins when he dies or gives up the position, it was never his to forgo.

Does this right belong to the son as soon as his father signs his contract or immediately upon his fathers retirement or death?

לֹא-תִהְיֶה אִשָּׁת-הַמֵּת חֹוּצָה לְאִישׁ זָר,

A wife of a dead person is not permitted to marry outside the family.

Why? The following are possible explanations:

1#-Her marriage contains a connection to the surviving brother right from the start (ab initio). Therefore, yibum/chalitzah are a continuation of that contract to the other brothers.

2#-Her marriage ends entirely at the death of her husband. However, at that moment, it imposes a new obligation upon her, that of yibum and chalitzah.

If, while she is waiting for yibum to occur, she strays, according to #1, it is adultery (Rav), since she is still within the original marriage contract, or if #2, she has only violated the yibum laws.

לֹא תִגְדֹּדוּ

Make no factions.

This means:

1. Don't tear out your hair over your deceased.
2. Don't make factions within the Jewish community.

We could have learned #1 from the phrase, 'Don't pull out', 'lo tigodu'.
However, the word 'tisgodidu' teaches us both views.

The reflexive form imparts both lessons in a single phrase.

It is upon the death of the Rabbi of the town, that you must not cause factional fighting, in choosing a new leader.

לֹא תִהְיוּ דִּוְרֵי

Make no factions.

Don't make opposing groups.

Why then, are we allowed to have different groups each 'davening', for example, with a different siddur and style?

- Chassidim - nusach ari, nusach sefard
- Misnagdim - nusach ashkenaz
- Silent praying
- Loud praying and with great intensity and fervor
- Praying with dancing

Shouldn't we all, according to this rule, speak to God in the same way?

We could ask the same question of the Russian Czar. Why does he have so many different soldiers and ranks in his military infantry, cavalry?

Would it not be easier to administer the army if they all had the same jobs?

We realize that each branch has its specific role to play. Only with a coordinated effort of all, can we succeed.

לֹא תִתְּגַדְּדוּ

Make no factions.

You shall not cut yourselves (Deut 14:1).

You shall not form separate sects.

R. S.R. Hirsch - This prohibition extends also to the national body not to allow differences in interpretation of the laws to lead to separate communities.

Rambam (Hil Avodas Kochavim 12:14) - This prohibition applies to two batai dinem (rabbinical courts) that follow different minhagim. This leads to strife.

וְלֹא בֵּית הַלֵּל מִבֵּית שְׁמַאי
לְלַמֶּדֶךָ שְׁחִיבָה וְרִיעוּת נוֹהֲגִים זֶה בְּזֶה

Nor did Bais Hillel refrain from marrying women from Bais Shammai.
This was to teach that they behaved with love and friendships with one another.

You know your friend is more lax in law of Kashrus than you. Is it prohibited to eat in his house?

No, you may eat with a friend who practices that which you consider prohibited, is permitted without fear. A friend will not serve you that food. To do so violates the prohibition of ‘lifnei ever’ and you do not have to suspect that a friend will do that.

לֹא לְמִנָּה שְׁהִיא עֲצֻמָּה מִתְחַלְלָה

Does a yevama, who marries someone out of the family, become a zonah?

What is the rule concerning a widow who becomes desecrated?

Rashi - If she does it without chalitzah, it is like a man who remarried his divorcee. They both violate regular prohibition. She becomes desecrated from Kehunah, only if she marries a man who was always prohibited to her, not only after a particular event.

Rambam - She is a 'zonah'. She is prohibited from marrying a 'Kohen' and can't eat terumah.

Zonah - A woman who cohabits with a disqualified person.

בְּשִׁנְכֵּנְסוֹ נִכְנְסוּ בְּפֶתַח אֶחָד בְּשִׁיְצָאוֹ יֵצְאוּ בְּשְׁלֹשָׁה פִּתְחוֹת

When they entered, they did so via one door. When they exited, they left via three doors.

Why?

1. They feared that if they met him as a group, it might look like a confrontation.
2. They feared that because he was such good debater, he might beat them.
Better to learn his arguments from one and be ready to answer him later.
3. They split up in order to find him.
 1. They each were so great, that they deserved to leave first. Rabbi Elazar ben Azaryah, the Nasi, Rabbi Yehoshua, who entered first (because of his acquaintance with Rabbi Dosi's brother) and Rabbi Akiva, the exceptional scholar. It was not proper for him to be last. So they all left simultaneously through separate doors.

בְּשׁוֹכְנֵסוֹ נִכְנְסוּ בְּפֶתַח אֶחָד בְּשִׁיצָאוֹ יָצְאוּ בְּשְׁלֹשָׁה פִּתְחִים

When they entered, they did so via one door. When they exited, they left via three doors

A man died childless and left two wives, one of whom is the daughter of the surviving brother (i.e., he married his niece). The brother can't marry his daughter, but can he marry the other wife?

Hillel- Just as yibum can't be done with his daughter, so too, it can't be done with the other wife.

Bais Shammai teaches that the second widow is unaffected by the fact that she shared a husband with the niece and can have yibum or chalitzah.

Reb Yonatan ben Horkinos was told by Rabbi Akiva that Hillel's position was even stated by the ancient prophet Chaggai, who was one of the last prophets.

Reb Yonatan said to Rabbi Akiva, "You have not reached the level of a cow herd". This is a reference to Amos, an earlier prophet, who, if Akiva could quote, would be a more powerful reference.

Akiva said - "Not even the level of a shepherd". Indicating Hillel's position is supported by Moses, the Shepherd.

Daf Digest

חַד אָמַר מְשׁוּם עֲבֵדֵי שְׁלֹמֹה
וְחַד אָמַר מְשׁוּם בָּנוֹת יְרוּשָׁלַּיִם

We do not accept converts from Tarmod because of Shlomo's slaves.

The other opinion is because of the daughters of Jerusalem.

If a slave and a Jewish woman have a child, it is Biblically prohibited and the child is a mamzer.

If a non Jew and a Jewish woman have a child, it is only Rabbinically prohibited.

However, they still cannot have Kiddushin and therefore, the child is a mamzer.

If a Jewish man and a non Jewish woman have relations in public, a zealot may kill them. If they have relations in private - a zealot may not kill them.

If a non Jewish man and Jewish woman have relations in public, it is permitted to kill them. If they have relations in private, you may not kill them.

Rambam says- No, it is not the same. A zealot may kill only, if a Jewish man has relations with a non-Jewish woman in public.

Daf Digest

עוֹבֵד פִּזְשִׁים שֶׁקִּידָשׁ בְּזִמָּן הַזֶּה חוֹשֵׁשׁ לְקַדוּשֵׁין

If an idolater betroths a Jewish woman, the betrothal is valid

and the child is Jewish, because the mother who gave birth, is Jewish.

The child is the religion of the mother , at the time of the birth.

A woman, who converts during pregnancy, the child is the religion the mother when she gives birth.

This principal is used to answer the question

- If a woman donates an egg to an infertile woman who carries the baby to term and delivers it, who is the mother? The woman who gave birth.
- A donated egg comes from a non Jewish woman, however, the delivery is from a Jewish mother. The child is Jewish.
- An egg is donated by a Jewish couple and a non Jewish surrogate carries the child during pregnancy and delivers it. The surrogate's child is not Jewish.

עוֹבֵד פִּזְבּוּלִים שֶׁקִּידָשׁ בְּזִמָּן הַזֶּה חוֹשֵׁשׁ לְקַדוּשֵׁין

If an idolater betroths a Jewish woman, the betrothal is valid.

To fulfill the Mitzvah of a boy and a girl.

What if he only has only boys. He could keep trying or we could say he is exempt, since no person can control the gender of his children.

What is the rule considering a man who cannot have any children at all? Is he exempt? Can he fulfill the commandment by adopting two children? Or by having his wife artificially inseminated with a donor sperm? If so, the sperm donor is the father.

-If a brother, who had no children, but adopted children and/or, had children by sperm donation, is he one for which his brother(s) must give yibum or chalizah?

-If an orphan is a Kohen, but his adoptive father is a Yisroel, the child is a Kohen.

-If the sperm donor is a Kohen, but the recipient father is a Yisroel. The child is a Kohen.

Does the child inherit from the sperm donor or his social parent or both or neither?

עוֹבֵד בּוֹכָבִים שְׂקִידָשׁ בְּזִמָּן הַזֶּה חוֹשֵׁשִׁין לְקַדוּשֵׁין

If an idolater betroths a Jewish woman, the betrothal is valid.

Egg donation hinted at in the Torah.

(Gen 30:21) Dinah is called the daughter of Leah.

Leah became pregnant and prayed that she not have another son, so her sister Rachel could have at least two of the 12 sons promised to Jacob (which would be at least equal to the number of sons delivered by the maidservants, Bilhah and Zilpah). The common understanding is that God changed the child's gender in her womb. Or, exchanged the female child (Dinah) in her womb for the male child in Leah's womb (Joseph) (Targum Yonaton and the Maharsha 1555-1631).

This could serve as a precedent for determining the identity of the mother of a child conceived through embryo transfer or egg donation. Since Dinah is called the daughter of Leah, we see that birth in the dispositive act that determines motherhood. The birth mother is the mother, not the egg donor.

A child's native religion is the religion of the birth mother at the time of birth.

This is based, not on contribution of genetic material, conception or gestation, but birth only. Whereas, the father is the one who contributes the sperm. Therefore, the child may need to be formally adopted or converted.

בֶּן הַבָּא מִן יִשְׂרָאֵלִית קָרוּי בֶּן

Your son, who is birthed by a Jewish woman, is called your son.

We stated that the child born of a Jewish mother and a non Jewish father is the religion of the mother.

However there is an opinion, that while the child is kosher, i.e., not a mamzer but a “legitimate Jew,” the status is not clear cut in cases where the father is a non Jew. The child, is a Jew halachically, only if that person “conducts himself as a Jew”, (R Shlomo Luria).

Example, Cyrus the Great is identified as Darius and is described as a righteous King, but being non-Jewish. Darius is the son of Queen Esther and should be considered Jewish. However, he was raised by Achasveros and therefore, is considered a non Jew.

Daf Digest

אִשְׁתְּ אָחִיו שֶׁלֹּא הָיָה בְּעוֹלָמוֹ

A wife (of a dead man) whose brother, was not in this world (born yet, at the time of his brother's death), is exempt.

This seems so obvious, it should not require a verse to tell us.

-If a widow had to wait to see if her mother in law has another son, she could never be freed until the mother in law died!!

-If the widow had a son with her husband and the son died, we do not reinstate the need for yibum.

-If a woman had a son and the husband died and then her son died, should we require yibum? No. The posuk is only needed when the mother in law is pregnant at the time of her adult son's death. Soon the answer will be known to us if the baby is a boy or not.

In such a case, we reassure the widow that she does not need to wait. The newborn was not in this world when his brother died. Therefore, no yibum is required.

עֲשֵׂה בָּהּ מֵאָמֵר

One who marries a yevamah is called “one who has done maamar, instead of kiddushin. Why?

Kiddushin is the language of ‘hekdesh’, ‘consecration’ through separation and as soon as she accepts kiddushin, she is prohibited to anyone else.

A yevamah has already been prohibited, since she married her husband until he dies. She is still prohibited until she is taken through yibum or released through chalitzah. Therefore, it is not appropriate to call her new marriage kiddushin. She is no more consecrated through separation than she already was.

The idea of yibum is to perpetuate the dead brother’s name. So it is like a resurrection for him. We find that God brings the dead back through His word. Therefore, this type of a marriage is called ‘maamar’.

Daf Digest

יַחְדּוֹ מִיּוֹחָדִים בְּנַחֲלָה

The word “Yachdo” ‘together’, means together in inheritance.

A ‘mumar’, a ‘heretic’, loses his right to inherit from his father. Rabbienu Mordechai ben Hillel (the Mordechai) states that the widow is allowed to marry outside the family and even without chalitzah.

A maternal brother does not have the obligation of yibum, because he does not share the same line of inheritance as did the dead brother.
So the dead brother’s wife should marry his paternal brother.

Shulchan Aruch rules that a widow who falls to a yavam, who is a mumar, must receive chalitzah before she may marry.

A woman who married, believing her dead husband had no brother, does not need to leave her marriage, but is required to receive chalitzah.

Daf Digest

מֵה קְדֻשִׁין דְּעֵלְמָא מְדַעְתָּהּ

Betrothal requires a woman's complete consent, just as Kiddushin, in general, required her consent.

A man gave a ring to his kallah for the purpose of Kiddushin. She accepted it, but soon commented that she thought he was going to give her a gold ring and this one is silver. Is the Kiddushin valid or must he do it again?

The posuk (Deut 24:2) “and she goes and marries another man” teaches us that she cannot be betrothed against her will. Why do we need this posuk, certainly an “agreement” requires that both parties agree, otherwise it is invalid.

Woman was created “to be a helper opposite him”. Therefore, when a man is betrothed to a woman, we could say that he is not really acquiring something from her, but rather, she is presenting him with that which is already his. Therefore, the posuk is needed to tell us it is not so. It is hers to give and she can't be betrothed against her will.

כָּל הַמְּקַיִּים דְּבֵרֵי חֲכָמִים נִקְרָא קָדוֹשׁ

Whoever acts in accordance with the rulings of the sages is called a holy person.

Is a person more appropriately called holy if he follows the rules of the Rabbis or the rules of the Torah? The rules of the Rabbis protect the rule of the Torah. They are often the fence around the law. A person who adheres to their strictures is kept far from violating Biblical rules and is less likely to breach an important rule.

קִדְשׁ עֲצֻמָּה בַּמוֹתָר לָךְ

Sanctify yourself with that which is permitted to you.

Observe the Sabbath-as your God commanded you.

Honor your father and mother-as your God commanded you.

Don't just do it because it is the right thing to do. Do it because you were commanded to do it by HaShem.

The Torah tells us to be holy. How can this be accomplished?

When we perform these acts solely because they were commanded by HaShem, we are acting with holiness. Holiness may be found not only in spiritual activities, but in the routine and even mundane and casual. One must sanctify oneself with those activities and one's entire life becomes a life of holiness.

קִדְשׁ עֲצֻמָּה בַּמוֹתָר לָךְ

Sanctify yourself with that which is permitted to you.

Rambam - The Torah allows use of meat, wine, sex, etc. and a person could sin even within the permissible realm of Torah law. A person should engage in these activities in moderation and in a sacred manner.

R Mordechai Dov Twersky - Suggests the word ‘mutar’, ‘permitted’, should be changed to ‘mothar’. Hence, you should sanctify yourself by not pursuing “superfluous” or unnecessary comforts.

קודם שבא שלמה היתה תורה דומה לכפיפה שאין לה אזנים

Before the age of Solomon, the Torah was like a basket that had no handles.

Handles safeguard a basket from falling out of one's hands. Solomon instituted many proverbs and safeguarded the Torah with various decrees, including the secondary arayos prohibitions.

וְשָׁמַרְתֶּם אֶת־מִשְׁמַרְתִּי עָשׂוּ מִשְׁמֶרֶת לְמִשְׁמַרְתִּי

And you shall keep my charge (Lev 18:30); provide a charge to my charge.

R S.R. Hirsch - This is the concept of punctilious observance which is aided by the rabbinic terms ‘geder’ (fence) and ‘seyag’ (hedge).

The sages, with their profound insight into human nature, enacted such safeguards to the laws.

וּמִוֶּתֶר אָדָם בְּאִשְׁתּוֹ חֻמִּיו

It is permitted to marry one's father-in-law's wife.

<u>No</u>	<u>Yes</u> (Halachic-no restrictions)
Tosaphos	Rif
Baal Haturim	Rambam
	Yosef Karo

All agree- If there is a divorce or if the man who wishes to marry his father-in-law's wife, has lost his wife, (who was the daughter of that father-in-law) it is permissible to marry the father-in-law's other wife.

וְמָה עֲרֻה גּוֹפָה אִי לֹא שְׁלֵא יֵאמְרוּ

And as for the ervah herself, if not for the concern that people will say, she went from a higher to a lower sanctity.

A convert is a new person.

A convert is so dissociated from his ancestry that, theoretically, he may marry his own mother or sister.

The Radvaz explains that Yaakov Avinu was permitted to marry two sisters because Rachel and Leah converted before they married Yaakov and thus lost their status as sisters!!

A person born of a Jewish father and non-Jewish mother would have to convert to be considered Jewish. Since he is not connected to his biological father, he is not bound to follow his father's customs. Is he a Kohen, Sephardic or Ashkenazic?
No.

וְגֵר שֶׁנִּתְּגִייר כְּקָטָן שֶׁנּוֹלַד דְּמִי

A convert is like a new born child.

A convert is not considered to be a relative of his parents or his siblings.

If two siblings convert, they could testify against each other, since they are not related.

Could a brother and sister, each of whom converted, marry each other?

וְגֵר שֶׁנִּתְּגַיֵּיר כְּקָטָן שֶׁנּוֹלַד דְּמִי

A convert is like a new born child.

A convert has no connection with his prior family, and yet:

- He may inherit from his father.
- He must respect his parents and visit if they fall ill.
- He must never demean them.
- If he had children, he has fulfilled ‘peru uruvu’.
- If he has children before conversion, the first born son does not collect double inheritance.
- He may not marry his brother’s divorced wife.

וְגֵר שֶׁנִּתְּגַיֵּיר כְּקָטָן שֶׁנּוֹלַד דְּמִי

A convert is like a new born child.

A convert is a new born person with no relatives. Technically, he may marry any of his non-Jewish relatives; his mother, sister, or his brother's wife, since he is "not related" to them. However, the Rabbi's prohibited that so as not to be able to say that a person went from a higher level of sanctity as a non-Jew, when he was not permitted to marry his close relative (i.e., mother sister), to a lower level of holiness, when he became a Jew, because now he can marry his sister or his mother.

מִי שֵׁשׁ לוֹ אָח מִכָּל מְקוֹם זֹוֹקֵק אֶת אִשְׁתּוֹ לְיִבּוּם

One who has a brother of any kind, binds his brother's wife for yibum,

Yibum is not unique to the Torah

These were Hittite laws during days of Abraham and also during the 14th -15th century BCE middle Assyrian Empire.

These laws offer financial and physical protection for the widow and treat the woman as a member of the clan.

Now in the age of monogamy, the Rabbis made chalitzah easier and the norm.

It is restricted to the case of a brother who died without issue, not as previously, without a male child.

The widow need not spit in his face, but only on the ground before him.

קְרִי כֹהֵן, וְנָשִׂיא בְעַמֶּךָ לֹא תָאָר׃ בְּעוֹשֶׂה מַעֲשֵׂה עֲמָךְ

Read here, “And a prince who is among you, you shall not curse” (Exodus 22:27).

You shall not curse a judge and you shall not curse a prince (a leader) who is among your people.

Why the difference between a judge, where it does not say from among your people and a prince or leader, where it does?

A judge will be appointed by the community, if he is competent and qualified. He will certainly embody the principles and ideals of the community.

A prince may get his position through inheritance and may not be like the people in his thoughts and principles, but might be evil. He is not ‘mayamechoh’, ‘from your people’ and therefore, may be cursed.

וַיָּקוּם עַל-שֵׁם אָחִיו,,

Deut. 25:6

Shall succeed to the name of his deceased brother.

The firstborn, to whom she shall give birth, shall take the name of the deceased brother.

The term ‘name’ can mean ‘name or inheritance’, i.e., tribal status of the children of Yosef (Gen 48:6).

The oldest surviving brother has the prime responsibility for performing yibum. If he, or any of the other brothers (in the event he refuses), marries the widow, that brother inherits her husband’s estate. Otherwise, the estate would go to the father of the dead husband and then be divided amongst all the sons. The brother also gets two portions when the father dies, his own and the portion of his dead brother. This is an exception to the general rule of Biblical interpretation that requires us to apply the plain literal translation.

Another example: “Don’t place a stumbling block before the blind”, some limit this to literally, ‘a stumbling block’; others limit to giving bad advice to anyone who does not know better.

הַנִּטְעָן עַל הַשִּׁפְחָה

Someone who is suspected of cohabiting with a non-Jewish woman.

If she converted to Judaism, he may not marry her. However, if he did, we do not require him to divorce her.

Rashi- If he marries her, it confirms that they had relations which are not permitted and it implies that he would have to divorce her.

Others say he can't marry her because we would suspect that her desire to convert, was not for love of Judaism, but desire to marry the man. His intentions would be suspect as if she had ulterior motives.

However, if the man says he will remain with her, even if the Rabbi's won't convert her and don't permit him to marry her, then, so as not to violate a greater prohibition, if they marry, he does not need to divorce her.

וְכֵן מִי שֶׁנִּתְגַּיֵּיר לְשׁוּם שׁוֹלְחַן מְלָכִים

And likewise someone who converted to sit at the King's table.

Yisro come to convert after hearing about the battle with Amalek. We have a question. He also heard about the parting of the waters of the Reed Sea and the miracles of Egypt (Shemos 18:1) were these not sufficiently impressive to convince Yisro to come to convert?

Yisro was sincerely eager to convert but feared he would be turned down. The Jews were enjoying direct divine protection and his request to join might be interpreted as a desire for benefits not genuine sincerity. But when he heard about the battle of Amalek he was reminded that a convert who comes with sincerity, as did Timna the mother of Amalek, should and would be accepted.

אֶחָד גִּירֵי אֲרִיּוֹת

Someone who converts to Judaism out of fear of lions.

Rabbi Nechemyah – This disqualifies any conversion not purely motivated by a desire to be Jewish.

Halachah follows the opposing view that rules, even such a conversion, are valid.

- An idolatress who married her paramour and then converted.
- A man converted for the sake of a woman.
- A woman converted for the sake of a man -
- Someone converted for the sake of eating at the Kings table -
- Lion inspired converts -
- Dream inspired convert -
- Converts at the time of Esther and Mordechai.

All are regarded as legitimate converts (after the fact), i.e., if they say any of the above, before they are converted, don't convert them.

If they marry, they do not need a divorce.

The supposition of insincerity is not strong enough to cause divorce.

14-Yevamos 24b3 line 20
Weiss #536

A12

אֵין מְקַבְּלִין גֵּרִים לְיָמֵי הַמָּשִׁיחַ

Proselytes will not be accepted in the days of the Messiah.

They would then be considered opportunists, who were attracted to the religion for worldly and not spiritual considerations.

אין מקבלין גרים לימות המשיח

Proselytes will not be accepted in the days of the Messiah.

Can a conversion be annulled? Yes.

- Converts who were coerced.
- People who did not integrate into Jewish life.
- Only the refusal to fulfill a mitzvah, not its non-fulfillment, is a bar to conversion.
(Proof of righteousness does not require perfect fulfillment of all 613 mitzvahs, only partial fulfillment is adequate).
- A woman who agreed to go to the mikvah for conversion, but never did go.
- A woman who “immediately reverted to Christian practice”.

All of these are discussed, however, it is very uncommon to annul a conversion.

אין מקבלין גרים לימות המשיח

Proselytes will not be accepted in the days of the Messiah.

Why? Because when Moshiach comes, the Jews will be especially blessed and we fear that those who convert, would be doing so for ulterior motives.

However, even at times when we don't accept converts, a person who is especially determined, should be allowed to join our ranks (Sanh 99b). Timna tried to convert but Avraham, Yitzchak and Yaakov all denied her request. She decided to live as a common law wife to Elifaz, deciding it was better to be a maid in a Jewish environment, than remaining an aristocrat in her nation. Eventually, the descendant of this union was Amalek (Gen 36:12). We see it was not proper to deny the sincere yearning of a person, for fear that they become an enemy of the Jewish people.

אֲמִינָא כִּי נָיִים וְשָׁכִיב רַב

“When Rav was sleeping, he said this teaching”.

1. At first glance this appears to denigrate Rav. In reality it is born of great respect. Had Rav been fully alert he would not have made this statement.
2. There is no chutzpah in this saying at all, says the Rabbi of Munkacz.

When people of great learning, fear of heaven, and knowledge of the depths of Torah sleep, they dream and may even utter words that can be heard by others. These words may not mean what the words mean literally, but have a different, deeper, Kabbalistic meaning.

So Rav Sheshes was saying that the words Rav said when sleeping, need to be interpreted at a higher, deeper level.

אָמַרָה לִי אִם דּוֹמֵי דְּמָתָא יוֹמָא וּפְלָגָא

Abaye said, “My mother told me.”

Rashi points out, that in a number of places, the person Abaye identifies as his mother, is not in fact, his mother, but is the person who raised him. This principle, that one can refer to a non-biological parent as a parent, is mentioned in Megillah 13a. Basya bas Pharaoh is mentioned in Chronicles as the one who gave birth to Moshe. However, she merely raised him. The Gemara answers with the principle that whoever raises an orphan in their home, is credited with having given birth to him.

A stepchild can be referred to as one's child saying Kaddish for a step-mother. If she has no one to say Kaddish for her, it is permitted. However, the Kaddish is not on the same level of obligation as for a biological parent and does not cause a biological mourner to forgo their privilege to daven in shul, on a yahrzeit, etc. Also, mourning practices should not be observed by stepchildren, only biological children.

הָתָם לֵיכָא כְּתֻבָּא הָכָא אֵיכָא כְּתֻבָּא

Over there, there exists no written document; here however, there exists a
document.

Under what circumstances may a messenger marry the woman.

- A messenger brings a 'get' from Israel. He is believed and may marry the woman. The 'get' is relied upon – we rely on the get.
- A messenger comes and testifies that the husband died. He may not marry the woman – we can't rely on the messenger, because he wishes to marry the woman.
- A 'get' from outside Israel is not believed, but even adds suspicion on the messenger. He may not marry her.

וְאֵין אָדָם מְשִׁים עַצְמוֹ רָשָׁע

No one considers himself wicked.

A merchant was stopped on an abandoned stretch of road by a bandit, who shot three times in the air, to make the merchant stop to show he meant business. The bandit made the merchant give over all his money. The merchant claimed the money wasn't his; he had been entrusted with it to buy things for other investors, Who would not believe that he had been robbed. He asked the robber to please Shoot several holes in his hat and in his suitcase, so the others would believe he had really been robbed. The robber agreed. With the last shot the robber complained. "Look how you made me use up my last bullet". With that the business man wrestled with the robber, beat him up and took back his money. The crook complained, "Isn't it enough that you caused me to waste all my ammunition and beat me up? Do you also have to take away my money?" Even a bandit thinks he is in the right!!

דַּאי כָּרְבִי הָאֵמַר בְּתָרִי זִמְנֵי הוּא חֻזָּקָה

Because according to Rebbi, a chazakah is established after two occurrences.

Once a woman is widowed twice or divorced twice, she is not allowed to be married a third time. She is considered a Katlanis – (a woman who is considered to be the cause of her husbands' deaths) or the cause of the divorce. However, if a woman is widowed and divorced or divorced and widowed, a third marriage is permitted.

This principle is also used regarding a Bris Milah. If two boys from the same family died following their Bris Milah, a chazakah is established that boys from this family are endangered by a Bris. Future children should have their Bris postponed until the child is older and stronger.

It makes sense in matters of health and life or death, to take a cautious view and consider it a risky pattern, not to be repeated after only two occurrences. Whereas, in most situations, a chazakah is not established until reoccurrence has occurred three times (Shulchan Aruch).

שָׂכַל יִבְמָה שְׂאִין אֲנִי קוֹרָא בָּהּ בְּשַׁעַת נִפְיָלָהּ

If, at the time the woman falls to him as a yivamah, he is not halachically fit to fulfill the mitzvah of yibum, she is restricted from marrying him (even if he becomes fit later).

At the time she falls to him, both are mourners who are ‘onenim’, ‘mourners prior to burial of their loved ones’. Therefore, there can never be a person fit to do yibum, since an ‘onen’ is exempt from all mitzvahs!!

Ans: This mitzvah is different. Being an ‘onen’ is to put yourself in a position similar to the dead person, i.e., unable to do any mitzvah, to share the dead person’s disability and so to honor him. That is permitted and in fact, is mandated. So too regarding the mitzvah of yibum, which is done to honor the dead person, is an exception and is allowed.

וְלִימָא לִיה גְּזִירָה שְׂמָא יָמוּת

And why is his ruling made? It is due to the concern that he may die.

Are we concerned about sudden death?

Yes, but only over a long period, not a short period (which is defined variably as 7-30 days).

This concept relates to the principle that “one should not delay the opportunity to perform a mitzvah”.

R Moshe Isserlis - Is this because he may die before he has another opportunity to perform this mitzvah or is it because we should be “quick to perform mitzvahs?”

Why should we be quick? This is based on the possibility that one may die at any time.

It is, however, permitted to delay the fulfillment of a mitzvah. in order to be able to fulfill it in a more enhanced way

כָּל הַנוֹדֶרֶת דַּעַת בְּעֵלָהּ הִיא נוֹדֶרֶת

Any woman who takes a vow, does so subject to the consent of her husband.

Noda b'Yehudah - Even if that vow was taken under duress.

A woman may not make a donation without her husband's permission, since all their possessions legally belong to him.

The husband has the right to declare his wife's vows null and void.

וְהָאִי תָנָא סָבַר מִיתָהּ מִפְּלֵת
וְהָאִי תָנָא סָבַר נִישׁוּאֵין הָרָאוּנִים מִפִּילִים

This tanna holds that death of the husband causes her to fall to yibum.

This tanna holds that her original marriage causes her to fall to yibum.

Why does it matter?

If death of her husband creates the new status of a ‘yavama’ for her, her marriage has been severed. She has a general prohibition against a new relationship until she is released.

However, if the connection to her husband’s brothers occurred at the time of her marriage, the marriage is not entirely over at the death of her husband. She is still attached to the brothers. If she engages in a new relationship before the marriage connection to the brothers is over (chalitzah), makes her liable to a death penalty for “adultery”.

הִיָּתָה עוֹמֶדֶת בְּרִשּׁוֹת הָרַבִּים וְזָרְקוּ לָהּ קְרוֹב לָהּ מִגּוֹרֶשֶׁת

If she was standing in a public domain and he threw the ‘get’ to her. If it is closer to her, the divorce is valid.

The divorce is valid:

- If it lands in her yard. (Shulchan Aruch)
- If she is in a public domain and it lands in her 4 amos.
- If it is thrown onto her clothing.
- If it is put into her hands and her hand is not covered by gloves or clothing and the hand is not wearing a ring, i.e., there is no interposition.

It is best to follow the Torah rule of placing the bill of divorce in her hands.

וּמִנִּין דִּחְזוּ מִכְתָּבָא וְאֵתוּ מִסְהָדֵי וְרַחֲמָנָא
אָמַר מִפִּיהֶם וְלֹא מִפִּי כְתָבָם

What is better testimony from witnesses,
their written statement or their oral statement?

When words are spoken many techniques can be used to better convey one's true meaning: Pauses, emphasis, explanation on a theme, soft, loud, lengthening of delivery, hand motions, head-facial motions, or voice modulations.

The Torah requires testimony to be delivered directly from the mouths of the witnesses.

“Upon the testimony coming from the mouths of two or three witnesses shall the truth be established”. (Deut. 19:15)

וּמִנִּין דִּחוּ מִכְתָּבָא וְאֵתוּ מִסְּהָדֵי וְרַחֲמָנָא
אָמַר מִפִּיהֶם וְלֹא מִפִּי כְתָבָם

What is better testimony from witnesses,
their written statement or their oral statement?

Rashi - Only oral testimony is permitted.

Tosophos - Rabbienu Tam - It is customary for witnesses to send their written testimony to the court. The Torah only disqualifies written records if the witness does not recall the event at all and relies entirely on the record they once wrote. If they do remember the event, there is no problem in transmitting their testimony about it, to the court in writing.

However, (in Gittin 71a) we learn that a mute is disqualified from being a witness since he is not able to say his testimony. They do not allow him to testify in writing, because of the posuk in Deut 19:15.

Rabbienu Tam counters that the Torah does not insist that a person say his testimony, only that he has the potential to say it and a mute does not. But a person who remembers his testimony and has the potential to speak it, the courts accept his written testimony.

כְּגוֹן דְּאִיִּתִּי שְׁתֵּי שְׁעָרוֹת בְּשַׁבָּת

He saw two hairs during the day on Shabbos. He becomes obligated to observe Shabbos at that moment.

A person who notices two hairs is now an adult.

He is obligated to avoid work, “malachah”, on Shabbos.

A person who lives in Israel, observes one day Yom Tov. If he decides to move to the Diaspora and arrives there in the middle of the second day Yom Tov, how should he behave?

He started the day as an Israeli, therefore, he should not follow the second day.

He landed in his new city where all are obligated to observe two days. He should observe the second day.

Our Gemara suggests his status could change even in the middle of the day.

Rabbi's suggest that Israelis should not travel to the Diaspora on the day right after Yom Tov to avoid this conundrum.

אם ה' קטנות שאינן ראיות לילד מחזירין אותן מיד

If they are minors and can't bear children we return them immediately.

A woman who willingly commits adultery is forbidden to her husband. If a father marries off his minor daughter and that minor woman (under age 12) commits adultery, will she also be forbidden to her husband for willfully committing adultery?

Rambam (Hilchos Issurei Biah 3:2) rules-Yes, just like an adult. (Hilchos Sotah 2:4)

Raavad says-No. The willingness of a minor is considered coercion. Only the wife of a Kohen would be forbidden to her husband as a result of forced relations.

Rambam says- Also, she can become forbidden to him if he warns her not to seclude herself with so and so and she ignores the warning.

Raavad asks-How can any warning to a child have any meaning? Being a minor means she lacks the maturity to understand the significance. Also, she is not yet obligated to mitzvahs.

She is not considered to be guilty of a sin, but she is expected to be able to be faithful to her husband. The warning, therefore, has meaning and willful unfaithfulness does result in her being forbidden (Ohr Someiach, Rambam Hil Issurei Biah 3:2)

אֵין אִשָּׁה מִתְעַבְּרַת בְּבִיאָה רִאשׁוֹנָה

A woman cannot become pregnant the first time she has relations.

And if she does become pregnant, is it proof that this is not the first time?

No, nowadays it is possible for women to become pregnant the first time they have relations and this type of suspicion is groundless.

כָּל שִׁשְׁהָתָה אַחֵר בְּעֵלָה עֶשֶׂר שָׁנִים וְנִשְׂאָה

The widow who waits 10 years or more cannot become pregnant, “and if she does it is because of elicited relations”.

How do we know this is not true from our very Gemara?

We learn that (from Deut 35:5) for a brother to have the obligation of yibum, he had to have lived at the same time as his brother that died. If he was not yet born, he is exempt. Since the entire idea of yibum is to have children, if it was not possible for the widow to have children 10 years later, we would not have to exempt a child not yet born (for whom it would be even more than 10 years to be able to fulfill the mitzvah). The fact that we do exempt the child not yet born, tells us that a woman could become pregnant 10 years after her husband dies, without the cause being elicited relations.

כָּל שִׁשְׁהָתָה אַחֵר בְּעֵלָה עֶשֶׂר שָׁנִים וְנִשְׂאָה

The widow who waits 10 years or more, cannot become pregnant, “and if she does it is because of illicit relations”.

A woman who married 10 years after the death of her husband, was considered unable to conceive. If she did conceive, it was grounds for divorce (if she was married to a Kohen) since it was considered proof she had cohabited with others and was a Zonah.

However, if she had in mind to be married and especially to this man, she might become pregnant.

Others say that in those days it was true, but people have changed and today a woman unmarried for 10 years after her husband dies, can become pregnant.

Daf Digest

סֵּפֶק בֶּן תִּשְׁעָה לְרֵאשׁוֹן סֵּפֶק בֶּן שִׁבְעָה

Doubt to whom son belongs: Is he the nine month old child of the first brother, or the seven month old child of the second brother.

In Yoma 75a - Manna fell in such a way that the proper amount for each family fell at their doorstep. Therefore, if paternity of a newborn child was in doubt, it would be resolved once the amount of manna fell at the doorstep of the true father and not that of the other man.

In Beshalach Shemos 16:18 it states, “The person who gathered more, did not have more and the one who gathered less, did not have less. Each according to his amount to eat.” and Shemos 16:17 says that the people of Israel did as Moshe instructed them. It seems that some people took more and some took less, how does this indicate that they did as Moshe instructed?

The Divrei Shaul suggests that this verse 16:18, refers to those who had a doubt about the size of their family, i.e., where the father of the child is undetermined. The one who gathered more, thinking he was the father, would not have more if it was inappropriate. Only the correct amount of manna would end up in his possession.

אִם יָבֹא אֵלֵיהֶוּ וַיֹּאמֶר

If Eliyahu would come and declare...

i.e., predict that the woman would miscarry, we would know how to advise regarding yibum or chalitzah.

i.e., Eliyahu Hanavi would share information with us and we would use that information to decide matters of halachah.

Yet, it was decided that (Rambam Yisodei Hatorah) based on Bava Metzia 59, the Torah is not in Heaven and halachic matters are not decided by prophets.

Some say this statement only means that Heaven or prophets cannot tell us the halachah itself, in any individual case.

Some say Heaven or prophets can't decide halachah, but can share information that help us here on earth to decide the halachah.

Some say Heaven or prophets can add nothing to our decision making knowledge, process or outcome.

Daf Digest

לֹא הָיָה וְלֹד בֶּן קָיָמָא מִיפְטָר צֶרֶתָּהּ

Perhaps the child will not live (Famous ruling of Shlomo Hamelech. Melachim 1,3:27)

If the child does not live, how does that impact the obligation for yibum?

How could it be that King Solomon would base his judicial ruling on the statement of a foolish woman who would agree to kill a child? This is not what happened.

The case was entirely different.

Two women came before the King with two sons, one dead and one alive.

The two women were related; a woman and her daughter in law; both of their husbands had died. The child who died was really the son of the daughter in law and as a result, she would have to wait until the surviving baby, her husband's brother, would grow up and release her from yibum. She, however, did not want to wait 13 years as a yevama. So she acted deceitfully and switched the babies; her dead son, for the live son of her mother in law. Now she could claim to be exempt from Yibum for two reasons: First- she had a son, second- her husband had no living brothers. She never expected King Solomon would suggest cutting the child in half, but that would also free her, so she agreed. Solomon sensed this hesitation while she weighed the implication and awarded the living baby to the mother in law.

סִפֵּק בֶּן תִּשְׁעָ[ה] וְכוּ

Uncertainty concerning a nine month old child, etc.

After the death of the husband, we must wait three months before the brother can take the widow in yibum. Why? This is to make sure she is not pregnant.

Case: A couple did not wait and a child was born 9 months after the death of the husband, but 7 months from the date of the yibum.

Is this child the dead husband's? If he is a legitimate child, yibum is not appropriate and marriage between the brother and brother's wife is forbidden and the child would be a 'mamzer', 'illegitimate'.

If fathered by the head husband's brother the yibum is correct and the child is considered legitimate. How can we know? If the child behaves brazenly, is that proof he is a mamzer?

Bava Basra 48- 10 sons, 9 were mamzerim-one is not. To learn which son is no a mamzer, the Rabbi ordered them all to kick their father's grave until he rose. One son would not kick the grave. He is not a mamzer. This proof can't be used in our case. That method was to find the son who was not a mamzer. Here, we need to find the mamzer.

לֹא יִשָּׂא אָדָם אִשָּׁה בְּמִדְיָנָה זֹו וַיֵּלֶךְ וַיִּשָּׂא אִשָּׁה בְּמִדְיָנָה אַחֶרֶת
שָׂמָּה יִזְדְּוּגוּ נָה לָזֶה

A man may not have a family in one country and another in another country, since the children might meet, not knowing they are related and want to marry each other.

This statement forbids a man from establishing multiple families, whose identities may not be known to one another.

This serves as a basis for a ban upon the suppression of information that might prevent an incestuous relationship.

For example, in cases of ovum fertilization or adoption and the suppression of the identity of the genetic mother, is forbidden, because of the potential of an incestuous relationship.

Daf Digest

לֹא יֵשֵׁא אָדָם אִשָּׁה בְּמִדְיָנָה זֶה וַיֵּלֶךְ וַיֵּשֶׁא אִשָּׁה בְּמִדְיָנָה אַחֶרֶת
שָׂמָא יִזְדְּוֹגוּ נָה לָזָה

A man may not have a family in one country and another in another country, since the children might meet, not knowing they are related and want to marry each other.

Also, a person should not change countries, even with his wife, since, if he leaves children behind and has children in the new country, they could meet and want to marry.

That is why God's promise to Abraham to make him a great nation is important. It means he will be publicized and be famous. Why is this important?

Sarah and Abraham each left sisters behind. When they have sons, the sons may wish to marry the sister of his mother or father, which is prohibited. However, they may not know that they are related. If the father is famous, his relatives will be known and this confusion would not occur.

מֶה יַעֲשֶׂה בְּכַתּוּבָתָהּ וּבִנְכָסִים הַנִּכְנָסִים וְיוֹצְאֵין עִמָּהּ

What happens to her ketubah money once the husband dies. It should go to the wife.

But she is still attached via a weak marriage to her dead husband, because of her yibum status and the ketubah money does not go to her, if she is still married, albeit weakly.

If she dies before she is taken in yibum or given chalitzah, the ketubah money was not yet hers and stays in the husband's family. The ketubah was not yet hers, so she could not bequeath it to her heirs.

פִּיּוֹן שְׁלִקְחָהּ הָרִי הִיא בְּאִשְׁתּוֹ לְכָל דָּבָר

Once he has relations, she becomes his wife in all matters.

A man married and promised his wife's family, as a condition, that he would not take a second wife. His brother died childless and his sister in law fell to him as a yibum. If he takes her, does he violate his promise?

Ridbaz - Yibum is not like regular marriage, he may perform yibum.

Gemara 38b - Yibum / A yevamah is a normal wife in all regards and therefore, he would violate his promise, if he performed yibum with her.

מִלְמַד שֶׁהַכֹּהֲנִים אוֹכְלִים וּבָעָלִים מִתְכַּפְּרִין

We learn that the Kohanim eat and the owner obtains atonement.

Anyone who studies the laws of Chatas is credited as if he brought a chatas offering itself (Menachos 110a). In Shabbos 12b, R Yishmael ben Elisha adjusted a lamp on Shabbos and promised he would bring a chatas offering when the Bais HaMikdash is rebuilt. Why make such a promise? He could study and be credited now? Because he understood that study credits you with the part of the sacrifice that is burnt on the alter, i.e., to HaShem, but not the part due to the Kohanim, which provides atonement. He promised to provide that in the future, when possible.

There is one sacrifice in which the study encompasses a total credit. It says this is the Torah of the Olah. “It is the Olah.” Because it is entirely burned on the alter and none of it is eaten by the Kohanim. Their eating, which brings atonement, is holy eating.

מִלְמַד שֶׁהַכֹּהֲנִים אוֹכְלִים וּבְעָלִים מִתְכַּפְּרִין

We learn that when the Kohanim eat (from a chatas offering), this brings
atonement to the owners.

We can call this holy eating. Any act can be done in a holy manner.
If we eat and contemplate on HaShem, we can be brought closer to the
Almighty.

HaShem grows the food and sustains us. He makes our bodies work to be
nourished, to process what we need and eliminate the rest.

Such thoughts can occur during mundane tasks, even while eating.
We can call it ‘Holy Eating’.