

Tractate

Yevamos

41a1 through 84a1

הַיְבָמָה לֹא תַחֲלוּץ וְלֹא תִתְיַבֵּם עַד שְׁשִׁשׁ לָהּ שְׁלֹשָׁה חֳדָשִׁים

A Yevama should not do Chalitzah or Yibum until three months have passed
(after her husband's death).

This is because she may be pregnant with her husband's child. Perhaps, the person who was obligated to do Yibum or Chalitzah would not be available three months from the time of death, i.e., he was leaving the country or he had been drafted to go to war. Could Chalitzah be done early?

Yes, because, if she is pregnant the Chalitzah is not needed and has no effect and if she is not pregnant, the Chalitzah frees her to marry anyone else.

However, we stipulate that she may not marry anyone until three months have elapsed. Why? In order to be certain of the paternity of the child.

וְלֹא מִי אוֹתְבִינִיהָ לְרַבִּי יוֹחָנָן חֲדָא זִימְנָא

But, they did not already refute R Yochanan.

Two brothers : One married a woman, the second was engaged to her sister. The first brother died. The second is obligated to do chalitzah with his sister-in-law, which makes his fiancé prohibited to him (because he cannot be married to two sisters).

If they knew her husband was dying, the other couple could marry while the dying husband is still alive or could encourage the dying husband to have a baby with his wife.

If the married brother dies without warning, the fiancé is prohibited to the unmarried brother.

If they learn the widow is pregnant, must the couple wait before marrying, to learn of the baby is viable?

R Yochanan says - Yes.

We reject this opinion, because at the time of the brother's death, there is no obligation for yibum or chalitzah. Therefore, they may marry.

דַּרְב אָמַר מִשְׁעַת נְתִינָה וְשְׂמוּאֵל אָמַר מִשְׁעַת כְּתִיבָה

Rav say , they begin from the delivery of the get. Shmuel says, they begin from the writing of the get.

How long must the woman wait to marry after receiving a get ?

Rav says - Three months from the time the get was delivered

Shmuel says - Three months from the time the get was written.

Schmuel lenient -from written	-	Rav strict- from delivery
Rif	-	Rosh
Rambam	-	Rema
Shulchan Aruch	-	Ovadia Yosef-be strict but one can rule leniently in pressing circumstances

בְּשִׁלְמָא תִּמְתִּין שְׁנֵי חֳדָשִׁים

It is understandable that to have her wait only two months is not possible.

The requirement to wait three months before remarrying, is to remove all doubt as to the paternity of the child.

This condition pertains in all situations, including after a divorce and the death of a husband (with children or without).

In general, it is to determine paternity with clarity, but concerning a yivamah, there is another important reason.

In general, a pregnant woman may marry and important as it is, only the paternity of the child might be in question.

A yevamah who is pregnant (even if she does not know it yet), would not be obligated to marry her brother in law and in fact, as he is prohibited to her. He would incur a much greater violation.

וְהִלַּכְתָּ צְרִיכָה לְהַמְתִּין עֶשְׂרִים וָאַרְבָּעָה חֹדֶשׁ

The law is a nursing woman must wait 24 months before entering into erusin.

Abraham made a great feast after Yitzchak was weaned at 24 months (Rashi). Why did Abraham wait so long, if the purpose of the feast was to publically thank HaShem for the miracle of the birth of Yitzchak.

The birth of Yitzchak to a 99 year old woman is a miracle which was a ‘one time’ occurrence. The miracle of Sarah being able to nurse her child was a ‘continuous’ miracle every time the child ate. In order to fully celebrate the total range and extent of the miracle, it had to be completed so we could comprehend its magnitude. That is why the banquet was delayed to until Yitzchak was weaned, because that was the end of the miracle.

Marriage advice

וְאַל תָּשִׂים קִטְטָה בְּבֵיתְךָ

Do not bring discord into your home.

For example, the elders meet with the yavam and advise him if she is old and you are young or if you are old and she is young, perform chalitzah, why bring strife into your house?

If the Yavam has the means to provide, he may take 4 or even 8 wives in yibum. Depending on his profession, he owes marital duties to each wife.

Mishnah in Kesuvos says - A married couple should have conjugal relations on a regular basis.

If he is a man of leisure- every night

If he is a man who works locally –twice a week

If he is a mule driver- once a week

If he is a camel driver – once a month

If he is a Torah Scholar - every Friday night

בֵּית אֶחָד הוּא חוֹלֵץ וְאֵין חוֹלֵץ שְׁנֵי בָתִּים

He performed chalitzah with one house, but not with two houses.

The Mitzvah of yibum of Yehuda and Tamar:

Rambam explains that Yehuda fulfilled the mitzvah of yibum with Tamar.

Before the giving of the Torah, any member of the family could fulfill yibum. It was not only the brother of the deceased.

Why did HaShem arrange this in this way?

If Shelah, the remaining son of Yehuda, was to fulfill the law of Yibum, he could only have continued a name for one of his deceased brothers. However, Yehuda had two deceased sons who did not have children. Therefore, only by Yehuda taking Tamar in yibum, would both sons, Er and Onan, be perpetuated when Tamar and Yehuda had twins. Peretz filled the role of Er and Zerach perpetuated the life of Onan.

שׁוּם תַּשִּׁים עָלֶיךָ מֶלֶךְ
 כָּל מְשִׁימוֹת שֶׁתָּתָה מְשִׁים אֵל יְהוָה אֶלָּא מִקְרֵב אַחִיךָ

‘You should appoint over yourselves, a king’ means that you should choose a king from amongst your brothers.

Foreigners are excluded, not only from being King, but from all other positions of authority as well.

This passage is used in the debate as to whether women can be eligible to serve in positions of communal authority, i.e., boards, synagogue officers, etc.

Excludes:

Rabam (Hilchot Melachim 1:5)- A woman cannot be established as a monarch.

As it says, “You shall set over yourselves, a King (not a Queen)”(Deut 17:15).

Rambam derives from this to include all appointments in Israel.

Includes:

R Moshe Feinstein points out, however, that the passage refers only to the monarchy and no other offices. Foreigners are excluded based on a pleonasm.

The redundant phrase: saom tasim: ‘Place, you shall place’ relates to: from among your brethren, i.e., foreigners, but not to women.

- exclude women from being King

- exclude foreigners (converts) from being King or holding other offices

However, if you are confronted with the choice of appointing a non-observant man vs. an observant woman, it is better to appoint the observant woman.

אָמַר רַב אָסִי מִי לֹא טָבְלָה לְנִדְוּתָהּ

R Assi says, “She did not immerse herself for purification from her niddah state.”

This topic is used in the discussion regarding how to deal with a non-Jewish spouse of a member of the congregation. Is she/he also a member? Can they be elected to office or vote, etc?

Rambam defines- “Be sure to set a King over yourselves.... one from your brothers” (Deut 17:15), as a man whose mother was a descendant of Israel.

Thereby excluding not only non-Jews, but even converts.

אָמַר רַב אֲסִי מִי לֹא טָבְלָה לְנִדְוּתָהּ

R Assi says, “She did not immerse herself for purification from her niddah state.”

Detailed description of how the conversion process works:

- For a male the process must be done in the presence of Bais Din.
- For a female there is no mention of Bais Din. Are they necessary or not?
There is a dispute.

A Bais Din is necessary to hear the woman accept the obligation of the Mitzvahs, but not the immersion. Others say the Bais Din is necessary for both.

Some say if Bais Din sees her enter the Mikvah with an upright woman, we can assume the immersion took place properly.

Rav Ovadah Yosef says - We take a big sheet with a hole in the center. She goes into the water, and puts her head out the hole. Bais Din enters and watches her immerse her head.

דִּיהָבִי זֶזִי לְאִינָשִׁי לְכַרְגֵּיהוּ וּמִשְׁעֲבָדֵי בָהוּ

He gave money to the tax collector on behalf of poor people and then enslaved them.

Dina d'malchuta dina- The law of the land is the law.

If you accept the authority of the ruler in the land in which you live, you accept his edicts also. If he says pay tax, you must.

If you use his coin vs. legal tender, you consent to be governed by his authority.

If someone pays your tax obligation, you are indebted to him.

Rambam - “You accept his sovereignty and his edicts.”

Therefore, should a Jew turn over to the state those he believes committed a crime?

Monetary regulations, imposed by a non-Jewish government, are binding in Jewish law.

טָבַל וְלֹא מָל

Immersed, but no circumcision.

What is the decision regarding conversion for a person who cannot have a circumcision?

For example:

- a woman
- a person with congenital absence
- a person with accidental amputation of his penis
- a person with a medical problem, i.e., anticoagulation

All agree both immersion and circumcision are necessary for conversion.
However, circumcision is waived, if it is impossible.

גַּר שָׁבָא לְהִתְגַּיֵּיר בְּזֶמֶן הַזֶּה אֹמְרִים לוֹ
מָה רָאִיתָ שָׁבָאתָ לְהִתְגַּיֵּיר

A non-Jew comes to you in this day and age and wants to convert. You must ask him, “What did you see that prompted you to seek conversion?”

Yisro came to greet Moshe in the desert (Shemos 18:1).

Moshe bowed and kissed him as he greeted him.

We are supposed to tell a gentile who comes to convert, “Don’t you see that the Jews are oppressed and persecuted. Why do you want to join our ranks?”

When Yisro came to convert, the Jews were having success. At such times, we do not accept converts because we are concerned that their motivation may perhaps be to only to hang onto the contacts of success.

However, here a Midrash tells us that God instructed Moshe to greet Yisro warmly, as above, because Yisro was deemed to be sincere and his conversion would be allowed. Moshe was very happy.

אִשָּׁה

(If the convert is a) woman.

If a pregnant woman converts, does her male fetus require conversion after being born?

If a pregnant woman undergoes immersion for conversion, it also serves as immersion for the child. However, Rambam taught us that to be fully converted, the child must be circumcised also. So is he Jewish upon birth or not?

If such a woman gave birth to twins, they are considered siblings immediately. However, if the conversion is not yet complete, how can a fraternal relationship exist? It is at the end of the conversion process, that a person becomes like a newborn child.

What is the status of the fetus:

- A maternal relationship exists via parturition.
- Immersion of the fetus occurs at the time the mother immerses
- Circumcision is needed to complete the conversion process.

Megillas Ruth 1:16-18

עַמִּי עַמִּי

Your nation is my nation.

A person who wishes to convert to Judaism must undergo mikvah, circumcision and accepting the 613 mitzvahs.

When Ruth said to Naomi, “Your people will be my people.” The word Ameich hints at that obligation to keep the 613 Mitzvahs.

ayin =	70		1
mem=	40	+	2
kaf =	500		3

610 + 3 letters of the word Ameich = 613

14-Yeuamos 47b2 line 18 A6
Weiss #470

קָשִׁים גְּרִים לְיִשְׂרָאֵל בְּסַפַּחַת

Converts are as bad for Israel as sores on the skin.

Their devotion reminds Israelites of the poor state of the health of their own commitment.

Nowadays proselytes are more distinguished than Israelites who stood at Mt. Sinai

Forced believers are never faithful,

בְּרַשְׁתִּי אֶת הָעוֹלָם כְּבִנְיָן חָדָשׁ

A person who converts is like a newborn child.

Is it appropriate for a convert to Judaism to pray for the well being of their maternal partners?

We should not give medical care to idolaters, unless it will create animosity.

A convert is not entirely starting life anew, if his children convert he is given credit for “be fruitful and multiply”.

Converts are not allowed to curse their biological parents.

Praying for their health is an expression of appreciation for being brought into this world and is appropriate.

איזהו מַמְזֵר

Who is considered a Mamzer?

Mamzer- a strange blemish, suggesting a defect in the newborn's pedigree.

For example:

- A child born as a result of incest.
- A child born as a result of a married woman with a man who is not her husband.
- A child of a woman who believed her husband had died and was proved to be alive; the child is a Mamzer.

A mamzer is kept out of the Jewish community. We restrict access to the Temple and he is prohibited from marrying an Israelite.

A mamzer may marry only another mamzer, a convert, a freed slave, or a non-Jew. If he marries a non-Jew and they have children, the child could convert to Judaism and be a full fledged Jew.

If a couple wishes to be married, Rabbis can be very perfunctory in their investigation on this point, or urge a known mamzer to move to a community where his status is not known.

אִיזֵהוּ מַמְזֵר

Who is considered a mamzer?

Definition of mamzer:

There are strict restrictions as to whom he may marry. His is prohibited by Torah law from “Entering the community of HaShem” (Deut 23:3).

What exactly is a mamzer?

Any child born out of wedlock? No

A child born to parents whose union is forbidden by law.

A definition (Mishneh Yevamos 4:13)

Rabbi Akiva - If that violation is punishable by - lashes

Rabbi Shimon - If that violation is punishable by Kores-excommunication

Rabbi Yehoshua - If that violation is punishable by death at the hands of the Bais Din.

For example-An illicit union of a man and another man’s wife, death at the hands of Bais Din

Daf Digest

כָּל הַנְּבִיָּאִים נִסְתַּכְּלוּ בְּאַסְפֵּקְלָרִיא שְׂאִינָה מְאִירָה
 מֹשֶׁה רַבֵּינוּ נִסְתַּכְּל בְּאַסְפֵּקְלָרִיא הַמְאִירָה

Other prophets viewed prophecy through an unclear glass. Moshe, our teacher, viewed prophecy through a clear glass.

What is the difference between the prophecy of Moses from others?

- Moses would prophesy while standing awake (Num 7:89).
- He could prophesy without the medium of an angel (Num 12:8 Ex 33:11), and without allegory (Num 2:8).
- He was not overawed by God but spoke to him as a friend (Ex 33:11).
- Moses could prophesy whenever he desired (Num 9:8).

Other prophets saw through a dull lens, a mirror, or a reflection.

A clear lens is clear glass.

Weiss #756

דִּרְבּ מִנְגִּיד דְּמִקְדָּשׁ בְּבִיָּאָה

Rav would give lashes to one who married through cohabitation.

Lashes is the penalty given in the Torah for violating a Torah prohibition. The Rabbis also had the power to punish a person who violated Rabbinic prohibitions, with lashes.

For example, abusing an agent of the Rabbinical court (Rashi -abusing any agent of a Rabbi) or one who is violent to the messenger of the Rabbis and strikes him or treats him with impudence

הָבָא עַל יְבָמָתוֹ בֵּין בְּשׁוּגָג בֵּין בְּמִזִּיד

One who has relations with his yevamah intentionally or unintentionally.

A person has relations with his yevamah, but without the intention to fulfill the mitzvah of creating a name for his brother

Two opinions:

-The yibum is effective, i.e., she is his wife. However, since mitzvahs require intention, he does not get credit for the mitzvah.

1. However, he must have relations again with proper intent.
2. Once the acquisition of yibum has occurred, it is not possible to fulfill the mitzvah anymore.

Rav Elchonon Wasserman says - No intent is required when the act itself is the mitzvah, i.e., blowing the shofar, eating matzos. Here relations is not the mitzvah, acquiring the yevamah as a wife is the mitzvah. As long as that is accomplished, he gets credit for the mitzvah.

וְאִי כָתַב רַחֲמָנָא בְּאַחוֹת אִם שָׁכַן וְדָאִית

The Torah wrote a probation against marrying a mother's sister., since she is certainly related to her cohabiter.

However, a father's relationship is not as certain. Paternity is not as certain as is maternity.

However, we assume the husband is the father, because of 'rov', i.e., 'the majority' of relations would be with a husband.

(In BT Kiddushin 31) We learn a father and mother ask a child to bring them food. Who should be served first? The father, since both mother and child are obligated to honor the father? Or the mother first, since she is certainly a relative?

Ans: The father should be served first. Since it would be disrespectful to give to the mother first, on the supposition that she had an adulterous affair! Unless the father defers to the mother and tells the child to serve the mother first.

גְּרוּשָׁה וְחַלּוּצָה לְכַהֵן הַדִּיּוֹט

Is it permissible for a Kohen to marry a divorcee?

A Kohen working-man asked his Rabbi, who was teaching a group of students, “Rabbi, I am a Kohen, can I take a divorcee?” The Rabbi said “Yes, by all means.”

The students were shocked, since it is well known that a Kohen may not marry a divorcee. The Rabbi explained, “The working man is a simple man, a wagon driver. He heard that a Kohen may not “take” a divorcee. In his simplicity, he assumed that this might include a wagon driver “taking” such a woman for a ride.” “Naturally,” said the Rabbi, “I told him it was permitted.”

דְּכֻּוֹתָהּ גַּבִּי שׁוֹמֶרֶת יָבָם שָׁבָא עָלֶיהָ יָבָם בְּבֵית חֲמִיהָ

Also, in the case of a Shomeres Yavam, are we referring to case where he had
relations in her father-in-law's house?

Can two people, who were related by marriage through their wives, testify
together about an event they saw, if they later become unrelated?

Or, since they saw the event at a time they were related, are they permanently
disqualified?

The testimony is not accepted, even when they are not related, since they
originally witnessed the event as relatives.

אָמַר רַבִּי אֶלְעָזָר פָּנוּי הֵבֵא עַל הַפְּנוּיָה שְׁלֹא לְשֵׁם

A false rumor

R Elazar says, An unmarried man who cohabits with an unmarried woman renders her a zonah, if the cohabitation **was not without** matrimonial intent.

A true story:

A young woman came to her Rabbi, very distressed, stating that a rumor had spread in town that she had relations with a known rascal. She did not know how to convince the townspeople that she was the proper young lady that she was. She feared she would always feel embarrassed and would never get married.

The Rabbi said, “I am very particular in these matters and if you would marry me, everyone will know that all bad rumors about you are false.” She did so and they had a famous scholar as a son, Rav Yaakov Emden.

קְבֵרֵי עֹבְדֵי פֹּכְבִּים אֵינָן מְטַמְּאִין בְּאֵהָל

The graves of idolaters do not transmit Tumah by way of a roof,

May a Kohen enter a non-Jewish cemetery?

The graves of non-Jews do not transmit Tumah.

Therefore, the Kohen may enter a non-Jewish cemetery and walk on or amongst the graves.

If there is Tumah to a non-Jewish corpse, it is considered a Tumah similar to a sheretz that restricts you from entering the Bais Hamikdash, but not the type Tumah, that is prohibited to a Kohen.

אַתֶּם קְרוּיִין „אַדָּם”

You (Israel) are called Adam.

However, the non-Jews are not.

Adam is the prototype of mankind. It does not mean ‘man’, but many men.

When a trial of a non-Jew takes place, it is the trial of that individual. It is not generalized to include his entire tribe or community.

However, when a Jew is on trial, it often widens to include the entire Jewish community that is indicted in public opinion.

Recall the Mendel Beilis affair and the Dreyfus affair, which had testimony by Rabbi Meir Shapiro.

The outcome of such trial affects every Jew. Also, each Jew feels a responsibility for his fellow Jew. A sense that indeed makes them unique in combining an entire nation into one “man” (Weinbach 188).

אֵין בְּתוּלָה אֶלָּא נַעֲרָה בְּתוּלָה''

When the term ‘virgin’ is used, it means non other than a “naarah”

How old was Rivka when she married Yitzchak? The Midrash, Seder Olam states that Rivka was 3 years old.

The birth of Rivka is listed as being on the same date as the Akedah (Rashi Bereishis 22:30), when Yitzchak was 37. He married Rivka three years later, when he was 40 and she was 3.

We learn from a different Midrash that there were six people who lived to the same age. Two of these people were Kehat and Rivka who each lived to age 133. The age of Kehat is explicit in Shemos 6:18. Rivka died when Yaakov was 99 years old. This means she was 34 when her twin sons were born, which was 20 years after her marriage. Therefore, she was 14 years old when she married. Therefore, she was either 14 or 3. Would it be appropriate to call her a ‘naarah at age 3? Perhaps this was due to her mature behavior.

הָיוּ לוֹ בָּנִים בְּהֵיוֹתוֹ עוֹבֵד פֹּכְבִּים וְנִתְּגִייר רַבִּי
יוֹחָנָן אָמַר קָיִים פְּרִיָּה וּרְבִיָּה

If one had children while still a non-Jew and he converted, R Yochanan says he fulfilled the mitzvah of ‘peru urevu’, “be fruitful and multiply”.

Since non-Jews are not commanded to do the mitzvah, how can they be credited with fulfilling the mitzvah after their conversion? The mitzvah was fulfilled at a time when they were not obligated to fulfill the mitzvah.

Rav Yosef Babad suggests that the mitzvah of peru urevu is different from other mitzvahs. For example, it is an ongoing mitzvah. The ongoing obligation to have children never ceases, i.e., if a person has children and they die, the mitzvah is not fulfilled. At any moment, when a person does not have children, he is considered non-compliant concerning the mitzvah, since at that moment he is obligated in the mitzvah and does not actually have any children.

The convert: Now that he is obligated and in fact, does have children, this satisfies the mitzvah.

How about the concept of new birth of the convert? This must be an exception.

אָבֿל לְעַנְיָן נַחֲלָה דְּלֹא בְּנֵי נַחֲלָה נִינְהוּ

About the topic of inheritance, non-Jews are not subject to the Jewish laws of inheritance.

This statement does not mean that they have no laws. They do not have the same laws as do the Jewish people.

For example- Non-Jewish law: A father's property may be inherited by only one person, the first born male child. The law of primogeniture.

In Judaism, the first born son will get two shares, but other sons will receive a share also.

וְהַמְדַּרִּיךְ בָּנָיו וּבָנוֹתָיו בְּדֶרֶךְ יִשְׂרָאֵל

If you lead your children on the right path

you will know that your tent is at peace.

Other stipulations:

- One who loves his wife as himself.
- One who honors her more than himself.
- One who marries his children off, close to their age of puberty.

הָאוֹהֵב אֶת שְׂכִינֵיו

One who loves his neighbor

and brings his relatives close about him, the scripture says, “You will call and God will answer.”

As a person responds to the needs of his neighbors and relatives, so God will respond to him.

דְּנָפִיק מִיֶּנֶךְ טַעֲמָא מִלְפָּנֶיךָ

Your own offspring will teach you reason.

Rav was tormented by his wife. When he asked for peas, she would give him lentils and when he asked for lentils, she gave him peas. His son finally gave the father's instructions in reverse and the father received that which he really wanted. The child taught his father reason.

Yevamos 65b - One may modify even the Torah, in the interest of peace.

זו חטוטי שְׁכָבִי

They exhume the deceased.

Is it permissible to exhume a body?

- If three graves are found, we can assume this was to be a permanent grave site and therefore, we can't exhume the bodies.
- If there is only one grave, we can assume this was to be temporary, therefore, we can exhume.
- Upon burial, the deceased acquire a right to the site and to move him deprives him of his property. It is like stealing.
- Exhumation causes the deceased distress.
- Exhuming the body reverses the mitzvah of burying the body.
- If one finds a body partially exposed, we are obligated to rebury it.

בְּאִילוֹ מִמַּעַט הִדְמוּת

As if he had diminished the Divine image.

Whoever avoids procreation is considered that he reduced the image of the Divine. This is used in a modern day discussion of Judaism's view of abortion and whether to have children in general. On Jan. 31, 1977, the Israeli Knesset adopted a law on abortion.

Abortion is permitted if:

1. It is carried out in a recognized medical site.
2. The birth would endanger the mother's life or physical or emotional health.
3. The child would be handicapped.
4. The pregnancy was a result of rape, incest or intercourse outside of marriage.
5. The woman is under age 16 or over age 40.
6. It is done with her permission – but not on demand.

וְאַתָּה נֶאֱמָר דּוֹרֵשׁ וְאֵין נֶאֱמָר מִקְיִים

You teach beautifully, but you don't fulfill....the great mitzvah of marrying and having children.

Ben Asai answered - My soul is bound up with Torah.

Since we know (from Bamidbar 3:1) these are the sons of Aaron and Moses and the posuk only mentions the children of Aaron, since Moshe taught them, they are also considered his.

Perhaps Ben Asai felt that since he was teaching all those students, it was considered as though he was their father and in that sense, he fulfilled the mitzvah of 'be fruitful and multiply'.

נָשָׂא אִשָּׁה וְשָׂהָה עִמָּה עֶשְׂרִי שָׁנִים וְלֹא יָלְדָה
אִינוּ רָשָׁאֵי לְבָטֵל

A man married a woman and remained with her for 10 years and they had no
Children. He must divorce her and pay her ketubah.

It is not customary to force couples, who have no children after 10 years, to actually divorce. Couples who cannot have children are allowed to marry, so this rule is not enforced.

However, it could play a part in a decision when a couple comes to Bais Din, eager to divorce. Usually Bais Din tries to reconcile the two sides. However, if after 10 years, they had no children, Bais Din should not and likely would not, try very hard to keep them together.

We do not enforce this law because it is a double sofek. 1. We are not sure if the childlessness is her fault or his. 2. We are not sure they would divorce, even if they were told that they must.

מִפְּנֵי מָה הָיוּ אֲבוֹתֵינוּ עֲקוּרִים מִפְּנֵי שֶׁהַקְדוֹשׁ בָּרוּךְ הוּא
מְתַאֲוֶה לְתַפְלָתָן שֶׁל צְדִיקִים

Why were our forefathers barren?

Because God desires the prayers of the righteous.

Rivka was barren for a long time.

When she did become pregnant with Eisav and Yaakov, her pregnancy was very difficult. (Ber 25:22) “And the children clashed within her”, and she said, “If so, why is it that I am? and she went to inquire of HaShem.”

Righteous women were not included in the decree against Eve in the Garden of Eden, that children would be born in pain. So Rivka reasoned, “If I was barren because I am righteous, why am I in pain. Righteous woman are exempt?

And if I’m in pain because I’m not righteous, why was I barren for so long?”

She was afraid to ask Abraham, her father-in-law or Yitzchak her husband, since they might conclude that she is, in fact, not righteous. So she asked HaShem for an explanation.

הָאִישׁ מְצוּנָה עַל פְּרִיָּה וְרִבְיָה

A man is obligated to procreate,
but not a woman.

In Gemara (Kiddushin 41), we learn that it is better for a woman to accept her Kiddushin personally, rather than through an agent, because of the principle that it is better to perform a mitzvah personally, than through an agent.

It is a mitzvah for a woman to marry, but she is exempt from the mitzvah of ‘be fruitful and multiply’.

Why then, is it a mitzvah for her to marry? Because it generates a mitzvah in helping her husband fulfill his mitzvah.

It is an important distinction since the Gemara teaches that a woman cannot demand a divorce because they have no children. (She should be able to request a divorce, since she is denied the opportunity of having the mitzvah of helping her husband fulfill his mitzvah).

הָאִישׁ מִצְוָה עַל פְּרִיָּה וְרִבְיָה הָאִשָּׁה

A man is obligated to procreate, but not a woman.

- To aid their husband in the husband's obligation for 'peru urevu'.
- While women have no obligation to procreate, they are obligated to inhabit the world (Yeshayahu 45:18).
- The Mitzvah of Kiddushin is optional, like Shechitah. There is no obligation to perform Shechitah, but if you want to eat meat, the animal must be ritually slaughtered and that fulfills a Mitzvah.
- A woman is not obligated to marry, but if she chooses to marry, it is a Mitzvah to do so.

כָּךְ מִצְוָה עַל אָדָם שֶׁלֹּא לֹמַר דְּבָר שְׂאִינוֹ נִשְׁמָע

So is one commanded not to say that which will not be obeyed.

It is a duty not to rebuke where one knows it will not be effective.

Do not rebuke a scorner, for he will hate you.

Rebuke a wise man and he will love you. (Prov 9:8)

(Lev 19:17) It repeats the verb “rebuke”, ‘hocheiach tocheach’.

The repetition seeks to teach us to only ‘rebuke’ where it will be effective.

מוֹתֵר לוֹ לְאָדָם לְשִׁנוֹת בְּדִבַּר הַשָּׁלוֹם

One may modify a statement in the interest of peace.

(Gen 50:16,17) “Please forgive your brother’s guilt and their sin”. In the interest of peace, the brothers altered Jacob’s words, for he never gave such a command. Jacob did not suspect that Joseph would harbor resentment towards his brothers (Rashi Gen 50:16).

(Yevamos 65b) Great is peace, seeing that even God modified a statement for its sake.

מוֹתֵר לוֹ לְאָדָם לְשַׁנוֹת בְּדִבְרֵי הַשְּׁלוֹם

One may modify a statement in the interest of peace.

The brothers were afraid that Joseph would take revenge on them, so they told him a lie. The lie being that Yaakov had told them to command Joseph to forgive them and not punish them.

How do we know that it is a lie? Perhaps Yaakov actually did command them this way and we should not learn the lesson that it is acceptable to stretch the truth for peace?

We can answer this from the text. “They saw their father was dead”. “They feared that, perhaps, Joseph will repay all the evil we did to him”. Had Yaakov actually said those words, the brothers would have to tell Joseph, since they are commanded to honor their father and his commands. The Torah would not have mentioned that they did it because they feared Joseph. Therefore, they did lie to create peace and we can learn the lesson that it is acceptable to do so.

מוֹתֵר לוֹ לְאָדָם לְשָׁנוֹת בְּדִבֶּר הַשְּׁלוֹם

It is permissible for a person to deviate from the truth for peace.

-We could ask why didn't Yaakov actually make such a request of Joseph? Don't take revenge on your brothers! Because:

1. Rambam says - Yaakov never became aware that they had actually sold Joseph into slavery. He assumed Joseph had been picked up by slave traders and sold to the Egyptians.
2. Rashi believes Yaakov knew, but had such confidence that Joseph's character was so excellent, he would never seek revenge and therefore, he did not need to make any promises to Yaakov not to do so.
3. Even the brothers trusted Joseph not to take revenge, otherwise they would have asked their father, while he was still alive, to make Joseph swear that he would not harm them. But, after Yaakov died two things occurred that caused the brothers to worry:
 1. On the way home from Yaakov's funeral, Joseph stopped to look down into the pit. He blessed God that all the good things that happened to him and his family began here.
 2. Joseph stopped inviting his brothers to dine with him. He did not want to continue the seating arrangement instructed by his father, which placed Joseph ahead of Yehuda, a forefather of kings and of Reuven, the first born. This caused the brothers to worry, so to keep the peace, they made up their lie.

גָּדוֹל הַשָּׁלוֹם שְׂאֵף הַקָּדוֹשׁ בָּרוּךְ הוּא שִׁינָה בּוֹ

Great is peace, seeing that for its sake, God modified a statement for it.

(Gen 18:12) Sarah says how unlikely it is that the angel's prediction will come about "because my husband is old" God modified this statement when he speaks to Abraham and states that Sarah said, "because I am old", to keep peace between them.

Also, Joseph's brothers fabricated a statement of their father's, making Joseph pledge not to harm them for their actions against him.

Another example where you may modify the truth, but with great caution, is when a doctor is talking to a patient with a fatal illness. The doctor need not force upon the patient all the terrible details. The patient's peace of mind should be considered if the facts further impair the patients physical or mental health.

R Moshe Tendler.

יָלוּד מֵאִכּוּל

One who is born, permits others to eat.

A daughter of an Israelite is married to a Kohen and she is pregnant with her first child. If her husband dies, she may not eat terumah until the baby is born.

A baby is considered a part of the mother's body and it does not become a Kohen until it is born.

People fear they will not have enough resources to add another child to their household. But HaShem will see to it that they have sufficient sustenance for another child. We learn from this phrase to have that trust and belief.

גַּר עַמּוֹנִי וּמוֹאָבִי מִצָּרִי

Who is an Ammonite, Moabite, Egyptian, etc.

There is a list of persons a Kohen may not marry.

There is a woman who was married to a mumar (a non-observant Jew, who died). She became engaged to an observant Jew, however, he was a Kohen. Is a woman who was married to a mumar prohibited from remarriage to a Kohen?

Chasam Sofer- If a Kohen changes from observant to non-observant, we do not require him to divorce his wife. If we disallow this woman, who did teshuvah, from marrying others, she may be less inclined to do teshuvah. For example, we do not force a thief who built something out of what he stole, to return that precise object, i.e., a truck load of bricks that are now a building. Because to do so may make another thief less likely to do teshuvah, if the value added value to the stolen object is also denied him.

הָרִי זֶה גִּיטִּיךָ שְׁעָה אֶחָת קֹדֶם לְמִיתָתִי
אֲסוּרָה לֶאֱכֹל בְּתֵרוּמָה

Here is your get, to take effect one hour before my death. She is immediately prohibited from eating terumah.

Is there such a thing as a retroactive sin?

If a Kohen man says to his Israelite wife (and they have no children), “This is your get, to be effective one hour before my death.” She is prohibited from eating terumah immediately.

Since, if he dies and she ate terumah within the last hour, when she was divorced during that hour retroactively, she then had eaten terumah as an Israelite!

Which is a sin, albeit a retroactive sin.

May one test the honesty of another by randomly dropping i.e., money to see if they keep it?

If they keep it, they have a transgression and the tester has violated retroactively, the sin of ‘placing a stumbling block before the blind’. Placing the stumbling block is a sin, even if the transgression does not take place. However, if there was stealing going on, you can set a trap.

It would be best by declaring, before three people, that the “bait is hefker”, ‘ownerless’, so if it is kept by the robber, it is not a sin. But this should not be done without the need to respond to ongoing thievery. In both cases the Rabbis prohibit the act for fear of a retroactive sin!!

הָעֵרֵל וְכָל הַטְּמֵאִים לֹא יֵאָכְלוּ בְּתֵרוּמָה

An uncircumcised male (Kohen) and all who are ritually impure, may not eat terumah.

There is a Kohen child, less than 8 days old and not yet circumcised, can terumah oil be spread on him? Equating anointing with eating or drinking. Is only an ‘asmachtah’, “a scripture support”, it is permitted. But such a child does not yet have the Mitzvah of Milah. Since a newborn does not eat or drink, we pose the question regarding oil spread on him.

A person who refuses to have a Bris because it might hurt.

A person who had two brothers die of Milah – if he is a Kohen and not circumcised, he can’t eat terumah and when he marries, his wife cannot eat terumah.

הָעֶרֶל וְכָל הַטְּמֵאִים לֹא יֹאכְלוּ בְּתֵרוּמָּה

An uncircumcised male (Kohen) and all who are virtually impure, may not eat terumah.

Hemophilia is a condition such that a slight cut could be life threatening.

1. If we learn of this child's condition, may he avoid his circumcision or only those whose prior brothers died of the procedure are exempt or ???.

-No question - avoid circumcision. It could be 'pikuach nefesh', "a risk to life".

Could we use a method of removing the foreskin that does not require cutting with a knife, i.e., using a laser? A laser cuts by burning and does not cause bleeding. This would not cause any bleeding problem for the hemophiliac. Metal is the preferred material, but any material that cuts would be acceptable.

For Shechitah, a blade is needed. Anything that cuts is permitted for Milah.

Even if you don't agree that using a laser would be acceptable, the person would still be circumcised and might only need a pin prick to be considered kosher!!

הָעֶרֶל וְכָל הַטְּמֵאִים לֹא יֹאכְלוּ בְּתֵרוּמָה

An uncircumcised male (Kohen) and all who are virtually impure, may not eat terumah.

Parents of today and in Russia of the past, refuse, to circumcise their children. It had been recommended that we not list the uncircumcised children in the communal registries as Jews, to force their parents to circumcise them. We, also, would not permit their burial in the Jewish cemetery.

These are suggested to make it more likely that parents will not forgo circumcision.

Rav Chaim of Brisk said -It is not fair to punish the child for what his parents did. Tell them that he who does not circumcise his sons, that person, the parent, not the child, will be denied a Jewish burial and be stricken from the communal roles.

דְּכָאִיב לִיה עֵינֶיהָ לִינוּקָא

Refers to where the baby's eyes hurt (a minor symptom – even this may cause us to postpone a bris).

If the baby's eyes hurt, we postpone the bris. The Rabbi's decided that even if a doctor would say that the baby's other problems do not pose a treat of injury combined with the bris we postpone it. Doctors don't decide halacha, only the Rabbis do.

The Rabbis decided that fasting on Yom Kippur may be a danger to a woman who gave birth only three days prior to the holiday. The Rabbis were concerned that the two stresses together, might aggravate her condition and pose a threat. We do not permit her to fast. The composite stress of delivery and fasting; eye pain and bris pain may create a danger that we should avoid.

We may desecrate Shabbos for a post partum woman. However, if she and her doctor tell us it is not necessary and she is sufficiently comfortable, we do not desecrate Shabbos on her behalf. Here it is for comfort, there it is added stress.

דְּכָאִיב לִיה עֵינֶיהָ לִינוּקָא

A case where a baby's eyes were hurting him.

We avoid even a question of risk to the child.

Rabbi Oshry tells a story:

The child's eye were hurting him (a minor symptom).

After the war there were many Jewish children who had not been circumcised because of bad and/or dangerous conditions unclean on the run or in order for the children not to be easily identified as Jewish and thereby, killed. So he went around seeking such children. One day he had gathered 16 children, but one 3 year old looked jaundiced to the Mohel and the Mohel thought it would be unwise to circumcise him. A doctor, however, would only be available that day. Rabbi Oshry had to decide. He did not want to take even the slightest chance with the health of this child. He begged the Mohel to delay his departure and the Mohel agreed. It so happened that the news that the Mohel was in town spread and others, who would otherwise not have known of his presence, brought forward their children to be circumcised also.

דְּכָתִיב,, וַיַּעֲשׂוּ אֶת-הַפֶּסַח'

It is written, “and they performed the Pesach offering”.

The Tanach -Joshua relates that the children of Israel offered a Korban Pesach a year after their Exodus from Egypt. This sounds like praise, but it really is a criticism because it was the only Korban Pesach during their 40 years in the wilderness.

They did not perform circumcision in the wilderness because the North wind did not blow or it was dangerous to travel with a newly circumcised child. A child who is not circumcised disqualifies his father from eating or offering a Korban Pesach. However, if it was impossible to safely do it, why should they be criticized for that.?

A child, not yet 8 days old, has not violated the law because he is not circumcised. The law does not yet apply to him and he is not called an ariel. But anybody who has reached that age and is not circumcised even with the best reasons in the world, is an ariel and disqualifies his father from bringing a Korban Pesach.

לֹא נִשְׁבָּה לָהֶם רוּחַ צְפוֹנִית

Because the North wind did not blow.

No one did Milah in the desert because:

1. Its medicinal and/or meteorological benefits were therefore lacking, i.e., the sun did not shine well without the North wind. It dispersed the clouds of glory so the sun could shine on and heal the wounds.
2. They were weary from travel.

So what did they do?

They circumcised all the males upon entering Eretz Yisroel!

They started to circumcise the babies on a certain date.

Therefore, we should not perform an optional bris on a cloudy day.

שִׁמְר פְּתָאִים ה' "

HaShem protects the simple (Psalms 116:26).

This phrase is used when one wishes to proceed with an activity which poses some danger. They wish to ignore the danger and do it anyway, trusting that God will protect them. This a misuse of the principle.

People must use every precaution possible. Even to the point of postponing the activity, i.e., a bris, or violating Shabbos or feeding a post partum woman on Yom Kippur. Do only the safest activity!! Don't depend on the fact that God will protect you because you have simple faith.

However, after doing all that you can do, then you can rely on this principle. Primarily, we apply this principle only in those cases identified by Chazal and even then, we should be cautious.

טוּמְאָת עֶצְמוֹ מִפֶּיֶן

Where in the Torah, do we learn (that a person, who is tahor, is prohibited from eating maaser sheni, when it is in) its own state of contamination?

Is there a way to eat prohibited items without violating law?

What is the source that to eat maaser sheni that is impure is prohibited?

What if the maaser sheni is wrapped in another substance?

For example: -a non-kosher item

-a chometz item

It is an act of eating, but if the wrapping substance is not edible, it is not a violation.

This might be an answer for a patient who must take non- kosher or chometz containing medication.

טָבֵל וְעָלָה אוֹכֵל בְּמַעֲשֵׂר

After he immersed and emerged, he may eat maaser sheni.

A zavora metzora (a Kohen) who has immersed, but the sun has not yet set, can already eat terumah, even before he brings his offering after dark (or the next day), but he can't eat kodshim.

V22:7- “And the sun will come and he will become pure. Afterwards, he will eat from the kodshim, because this is his bread.”

This teaches us that one who is filled with good intentions can come close to HaShem, even if he is not completely pure. The yearning and the intention renders him or her more pure and will aid them in achieving complete purity.

אִיִּזְהוּ פְּצוּעַ דֶּכָּא

Who is one who has wounded or crushed testicles?

If a person suffers from a wounded or punctured testicle and can't father children; or a child who is a 'petzuah dahkah', one who "won't develop pubic hair or a beard'.

A punctured testicle renders the person a 'petzuah dahkah'. What is the ruling if the puncture is done for medical reasons? This is alright, since it heals promptly.

What if the ability to have children can be regained, i.e., a child born with hypospadias? If it can be regained through surgery, he is no longer a "petzuah dahkah'.

A Kohen who is a petzuah dahkah can't serve as Kohen in the Temple. Can he duchan? Can he receive first aliyah?

R Oshry - A Kohen, damaged in the genitals during WWII, asked this question.

R Oshry said, the first aliyah for a Kohen is a Rabbinic decree. To spare the Kohen from revealing his private problem publically, he should continue to receive the first aliyah.

נָשִׁים הַמְּסוּלָּלוֹת זֶה בָּזוּ

Women who engage in lesbian behavior.

This phrase comes up in the discussion of surrogate motherhood.

R Moshe Feinstein - Artificial insemination is not considered sexual intercourse.
Receiving a fertilized egg is, therefore, not adultery nor is receiving sperm.

Satmar Rebbe - If the recipient is a Jewish, married woman, some authorities consider the offspring a mamzer.

If the surrogate, who delivers the baby, is not Jewish, the baby needs to be converted to Judaism.- R Aaron Soveitchik

There is a concern of incest, where a child born from artificial insemination might marry a child conceived with the same donor sperm, either via artificial insemination or due to his relations with his wife.

This concern, notwithstanding, artificial insemination is permitted in Jewish law.

וַיִּתְּחַתֵּן שְׁלֹמֹה אֶת-בִּתּוֹ (בת) פַּרְעֹה מֶלֶךְ מִצְרַיִם

And King Solomon “married” the daughter of pharaoh, the King of Egypt.

Question: Is the union of a Jew and an idolater, permitted?

Ans: Solomon converted her before the marriage.

Question: We did not accept converts in the days of David and Solomon because they might only have joined us because we were in the ascendancy.

Answer: She was a princess and did not need Israel's prosperity.

Question: We are prohibited from marrying Egyptians until the third generation and she is first generation Egyptian (Deut 23:89)?

Answer: True, he didn't actually marry her, but entered into a political marriage alliance. However, he stayed with her because he loved her.

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אָבֵל נִקְבוֹתֵיהֶם מוֹתָרוֹת מִיָּד

However, their women are permitted immediately.

The injunction against Ammon and Moav marrying into the Jewish people concerns only the males. We know from the story of Ruth, a Moabite, that she could become a convert. Why are the women excluded from this punishment? Woman did not customarily go out to give food and drink to travelers, but they did engage in enticing the Jews to sin at the behest of Bilaam and Balak.

Yes, but Meshach Cochmah cites the words of the Zohar, which tells us that the Moabite women refused to do so and had to be forced on pain of death.

Therefore, they are not considered guilty of the sins and are permitted to marry or convert to Judaism. The men are prohibited but their women are permitted to convert and marry into the congregation immediately.

דְּכַתִּיב , וַיִּלְבֹּשׁ שָׂאוּל אֶת-דָּוִד מִדְּיוֹ

As it is written, “and Saul dressed David with his (battle) garments”.

Deut 23:4 – Don’t allow Ammon and Moav to enter the congregation of Israel.

Deut 2:29 - Moav did give food and drink to the traveling Israelites.

King Saul saw how well the royal armor miraculously fit David as he went out to fight Goliath and Saul suspected that David might someday supplant him as King. Saul inquired about David’s his ancestry from his counselor Dorg, the Edomite. He reassured Saul that since David was descended from the Moabite convert Ruth, whom the Jews are proscribed from marrying (Dev 23:4), he could never be King and was illegitimate.

Avner, Saul’s general, explained that only the men were restricted, because they did not greet Bnai Israel with bread and water during the Israelites journey from Egypt and because they had hired Bilaam to curse the Jews. These were acts of the men, not the women, therefore, women are not punished. “Hiring Bilaam was also, the sole province of men”, reported Avner.

However, (in Dev 2:29) Moses tells Sichon, the Emorite King that the Moabites did provide food and drink to his people as they passed by their land. *Restriction is on Ammon, for failing to provide food and drink and on Moab, for hiring Bilaam to curse them.

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עַל-[דְּבַר] אֲשֶׁר לֹא-קָדְמוּ אֹתְכֶם בֶּלֶחֶם וּבַמַּיִם׃
וְלֹא דֶרֶכָּה שֶׁל

Because of the fact that they did not greet you with bread and water.

Our Gemara condemns the men of Ammon and Moab. Their natures are judged to be cruel because of their behavior toward the Israelites. They did not greet the travelers with bread and water, which shows a lack of basic human compassion. Therefore, they are denied opportunity to join the ranks of the nation, even as converts.

How is it possible that descendants of Lot, legendary in his hospitality to strangers, should be so unkind?

We realize that Lot did his good deeds, not because of his innate nature, but because he saw his uncle Abraham, behave that way. Good deeds were not ingrained in Lot's nature, only a copy cat behavior. Therefore, this trait was not passed on to his progeny. These superficial habits were lost over the years and his Descendants acted toward the Bnai Yisroel according to their true, evil natures.

כָּל מִי שֶׁאֵינוֹ שׁוֹמֵעַ הֶלְכָּה זוֹ יִדָּקֵר בַּחֶרֶב

Whoever does not accept this halachah, shall be impaled with the sword.

When Amasa heard that R Yehuda wished to punish the people of Ammon for not bringing food and water, he became angry and said, “The law is clear, it says masculine Ammonite and masculine Moabite and anyone who does not accept this, I will run him through with this sword!!”

In the discussion, had Moabite women been included in the prohibition to marry, (R Yehuda said) Doag HaEdomi could have invalidated David Hamelech himself!! The concern Boaz had regarding redeeming Ruth, that she is a Moabitess, and perhaps cannot be married to an Israelite, was a mistaken concern. Don't debate or analyze this law. The restriction is only toward the men. It is a rule from God a halachah l'Moshe m'Sinai and is not to be analyzed further.

כָּל־כְּבוֹדָהּ בַּת־מֶלֶךְ פְּנִימָה

All glorious is the King's daughter within.

This verse is used by our sages to describe the chastity and modesty of the Jewish woman, similar to the biblical phrase (Gen 18:9) regarding the modesty of Sarah, His wife, “behold, she is in the tent”.

Rabbi J B Soloveitchik cites this phrase to teach us that Abraham, the man, is in front of the tent and Sarah is within the tent, ready to come forward in any crisis.

מַאי תְּשׁוּבָה

What is the answer (to the kal v'chomer)?

We may never marry or admit into the Bnai Yisroel, the men of Moab or Ammon, because of their activities. The women may convert and be married. They were not responsible.

The men and women of Egypt and Edom can't marry or convert for only three Generations. The Egyptian women are not excluded from the three generation ban. They could and should have helped the Bnai Yisroel, who lived with them for hundreds of years.

So, in the case where the men are prohibited perpetually, the women can be brought into the congregation immediately. Certainly, in a case where the men are prohibited for only two generations, the women should be permitted to be brought into the congregation immediately.

There is no comparison. The prohibition on the Moabite and Ammonite men is a 'lo saaseh', a 'shalt not' law, punished by 'keres', 'excision'. The weaker rule regarding Egyptians and Edomites, is a 'taaseh', a 'positive' commandment, "You may marry them in the third generation."

וְכֵן אָמַר רַב מִמְזָרָא לֹא חָיִי

A Mamzer does not live

A Mamzer does not live if he hides the fact, in order to be able to marry a legitimate Jew. Heaven will not allow him to live. If he is well known and it is common knowledge, no legitimate

Jew will intermarry with him and he and his descendants may be permitted to live.

A married woman had an adulterous affair and became pregnant. She grievously regretted her action. Her baby would be a mamzer, is she permitted to abort it?

A mamzer is a full fledged Jew and has all the rights and privileges, except for marriage and sitting on the Sanhedrin. A mamzer, who is a Torah Scholar, is to be redeemed from captivity before a Kohen Gadol, who is ignorant of Torah. Therefore, she cannot abort it.

However, she may be guilty of a capital crime and would be executed, even if she was pregnant.

If the paramour was Jewish = death sentence

If the paramour was not Jewish = no death sentence

יִתֵּן לָנוּ שִׁבְעָה אָנָשִׁים מִבָּנָיו וְהוֹקְעָנוּם לֵה' וְגו' "

Let seven men of his sons be given to us and we will hang them.

During the reign of King David there was a drought for 3 years. He consulted the Urim and Tumim and learned it was because Saul had slain the Givonite converts. However, there is no confirmation of that charge in the text, i.e., that he killed the Givonites.

Saul did put the Kohanim of Nov to death and since the Givonites were paid for their services, by these Kohanim, with water and food, killing the Kohanim and depriving the Givonites of their food and water was like killing them also. Could this be the explanation?

Once King David learned this, he offered the Givonites money, so they could buy food and water, but they refused. Instead, they insisted that 7 children, relatives of Saul, be executed.

We can conclude that it was not the actual loss of water and food, which could be bought, but the loss of the privilege of supplying the Kohanim with their needs, that was considered tantamount to death by the Givonites.

*because the Givonites displayed a spirit of revenge and vindictiveness, they were denied entry into the Assembly of Israel. They lacked the three traits.

(see 79a)

הַרְחֲמָנִים וְהַבִּישָׁנִין וְגוֹמְלֵי חֶסְדִּים

There are three traits of this nation: They are merciful, bashful and they perform acts of kindness.

Is it permissible to receive a blood transfusion? Yes, it is not eating.
It is being ingested in an unconventional manner.

It is permissible to receive such blood from someone who is not Jewish,
just as a Jewish child may be nursed by a non-Jewish woman.

However, as an act of piety, if possible, and so as to ingest the above three
qualities and not their opposite, if blood or nursing can be obtained from Jewish
sources, it is preferable and from a more righteous a Jew, the better.

אָמַר שְׁלֹשָׁה סִימָנִים יֵשׁ בְּאוֹקוּהָ זֶו

Three things characterize good people.

- They are merciful.
- They are bashful.
- They perform deeds of loving kindness.

וְמָה גְּרִיִּים גְּרוּרִים כֶּן

And they are punished thus, for injustices against unaccepted converts.

Annulling a conversion

Joshua Chapter 9

When they learned of Joshua's success in battle against 6 nations, the Givonites used wily methods. They presented themselves as coming from far distant lands and Joshua made a covenant with them.

The Talmud (Yevamos 79a) considers their conversion to be by deception. If Joshua did not annul that conversion, we should not be able to annul any conversion.

A came with B (his Arab, Moslem wife) who wanted to convert. She studied for a year and converted. C came with D (an Arab man) who wanted to convert, studied for a year and converted. It later became known that B and D were married to each other and wanted to be citizens of Israel, via the law of return, in order to get back their home in the West Bank city of Bet Hanina, a totally Arab village. A, B C and D all lied. Is the conversion valid or can it be annulled if intention can be found to be falsified? Yes, they can be annulled.

For others, once Jewish always Jewish.

הָאֵלֶּיךָ מְרִינָן הָאֵלֶּיךָ שְׂבָעָה הוּא
וְאִשְׁתְּהוּי הוּא דְּאִשְׁתְּהִי

If the nails and hair are developed we assume that the child is a fully developed 7 month pregnancy and merely contained, i.e., lingered in the womb after he developed fully and is therefore, viable.

There once was a woman who was pregnant and her husband died. The child was born, but by it's 8th day, passed away. It was calculated that it had been an 8 month gestation. Was this a viable child who absolves the mother from Yibum? Or so premature its viability is unlikely?

- full term - viable
- 8 month - not viable if it lacks nails and hair Yevamos 80b, such a child can't live outside the womb.
- fully developed nails and hair - viable

Has there been a change in the nature of people (or is it science) that changes the equation?

May we perform a bris, on a presumed non-viable child, on Shabbos? Can we violate Shabbos to give it medical care? - Today, yes. Since even 22 weeks gestational births survive in some percentiles.

בְּאִשָּׁה שֶׁחָלַךְ בְּעֵלָהּ לְמַדִּינַת הַיָּם וְאִישָׁתָּהּ יַעַד תְּרִיסָר יָרְחֵי שָׁתָא

A woman whose husband went overseas 12 months before the birth.

A mamzer shall not enter the congregation of HaShem even to the 10th generation.
He shall not be admitted to the congregation of HaShem.

Mentioned only once in the Torah (Deut 23:3).

Who is a mamzer? What does it mean ‘prohibited from entering the congregation’? Does the ostracizing actually extend 10 generations?

Why is the punishment for being a mamzer so severe?

Meaning of the word mamzer-i.e., progeny of a non-Jewish father and a Jewish mother. ‘A ‘moom zar’, a ‘strange blemish, suggesting a defect in the new born’s pedigree (Yevamos 76b).

Who is a Mamzer? - Offspring of any union of near relatives to which the term, “he shall not come”, applies R Akiva.

Simeon of Temon-For which the penalty is excision at the hand of Heaven.

Continued-

A child born of

1. Incest – union prohibited by Jewish law and punishment is excision or death (incest -see Lev 18:6-18, 20)
2. Sexual intercourse of a married woman and a man, who is not her husband.
3. A woman who thought her husband was dead, remarried, had a child and later learned that her first husband was alive.

A mamzer is not a “bastard”.

- Prohibiting marriage between a mamzer and an Israelite.
- A mamzer can only marry another mamzer, a convert, a freed slave or a non-Jew .
- If the mamzer marries an ordinary Jew, the penalty was lashes, immediate divorce and all children were mamzerim.

Yet, the mamzer is considered a full member of the community and is obligated in religious practices. He is considered a son and brother regarding inheritance, marriage and conduct toward his parents. His birth relieves his father's wife from levirate marriage. He may hold any office, i.e. be a judge or even a King and could become a scholar, who would take precedence over an ignorant high priest, When it comes to redemption as a hostage.

Continued-

Exclusion for 10 generations means forever.

However, the child of a male mamzer and a non-Jewish mother is considered a non-Jew and is therefore not a mamzer and may convert to Judaism.

Ethical Issues:

- Punishing the child for the sins of the parents.
 - Permitting the mamzer to marry a convert diminishes the status of converts.
 - The number of mamzerim will proliferate.
1. A couple may marry and obtain a civil divorce. However, if they do not obtain a Jewish divorce, 'a get', and then they marry a Jewish person, the children of the second marriage are considered mamzerim!! Any remarriage without a get from the first marriage is invalid.
 2. Immigration of Falashas, Bnei Israel (India), Soviets – Jewish law was not known to them and they never obtained a 'get'. Their children are considered to be mamzerim.

Reasons for the rule of Mamzer:

-To avoid adultery or other forbidden sexual relations. Rabbis tried very hard not to invoke it, i.e., suggesting that a woman whose husband was away for 12 months, is able to carry a fetus for the full term. Rambam agrees (Yevamos 80b MT Issurei Biah 15:19).

The accuser had the burden of proof of mamzerut, which required two witnesses.

Even if adultery was demonstrated, the husband was presumed to be the father and the wife's admission is not accepted. She cannot testify to her own guilt. DNA testing has not yet been applied to this topic, although it could be, if we really wanted to know.

Daf Digest

אֶבֶל חֲתִיכָה שֶׁל חֲטָאת טְהוֹרָה
שְׁנַתְעָרְבָה בְּמֵאָה חֲתִיכוֹת שֶׁל חוּלִין

But, if one piece of tahor chatas meat becomes mixed with 100 pieces of tahor chulin, all agree it does not become nullified.

A Chanukah candle, from which we must not derive benefit, became mixed with two other candles used as Shamash candles. Can our original candle be nullified from its special status because of the majority and now be used for benefit?

No, objects that are counted, are not nullified by the majority. Even though they may be sold by weight, when used they are counted and therefore, can't be nullified. Here, all three candles are prohibited from benefit because they may be sold at a slight loss and used as regular candles.

‘One piece of tahor chatas in 100 pieces of tahor chulin’- All are considered consecrated and no nullification of the chatas meat occurs. This is due to the fact that they can be sold at a slight loss to Kohanim.

וְכָל דְּבָר שֶׁיֵּשׁ לוֹ מִתֵּירִין אֶפְּלוּ בְּאַלְף לֹא בְּטוֹל

An item which could become permitted, cannot be nullified even in a thousand.

A utensil, that absorbed a prohibited, taste fell in with other utensils.
Shulchan Aruch says - It is nullified by the majority and all utensils are permitted.

Why? The only way it can become permissible to be used, is to kasher all the utensils. Since that costs money, it is considered not to be an item that can become permitted by waiting and needs nullification.

Rav Shabsai Hachohen says- No. The expense is minor. Therefore, no nullification. A utensil, bought from a non-Jew, needs to be kashered. However, the utensil became mixed with other silverware before going through the kashering process, is it nullified by the majority? No, in this case you had to build a fire for the first item and use fuel. The expense is already incurred and to place the other utensils in the fire, is not an additional expense. Therefore, it is not nullified and all must be kashered.

The Noda b'Yehuda nullifies even in this type of a case.

מִקְוֵה שֵׁשׁ בּוֹ אַרְבָּעִים סָאָה מְכוּוֹנּוֹת
נָתַן סָאָה וְנִטַּל סָאָה

A mikvah that has 40 seah of water: If one puts in 1 seah of other liquids and removes 1 seah of the mixture,

it is still a kosher mikvah. If one removes 1 seah of water and then puts in 1 seah of another liquid (not water), it is not a kosher mikvah.

Adding 1 seah to 40 seahs nullifies the 1 and makes the combination a total of 41. Therefore, you can still remove 1 and be sufficient. It still is 40 of water in the mikvah.

Removing 1 seah makes it 39 and the added liquid is not nullified, if added to only 39 seah. Even though the mixture now is 40 seah, it contains only 39 seah of water and 1 seah of another liquid and is no longer a kosher mikvah.

לְדַבְּרֵי הָאוֹמֵר שְׁתֵּי שָׁבָתוֹת צָרִיךְ שְׁתֵּי שָׁבָתוֹת וּשְׁלָשִׁים

According to the one who says two weeks, two weeks and thirty days are required.

The limits regarding when planting is permitted (before Shmittah Tanna Kamma) is no less than 30 days.

R Yehudah - 3 days

R Yosi and R Shimon - 2 weeks

Rav Nachman says to add 30 days to each opinion.

Rambam says - until 44 days before Schmittah, i.e., 15th of Av and in these matters, a part of a day is not considered as the entire day.

Therefore, the last day to plant is the 15th of Av itself, not the 16th.

(This precedes a discussion of Niddah and Zivah time frames)

אֵין אָדָם אוֹסֵר דְּבַר שְׂאִינוֹ שְׁלוֹ

A person cannot prohibit something that is not his.

It is prohibited to make an image of a person.

-David Halevi -If the image protrudes outward, it is not permitted.

-Ramban- If it is engraved , it is permitted.

-Chochmas Adam- Be careful

-Shulchan Aruch - A photograph is permitted and there is no prohibition. This may be permissible because you are taking your own picture with a camera, or someone else is doing it.

Is it permissible for someone take your picture without your permission?

In public it is permitted.

Can you prohibit someone from taking your photo?

-R Sonnenfeld- It does you no harm, therefore, you can't prohibit. Your image is not under your control. Others can see it and therefore, your image cannot be prohibited.

וְלֹא הִנִּיחוּנִי לְלַמּוֹד אֶלָּא דְּבַר אֶחָד

They did not let me learn, except this one thing.

The pupils feared Rebbe would criticize their revered Rabbi, who differed from Rebbe on some points.

Therefore, Rebbe was only permitted to teach the rule of the androgynous person (Yevamos 83b). Because it depends on the word “ET” and the law of having reverence for Torah Scholars is also based on the word “ET” (Kiddushin 57a) (“You shall revere ET your God.” Deut 6:13)

So if he teaches “ET” in one, he respects the value of “EL” and will respect their Rabbi Elazar ben Shamua and not come to his yeshiva and disagree with him.