

Tractate

Yevamos

84a2 thru 122b3

## יש מותרות לבעליהן

These are some women who are permitted to their husbands.

Reviewing the main points:

The first Mishneh is a concise review of the conclusions reached in previous chapters. It is very helpful to organize teachings so that a student may review them many times, until the learning settles in his heart and mind.

The best way to learn is to:

- Distill the information
- Review it many times

This is the best way to ensure that one will remember his learning.

עֲשָׂרָה יוֹחָסִין עָלוּ מִבָּבֶל בִּהְיוֹם לְיוֹם וַיִּשְׂרְאֵלִים

Ten levels of family heritage journeyed from Babylon: Kohanim, Leviim and Yisraelim.

Kohen, Levite, Israelite – Chalalim, converts, freed Canaanite slaves. Mamzerim Nesunim, Shetukim ( his father is unknown) Asufim (doesn't know his mother or father = a foundling)

There are people who are very proud of their ancestors and boast regarding their accomplishments, piety and learning. This can be done for many reasons. Often it is done so that the listeners will hold the speaker in a higher regard, because of who his ancestors were.

Once, Rav Naftali of Ropshitz explained that he talks about his ancestors in order to compare their great achievements with his meager ones and to use that comparison “to spur me on, like a spiritual shot of whiskey!”

עֲבָשׂוּ אֵין מַעֲמִידִין שׁוֹטְרִים אֶלָּא מִיִּשְׂרָאֵל  
שֶׁנֶּאֱמַר, וְשׁוֹטְרִים הָרַבִּים בְּרֹאשֵׁיכֶם

Nowadays, officers are appointed only from Yisraelim, as it says, “and officers of the many, at your head.”

However, this verse is not found in Tanach, it is an error.

Perhaps it relates to a verse in D1:13 or D1:15

Therefore, the comment attributed here to Rashi, is unlikely to have been written by Rashi himself!

In fact, it appears that each tribe had its own officers.

## בֵּית יִשְׂרָאֵל שְׁנִיטָה לְכַהֵן

Mishneh

A daughter of a Yisroel who marries a Kohen.

1. A daughter of an Yisroel, who marries a Kohen, may eat terumah.
  - a. The Kohen dies, but she has a son (any child or sole surviving descendant of a son or daughter) who entitles the mother to eat terumah.
  - b. If she has no child, she cannot eat terumah.
2. She then, marries a Levite. She may eat maaser.
  - a. The Levite dies and she has a son. She may continue to eat maaser.
  - b. If she has no child, she cannot eat maaser.
3. If she marries an Yisroel, she can't eat terumah or maaser, even if she has a child with the Kohen or Levi, who died. Once she marries a non-Kohen or a non-Levi, she becomes a stranger to the terumah or maaser.
4. A Kohen's daughter may eat terumah. If she marries an Yisroel, she can no longer eat terumah. If he dies, she reverts to her father's status regarding terumah, unless she has a child with the Yisroel.
5. Here too, if the widow of a Kohen, who has a son, marries an Yisroel and the Yisroel also dies, she (if she has no son with the Yisroel) reverts back to her status as the mother (and former wife) of a Kohen and because of her child, who is a Kohen, she can again eat terumah!!

## בֵּית יִשְׂרָאֵל שְׁנִיטָה לְכַהֵן

A daughter of a Yisroel married a Kohen.

A woman married three men in our Mishneh.

(Yevamos 64b) We learned that a woman, whose prior two husbands died, is not allowed to marry a third. However, that is only if she had no children with her earlier husbands. If she did have a child, even if the child died, she may marry a third person.

## הָאִשָּׁה שֶׁחָלָה בְּעַלָּהּ לְמַדִּינַת הַיָּם

A woman whose husband went overseas.

This discusses the consequences of different cases in which a woman, is told her husband died and after she remarries, discovers that her first husband is still alive.

- She is required a get from each, the first and second husband.
- She has no right to any payment for her sustenance from either one and if she took any payment for this, she must return it.
- Any children from the second marriage are considered to be mamzerim.
- If any of her husbands were Kohanim, they are not allowed to attend her funeral or contaminate themselves with her corpse.

אֶלְמָא עַד אֶחָד נֶאֱמָן

We see that a single witness is believed.

A single witness is believed regarding prohibitions.

1. Regarding items that do not have a presumption of prohibition, he is believed, even if his testimony results in a strict ruling.
2. Regarding items that do have a presumption of prohibition, he is believed only when his testimony results in a lenient ruling.
  - 1a. Especially if he could remedy the situation.
  - b. If he testifies about another person's property, he is not believed.
  - c. If he testifies about only his own property, i.e., he stands to lose money and it is his own property which he could remedy, we believe him.

Case 1: Reuven sold wine to Shimon. Reuven's worker informed Reuven that he had not been sufficiently careful and the wine was prohibited. The worker was ready to forfeit his own salary.

He is a single witness. He testified regarding his own salary, therefore he should be believed. However, he is also, by his testimony, causing a loss to another. Reuven has to refund Shimon's money and therefore, we don't accept the testimony of the worker.



וְאַתָּה עַד אֶחָד וְאֶמַר

And a single witness comes along and says...

In order to marry another man, a woman may rely on the testimony of a single witness that her husband died. Although, if her husband later turns up, she is forbidden to both. However, if she married on the testimony of two witnesses, that her husband died, she does not need to leave her present husband (according to Rabbi Shimon). How can this be? “The missing husband stands before us,” asks Rav.

This is a case where no one recognizes the man. Though the two witnesses accompanying him testify that he is the husband and they know because they have all been together from the time they left home, until now. Therefore, the two witnesses who said he died, vs. these two witnesses cause a stand off. We do not make her leave the present husband.

What if his wife and the towns people do recognize him, would that make any difference? We have a principle that two witnesses are like 100. Tosophos answers that a stand off between witnesses would only be considered if there was, in fact, doubt regarding the facts. However, if it is an obvious fact and not needed to resolve doubt, the testimony of witnesses is not required.

We don't use witnesses to challenge obvious realities.

## הָכָא אֵיתְחִיזֵק אִיסוּרָא דְאִשָּׁת אִישׁ

But here the prohibition of a married woman has already been established.

We can accept that the testimony of a single witness is a matter that does not have a presumption of prohibition. For example:

- This esrog is Kosher.
- These tefillin were owned by a righteous person and are therefore, kosher.
- This object is fit for use in a mitzvah.

Today, due to our weak standing in this generation, we should only rely on the testimony of a Torah scholar regarding the kosher status of objects fit for use for a mitzvah.

### Note 4

A single witness is believed to state that food is kosher for consumption if no presumption of prohibition has been raised. It is with this assurance that we can be guests at a friend's house and rely on him and his household to attest to the permissibility of his food. You may eat at another's home and you may trust his household, unless you find reason to question its permissibility (i.e., you see milk on the meat table, etc).

וְאַתּוֹן הוּא דְּלֹא יָדְעִיתוּ לִיָּהּ

And it is only you who does not recognize him.

Is not this ridiculous?. Can a man change so much that people who know him are not be able to recognize him, even when told who he is?

Yes (see 88a4 line B15), Joseph was not recognized by his brothers.  
Why? He left without a beard and now had a full beard.

אֵבֶל נִיֶּסֶת וְאַחֵר כֶּךָ בָּאוּ עֵדִים

But in our case she first married and afterwards the witnesses came.

If the death of a husband is attested to by 1 witness and then the husband returned, she cannot be married to either.

If the death of a husband is attested to by two witnesses and two other witnesses come to say this man is the husband, two vs. two, she can stay married to husband #2.

If she marries one of the two witnesses and the husband returns, she may not marry either, unless she married someone else in between.

We don't expect that the second witness would lie in order to enable his friend to marry this woman.

“A man will not lie (sin), not for himself.”

Therefore, suspicion is alleviated.

וְקִדְּשֵׁתוֹ

And you shall sanctify him.

Can a Kohen forgo honors due him?

Can he marry a divorcee and be willing to forgo his Kedushah? No.

Can he wash the hands of his Rebbe? Yes.

Can he request a piercing of his ear so he can remain a slave longer? No.

He can forgo certain perquisites but not a Torah mandated obligation.

For example, he may not marry unsuitable women, may not become a Baal Mum and be unable to serve in the Temple. However, he may forgo certain honors and not have it called Meilah, which means using a holy object consecrated to the Temple, to, for example, wash his Rabbi's hands.

A Kohen is different. People must keep commandments related to themselves. It is their own responsibility. In the case of a Kohen, Bais Din is obligated to sanctify him, which implies even against his will. He must guard that sanctity.

אִי זֶהוּ מֵת מִצְנָה כָּל שֶׁאֵין לוֹ קוֹבְרִין

Who is an unattended corpse? Any corpse that does not have someone to bury it.

An unattended corpse is a Jewish corpse found on a road or in a city of non-Jews, who has no one to bury it, and you cannot find anyone to call to assist in burying it.

- You are prohibited from leaving the body, even to find others to help bury it.
- Even a Kohen is obligated to bury the deceased.
- If you don't know if it is a Jewish corpse or not, refer to the majority of the population in the area.

Case 1: A dead soldier circumcised, but wearing a cross. Even if you think he is not Jewish, he should be buried, but not in a Jewish cemetery ( Halachah l'Moshe mi'Sinai not to bury in a Jewish cemetery if in doubt). However, if he was already buried, we do not exhume him to move him to another location.

## עַל אַחַת מִכָּל מִצְוֹת שְׁבִיתוֹרָה

Even one of the commandments of the Torah.

You should transgress if told to do so by an authentic sage.

Do the sages have the power to decree something in direct opposition to Torah law?

Ex: If a person intentionally separated good grain from poor or impure grain and took the portion due the Kohen from the poor grain, his tithing is invalid, according to the Rabbi's, but valid according to the Torah.

Devorim 18:15 - You shall obey him, even if he tells you to momentarily violate one of the Torah laws.

Ex: Eliyahyu brought fire from heaven to consume sacrifices, not inside but outside of the Bais Hamikdash. This is not permitted according to the Torah. However, it is permitted if ordered by a sage or a prophet, especially in time of emergency, i.e. a drift toward idolatry.

וְאֶפְקַעְיָנָהּ רַבָּנָן לְקִדּוּשִׁין

And in this case the Rabbis annulled the original betrothal.

The case of a woman who had witnesses testify that her husband was dead, she remarried, had a child and the first husband resurfaces. The law is she may not stay with either. She must divorce the second husband and their child is a mamzer.

One answer to this is to annul the first marriage. However, the Rabbis felt if this would be the routine, it would degrade the sanctity of marriage and the people may feel that relations outside of marriage is not so bad a sin.

Suffice it to say, there is no way to purify a mamzer and there never will be.



What should she have done? She was the victim of an unavoidable circumstance.

What could she have done? She was certainly the victim of an unavoidable mistake. She relied on the testimony of two witnesses and with the approval of the Bais Din – it never gets more certain than that!

A person who, inadvertently, violates a prohibition because he was not thorough enough in his research, is accountable.

- Call him mistaken, a shogeg, but he must atone and bring a Korban.

- Accepted 1 witness that her husband was dead.

- Accepted a ruling by Bais Din based on erroneous information.

- Accepted a piece of paper, as if it was a bill of divorce and it was not.

Only in those instances, where he could obtain the necessary information, could a person be considered as one who committed an unavoidable mistake and thus be exempt from liability.

An example: A woman waited three months after her husband died to be a yavam to her husband's brother and then learned she was pregnant by her husband. No one relied on false information. The facts were correct, but this was an exception to the usual. Usually at 3 months, a pregnancy is clearly visible. Therefore, no fault and a Korban is not necessary.

## הָאִשָּׁה שֶׁחָלַךְ בְּעָלָהּ וּבָנָהּ לְמַדִּינַת הַיָּם

A woman whose husband and child went overseas.

Cases regarding: A woman who married or did yibum or did not do yibum, on the basis of incorrect testimony.

Husband and child went overseas and they told her that:

#1 First your husband died and then your child died. This means no need for yibum. So she married someone from the general population and then they said the reverse occurred. She must leave her second husband and receive yibum or chalitzah.

If they had a child, he is considered a mamzer, whether the child was conceived before they learned she was subject to yibum, or after.

#2 Your child died first and then your husband. Therefore, she was taken in yibum. Afterwards, they told her the reverse was true. Yibum is not necessary. She must leave the Yavam and any children, first or last, is considered a mamzer (she must not marry her husband's brother. Penalty is kares.

#3 Your husband died. She married another man. Later, she was told your husband was alive at the time you remarried, but has since died. She must leave the second husband and any child is considered a mamzer. However, a child conceived after the date of her husband's death is not considered a mamzer.

אִי לֹא דָדְלֵאִי לָךְ חֶסֶפָא מִי מִשְׁכַּחַת מַרְגְּנִיתָא תוּתִיה

Had I not lifted up the shard, would you have found the pearl beneath it?

Rabbi Nachman of Breslov- We give credit to the current modern generation for great discoveries, but we should always remember that earlier generations “removed the shard of clay that covered the pearl” , so that the pearl could be seen by the next generation. Be certain to give them credit. They led the way. They uncovered the basic principles and perhaps, they provided the greatest wisdom that permits the advances of today.

דָּאָמַר אָדָם מִקְנָה דְּבָר שְׁלֹא בָּא לָעוֹלָם

Who said that a person can transfer something that has not yet come into the world.

Betrothal cannot occur with a woman who should have had Yibum.  
That's why those marriages are improper.

Transactions regarding items which are not yet in the world:

Can you sell fruit that is not yet grown or harvested?

Most say that such a sale is valid. Rav Nachman says it is not valid, except for items already used by the buyer. An agreement made upon non-existent items is not valid. If so, why is the fruit already eaten considered to be sold? It is because the seller surrenders his claim to that material. If so, he must be aware of it in order to surrender his claim.

No, it is valid if we know that the seller would not wish to retract his approval, even if he does not actually know about it.

Rav Nachman -Not so, he must be aware, in order to effectively forgo his retraction,

לְמַעַן תִּלְמַד לִירְאָה אֶת־ה' אֱלֹהֶיךָ כָּל־הַיָּמִים׃  
אֵלֹ שַׁבָּתוֹת וַיָּמִים טוֹבִים

So that you learn to fear HaShem, your God, all the days, means Shabbos and Yom Tov.

---

This relates to removing tevel, (untithed produce) from your food, so you will be able to enjoy the produce on Shabbos and Yom of worrisome concerns.

Learn: If you wish to encourage those who are weak in their Shamiras Shabbos, do it before Shabbos, not on Shabbos Tov, undisturbed. It will make those days pleasurable and free. Because if they are already sinning, it is easier to continue to sin. One sin begets another. Once a person has already profaned the sanctity of Shabbos, it will be much harder for him to stop. Whereas a mitzvah, begets other mitzvahs. (Avos 4:2)

עַד אֶחָד בִּיבְמָה מֵהוּ

What is the law regarding the testimony of a single witness.

How far do we rely on the testimony of a single witness to change a woman's status?

1. We allow him to testify that her husband is dead. Why?
  - a. A person is not likely to lie in a situation where he could inevitably be exposed as a liar, e.g., the arrival of the “dead” man.
  - b. The woman is aware of the dire consequences if her husband appears and therefore, will be very careful to assure his death.
2. To testify that the husband is dead, so the childless husband can have his wife marry her yavam, his brother and make a name for the deceased.
  - a. She may not check as carefully, if she has affection for the yavam.
3. To testify that a husband died before his child and the wife is free of her yavam or testifies that the yavam died also.
  - b. She may not check as carefully, if she hates the yavam

Gemara – It is more likely to have her objectivity compromised in case #3 and not check carefully the truth of the testimony, because she is set free by those circumstances ; “The hate of the hater, is greater than the love of the lover.”

Case #2 – She would be careful because she could lose both her husband and her beloved yavam by a mistake. (LK)

## Daf Digest

הָיָה לִיָּה לְרַבִּי אֶלְעָזָר לְמִדְרַשׁ בֵּיה מְרֻגְנִיתָא  
וְדַרְשׁ בֵּיה חֲסָפָא

R Elazar could have expounded ‘a pearl’ but instead expounded ‘a shard’.

The same act can be elevating and inspiring or mundane and of little significance.

The Chafetz Chaim was on a train and a poor Jewish woman was selling peanuts, he bought some and then, so did his entire group of colleagues and students. He said to them, “If you bought peanuts to help this poor woman make a living, your act was one of kindness and charity and was a noble and inspiring act. If you bought peanuts to satisfy your momentary physical pleasure, you lost the opportunity to attain such nobility of purpose. The same act – but with a different mental outlook.- You still get the peanuts, she still gets the money. But a great loss in your personal development and in the kindness and goodness in the world, has occurred.”

Always think, how can this act before me, be a spiritual act?

## וְנָשָׂא אֶת אֲחֻתָּהּ

And he married her sister.

This discusses the case of a man who married his wife's sister, when he was informed that his wife died while traveling abroad. Here, there is a need for two witnesses, one does not suffice (N29). The wife then returns and he became aware that the second marriage was forbidden.

The wife is permitted to return to him, because the marriage to the sister never took effect.

If the second marriage would be considered to have taken effect, he would have to divorce the second wife with a get and would then be forbidden to his first wife, as a sister of his divorcee. The acts with his second wife would be considered to be as an extra marital affair.

A woman, who engages in extramarital affairs, is forbidden to her husband.

A man, who engages in extramarital affairs, is not forbidden to his wife.



## מוֹתֶרֶת לַחֲזוֹר

She is permitted to return to him.

A man was told his wife died abroad and he married her sister based on one witness. She may return to her husband. The marriage to her sister is null and void. If his information was based on two witnesses, she may return to her husband and he (divorces) the sister.

A woman was told her husband died based on the testimony of one witness or two and she marries someone else. If the husband returns, she may not return to her husband and must divorce the second one also. Why the difference?

She has actually been married to the second man, whereas, the marriage her husband engaged in with her sister, is deemed null and void as though it never took place.

אַתָּה'' אוֹתָהּ שְׂכִיבָתָה אוֹסְרָתָהּ  
וְאִין שְׂכִיבַת אַחוֹתָהּ אוֹסְרָתָהּ

“With her”, teaches that her lying with a man prohibits her, but her sister’s lying with a man does not prohibit her.

A woman is only punished by Sotah waters for her own illicit relations. Rashi refers to a story in the Midrash Tanchuma. There were two identical sisters, one had an illicit affair and her husband insisted that she drink the Sotah waters. Her sister agreed to take her place and indeed, had no ill effect from the sotah waters. However, when she quickly came home and kissed her sister in congratulations. The drops of Sotah water, that still clung to her lips, were enough to cause the guilty sister to die then and there.

## אָמְרוּ לוֹ מֵתָה אִשְׁתְּךָ וְנָשָׂא אָחוּתָהּ מֵאָבִיהָ

They told him your wife died and he married her paternal half sister.

A case is discussed: Where a man learned that his wife died and he married her half sister and she died. He married another of her half sisters and continued until he married five half sisters. Then learned his information was not correct and his wife was still alive.

Since, when he married his wife's sister, that marriage was null and void, he could be married to wives 1,3 and 5 but not to wives 2 and 4. Wives 1 and 2 are paternal sisters. Wives 2 and 3 are maternal sisters. Wives 3 and 4 are paternal sisters.

Wives 4 and 5 are maternal sisters (see diagram p.96 A1).

The status of a 9 year old yavam is discussed:

1. If he cohabitates with a married woman, she is liable to the death penalty.
2. If he cohabits with his yevamah, other adult brothers are prohibited from taking her as a yibum.

She is his wife and his act is given the significance of maamar, a Yibum's equivalent of betrothal, i.e. Kiddushin (N25) and they are married once he becomes of age.

## בֶּן תֵּשַׁע שָׁנִים וְיוֹם אֶחָד שָׁבָא עַל יְבָמָתוֹ

A nine year plus one day year old boy cohabitated with his yevamah.

1. Two 9 year old yavams have relations with a yevamah.
2. A 9 year old yavam has relations with two yevamahs.

The first 9 year old (+1 day) acquires her partially, betroths her ( maamar) to be fully implemented when he reaches maturity. No other brother can perform yibum with her. However, a second brother, 9 years + 1 day of age, also has relations. His cohabitation also takes effect. Therefore, neither brother can do yibum with her and each must give her a get. She cannot marry either one of them permanently.

R Shimon says the second brother does not disqualify the first.

The ability of a 9 year + 1 day old to acquire a yevamah is a legal doubt, but if he is legally able, it is not partial or quasi marriage, but a full-fledged marriage bond which exists. The second brother's act does not effect the yibum/marriage circumstances of the first brother and does not require a get from either of them.

Rashi: The second cohabitation would, however, make her prohibited to remain with her husband since she committed an adulterous act with the minor second brother. However, if she was not aware her act was forbidden and she transgressed inadvertently, she could remain with her husband.

## בֶּן תֵּשַׁע שָׁנִים וְיוֹם אֶחָד שָׁכַב עַל יְבִמְתּוֹ וּמָת

A boy of 9 years+ one day cohabitated with his yevamah and died

---

without a child being born. The woman has a 'zikah' (connection) to the remaining brothers from the death of her husband and an additional zikah from the partial marriage (maamar connection) with the second brother who died. She has, therefore, 1½ zikahs to the remaining brothers. The Torah (Deut 25:5) Suggests that only a woman who bears the zikah of one deceased brother is fit for yibum, but not if she bears the zikah of two. Therefore, she requires chalitzah from any remaining brothers and may not be taken in yibum.

If she does not qualify for yibum, why does she need chalitzah? Because the second zikah is only a Rabbinic zikah. Since her zikah from the first husband remains in force, she needs chalitzah from the remaining brothers to be eligible to the general population.

בֶּן תֵּשַׁע שָׁנִים וַיּוֹם אֶחָד שָׁבָא עַל יְבִמָּתוֹ וּמָת

A nine year plus one day old boy cohabitated with his yibum and dies.

Why do we interpret that posuk (Deut 25:5) that way? We could create a kal v'chomer!

If “one of them dies”, she becomes a yevamah, obligated to carry on the family name. It should be even more so if two brothers die.

Is it perhaps because it would not be clear whose name the new family was perpetuating ?

A boy, even older than 13, (the Mishneh gives us one example of age 20) who has not sprouted 2 pubic hairs, is considered a minor.

## נָשָׂא אִשָּׁה וּמֵת הָרִי זוֹ פְּטוּרָה

If a minor, who is over 9 years old, marries a woman and he dies, she is exempt from yibum and chalitzah.

---

Since he cannot create marriage until he is 13 years old and grows 2 public hairs, they were never truly married.

At the time of a bris, we bless the baby and his family that they will be able bring him to Torah, chupah and maasim tovim, ‘good deeds’. It seems out of order.

Torah learning starts at age 5, chupah at age 18, and he gets credit for good deeds from the time of his bar mitzvah. So why is chupah listed before maasim tovim?

(In Sanhedrin 66) We learn it is good to marry off one’s son before he reaches maturity and it is good to marry off one’s daughter as well. So the blessings are really in proper order, and chupah does precede the reference to good deeds.

אָל רַבִּי אֶלְעָזָר אָמַר לְשִׁמְעָתָא בִּי מִדְּרָשָׁא  
וְלֹא אָמַרָה מִשְׁמִיָּה דְּרַבִּי יוֹחָנָן

R Elazar stated a teaching of R Yochanan in the study hall but did not attribute it to him.

And R Yochanan became angry until his colleagues told him of a similar argument In Tiberius, where they tore a Sefer Torah in their anger.

There was an argument about a knob with a bolt on its end. It was used as a wedge to hold a door open or as a pestle to grind garlic. Can it be used for holding a door open on Shabbos?

Lesson:

Anger is destructive. It is as though a person serves an idol (Hil Deos 2:3).

Anger drives away the Divine presence, thus allowing idolatry to enter.

Main anger of R Yochanan was that his student did not tell the source of his opinion!

Why? Because when a Torah scholar's words are quoted in this world, his lips move in the next world.

Therefore, not quoting in his name, denies R Yochanan this benefit in the future.

Answer: Moses taught everything to Joshua his student. Do you think that every time Joshua spoke, he mentioned Moses' name? Everyone knows Joshua's teachings are Moses'. Everyone knows that when R Elazar speaks, he is your disciple and it is your words he is teaching. R Yochanan was placated.



## שְׁפִתָּיו דּוֹבְבוֹת בְּקָבָר

Causes his lips to move in the other world.

Why was R Yochanan son's angry that R Elazar did not recite his teachings in his name?

Teaching in the name of the author:

- Brings redemption to the world.
- Would provide benefit to R Yochanan after he died.
- Avoids stealing the work and efforts of others.
- If a great scholar, the words will be more readily accepted.
- If not done, it denies benefit to the author, like a monetary benefit which must be rectified to be undone. Mere repentance is not sufficient.

Therefore, he was correct to be angry and insist on correction.

## שִׁפְתֵיהֶם דּוֹבְבוֹת בְּקֶבֶר

Their lips move in the grave.

A mediocre student was having difficulty understanding a commentator's analysis of a portion of Talmud. He asked his Rebbi about it. The Rebbi knew that this quote came from a different commentator and that he said something completely different.

“You know”, said the Rabbi to the boy, “You left the commentator with his mouth open and the Moshiach on one foot”. “What do you mean?”, asked the boy. The Rebbi answered, “Yevamos 97a, teaches that when you recite teachings of a departed chacham, his lips move in the grave and the Moshiach brings redemption to the world. When you mentioned the commentator's name, his mouth opened and the Moshiach raised his foot to bring redemption, but when it turned out that the commenter never said those words, both were left in that awkward position!” Be a good student-quote accurately.

בִּי אָתוּ לְקַמִּיּה דְרָבָא

When they came before Rava.

Rava's advice regarding the cause of delayed puberty when people came to him at the age of 20 without sprouting pubic hair. If they were lean, then he advised them to put on weight; if they were fat, he advised them to lose weight.

These signs of maturity, i.e., pubic hair, sometime relate to undue leanness or obesity.

## נושאין על האנוסה ועל המפונה

One may marry the relative of a woman who was violated or seduced by him.

---

Discusses cases of one who violates or seduces a woman and whether he becomes prohibited to her relatives.

- One may not marry the relatives of his wife and may not violate or seduce them.
- One may marry the relatives of a woman that he seduced or violated
- A man may marry a woman whom his father seduced or violated.
- A man may marry a woman whom his son seduced or violated.

Biblically, however, the Rabbi's prohibit all these, since, if a man was intimate with a woman and she later is in his extended family. When they come to be in each other's company, they may revert to their prior intimacy.

Therefore, all are Rabbinically forbidden.

## בְּשׂוֹאֵין אִיכָּא שְׂאָר

In marriage, there is kinship.

At what point are the relatives prohibited to the husband.

When the man takes the woman into his domain.

It does not depend upon whether the marriage is consummated- Tosophos

-Once the man offers Kiddushin and she accepts (erusin) the betrothal, her six close relatives are prohibited to the man forever. (Rambam- Hil Isurei Biah 2:7)

- With actual marriage – our Mishneh

The difference would show up, if the man offered marriage to one relative and then to a second relative. According to Tosophos, he would have to give a get to each. According to Rambam, because he is committed to the first, the second offer has no effect.

אַנָּה וְאַתָּה בְּנֵי אֶחָד

You and I are the children of siblings.

A situation can arise where one person could say to another:

- You and I are children of siblings (the daughters of Reuven).
- Your father and I are children of siblings (Levi's son and Shimon's son)
- Your mother and I are children of siblings (Reuven's daughter and Shimon's son)

Three brothers Reuven, Shimon and Levi:

- Reuven has two daughters and Shimon married one of them.
- Levi's son married one of them. Therefore, Shimon's son can say the above words to Levi's grandson.

## הַגִּיּוֹרָת שֶׁנִּתְּגִירוּ בְּנֶיהָ עִמָּהּ

A female proselyte, whose sons converted together with her.

Discusses Yibum for brothers who converted to Judaism or were freed from slavery.

In either case, they are, (when they convert to Judaism or are emancipated as slaves) like “new born babes” with no relatives. Therefore, even twin brothers are not considered as brothers and do not have to do yibum or chalitzah, if the other sibling should die without issue.

What if the twins were delivered to a mother who converted during her pregnancy? They are Jews when they are born and therefore, they are brothers. However, they must be brothers from the same father to require levirate marriage. Since they converted, they have no father. Therefore, they do not perform yibum or chalitzah with the wife of the other brother, who died without issue!

(Responsa 1980-1990 p139)

Also note, a convert may marry his sister, mother, grandmother, etc.

## הַגְּיוּרָת שְׁנֵת גִּירוֹ בְּנֵיהָ עִמָּהּ

A female proselyte, whose sons converted together with her.

Maternal identity is determined by parturition.

This concept is used in contemporary Halachic decisions.

An ovum used for in vitro fertilization is conceived outside the woman and placed in her womb to be delivered.

The host mother, who bears the child, is considered the mother, even though the donated ovum may be from another woman

As regarding the sperm donor, it is best if he is not-Jewish, so no later incest is likely between the child from his marriage and the child born from his donation.



## הַגִּיּוֹרֹת שֶׁנִּתְּגִירוּ בְּנֵיהֶם עִמָּה

All agree that it is permitted for them to marry.

This concept, that upon conversion a person is as a new born babe without any relatives, is used to explain how it was possible for Jacob to marry two sisters.

Such marriages are prohibited (in Lev 18:8), but the Torah had not yet been given at Sinai. However, the patriarchs observed the commandments even before Sinai.

Here, the sisters each converted to Judaism and therefore, lost their sister relationship. They were considered individuals. Therefore, they could both be married to Jacob without violating the injunction.

## חֲמֵשׁ נָשִׁים שֶׁנִּתְעַרְבוּ וְלָדוֹתֵיהֶן

There were five women, whose male children became intermingled.

What is done regarding yibum when 5 babies become intermingled?

Five women, whose 5 male children become intermingled. They all married and each died childless. How do their brothers, whose parentage is known, deal with the 5 widows?

Each widow requires either yibum or chalitzah from her husband's brother.

However, we don't know who is the husband's brother. Therefore, 4 men perform chalitzah with one of the widows and the 5<sup>th</sup> man marries her. Do the same with each widow, i.e., as chalitzah for each woman and one yibum.

If the man really is her husband's brother he has done yibum. If he is not, she is free after chalitzah with the others, to marry him, so in either case, the marriage is valid.

## הָאִשָּׁה שְׁנַתְּעָרַב וְלָדָה בְּוֹלַד בִּלְתָּהּ

A woman's child became intermingled with her daughter-in-law's child.

Two cases of children intermingled at birth (Identities were confused at birth).

1. Intermingling the male child of a woman and her mother in law. Later, after marriage, the male children died childless. Any of the surviving sons can perform chalitzah with the 2 widows. However, they do not take them in Yibum, because each widow might be their father's brother's wife, who is forbidden. Or each widow might be their brother's wife who would be permissible to them through yibum. But, we do not know which.

2. Two children of a Kohen and her slave woman become intermingled. It is not known which is the Kohen and which the servant. While the servant is still owned by the Kohen, both can eat terumah. However, if each frees the other, when they get to the proper age, neither can eat terumah. If they do eat terumah, they must pay retribution, which normally includes the principal and an additional 1/5<sup>th</sup> as a penalty. Here, no penalty is appropriate, because each could claim, "I am the Kohen."

## וְנוֹתַנִּין עָלָיו חֻמְרֵי כֹהֲנִים וְחֻמְרֵי יִשְׂרָאֵלִים

We place the stringencies of Kohanim and the stringencies of Yisraelim on him.

---

In our day, no Kohen can verify his direct lineage to Shevet Levi and therefore, each is an uncertain Kohen.

The implications of this are:

1. A woman, who was previously kidnapped by non-Jews, should be allowed to marry a Kohen. (doubtful rape and doubtful Kohen-a double doubt)
2. Money received by a Kohen from a Pidyon Haben can and should be returned to the father, since, if he is not really a Kohen, the money could be considered stolen.
3. A first born would have to redeem himself with every Kohen he meets, thinking that perhaps this Kohen has direct lineage as a Kohen.
4. The first born of a daughter of a Kohen, should also redeem himself. Perhaps his grandfather is not a Kohen.

## אין חולקין תרומה לעבד

We do not distribute terumah to a slave, unless his master (the Kohen) is actually there with him.

This is done in case someone may see the Kohen give terumah to the slave and think that the slave, himself, is a Kohen and genealogically fit to eat it.

Some cities do not distribute, but other cities do give terumah to slaves for their masters.

R Elazar Bar Tzadok testified that so and so was a Kohen, because he saw him receive terumah. R Elazar thought he was in a town that would not have given terumah unless the person was a Kohen, but he was in the other type of town.

However, we have a rule that God protects the righteous from transgression. We learn this from a storey (BT Chulin 7b) where the donkey of Pinchas ben Yair refused to eat untithed grain, thereby alerting the Rabbi that it was not permitted.

However, Tosophos believes such protection is only provided by God to prevent the righteous person himself, from doing a prohibited act. Therefore, here R Elazar's mistake could actually have resulted in the slave eating terumah and no miraculous protection would be expected.

אֵין חֹלְקִין תְּרוּמָה לַעֲבָד

We do not distribute terumah to a slave.

We have other circumstances where a mistake in identity, such as people thinking a slave is a Kohen, can occur in Judaism.

A convert to Judaism could be clearly identified as such, if he/she had a name ben or bat Avraham. Such practice is entirely appropriate.

Rav Schmu'el ben Yehudah was a convert (Note Yevamos 101b line 42 B17).

Consider a converted child growing up in the home of a Kohen. People may consider him a Kohen, especially if his name is Cohen, i.e. “Moshe ben Schmu'el HaCohen”.

What is our practice regarding naming a Kohen and how do we avoid such confusion?

אֵלֶּה אִשָּׁה מֵאִי טְעֻמָּה לֹא

Why is terumah not distributed to a woman, who is a wife of a Kohen, at the granary?

Because:

1. She might become widowed or divorced from her Kohen husband and if she has no children with him, suddenly she would become ineligible to eat terumah. The grain distributor would not know this. Therefore, to avoid this error we do not allow the woman to collect terumah at the granary.
2. She might come to be in seclusion with the grain distributor.

Rambam records both reasons. Others say by doing so, he only restricts distribution to her if it is possible to apply either reason, i.e. old sick husband, rumors of marital difficulties, distribution center in isolated location, etc., otherwise, if this terumah is Rabbinically taken, she may receive it.

בְּמָקוֹם שֶׁחֹלְקִין מֵעֶשֶׂר עָנִי נֹתֵנִין לְאִשָּׁה תְּחִלָּה  
מֵאִי טַעְמָא מְשֻׁם זִילּוּתָא

In a place where maaser oni is distributed, we give to women first. Why? To spare them from disgrace.

Rava applied this reasoning when prioritizing cases in the courtroom.

He heard cases involving women before the cases involving men.

Should tzedakah be given to poor women or orphan girls by priority over males, or to males to help them marry? Since they are obligated in the mitzvah of peru urevu.

Shulchan Aruch: If there are enough funds for both, give to women first, if limited funds, give to men since they have a mitzvah obligation and may also marry one of the poor girls.



מִי שֶׁלֹא שָׁהָתָה אַחֲרַי בְּעֵלָהּ שְׁלֹשָׁה חֳדָשִׁים

If a woman did not wait three months after separating from her husband.

The case of a child, who does not know which of two men is his father and what if one or both of the men are Kohanim?

## מצות חליצה בשלשה דיינין

The mitzvah of chalitzah is performed before a panel of three judges.

Describes the

1. Bais Din that oversees the chalitzah.
2. Describes the shoe that is used for chalitzah.
3. There are 3 judges, even if all three are laymen.
4. Special shoe, 'a min'al'- soft leather foot covering = valid  
or a sandal with a sole = valid

If no sole, chalitzah is not valid. The sandal need not be his sandal with a sole, it can be a

- wooden sandal.
- left shoe.
- very large or a very small shoe.

The chalitzah is valid.

חֲלִיצָה בְּמִנְעָל

If she performed chalitzah with a min'al (a slipper, not a shoe).

Chalitzah must be done with proper shoes, slippers are not appropriate for chalitzah and are not considered shoes.

It is not permissible to enter the Bais Hamikdash wearing shoes.

When Alexander the Great visited Jerusalem and the Har Habayis, the leaders were afraid to tell him to take off his shoes. However, they had prepared slippers with encrusted jewels and advised him to wear them, since the floor was slippery.

This is further proof that slippers are not considered shoes.

בְּלֶךְ יָפָה רְעִיתִי וּמוֹם אֵין בָּךְ

“You are extremely beautiful, my friend, without any blemish in you.”

This verse is used to teach us that a judge should have no blemishes.  
How does a verse from Shir Hashirim teach us about judges?

A Midrash describes the throne of Shlomo Hamelech, as having a verse on each of the steps leading to it, quoted from Deut 16:19, 20, 21, 22 and 17:1.

The first three relate to judging: don't pervert justice, don't show preference, or accept bribery.

The second three relate to the alter: don't plant an Ashira tree near it, don't make a multi-stone alter, don't offer any ox or sheep with a blemish. The juxtaposition of the verses teaches us that the laws of the alter and of judging are parallel. Just as a blemished animal is disqualified from the alter, so too is a blemished judge disqualified from the bench.

בְּיִשְׂרָאֵל

### In Israel

The posuk says (D25:7), “My yavam refuses to establish a name for his brother in Israel, and the Rabbis learn from the phrase, “in Israel”, that:

1. Any member of Israel, even a layman, is qualified to preside over the chalitzah ceremony. The only other requirement is that he not be blind in both eyes, so he can see the spittle.
2. This phrase excludes a person who is a convert (see Rabbi Schmuel ben Yehudah (101b3 line 42) who disqualifies himself because he is a convert). ‘In Israel’ means a court of born Jews, not converts.

**רַב פַּפָּא וְרַב הוּנָא בְּרִיהַ דְּרַב יְהוֹשֻעַ עֲבָדֵי עוֹבְדָא בַּחֲמִשָּׁה**

Rav Pappa and Rav Huna, the son of Rav Yehoshua, ruled on a actual case before five men.

R Yehudah learns that we need five judges and although he retracts this position, we learn that Rav Pappa, Rav Huna and R Yehoshua presided in a case of chalitzah and had 5 persons present. Why? They said, “To publicize the matter.”

They question if the qualifications for the 2 extra people, are the same as for the 3 members of the Beit Din? Conclusion: All who are perceived by the public as members of a Beit Din, must be qualified for service on that body, even though they are not actually members of the Beit Din.

Today, they use this argument to exclude non-orthodox clergymen from a Beit Din that converts people to Judaism.

They extrapolate from this, that such converts should not be granted citizenship under the Right of Return. Instead, they can apply for naturalization in the usual manner.

## מִקְרָב אֶחִיךָ תָּשִׂים עָלֶיךָ מֶלֶךְ

From the midst of your brothers, shall you place over yourself, a king.

Discusses the limitations on a convert.

A convert:

- Can't be king, because it says (Deut 17:15) "From the midst of your brothers, shall you place over yourself, a king."
- Can't be a judge over born Jews. in a capital case.
- Can be a judge over converts in capital cases.
- Can be a judge over all Jews and converts, in monetary cases  
(see Sanhedrin 32a – which states "all may judge").
- Can judge over all, if his mother is Jewish.
- Can't serve in a chalitzah Beis Din.

However, one needs both his mother and father to be Jewish to:

- be king.
- be on a chalitzah Beis Din.

## מִקָּרֵב אֶחָיִךְ תָּשִׂים עָלֶיךָ מֶלֶךְ”

From the midst of your brothers, shall you place over yourself, a king.

Women and communal officers: Can a woman be a Shul President”

What do these restrictions have in common?

They exclude a convert from a public office that involves the power of coercion, which is the hallmark of monarchy. A similar criterion is applicable in determining offices from which women are barred.

Under contemporary conditions, synagogue officials and boards of directors have no power of coercion whatsoever. They rely on the good will of the synagogue members. They cannot, in any way, compel compliance. Therefore, women are not precluded from holding synagogue office.

Others restrict women only in those offices that enjoy the prerogative of lifetime incumbency and hereditary succession (ignoring the phrase (Deut 17:20), “that he may prolong his days in his kingship, he and his children”). If this would be our interpretation, even more appointments for women would be available.



## אָבֿל מִטֵּיִל הוּא בְּאַנְפִּילִין בְּתוֹךְ בֵּיתוֹ

But he may walk around in his socks in his house.

We do not wear leather shoes on Yom Kippur. There are some who refrain even from wearing non-leather shoes in public.

Some refrain even in their homes and wear socks, because we are to suffer and not wear comfortable shoes, but rather be able to feel the ground as we walk. Non-leather shoes in public might look like regular shoes and people may be mistaken.

Since our Gemara specifies socks in the home, we conclude that non-leather shoes are acceptable in public.

**שֶׁבַע בְּעִילוֹת בָּעַל אוֹתוֹ רָשָׁע בָּאוֹתוֹ הַיּוֹם**

Sisra cohabited with her (Yael) 7 times that day.

In order to cause him fatigue, in order to be able to kill him, Yael was permitted to engage in elicit behaviors with him and was praised for doing so. Even though elicit behavior is one of the three cardinal sins that a person must avoid, even to save himself, in order to save the entire Jewish people, one may submit.

## חֲלִיצָה בַּלַּיְלָה חֲלִיצָתָהּ בְּשָׁרָה

Chalitzah at night is valid.

R Elazar says it is not valid. After chalitzah, she can claim her ketubah money. Therefore, if we consider the chalitzah the conclusion of a civil monetary case, it is valid at night. However, if we consider it the first step in a process of a civil proceeding, as R Elazar does, that may not commence at night. It must be held during the day.

After chalitzah, she is permitted to marry anyone, therefore it is a final judgment. Or it may be considered the beginning of her new status, the end of her prohibition to marry anyone.

Chalitzah with the left foot, is not valid.

R Elazar says it is valid, i.e., she removed the shoe of the yavam's left foot, not the right foot.

The law is invalid if the shoe is removed from the left foot. What is the rule regarding a left footed person? Some say to still do it from the right foot. Others say left foot/others say he can't do chalitzah at all. Nowhere does it discuss which hand the Yevamah must use. The right is preferred, but the left is permissible, even using both, if necessary, will be alright.

## Daf Digest

## חֲלִיצָה וְרִקְקָה אֲבֵל לֹא קִרְאָה

If she removed her shoe and spat, but did not recite the verses.

The chalitzah ceremony consists of three parts:

1. the yevamah removing the yevam's shoe.
2. recital of the prescribed passages.
3. the yevamah spitting toward the yevam.

If she did 1 & 3, but not 2 - It is valid.

If she did 2 & 3, but not 1, it is not valid, removal of the shoe is the most important.

If she did 2 & 3, but not 1, she is disqualified from yibum, but is not free to marry an outsider.

If she did 1 & 2, but not 3, R Elazar says it is not valid. R Akiva says it is valid.

Chalitzah is not valid if done:

- on a deaf mute man.
- a deaf mute woman.
- on a minor woman.
- a minor girl. She must perform it again when she becomes an adult.

**רַבָּה דְּעָסַק בִּתְוֵרָה חָיָה אַרְבָּעִין שָׁנִין  
אֲבַיִי דְּעָסַק בִּתְוֵרָה וּבְגִמְלוֹת חֲסָדִים חָיָה שִׁיתֵּין שָׁנִין**

Rabbah, who engaged in Torah, study lived 40 years. Abaye, who engaged in Torah study and did acts of kindness, lived 60 years.

So, if you are busy with the study of Torah and an opportunity to do kindness presents itself, you should interrupt your Torah study and do the good deed.

Rambam (Hil Talmud Torah 5:3&4) - Talmud Torah is equal to all other mitzvahs. One should not interrupt his studies for another mitzvah, unless it is a mitzvah that cannot be done by another person.

However, if you are the leader of a generation, such as Abaye and your example will generate even more chesed from the community, it is allowed. In fact, you are rewarded for interrupting your Torah study to do chesed.

הַמִּתְפַּלֵּל צָרִיךְ שִׁיתֵּן עֵינָיו לְמַטָּה וְלִבּוֹ לְמַעְלָה

One who prays should direct his eyes downward (toward Eretz Israel) and his heart upward, toward heaven.

One must banish from his heart worldly thoughts and consider himself to be in heaven.

The Chassidim would practice this: meditate and concentrate until they reached a high level.

We learn that a Tzaddik must turn his eyes down to the common people, to concern himself with their problems, but also look upward, to help raise them from their mundane life, to higher levels,

## חֲלוּץ לָהּ עַל מִנָּת שְׁתַּתֵּן לָךְ מֵאֲתִים זָוָז

Perform chalitzah with her on the condition that she pay you 200 zuz.

Rav Pappas wife's sister's husband died childless and his brother refused to give her chalitzah. Payment was advised as opposed to using coercion. He did the chalitzah and requested his money.

Rashi – Even if she would not give him the money, the chalitzah is valid.

Rav Pappa agrees: A man fleeing from danger offers an uncooperative ferryman a large amount of money to take him to safety. When they reach the other side, he is obligated only to pay the usual amount.

This is so, because the ferryman has an obligation to save him. The yevam has a similar duty to free her via chalitzah, since he loses nothing by doing so, she is not bound by her promise to pay money. Also, for a patient who needs expensive medicine or the services of a doctor, the patient may promise and after the treatment, not pay the exorbitant fee and only pay for the time and inconvenience of the doctor.

Rambam says no: In the case of a doctor, you are paying for his wisdom, not merely his time. Therefore, you must pay whatever was agreed upon.

## הָרִי שֶׁהָיָה בּוֹרַח מִבֵּית הָאֲסוּרִין וְהִיתָה מַעֲבָרָא לְפָנָיו

There was a person fleeing from prison and there was a ferryman before him.

1. A ferryman who charges an escaped convict exorbitantly.
2. A pharmacist who charges a sick patient exorbitantly.
3. A doctor who charges a sick patient exorbitantly.

May be paid only-

1. & 2.-the usual and customary fee
- 3.-the fee agreed upon

The persons acquiescence was under duress. Therefore, all three should be reduced to usual and customary.

However, physicians don't have a usual and customary fee. Therefore, he can charge what is agreed to and that must be paid.- Rambam

Others say, no. All are obligated to treat a person in trouble and therefore. can't charge a lot, especially if no one else is available.

Another consideration; If we do not authorize him to collect the fee he charged, it may close the door to other patients in need.



**כּוֹפִין אוֹתוֹ עַד שֶׁיאֲמַר רוֹצֶה אֲנִי**

We coerce him until he says he is willing to fulfill the mitzvah.

The ability to coerce a person to do a mitzvah is not limited (i.e., to giving a get). This principle applies to all mitzvahs (or to give an olah offering) until he says, “I am willing”. Is being forced really ‘willing’? (Read N34 and N36 Rambam Hil Geirushin 2:20).

## מִצְוַת חֲלִיצָה

### The mitzvah of chalitzah.

The order of the chalitzah procedure:

1. “His city” (Deut 25:8)-The Yevamah must go to his city, unless he wishes to make it easier for her and go to her city.
2. Both go to court.
3. Court advises him. If there is a big difference in ages, he should do chalitzah.
4. They exchange statements of refusal in Hebrew, exactly as written in the Torah (Deut 25:5 and 10).
5. She approaches him with the elders looking and removes his shoe and spits before him; the elders must see her spittle.

She recites (A). He recites. (B) She removes his shoe, she spits. She recites again (C).

- A. My yevam refuses
- B. I do not want to marry her
- C. So shall be done to the man

Bais Shammai says

**בֵּית שַׁמַּי אוֹמְרִים**

Torah Law- A father may marry off his minor daughter (Deut 22:16). It is considered a full marriage and can only be terminated by ‘get’ or death.

Rabbis - A minor girl, whose father died, may be married off by her mother or adult brothers. This is so as not to have orphaned girls exploited for promiscuous purposes.

Rabbis - However, if the girl is married off by her mother, the girl may annul the marriage before she reaches puberty. It is annulled retroactively, from its inception and no ‘get’ is needed.

If, in the first case, she becomes divorced or widowed while still a minor, she cannot be married off again. A new marriage requires her consent. However, she can refuse, even though her father is still alive. She is called “an orphan during her father’s lifetime”, because her marital status is the same as an orphan’s. If she annuls the marriage, it is called ‘mi’en’, “refusal”.

## בֵּית שַׁמַּי אוֹמְרִים

### Bais Shamai says

Mishnah #13 - Five disputes between Bais Shammai and Bais Hillel

Marriage has 2 steps- 1. Kiddushin (or Erusin) – a couple is married but not yet permitted to engage in conjugal relations 2. Nisuin – which permits them to engage in conjugal relations.

1. Bais Shammai- Mi'en can only be done during the period of Erusin.  
Bais Hillel- Mi'en can be done even for a nesuos (fully married girl).
2. Bais Shammai- Mi'en can be directed only toward the husband but not yavam.  
Bais Hillel –It can be directed towards both, thereby uprooting her zikah to the brothers and she may marry someone else without chalitzah.
3. Bais Shammai- Mi'en can only be done in the husband's presence.  
Bais Hillel- Even not in his presence.
4. Bais Shammai- Mi'en must be performed in court (It is a procedure of refusal like chalitzah which needs a court of three).
5. Bais Hillel-In court or out of court, it does not matter.
6. Bais Hillel- Mi'en can be done multiple times and she may marry again and again.
7. Bais Shammai- Mi'en – only once, then she must wait for marriage until she is an adult and as an adult, do mi'en again, before she can marry anyone else.

## שְׂאִין אָדָם עוֹשֶׂה בְּעִילָתוֹ בְּעִילָת זָנוּת

A person does not wish his cohabitation to be deemed promiscuous (a non-marital cohabitation).

Therefore, if it is done before witnesses, it is considered an intention to effect Kiddushin.

For example:

- A man gives a woman a gift worth less than a perutah and cohabits. It is insufficient money, but nonetheless, causes Kiddushin.
- A man gives his wife a 'get'. They are divorced and then he has relations with her. She needs another 'get' before marrying another man. Since no man wants his cohabitation to be viewed as promiscuous, it must have been done for purposes of Kiddushin.
- This is the case with every cohabitation that is witnessed. The two people are considered married and need a 'get'. Some say this is so. Others say, (Rambam) no, this principle is in force only for one's wife. Others who say yes, exclude the act as being for marriage purposes. If there was a history of promiscuity, or the man is married, then we don't conclude it was for Kiddushin but mere promiscuity.

## Daf Digest

**וְהָלֹא פִישׁוֹן הִגְמִיל מִיֵּאָנָה אִשְׁתּוֹ שְׁלֹא בְּפָנָיו**

A proof was brought from the case of Pishon, the camel driver, whose minor wife did mi'en, but not in his presence ( and that was acceptable).

However, Pishon had dealt treacherously with his wife. He was depleting his wife's "melog" property. Property of which he was allowed to use the interest or profit, but not the principle. It is as if he measured with a cup, that had an indented bottom. Since he did not follow the law, we also do not follow the law and we allow his wife to perform mi'en, without his being present, even though this is not the usually accepted way.

We have a similar case: A Kohen married a divorced woman and lived with her for years, in violation of the law. He wanted to divorce her, but she refused and moved away to America. He came to the Rabbis for help. Apparently, they could have decided that he had satisfied his requirements to divorce her and declare him divorced. Or the Rabbis could require him to obtain 100 signatures from 100 qualified Rabbis who would state that he is divorced. This needed to be done in order to circumvent the cherim of Rabbeinu Gershom and be able to marry another woman. The Imrei David ruled – Give no leniency to a person who violates the law. Just as in the case of Pishon, Bais Din should be strict with a person who acts improperly, or on purpose.

## אִי זֶה הֵיא קְטָנָה שְׁצָרִיכָה לְמֵאֵן

Which minor wife has the obligation to refuse (her husband before remarrying another man)?

One who was married off by her mother or her brothers, with her consent, but if she was married without her consent, she does not need to refuse further for the marriage to be nullified.

One who is not mature enough to safeguard her engagement ring, does not need to refuse the marriage, because her betrothal is not valid.

When is a minor, who is married, permitted to eat terumah?

- A Yisroel's daughter, married to a Kohen, may not eat terumah.
- A Kohen's daughter, married to a Yisroel, may eat terumah.

This is due to the fact that the Rabbis do not fully recognize this marriage. So her status remains as it was prior to her living with this man.

## כָּל תִּינוּקָת שְׂאִינָה יְכוּלָה לְשָׁמֹר קִדּוּשֶׁיהָ

A girl not capable of safeguarding her betrothal object.

If she realized the object was for the purpose of marriage, she needs mi'en.  
However, if she did not realize, she can merely walk away from him.

Rambam says that if she is younger than 6 years old, she could not understand.

-between 6-10 years she might understand.

-above the age of 10 years, we assume that she does understand.

Therefore, even if she is younger than 6 years old and she understands, no mi'en is needed. Even if she is over 10 years old and she does not understand, mi'en is needed.

Raavad-Mi'en is needed at any age, so that she truly understands that the object was for the purpose of marriage.



## אֵי זָהוּ מִיֵּאֵן

### What is mi'en?

A minor, married off by her family, is permitted to reject that husband by saying mi'en, "I regret", without a 'get'.

She is considered a minor until she physically matures or has a child.  
Then she may not exercise the option of mi'en.

Mi'en can be expressed in several ways:

- She states explicitly, "I do not want to remain with him."
- Or she has no interest in the Kiddushin arranged by others. Or she accepts Kiddushin from another man. This constitutes mi'en, even if she does not articulate her rejection.

## הַמִּמְאֵנֶת בְּאִישׁ הוּא מוֹתֵר בְּקִרְבּוֹתֶיהָ

A minor girl, given into marriage by her father or family, who refuses her husband, is allowed to marry his relatives and he may marry her relatives. She is also permitted to marry a Kohen. Mi'en, retroactively dissolves the marriage, as though it did not occur.

However, any marriage she leaves with a 'get', triggers these restrictions.

Any man to whom she did mi'en, she may return to marry, even if she married another man and divorced him. She can return to the original man, whom she rejected, by mi'en. "Mi'en" means it did not happen!

Even if a minor receives a get, she may declare mi'en and the 'get' has no validity, because the first marriage was annulled and is considered as if it never took place. A 'get' given to a minor has no validity.

## הַמְּגֵרֶשׁ אֶת הָאִשָּׁה וְהַחֲזִירָהּ מִתְּרֵת לַיָּבָם

If one divorces a woman, remarries her (and he dies childless), she is permitted to the yavam.

We might question whether she qualifies for yibum, in that during her relationship, she was, for a period of time not in a yibum setting and in fact, as a divorced wife, she is prohibited to the brother, an Ervah. Later, after she remarries the brother and he dies childless, yibum is permitted.

## שְׁנֵי אֲחִין נְשׁוּאִין לְשֵׁתִי אֲחִיּוֹת קָטָנוֹת

Two brothers, married to two, orphaned, minor sisters.

One husband dies childless. The one whose husband died, is discharged without yibum or chalitzah, because she is a wife's sister and the marriages were only Rabbinic, having been given in marriage by their mother-in-law or brother and not Biblical.

Likewise, in the case of 2 sisters who were deaf mutes. The maximum ages of minors or deaf mutes are not valid biblically, but are only recognized Rabbinically (see 112b), they are released from the Rabbinically required yibum or chalitzah.

However, if one sister was an adult and her husband died, she requires yibum from the husband of the minor sister.

There are three choices

1. We instruct the minor to refuse (mi'en) her husband. Then he can perform yibum with the adult sister. We don't encourage mi'en, except to perform a mitzvah, but only if she does mi'en of her own accord.
2. Wait until the minor reaches adulthood. Then she is married Biblically and he can exercise his yibum obligation by giving her (his wife's sister) chalitzah.
3. Give the minor wife a 'get' and do chalitzah with his dead brother's wife.

## הַכּוֹנֵס אֶת יְבִמָּתוֹ לְשֵׁם נָוִי

“One who marries his Yevamah because of her beauty”

or other considerations, i.e., wealth or status in life, rather than merely fulfilling the mitzvah, it is as though he violated an Eruv prohibition.

What are the parameters of this injunction?

Poskim debate and conclude that if he directed his thoughts to these other matters, but also intends to fulfill the mitzvah, it is acceptable.

Three cases:

- Pure mitzvah – acceptable.
- Pure, non-mitzvah, i.e., not acceptable- due to ulterior, selfish motives.
- Mixed – is permitted, but it is preferable to do chalitzah.

It is not realistic to think that people who marry out of some self-serving motive, are doing something improper. Also regarding yibum, we can use the same criteria.

אֵלֶּא כֹּל הָאוֹמֵר אֵין לוֹ אֶלֶּא תוֹרָה  
אֵלֶּא דְּאִפִּילוּ תוֹרָה אֵין לוֹ

Whoever says he has only an interest in the study of Torah, he receives no reward,  
even for the study of Torah.

This also can relate to a person who follows the dicta of the Torah, carefully without thought and therefore, is more a slave to the Torah, than a willing adherent of it.

This can also relate to a person who acquires only theoretical knowledge of the Torah, without being motivated or inspired by it.

Rav Aaron Soloveitchik-Progress in Torah education means achievement in theoretical knowledge, intertwined with practice, molding of character and elevation of spiritual and ethical values.

## וְלִמְדָתָם וְעֲשִׂיתָם

You shall learn and you shall perform.

Whoever is in the category of performing the mitzvahs of the Torah, is in the category of learning, i.e., he is rewarded for the Torah he learns also.

Whoever is not in the category of performing the mitzvahs, does not even get the reward for learning.

Compare to (Vayikra 26:3), ‘If you go (walk) in the way of my mitzvahs’, means the following:

Consider this scenario: People learn together in a yeshiva for years. Later, they leave to continue their lives, i.e., they go out on their own in the world at large. It is then, that they have the opportunity to demonstrate that ‘they go in the way of the mitzvahs’. We prepare ourselves with learning and show we have incorporated that knowledge when we ‘go out into the world’.

הוּא עָשָׂה שְׁלֹא בַּהוֹגֵן לְפִיכָךְ עָשׂוּ בּוֹ שְׁלֹא בַּהוֹגֵן

He acted improperly, therefore, we deal with him improperly.

An engaged, minor orphan was snatched by a second man and betrothed her to himself.

Due to the improper action of the second man, the Chachamin penalize him by uprooting his Kiddushin, rather than the first betrothed, “midah keneged midah”.

To take a Jew to a non-Jewish court without permission of Beis Din is a very heinous crime. Anyone who does so is not permitted to be a ‘shaliach tzibur’ for the yomim noraim (see Mishneh Berura 53:82). There is a case where witnesses, on the orders of Bais Din, testified that the guilty party was actually innocent, in order to punish the person who took the case to non-Jewish courts.



## מִי שֶׁהָיָה נָשׁוּי לְשְׁתֵּי יְתוּמוֹת קְטָנוֹת

If one was married to two orphaned, female, minors.

This discusses different cases regarding a man who is married to 2 women and whether the yibum or chalitzah with one, releases the other wife from their zikah.

- 2 orphaned female minors- A
- 2 female deaf mutes- A
- 1 orphaned minor and one deaf mute- B
- 1 mentally competent and one deaf mute- C/ D
- 1 adult and one orphaned minor- E/F

- A cohabitation or chalitzah with one, releases the other
- B cohabitation or chalitzah with one, does not release the other
- C cohabitation or chalitzah with the mentally competent releases the other
- D cohabitation or chalitzah with the mentally incompetent deaf mute does not release the mentally competent
- E cohabitation or chalitzah with the adult releases the other
- F cohabitation or chalitzah with the orphaned minor does not release the other (adult)

## לְאַחַר שְׁלֹשִׁים יוֹם מִבְּקָשֵׁינוּ הַיָּמָנוּ שְׂיַחֲלוּץ לָהּ

If thirty days have passed, we request of him that he perform chalitzah with her.

Is Chalitzah a wrong thing to do?

The system of yevam was set up to perpetuate the name of the dead brother. Is it wrong to refuse and perform chalitzah instead?

The Torah allows for chalitzah. If it was dangerous or wrong, the Torah would not permit it and in fact, urge it. When Bais Din believes it is inappropriate to do yibum, then chalitzah is an appropriate alternative. Since it is permitted by the Torah and a woman may not marry without it, it, too, is a mitzvah and should not be considered inferior to taking the woman as a yibum.

אָמַר קָרָא „כִּי־יֵשְׁבוּ אֲחִים יַחְדָּו”

The Torah says, “the brothers sitting (living) together.

A woman enters into yibum with a brother in law who was a ‘mumar’, “a denier of the faith”. He is not considered a spiritual brother to his dead brother.

Just as you may lend money and charge interest to a non-Jew, who obviously is not your brother, so also you may charge interest to a mumar. That is proof that he is not considered a brother, to whom yibum is appropriate.

What is the rule if he repents later? It is too late. He must be able to do yibum at the time she enters into that state.

Terumos Hadesan says- No. The two references to ‘brother’ are different.

‘Lending’ clearly means a spiritual brother, yibum means a biological brother.

אָמַר קָרָא,, כִּי-יֵשְׁבוּ אֲחִים יַחְדָּו''

And the Torah says, “The brothers sitting (living) together.”

The Mishneh discusses a minor who has relations with his adult Yevamah. Can this really happen? The purpose of yibum is to establish a name for his brother (Dev 25:7) and this cannot be done by a minor who cannot beget children!

However, if the brothers are both alive, i.e., “in this world” together, even if the surviving brother was only 1 day old when the married brother died, Yibum must be done by the infant when he grows up.

Therefore, we see a minor is not disqualified.

## חֵרֵשׁ שִׁנְשָׂא פְקָחַת וּפְקָח שִׁנְשָׂא חֵרֵשׁ

A deaf mute, who married a woman with all her faculties or a man who is mentally competent, who married a deaf mute.

Definition of a deaf mute:

Rambam says- The deaf mute mentioned, refers to mutes who neither hear nor speak. However, one who does either, is not a deaf mute, but is considered like any other person. A person who can do neither, is considered lacking in ‘daas’, not being “mentally competent” .

A person who was born deaf could never learn to speak, because he could not hear others speaking. That is why he is called deaf. Since his inability to speak is due to the fact that he is deaf and is therefore, mute.

One who became deaf later in life knows to speak and is only deaf, not mute.

שְׁנֵי אֲחִין אֶחָד חֵרֵשׁ וְאֶחָד פֶּקֶחַ נִשְׁוּאִין לְשֵׁתִי  
אֲחִיות פְּקָחוֹת

Two brothers, one a deaf mute and the other competent, married to two competent sisters.

There was a case of two deaf, mute brothers who were married to normal women and one brother died. The remaining brother, as a deaf mute, cannot have 'daas'. Therefore, he can't give chalitzah and she is stuck. This problem was brought to a Rabbi. He gave the brother a task to go to a store and buy several items for him. By showing that the brother could make a purchase and calculate the change, he is considered to have 'daas' and to be mentally competent. Therefore, he may give chalitzah.

וְהִתּוּרֵם אֶת שְׂאִינוֹ שְׁלוֹ

One who separates terumah from grain that is not his.

Such a separation of terumah is not effective, unless it is with the consent of the owner.

Why is it not effective? Because if the owner is not pleased, he may reject the separation of terumah done on his behalf. Therefore, the separation is only conditional and a bracha cannot be said on it.

Furthermore, the owner of the grain does not fulfill the mitzvah of terumah, if his friends separate it on his behalf.

## יִצְתָּהּ זֶה שֶׁאֵין לָהּ יָד לְגֵרֶשׁ עֲצֻמָּה

Excluded is this woman who does not have a “hand” to accept the divorce document herself.

A wife who is incompetent cannot be divorced.

The divorce document must be given into her hand, i.e., received by her. However, if she cannot comprehend the significance of the document, she cannot be divorced.

This is only true if she has no father. If she does have a father, the divorce will be effective, because the father of the insane woman will understand the significance of the document. He will prevent her from returning to her ex-husband’s house. (Rabbienu Tam)



## Daf Digest

לֹא תֵאָכְלוּם לְהַזְהִיר הַגְּדוֹלִים עַל הַקְּטָנִים

You shall not cause others to eat them (and it comes) to warn adults with regards to minors.

This admonition against giving children forbidden things to eat, i.e., dead animals, crawling animals or terumah, (if he is not a Kohen's child or a Kohen's slave) it is extended to include giving an infant food on Yom Kippur, since eating food on Yom Kippur is forbidden, say those who are strict.

Rav Ovadiah Yosef teaches that certain items are inherently prohibited, like bugs and sheratzim and would always be prohibited. However, food on Yom Kippur is only prohibited as a matter of timing. Therefore, we can and should feed children on Yom Kippur.

## לֹא תֹאכִילוֹם לְהִזְהִיר הַגְּדוֹלִים עַל הַקְּטָנִים

You shall not cause others to eat them (and it comes) to warn adults with regards to minors.

Minors are exempt from doing mitzvahs, however, an adult is forbidden to feed children non-kosher food or cause a minor to commit a forbidden act. An irrational person is treated much like a minor.

Is it permissible to provide therapy for a Sotah or schooling for a minor which involve acts that constitute transgressions? May such persons be institutionalized or sent away to school where, for example, kosher food is not available.

The child or patient is not under any restriction because of mental incompetence, but may others put him in such a situation where he will do acts proscribed by Jewish law?

Chasam Sofer – It is permissible to send a child away for treatment. Since the patients are not giving him non-kosher food, merely allowing school authorities to do so.

In fact, even a Jew may feed a child non-kosher food, if a cure could result and the child would be capable of fulfilling mitzvahs when reaching maturity.

(continue on next page)

## לֹא תֹאכִילוֹם לְהִזְהִיר הַגְּדוֹלִים עַל הַקְּטָנִים

You shall not cause others to eat them (and it comes) to warn adults with regards to minors.

In the case of a mental patient, who has been diagnosed as incurable, such a person may be committed to a mental institution where he will be given non- kosher food.

There is nothing to fear. If indeed he is incurable, he will never be in a position to transgress. A person who is exempt from mitzvahs is not obligated to seek ways and means by which to become obligated to fulfill them.

If by chance, the person judged to be incurable is, in fact, cured, such a cure can only be a miracle. In such circumstances one need not fear that the patient would be adversely affected.

God does not perform an imperfect miracle.

## לֹא תֵאָכִילוֹם לְהִזְהִיר הַגְּדוֹלִים עַל הַקְּטָנִים

(continued)

Why is she not believed in war time, when so many people are dying?

It is logical to believe he died, yet she is only believed in peacetime??

She is not believed in time of war or turmoil, because her word is suspect and we question its accuracy. Though she might have seen her husband severely wounded, she might have had to flee to save herself and had not actually seen him die, but only assumed and believed he had died.

In peace time, she would not have left her husband's side without seeing the outcome of his crisis. The fact that so many people die in war time, permits her to assume the conclusion and present it as a fact. Though she did not actually see it happen in front of her own eyes

Rava suggests that she should not be believed unless she buried him.

## הָאִשָּׁה שֶׁהָלַכָה הִיא וּבְעָלָהּ לְמִדְיָנָת הַיָּם

If a woman went overseas with her husband and she returns saying, “My husband died.”

When is a woman believed when she testifies that her husband died?

She is to be believed when they were overseas and there was:

- Peace between them and peace in the world.
- Her husband has a brother and she has no children.
- She comes weeping with her garments torn.

But she is not to be believed, if:

- There was peace between them, but war in the world.
- There was no peace between them, but peace in the world.

To say my husband gave me a divorce, requires 2 witnesses or the display of the ‘get’.

To say my husband died, requires no witnesses, only her statement - Why?

The first cannot be disproven, he could say one thing and she another.

The second is fully contradicted if the husband appears alive. A person is not likely to say an untruth that can be definitively proven false.

(continue on next page)

## Daf Digest

**אִי נִמִּי לְפִנְחִיָּא שְׁבִיקָהּ**

Alternately he might have left the mark on the barrel for security.

A man sent matzos overseas. He wrote ‘fragile’ on the container, but they came broken. Next year, he wrote ‘glass’ on the container and they came unbroken.

Is a person permitted to lie in writing, to misrepresent the truth, to fool people in order to safeguard an object?

Rav Eliashiv - Yes.

Rav Kanievsky - It is common practice.

Dayan Yaakov Yisroel Fisher - The container previously contained glass and was merely being used again without changing the mark. He did a form of ‘shev v’al taaseh’, he was “passive”, he let it sit and did not act.

Another idea - It merely says the word ‘glass’. It does not say the contents are glass!

Rebbe of Tolodos Aharon suggests we write - ‘Handle like glass’.

## הָהִיא דְּאַתְיָא לְבִי דִּינָא דְּרַבִּי יְהוּדָה

A woman came to testify to the court of R Yehudah.

There is a severe admonition in the Torah not to cause pain to a widow or an orphan (Shemos 22:21-23). Once a widow wanted her son to be admitted to a school and an interview with the Rosh Yeshiva was required. Her friends were divided as to whether they should advise her to plead, even to the extent of crying before him, to appeal to his sympathy to her needs. They justified their suggestion based on this passage in the Gemara.

A woman is believed as to the death of her husband, if she comes weeping, rends her garments and presents herself with disheveled hair before Bais Din. Rabbis advised a woman to do so, to convince R Yehudah that she should be permitted to remarry. We learn that it is permitted to advise a petitioner what the requirements might be to satisfy the court as to the truth of the your petition.

## בֵּית שַׁמַּי אוֹמְרִים תְּנַשָּׂא וְתִטּוֹל כְּתוּבָתָהּ

Bais Shammai says: (If a woman testifies that her husband died) she may remarry and collect her ketubah.

Bais Shammai- If a woman's own testimony is all we have that her husband died, she may remarry and collect her ketubah.

Bais Hillel -She may remarry, but not collect her ketubah.

Bais Shammai -You are permissive regarding a capital offense – Eruv, and strict regarding a monetary offense. The theft of money

Bais Hillel -Even you, Bais Shammai, agree that unless a brother performs yibum, he would not get the money of the dead brother's estate. So just as money is not transferred in that case without two witnesses, so too here, the money of her ketubah is not transferred without two witnesses.

Bais Shammai -But the language of the ketubah entitles her to the ketubah money, once she is entitled to remarry, so that money should go to her. The money to the brothers is not mentioned in the ketubah and therefore, does not transfer.

Bais Hillel -Changed its position and was convinced by Bais Shammai's arguments. The brothers must wait until there are two witnesses to testify to their brother's death.



## **בְּמַיִם הַפָּנִים לַפָּנִים,,**

As water reflects back one's face (so too does the heart of one person reflect another's).

Rav Yehudah learns from this that what you put into a task will be reflected in what you get back. The effort you put into study, will result in the success and understanding you achieve in your studies from that effort.

Also a teacher who teaches with a pleasant face and with true interest in the student, will nourish a reciprocal response from the student.

This is a very encouraging thought. That it is in our hands. Those who achieve success do not do so by luck, superhuman qualities, or by being a genius. In the main, success in any endeavor relates to how much effort you put in. You are in control. The God given aspect is that He has endowed us all with the capacity to excel. The greater our effort, the more He will help us. This is called 'siyatta d'shmaya'.

**בַּמַּיִם הַפְּנִיִּים לַפְּנִיִּים,,**

As water reflects back one's face.

The feeling is mutual. Feelings are reciprocal.

-A mother in law hates her daughter in law because, she says, “She (the daughter in law) will consume my toil.”

-A step daughter hates her stepmother because she says, “She (the stepmother) will consume the toil of my mother.”

Why would a step mother hate her step daughter?

Because as water reflects a face to a face, if you smile into the water, you will see a smile in return. If you frown, a frown is reflected back to you, so the heart of man to man.

The hatred one has for the other, is reflected back to the hater, by the other person.

## בְּלִי מָקוֹם שֶׁהָאִמִּינָה תוֹרָה עַד אֶחָד

Whenever the Torah believes one witness,  
it is as if he was two.

Mishneh says that if a single witness testifies that a husband died, the wife may remarry based on this information.

If another witness comes and testifies that the husband did not die:

- The woman need not leave the second husband.
- If she did not marry yet, she should not.
- If she did not marry yet, she may still do so – once.

She is permitted. It is as though the one witness was two and one witness cannot change that designation.

- Rambam 1 = 2 he is given full trust
- Rambam - If the first single witness is a woman, she is not trusted like two. If a conflicting witness comes and if the woman did re-marry, she must leave her second husband.

## בְּלִי מְקוֹם שֶׁהָאִמִּינָה תוֹרָה עַד אַחֵד

(continued from previous page)

Others say she should not re-marry if she has not already done so out of concern for the appearance of impropriety. Though it is not prohibited for the woman to re-marry.

Tosophos and others say it is prohibited for her to remarry, once a single witness testifies that the husband is still alive, if she has not yet remarried. Why? Because the single witness, who comes to say the husband died, is believed with the additional strength of the presumption, that the wife, also, thoroughly investigated the matter. If she is not yet married, this presumption is not fully established and the single witness does not have the power of two witnesses.

## נִיתֵן לִי בֶן בְּמַדִּינַת הַיָּם מֵת בְּנִי וְאַחֵר כָּךְ בַּעֲלִי נֶאֱמָנָה

If she says, “I had a son overseas who died and then my husband died”, we believe her (and allow her to marry the yavam).

Why do we believe her without any witnesses? Because no one knows about the child. Had she not told us, she would have automatically gone to the yavam. This is called a ‘migu’, a “legal strength of credibility” based upon the person having the option of remaining silent had they wished to be deceptive. It can also come under the principle of “the mouth that restricts is the mouth that permits”.

Rashi questions - Why should she be believed? The presumption should be that she has a child, since most married woman do have a child. She has to migu, for had she said nothing, she would be prohibited to the yavam and permitted to marry at large.

Not in this case. She left without a child and returned without a child. Though most married women have a child, we should not impose on her the status of having had a child in the interim. Her status going and returning, is her status without new presumption.

## קִידַּשׁ אֶחָת מֵחֲמִשׁ נָשִׁים

He betrothed one woman out of five.

A person must cover all possibilities to extricate himself from sin.

He betrothed one women out of 5 and does not know which one he betrothed and each claims to be the one.

He borrowed from one man out of 5 and does not know which one and each claims to be the one.

He must give a ‘get’ and the ketubah payment to each.

He must pay the debt to each of the men.

## וְאִין הָאִישׁ נֶאֱמָן לומר מֵת אָחִי שְׂיִבֻם אִשְׁתּוֹ

And a man is not believed to say “my brother died”, so that he should do yibum with his (brother’s) wife.

He is not believed because his statement included that he will do yibum with his brother’s wife.

It appears that he is looking for a way to marry his brother’s wife.

This would be permitted if:

- He does not mention yibum.
- He mentions that he will do chalitzah with her.
- He is already married.

This is similar to an earlier ruling that a single witness is not permitted to marry the widow unless he was married at the time of his testimony;

## הִיָּתָה לָהּ חֻמוֹת

A woman had a mother-in-law.

May the pregnant wife of a Kohen enter a room which contains a corpse?

A woman has a pregnant mother-in-law, who has only this one son, who goes overseas and dies. Does she have to worry that the mother-in-law might have a son, for whom she must wait for yibum? - No. Why? If a son was born and she knew it, she would have to wait, but this situation constitutes a double doubt. The baby may not be born alive and if born alive, it may not be a boy child. Therefore, she may proceed and marry another.

The same principle pertains to our question. The Kohen's pregnant wife's baby may not be born viable (a miscarriage) or it might be a girl, i.e., a double doubt. Therefore, she may enter the room since for a girl-child, 'tumah' for Kohanim does not pertain.



## שְׁתֵּי יָבֻמוֹת

### Wives, of two brothers,

returned from overseas and each said my husband died.

A woman is permitted to be a single witness that her husband died. She is released from her marital bond but is still bound by her yibum obligation.

She will go to her yibum, but her testimony that her husband died is not sufficient to release her sister-in-law from her obligation of being bound for yibum, (read N 25 & 26 ) because the testimony of a sister-in-law cannot be relied upon (see Mishneh 117a).

Neither sister-in-law can marry a stranger, if the two brothers, who died, have other brothers.

If the second set of two brothers died. Neither wife may marry a stranger, because we still have the question, ‘Did the first set of brothers actually die?’

The testimony of one witness is sufficient for yibum but not for re-marriage to a stranger.

אֵין מְעִידִין עִם הַחוּטָם אֶלָּא עַל פְּרָצוֹף פָּנִים עִם הַחוּטָם

We may not testify (that we know a person is dead), unless we identify his face or identify his garments.

An unrecognizable corpse was found wearing the same clothing as the husband of an ‘agunah’, “a divorced woman who has no ‘get’”. It is not enough to judge that her husband is dead and permit her to marry. Perhaps the corpse is actually someone else who borrowed the husband’s clothes. Unless the husband had an usual piece of clothing. If so, we doubt that he would lend it to anyone else and that it should be considered conclusive proof that the husband is dead.

Note: Joseph HaTzaddik’s coat: When Yaakov saw Joseph’s coat bloodied and torn, he concluded that Joseph was slain.

How is this a satisfactory proof of Joseph’s death? He was actually alive!!

It is, however, sufficient proof, though there might occur an exception outside the natural order of things.

## אַף עַל הַמְּגוּיִיד אֵין מְעִידִין מִפְּנֵי שֶׁיָּכוֹל לִכְוֹת וְלַחֲיֹת

One may not testify that a person who was shot, has suffered a deadly wound, because the wound can be cauterized and then heal.

One may assume the sword was not hot and did not cauterize and is therefore, a deadly wound. Unless the wound was inflicted by the government, which has an interest in keeping the victim alive, as an example to deter others from similar crimes. The government uses hot swords to cauterize!

Bullets, grenades, missiles, do they cauterize? No

Their temperature is not hot enough, 80 degrees Celsius

= 80 degrees Centigrade

= 175 degrees Fahrenheit

## נָפַל לַמַּיִם

### A man fell into water.

The law regarding a man, who is presumed to have drowned, after falling into water.

-If he fell into water and was not seen emerging. His wife is forbidden to remarry, because there was a case where a man fell into a large cistern and emerged after 3 days.

-A blind man immersed himself in a cave and was underwater for longer than it takes to drown. All banks of the bathing area were visible to the observer.

He is presumed dead and his wife may re-marry,

-A man submerges into water and later all that is found is his severed leg.

If it is severed above the knee, he is dead. She may re-marry. If severed below the knee, she may not. Because if his leg is severed below the knee, it may not be fatal and we fear that he might have been swept to a distant shore, is still alive and was healed of his wound.

(121b5 N45) - In all these cases, the Torah allows one to rely on the “the rule of majorities”. Since it is a fact that the majority of people who disappear in “water without end”, do indeed drown, if the wife should remarry, we permit her to stay with the new husband.

דַּף שֶׁל סְפִינָה נִדְמָן לִי

A board from a ship presented itself to me.

R Akiva said, “I found a daf (a board) of a ship and grabbed onto it and I was saved”. And “every time a wave came I bowed my head and I let it run over me”.

Rav Meir Shapiro of Lublin quotes this passage. He instituted the daily daf study cycle the Daf Yomi. The daf of Yevamos 121a, can be considered metaphorically, ‘The daf’. The page of Gemara keeps us afloat in the sea of Torah. It prevents us from being overwhelmed by the ‘waves’ of trials and tribulations of life. The ‘daf’ will save us. Hold onto the ‘daf’ no matter what stormy weather swirls around us.

We can also learn that when you encounter wickedness, let it pass. Wickedness will eventually learn that it can’t overcome you.

וְבַעֲוֹבֵד כּוֹכָבִים אִם הָיָה מִתְכַּוֵּין אֵין עֲדוּתוֹ עֲדוּת

And an idol worshipper, who intends to testify, his testimony is not accepted.

Unless it is transmitted inadvertently and he gets no benefit, i.e., he did not lie to instill fear in the Jewish community.

Can we believe government records? Such as government records that a husband died:

A case: Government records state that a soldier died in a hospital far away. Can this free an agunah? Some say, no.

The government has an interest in obscuring the number of soldiers who go AWOL. The government would rather lie and say that they died, than admit the truth.

Anytime there is a reason or an incentive for the government to lie, we do not believe their claim, even if there are government documents to support it.

## Daf Digest

## מְעִידִין לְאֹר הַיָּר וּלְאֹר הַלְבָנָה

Witnesses may testify by lamplight or moonlight.

Refers to a series of circumstances similar to a Mishneh (in Gittin 66a), categorized as a “time of danger”.

An unidentified person is heard shouting up from a pit, “I am so and so, whoever hears my voice should write a get and give it to my wife”. Whoever hears his voice may write and give the get to his wife. Even though it was never verified that the voice in the pit belonged to the husband.

Our Mishneh:

Witnesses saw a man’s death by lamplight or moonlight.

-A voice was heard proclaiming her husband’s death.

-A voice from a mountain top, claiming her husband’s death and nobody was found.

-, “I so and so, have been bitten by a snake and am dying”, and nobody was found.

In all cases should the Rabbi’s permit the wife to remarry?

Arguments against: 1. Perhaps the voice was that of a co-wife or mother-in-law, who would like to see the wife marry with an in-valid get and then be prohibited to both husbands. 2. Or the voice of a demon.

Argument for: We cannot afford to be stringent and assume it was a jealous wife. This may be the only evidence we ever get to free his wife from being an agunah. We do accept it and permit her to remarry.

## אָמַר רַבִּי עֲקִיבָא בְּשִׁירְדְּתִי לְנֶהַרְדְּעָא לְעֵבֶר הַשָּׁנָה

R Akiva said, “When I went down to Nehardea to establish the leap year.”

Gives the history that R Akiva brought back to Israel from Nehardea, the ruling that a single witness can permit a woman to remarry. Learned from Nechemyah of Beis Deli and Rabban Gamliel, the elder, who taught it to him. Once that was learned and corroborated with an opinion in Israel of R Yehudah ben Bava, it became the law.

So one witness, who has personal knowledge, suffices.

It evolved to include:

- one witness quoting another witness (hearsay permitted).
- the testimony of a slave.
- the testimony of a woman. (Except the five who might hate her: mother-in-law, mother in-law's daughter, wife / step-daughter or a Canaanite maidservant).



## לְכַשְׁתָּהּ כְּפוֹנֵדָקִית נֶאֱמַנָה

When her testimony will be like the testimony of the innkeeper, she will be believed.

R Akiva does not agree that a single woman witness, suffices.

(Gemara 122b1 line 11 B7)

Do we interrogate the witness who testifies that the husband died?

Cross examination- requires that we inquire from each witness separately and question with seven questions, regarding date, hour, location, etc. (Deut 13:15).

Under Biblical law, we do cross examination and questioning, in both monetary and capital cases, because there should “be one law for you” (Lev 24:22) However, the Rabbis say monetary cases do not require cross examination and questioning. This is so that ‘you do not close the door in the face of borrowers’, since lenders will feel insecure if they have to go through these ordeals and they will refrain from lending money. Minor inconsistencies in their testimony may cause them to lose their money.

In the case of freeing a woman, we have money and her ketubah so we don’t do cross examination and questioning on that aspect, but you also have capital, the personal freedom of the woman, i.e., a capital case. Therefore, we should do cross examination and questioning in such a case.

No - The rabbi’s are lenient. They do not want permanent agunahs. They want the women to be free to marry other men and be happy.

## תְּלַמְּדֵי חֻכְמִים מְרַבִּים שְׁלוֹם בְּעוֹלָם

Torah scholars increase peace in the world.

R Elazar said, “For it is stated, do not read ‘banayich’, ‘your sons’, but read ‘bonayich’, ‘your builders’”.

Torah scholars build the world. This is learned from the extra word ‘banayich’,

Builders of the world means, by study or mitzvahs. Torah scholars-

1. strengthen the spiritual dimension of the world.
2. by teaching and learning, they strengthen the idea of solving problems by law, thereby avoiding war and strife. War destroys. Avoiding war adds to the building of the world.

Four tractates conclude with this teaching of R Elazar: Berachos, Nazir, Yevamos and Kereisos. The word ‘banayich’ forms are an acronym of those 4 tractates.

## תְּלִמְיָדֵי חֲכָמִים מְרַבִּים שְׁלוֹם בְּעוֹלָם

Torah scholars increase peace in the world.

What does this mean?

Should a Torah scholar spend the bulk of his time going from house to house making peace between husband and wife, or man and his neighbor?

- Because he is at peace with himself, he can be at peace with everyone.
- Unsatisfied people are contentious and always looking for a fight.

A Torah scholar is so filled with delight and fulfillment, that he never gets angry or holds a grudge. The mere fact that Torah scholars exist, is how they fill the world with peace.