A sandal belonging to an inhabitant of an idolatrous city is valid only if performed during the day; if a woman performs halitza at night her halitza is disqualified. This ruling is in accordance with Rabbi Elazar, as the Gemara’s conclusion notes that each of those who dispute him merely express an individual opinion (Rambam: Sefer Nashim, Hilkhot Yibbum 4:10; Shulhan Arukh, Even HaEzer 169:6 and Seder Halitza 19).

MISHNA
If a woman performed halitza at night, her halitza is valid, but Rabbi Elazar invalidates it. If she performed halitza on the left foot, her halitza is invalid, but Rabbi Elazar validates it.

GEMARA
Let us say that they disagree about this issue: One Sage, Rabbi Elazar, holds that we compare the halakhot governing monetary disputes, which category includes halitza, as halitza carries with it monetary ramifications and requires payment of the marriage contract to the yevamah, with the halakhot of leprosy. Just as leprosy cases are judged only during the day (see Leviticus 13:14), likewise, monetary cases may take place only during the day. And one Sage, the first tanna, holds that we do not compare monetary disputes with leprosy.

NOTES
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Rashi explains that this refers to a shoe made to be worn as part of a shroud for the deceased. Apparently, the reason it is unfit for halitza is not due to the prohibition against deriving benefit from shrouds, as it is not clear that one may not use items from which it is prohibited to derive benefit for the purpose of the mitzva of halitza. There is also no obligation to destroy such a shoe. Therefore, it seems that the only reason it is unfit for halitza is, as Rashi explains, that this sandal is not made for walking, and consequently it cannot be called a shoe (Meir Neftoah).

The Arukh LaRav offers an alternative understanding: Perhaps the Gemara is not referring to a dead man’s shoe, but rather a shoe that was made during an Elder’s lifetime for the purpose of dressing him in shoes in a dignified manner. Although there is no prohibition against deriving benefit from such a shoe, it too was not made for walking and is not classified as a shoe.
The Gemara responds: No, everyone holds that we do not compare monetary disputes with leprosy; for if we would compare them fully, then even delivering the verdict of the court case could not be done at night, but it is permitted to complete monetary judgments and deliver the verdict at night, provided the proceedings began during the day. And here, with respect to performing halitza at night they disagree about this issue: One Sage, Rabbi Elazar, holds that halitza is considered like the commencement of judgment of monetary cases, and one Sage, the first tanna, holds that halitza is considered like the verdict of a monetary judgment, and therefore it may also be conducted at night.

It is told: Rabba bar Hiyya Ketosfa’a, from Ctesiphon, conducted halitza using a slipper that was not made of leather, and he did so in private, as he was the only judge, and by night. Shmuel said disparagingly: How great is the power of this master who follows an individual opinion, as in his practice he relied on individual opinions that are not accepted as halakha. The Gemara asks: What is difficult for Shmuel about Rabba bar Hiyya’s actions? If it was the fact that he conducted halitza using a slipper, an unattributed opinion is taught in a baraita stating that this is valid. As the opinion is unattributed, this indicates that it is not the view of one individual, but rather the opinion of the majority. If it was the fact that he performed halitza at night, an unattributed opinion is taught in the mishna stating that it is valid as well.

Rather, it was difficult for him that Rabba bar Hiyya conducted halitza in private, as the sole judge: How could he do so in private, as that is taught only in accordance with an individual opinion, as we learned in a mishna: If she performed halitza before two or three judges and one of them is found to be a relative or disqualified, her halitza is invalid. And Rabbi Shimon and Rabbi Yoḥanan the Cobbler validate the judge who is not a relative or disqualified. If there are two judges who are not relatives, then they hold that the halitza is valid, as they validate a halitza performed before two judges. And an incident occurred involving one who performed halitza between him and her alone in prison, as there was no judge present at all, and the incident came before Rabbi Akiva and he validated it.

**NOTES**

Everyone holds that we do not compare monetary disputes with leprosy. This does not mean that there is no Sage that disagrees about this issue, as it explicitly states elsewhere (Sanhedrin 34b and Nidda 50a) that Rabbi Meir thinks that this comparison does exist. Rather, the Gemara wishes to say that with regard to the Sages who disagree in this mishna, both of them agree that with respect to halitza there is no biblical juxtaposition with which to compare monetary disputes and leprosy (Rashi).

Is halitza considered like the commencement of judgment? Rashi explains here that halitza is similar to a monetary court case because it has a clear monetary aspect; in that the woman receives the payment of her marriage contract after halitza. The Mordekhai adds that from Rashi’s commentary it would seem that the dispute here centers on whether to consider halitza as the beginning of judgment, as it merely gives the woman the option to collect her marriage contract, or to consider it as akin to the verdict of a monetary case, and thereby after halitza it is viewed as if the marriage contract had already been collected. However, the later commentaries challenged Rashi’s understanding and explained that halitza is considered a court case not due to its monetary ramifications; rather, it is considered a court case because it must be conducted before a convened court of three men, although the judges may be laymen. According to this understanding, although all agree that the requirement to perform halitza in front of three individuals renders this a court case, they disagree as to whether this halitza court should be compared to the beginning or the verdict of a monetary court case.

If it was a slipper, an unattributed opinion is taught. According to Tosafot, Shmuel was right to criticize the practice of Rabba Ketosfa’a even if it would be permitted after the fact, since the language of the baraita clearly indicates that it cannot be used ab initio. The Rashi, however, writes that the fact that the baraita is stated in past tense does not necessarily indicate it is permitted after the fact, since the baraita may very well be indicating that it is prohibited even after the fact, but it was presented in this manner so as to maintain textual uniformity with the first clause of the baraita.
It was taught in the mishna that if halitza was performed using his left foot, her halitza is invalid, while Rabbi Elazar validates it. The Gemara asks: What is the reason of the Rabbis’ opinion? Ulla said: We derive a verbal analogy from the word “foot” stated here, and the word “foot” stated regarding the leper. Just as there, with respect to the leper, it is the right foot, it is the right foot that must be used.

And Ray Yosef bar Minyumi said that Ray Nahman said: The halakha does not follow that pain, i.e., Rabbi Shimon and Rabbi Yohanan the Cobbler. Evidently, Rabbi bar Hiyya relied on the individual opinion of Rabbi Akiva, who permitted halitza in private, and therefore Shmuel commented regarding Rabbi bar Hiyya’s power to rule based on an individual’s opinion. And if you wish, say that not only does this detail follow an individual opinion, but rather all of these details are taught by an individual opinion. As it is taught in a baraita: Rabbi Yishmael, son of Rabbi Yosei, said: I saw that Rabbi Yishmael ben Elisha performed a halitza using a slipper, in private, and at night. This statement implies that these details are all according to his individual opinion, contrary to the opinion of the rest of the Sages.

The Gemara notes: And this would seem to indicate that Rabbi Elazar does not derive “foot” with regard to halitza from the word “foot” from the leper. But isn’t it taught in a baraita: Rabbi Elazar says: Where is it derived that piercing a Hebrew slave’s ear with an awl when the slave chooses to remain in servitude is done specifically on the right ear? “Ear” is stated here in the halakhot pertaining to a pierced slave, and “ear” is stated there in the halakhot of the leper. Just as there, with regard to leprosy, it is the right ear, as it is stated explicitly there, so too here, with regard to piercing the ear, it is the right ear. This statement of Rabbi Elazar implies that he does learn a verbal analogy about the word “right.”

Rav Yitzhak bar Yosef said that Rabbi Yohanan said: The attribution of the opinions is reversed, meaning that it is Rabbi Elazar who invalidates halitza on the left foot, as he learns an analogy from the halakha with regard to piercing the ear that the right must be used.

The Gemara asks: And even if they are not both free to be used for exposition, what refutation is there? A verbal analogy that is free to be used for exposition in only one place is still valid, provided there is no reason to refute the comparison. The Gemara explains: It can be refuted, as the leper is unique in that there is a very specific process necessary for his purification: He requires that the blood of the offering be sprinkled upon him, and he requires cedarwood, hyssop, and scarlet thread.

Therefore, it is possible to say that the Torah also specified the use of the right foot in the case of the leper. However, this would not necessarily be required with respect to halitza, which lacks such specific halakhot. Consequently, halitza performed using the left foot could be valid.

**HALAKHA**

Halitza using one’s left foot—בפיגוע של יאמה, המשך: If the yevamah removed the shoe from the left foot of the yevam, her halitza is disqualified, in accordance with the unrestricted mishna. If the yevamah was left-handed, the early commentaries disagreed whether the halitza should be performed on his right foot or left foot. Therefore, they concluded that she should remove the shoe from both the right foot and the left foot of a left-handed yevamah (Rambam Sefer Nashim, Hilkhot Yibbum 4:17; Shulhan Arukh, Even HaElazer 16:22 and Sefer Halitza 55).

The right side for the leper’s purification—אנו באור חייל הפך: The priest puts some of the blood on the right earlobe of the leper who is being purified, as is written in the Torah (Rambam Sefer Korbanot, Hilkhot Mehusre Kappa 4:2).

Piercing the right side—יודרים: One must pierce the right ear of a Hebrew slave who chooses to remain in servitude with his family after his period of servitude has ended, in accordance with Rabbi Elazar (Rambam Sefer Kinnarei, Hilkhot Avadim 3:9).

Cedarwood, hyssop, and scarlet thread—ואו יושב עשו ב—Ibn Tomte Tannatot: In order to purify the leper through sprinkling the blood of the offering upon him, the priest takes cedarwood, hyssop, and scarlet thread, as stated in the Torah (Rambam Sefer Taharah, Hilkhot Tumah Tzaraat 11:1).

The early commentaries (see Tosefta Rida) discussed whether the requirement to perform halitza on the left foot of the yevamah applies even to a yevamah who is left-handed and left-footed. They note that in the Gemara (Bekhorot 45a) the concept of being left-dominant exists not only for left-handed individuals with regard to mitzvot involving one’s hand, but for left-footed individuals with regard to mitzvot that apply to one’s feet as well. If so, halitza should be performed on the left foot of a left-dominant person.

Others claim that just as the purification process of a leper involves the right side of the body even for a one who is left-dominant, so too the same should be true for halitza. Still others state that one can learn a principle with regard to mitzvot in general from the halakhah of phylacteries. Just as for phylacteries there is a distinction between a right-handed and a left-handed person as to the hand on which he dons his phylacteries, so too this is the principle for all other mitzvot in the Torah: A left-dominant performs the mitzva with his left side.

The contradiction in the statements of Rabbi Elazar—בדינים בהלכות ת STATIC: There are also discussions in the Jerusalem Talmud with regard to the contradictory statements citing Rabbi Elazar and the verbal analogy that concerns halitza and leprosy. There, the Gemara resolved the difficulty by saying that there is a dispute between tanna’im with regard to Rabbi Elazar’s opinion, which leads to the confusion. According to one version, Rabbi Elazar does not derive the halakha of halitza from the halakha of the leper, but according to another version he does.
Any term that constitutes an action — אֶלְﬠָזָר said to him: “So shall it be done.” This passive term, which seems to refer to one who was not the speaker, is not indispensable. After all, there is an opinion in the Gemara that moving one’s lips constitutes an action, which would seem to indicate that the act of speaking, which requires movement of the lips, is thereby viewed as an action. If so, there is apparently not a great difference between speech and the act of spitting, as both should be considered actions. The Rosh explains that speech is considered an act only if it leads directly to an action in the world, such as a case where someone directly moves the movement of a domesticated animal by using one’s voice to direct the beast. In cases where oral speech does not cause action, as it is only the content of the speech that is significant, such as the recitation for halitza, then the speech is not considered an act at all (Tosefor Halitza).

If a deaf-mute man underwent halitza, her halitza is invalid. If a female minor performed halitza, or if an adult woman performs halitza with a male minor, her halitza is invalid and the woman may not marry. The Gemara lists additional halakhot with regard to halitza. If a deaf-mute man underwent halitza, or a deaf-mute woman performed halitza, or if an adult woman performs halitza with a male minor, her halitza is invalid and the woman may not marry. If a female minor performed halitza, she must perform halitza a second time once she becomes an adult, and if she does not perform the second halitza, her first halitza is invalid. If she performed halitza before two or three judges and one of them is found to be a relative1 or disqualified as a judge for some other reason, her halitza is invalid. Rabbi Shimon and Rabbi Yoḥanan the Cobbler validate the halitza in this case. And an incident occurred involving a certain person who performed halitza between him and her alone in prison, i.e., not in the presence of others, and the case came before Rabbi Akiva and he validated it.
The Gemara challenges: But we learned in the mishna above: If a deaf-mute man underwent halitza, or a deaf-mute woman performed halitza, or if a woman performs halitza with a male minor, her halitza is invalid. What is the reason that the halitza is invalid? Is it not because they are not competent to recite the text, thereby indicating that the recitation is necessary even after the fact? The Gemara rejects this assertion: No, the reason for disqualifying a deaf-mute man and woman is because they are not considered to have intellectual capacity, and therefore their actions do not have halakhic significance.

The Gemara asks: If that is so, let us also say that a mute man and woman do not have intellectual capacity. Rava said: A mute man and woman do have intellectual capacity. Rather, it is their mouth that hurts them. Mute individuals have full intellectual capacity; they merely lack a means of expression. The deaf-mute, on the other hand, is not considered to have the mental capacity to speak.

The Gemara challenges again: But didn’t the scholars from the house of study of Rabbi Yannai say that a deaf-mute man and woman are disqualified from participation in halitza because they cannot fulfill the requirements of “he says” (Deuteronomy 25:8) and “she shall say” (Deuteronomy 25:9), and not due to insufficient intellectual capacity? Rather, when that first statement of Rava was said, it was stated concerning the latter clause of the mishna: If a deaf-mute man underwent halitza, or a deaf-mute woman performed halitza, or if a woman performs halitza on a male minor, her halitza is invalid.

Rava said: You have now said that recitation is indispensable, as can be inferred from the mishna disqualifying the deaf-mute. Therefore, if a mute man or woman performed halitza, their halitza is invalid. And the mishna, which indicates in its first clause that recitation is not indispensable, but later states that halitza performed by someone incapable of recitation is invalid, is in accordance with the opinion of Rabbi Zeira with regard to a meal-offering. A meal-offering is generally a mixture of flour and oil. If flour is added to the oil but they are not mixed, they are considered to be fitting to be mixed so long as there is not an excessive amount of flour.

This is that which Rabbi Zeira said: Whatever is fitting to be mixed, mixing is not indispensable to it, and it is valid even if it is not mixed. And whatever is not to fit to be mixed, e.g., if the quantity of flour is so great that the ingredients cannot be properly mixed, mixing is indispensable for it and it is invalid if it has not been mixed. From here one may learn a general halakhic principle: There are some actions for which their actual performance is not indispensable, provided they are capable of being performed. An action becomes indispensable only if one is unfit or unable to perform it. With regard to recitation of the verses, although it is not indispensable, a mute person is disqualified from performing halitza because he is not capable of reciting the verses.

They sent the following teaching from Eretz Yisrael to the father of Shmuel: Once a yevama has spat she must perform halitza and may not enter into levirate marriage. The Gemara comments: By inference, you may learn that even though the spitting did not permit her to marry outside the family, she is disqualified from entering into levirate marriage with any of the brothers, and must therefore complete the halitza.

A mute man or woman – פּוֹסֵל פִּי וּפּוֹסֵלת: If a mute man or woman performed halitza, their halitza is invalid, in accordance with Rava’s final statement (Rambam Sefer Nashim, Hilkhot Yibbum 4:13; Shulhan Arukh, Even Ha’er 161:1–2 and Seder Halitza 43). Whatever is fitting to be mixed – פּוֹסֵל מִיְּבָמָה: An individual may not bring a meal-offering larger than sixty issaron in any one vessel. Therefore, if he vowed to bring an offering of more than sixty, he must bring sixty in one vessel and the remainder in a second vessel. For one can mix only sixty issaron in oil and no more. Although the actual mixing of the flour and oil is not indispensable, the meal-offering must be capable of being mixed in order to be valid (Rambam Sefer Avoda, Hilkhot Matzot Ha’farbanot 1:16).

Once a yevama has spat she must perform halitza – בְּטֵן פּוֹסֵלת: If a yevama spat before her yevamah in the presence of a court, she is disqualified from entering into levirate marriage, and must perform halitza in order to be permitted to marry others, in accordance with the teaching sent to Shmuel’s father (Rambam Sefer Nashim, Hilkhot Yibbum 4:14; Shulhan Arukh, Even Ha’er 161:45).
The Gemara asks: In accordance with whose opinion is this halakha taught? If we say it is in accordance with Rabbi Akiva, who stated in the mishna that spitting is not required after the fact, it is difficult, as the following a fortiori reasoning indicates: Now if even in a case where there is a mitzva of halitza, and the yevama is still around and capable of fulfilling the Torah command of spitting, and one might say that spitting should be treated just as it is with regard to the fatty portions of offerings that are to be consumed on the altar, where the halakha is that when they are not present for offering, i.e., they were lost or became ritually impure, they are not considered indispensable to permit the consumption of the offering.

Based on an analogy to the fatty portions of offerings, one would have said regarding the spitting of a yevama that even if it is not indispensable after the fact, so long as the yevama is around, one would expect that her spitting is indispensable. Yet even so, Rabbi Akiva said in the mishna that spitting is not indispensable to halitza even in such a case, and the halitza is validated by the removal of the shoe alone. Since Rabbi Akiva seems to accord little significance to the spitting, he cannot be the basis for this halakha, as if spitting is never indispensable, could spitting alone disqualify her from entering into levirate marriage with one of the brothers?

But rather, one might say that this teaching is in accordance with the opinion of Rabbi Elazar, who disagrees with Rabbi Akiva and states in the mishna that spitting is indispensable for validating halitza and is necessary alongside the removal of the shoe. Since he accords significance to the spitting, one might have thought that the teaching prohibiting the yevama from levirate marriage is in accordance with his view.

But that is difficult as well, as according to Rabbi Elazar, removal of the shoe and spitting are both necessary, and therefore, they are considered two permitting factors that must be completed in order to fulfill an obligation. And there is a principle accepted by Rabbi Elazar with regard to offerings that should be applicable here: Whenever there are two permitting factors that are indispensable for an offering to be valid, one of those factors cannot elevate one of the subordinate components of the offering to consecrated status without the other. Similarly, since Rabbi Elazar holds that halitza and spitting are both indispensable, if she performs only one of these actions, such as spitting, it is only one of two permitting factors and therefore should not disqualify her for levirate marriage with one of the other yevanim.

Rather, one must say that this teaching is in accordance with the opinion of Rabbi Yehuda HaNasi, who is of the opinion that even one of two permitting factors can effect a change in status without performance of the other factor, as it is taught in a baraita: The lambs sacrificed on the festival of Assembly, i.e., Shavuot, consecrate the loaves that accompany them only by means of their slaughter, as the slaughtering of the lambs consecrates the bread. But sprinkled their blood not for their own sake, the loaves are partially consecrated. And if he slaughtered them not for their own sake, even if he sprinkled the blood for its own sake, he did not consecrate the breads. This is in accordance with Rabbi Yehuda HaNasi, whom the halakha follows in his disputes with a single colleague (Rambam Sefer Avoda, Hilkhot Pesulei HaMukhadashim 17:18).

If the fats are present then they are indispensable — חסריいたら י奋战ו. The priests do not receive the breast and thigh portions of the offering until after the fats and other portions to be burned are burned on the altar (Rambam Sefer Avoda, Hilkhot Ma'aseh HaKorbanot 9:11).

The Gemara says: The fats are indispensable. The fats are indispensable, i.e. they are indispensable on their own. But if he sprinkled their blood not for their own sake, the loaves are partially consecrated. And if he slaughtered them not for their own sake, even if he sprinkled the blood for its own sake, he did not consecrate the breads. This is in accordance with Rabbi Yehuda HaNasi, whom the halakha follows in his disputes with a single colleague (Rambam Sefer Avoda, Hilkhot Pesulei HaMukhadashim 17:18).

The lambs sacrificed on Shavuot consecrate the loaves by means of their slaughter — למאדם כמותו כמותו. The two lambs that are sacrificed on Shavuot consecrate the loaves of bread that accompany them only at the time of slaughter. For example, if one slaughtered the lambs and sprinkled their blood with an alternative offering in mind, he did not consecrate the breads. If he slaughtered them for their own sake but sprinkled their blood not for their own sake, the breads are partially consecrated. And if he slaughtered them not for their own sake, even if he sprinkled the blood for its own sake, he did not consecrate the breads. This is in accordance with Rabbi Yehuda HaNasi, whom the halakha follows in his disputes with a single colleague (Rambam Sefer Avoda, Hilkhot Pesulei HaMukhadashim 17:18).

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How so? If one slaughtered the lambs for their own sake, i.e., as lambs for Shavuot, and the priest sprinkled their blood for their own sake, the loaves are consecrated. However, if one slaughtered them not for their own sake, and the priest sprinkled their blood for their own sake, the loaves are not consecrated, as the factors indispensable in rendering the offering valid were not properly performed. If one slaughtered them for their own sake, and he sprinkled their blood not for their own sake, the fact that the lambs were properly slaughtered renders the loaves partially consecrated. Therefore, the loaves are consecrated to the extent that they cannot be redeemed, but they are not consecrated to the extent that they may be eaten. This is the statement of Rabbi Yehuda HaNasi.

Rabbi Elazar, son of Rabbi Shimon, says: Actually, the loaves are consecrated only when one slaughters the offerings for their own sake and sprinkles their blood for their own sake, i.e., only if both factors indispensable in rendering the offering valid were properly performed. If so, the teaching sent from Eretz Yisrael seems to be in accordance with Rabbi Yehuda HaNasi’s opinion that even if only one of the two permitting factors of slaughter and sprinkling was performed, the loaves will still be consecrated. Likewise, with respect to halitza, where there is a need for two permitting factors, spitting and for removal of the shoe, performing one factor such as spitting is sufficient to disqualify the yevama from subsequently entering into levirate marriage.

The Gemara questions the previous assumption with regard to Rabbi Akiva’s opinion on the matter: But did Rabbi Akiva say that spitting does not disqualify the yevama from a later levirate marriage to one of the other brothers? But isn’t it taught in a baraita: If she removed the shoe but did not

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HALAKHA

If she recited, but did not spit, etc. — קְרַאֵת לָא הַלֵּיתָא אֲלֵיהַ לָא פֶּסַלְתָהּ. If the yevama recited the text, and even if the yevama recites his statement as well, but she did not remove the shoe or spit, her actions have no halakhic significance, and she is not disqualified from later entering into levirate marriage with any of the yevamim, in accordance with all opinions (Rambam Sefer Nashim, Hilkhot Yibbum 4:14; Shulhan Arukh, Even HaEzer 169:47).

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spit and did not recite the verses, her halitza is valid. If she spat but did not remove the shoe and did not recite the text, her halitza is disqualified. If she recited the verses but did not spit or did not remove the shoe, there is no doubt that she has done nothing, and her action has no halachic significance.

The Gemara clarifies: Who is the author of the baraita? If we say it is in accordance with the opinion of Rabbi Eliezer, could it be that he would hold that if she removed the shoe but did not spit or did not recite the verses, her halitza is valid, as stated in the baraita? But didn’t Rabbi Eliezer say: The phrase “so shall it be done” (Deuteronomy 25:9) indicates that any element of the halitza process that constitutes an action indispensable; therefore spitting is necessary. Rather, it is obvious that the baraita is in accordance with the opinion of Rabbi Akiva, and he teaches at the end of the baraita that if she spat but did not remove the shoe or did not recite the text, her halitza is disqualified. The Gemara clarifies: To whom is the yevama disqualified from marrying after such a halitza?

If we say that Rabbi Akiva means to teach us that she is disqualified from marriage to everyone in the world, this is unnecessary, as it is clear that spitting alone will not permit her to marry any stranger. It is obvious that her halitza is invalid, as did any halitza take place in order for her to be permitted to a stranger? Rather, is it not clear that Rabbi Akiva is ruling that she is disqualified from marriage to the brothers? Learn from here that Rabbi Akiva also thinks that spitting alone disqualifies her from marrying to the brothers, which is not in accordance with the previous assumption with regard to his opinion.