

וְשָׁל עֵיר הַנִּדְחָת, וְשָׁל זָקֵן הָעָשׂוּי לְכַבּוּדוֹ –
לְאֵת תְּחִלּוֹתָיו, וְאִם חָלְצָה – חָלְצָתָהּ פְּסוּלָה.

אָמַר לִיהוּ רַבִּינָא לְרַב אֲשִׁי: מַאי שָׁנָא זָקֵן
הָעָשׂוּי לְכַבּוּדוֹ, דְּלֵאוּ לְהִילּוּכָא עֲבִיד – דְּבִי
דִּינָא נִמְי לְאוּ לְהִילּוּכָא עֲבִיד!

אָמַר לִיהוּ: אִילוּ מִסְגֵּי בֵּיהּ שְׁלוּחָא דְּבִי דִּינָא
מִי קָפִיד עָלֶיהּ דִּינָא?

מִתְנִי' חָלְצָה בְּלַיְלָה – חָלְצָתָהּ כְּשֶׁרָה,
וְרַבִּי אֶלְעָזָר פּוֹסֵל. בְּשִׁמְאֵל – חָלְצָתָהּ
פְּסוּלָה, וְרַבִּי אֶלְעָזָר מְכַשֵּׁיר.

גַּמ' לִימָא בְּהָא קְמִיפְלִי: דְּמַר סַבְר מְקַשְׁיֵנָּה
וְיָבִים לְנִגְעִים, וְמַר סַבְר: לָא מְקַשְׁיֵנָּה וְיָבִים
לְנִגְעִים?

or a sandal belonging to an inhabitant of an idolatrous city,^{BN} a city the majority of whose inhabitants committed idolatry, which stands to be destroyed with all of the city's property; and likewise, the sandal of an Elder made in accordance with his dignity^N to be worn upon his death as part of his shroud, i.e., it is not meant for walking as a normal shoe, the *yevama* may not perform *halitza* using any of these shoes. And if she did perform *halitza*, her *halitza* is invalid even after the fact, as these are not halakhically considered shoes.

Ravina said to Rav Ashi: What is different about the sandal of an Elder that is made in accordance with his dignity that one should say that even though it is the proper size for his foot, it is not valid because it was not made for walking, but merely for him to wear after his death. But the court's sandal also was not made for walking, as the court kept a sandal that met all the other necessary qualifications for a sandal for *halitza* and gave it to the *yavam* to be worn during the *halitza* procedure. Since the *yavam* would return the *halitza* sandal after the conclusion of the *halitza*, therefore, the sandal was never used for walking and should be invalidated for *halitza* just as the sandal made for the dignity of an Elder?

He said to him: If a messenger of the court had walked in the *halitza* shoe used by the court, would the judge reprimand him? Although the court's sandal was designed for the express purpose of *halitza*, it may also be used for walking. A shoe designed for a dead person, on the other hand, is forbidden for any other use and is not made for walking at all, and it is consequently disqualified.

MISHNA If a woman performed *halitza* at night,^H 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 *yevama*, 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

A sandal belonging to an idolatrous city – שָׁל עֵיר הַנִּדְחָת – The conclusion that arises from Rava's statement, and likewise from parallel passages pertaining to the *shofar*, is that any item that one is commanded to destroy and that has no means of rectification whatsoever is considered, even while it is still whole and intact, as if it were already crushed into powder. This conclusion is based upon a halakhic principle (see *Rosh HaShana* 28a) that considers any object that is halakhically required to be burnt as if it were crushed. Therefore, any such object lacks the measurement for fulfilling any mitzva that requires a measurement of a specific size. However, a different opinion is stated in the Jerusalem Talmud, which seems not to accept the principle that anything that is halakhically required to be burnt is viewed by *halakha* as if it were already crushed, as it is stated there that *halitza* performed with a sandal from a city whose residents committed idolatry is valid. The source for such a ruling is the derivation from the phrase "he who had his shoe removed" (Deuteronomy 25:10), that under any circumstances, even if a shoe of an idolatrous city was removed from the *yavam*, the *halitza* is valid.

The sandal of an Elder made in accordance with his dignity – שָׁל זָקֵן הָעָשׂוּי לְכַבּוּדוֹ: 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 (*Mei Neftoah*).

The *Arukh LaNer* 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.

BACKGROUND

An idolatrous city – עֵיר הַנִּדְחָת: The Torah discusses the unique *halakha* of a Jewish city in which a majority of its inhabitants are guilty of idolatry (see Deuteronomy 13:13–19). The city is judged by the Great Sanhedrin, the court of seventy-one, which is authorized to send an army to subdue the city if necessary. Afterward, courts are convened and each of the city's adult inhabitants is judged. Those found guilty of idolatrous worship are beheaded rather than stoned, the usual penalty for idolatry. The innocent are not executed. All of the property in the city, including the property of the righteous, is destroyed, and of all the buildings are razed. It must remain in ruins forever.

HALAKHA

If she performed *halitza* at night – חָלְצָה בְּלַיְלָה: *Halitza* 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* 4:16; *Shulhan Arukh*, *Even HaEzer* 169:6 and *Seder Halitza* 19).

Rabba bar Ḥiyya Ketosfa'a – רבֵּה בַר חֵיִיא קֶטוֹסְפָאָה – This sage, who is mentioned in the Jerusalem Talmud as Rav Abba bar Ḥiyya, was a student of the great *amora* Rav, and transmitted teachings in his name. There is little record with regard to his personal life, save that he was associated with the city of Ctesiphon, an important city on the banks of the Euphrates River that served for many years as one of the capitals of the Persian Empire.

לֹא, דְכוּלֵי עֲלָמָא לֹא מְקַשְׁיָנָא רִיבִים לְנִגְעִים, דְּאֵי מְקַשְׁיָנָא – אֶפְלוּ גַּמְרֵי דִּין בְּלֵילָה נְמִי לֹא. וְהִכָּא בְּהָא קְמִיפְלָגִי: מִרְסָר: חֲלִיצָה בְּתַחֲלַת דִּין דְּמִיָּא, וּמִרְסָר: חֲלִיצָה בְּגַמְרֵי דִּין דְּמִיָּא.

רַבָּה בַר חֵיִיא קֶטוֹסְפָאָה עֵבֵד עוֹבְדָא בְּמוֹק, וּבִיחִידֵי, וּבְלֵילָה. אָמַר שְׁמוּאֵל: כְּמָה רַב גּוֹבְרִיָּה דְּעֵבֵד בִּיחִידָא!

מֵאֵי קִשְׁיָא? אֵי מוֹק – סְתָמָא תִּנְיָא, אֵי לֵילָה – סְתָמָא תִּנְיָא!

אֵלָּא, יְחִידֵי קָא קִשְׁיָא לִיה: הֵיכִי עֵבֵד בִּיחִידֵי, דִּיחִידָא קִתְּנִי לָהּ. דְּתַנְּנִי: חֲלִיצָה בְּשָׁנִים אִו בְּשִׁלְשָׁה וְנִמְצָא אֶחָד מֵהֶן קְרוּב אִו פְּסוּל – חֲלִיצָתָהּ פְּסוּלָה, וְרַבֵּי שְׁמַעוֹן וְרַבֵּי יוֹחָנָן הַסַּנְדֵּלָר מְכַשְׁרִים. וּמַעֲשֶׂה בְּאֶחָד שְׁחָלַץ בֵּינוּ לְבֵינָה בְּבֵית הָאֶסוּרִים, וּבָא מַעֲשֶׂה לְפָנֵי רַבֵּי עֲקִיבָא וְהַכְשִׁיר.

The Gemara responds: **No, everyone holds that we do not compare^N 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 *ḥalitza* at night they disagree about this issue:** One Sage, Rabbi Elazar, holds that *ḥalitza* is considered like the commencement of judgment^N of monetary cases, and one Sage, the first *tanna*, holds that *ḥalitza* is considered like the verdict of a monetary judgment, and therefore it may also be conducted at night.

It is told: Rabba bar Ḥiyya Ketosfa'a,^P from Ctesiphon, conducted *ḥalitza* 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 Ḥiyya's actions? **If it was the fact that he conducted *ḥalitza* using a slipper, an unattributed opinion is taught^N 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 *ḥalitza* 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 Ḥiyya conducted *ḥalitza* 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 *ḥalitza* before two or three judges and one of them is found to be a relative or disqualified, her *ḥalitza* 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 *ḥalitza* is valid, as they validate a *ḥalitza* performed before two judges. **And an incident occurred involving one who performed *ḥalitza* 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

דְּכוּלֵי עֲלָמָא לֹא – Everyone holds that we do not compare – מְקַשְׁיָנָא: 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 *ḥalitza* there is no biblical juxtaposition with which to compare monetary disputes and leprosy (Rashba).

Is *ḥalitza* considered like the commencement of judgment – האם חֲלִיצָה בְּתַחֲלַת דִּין: Rashi explains here that *ḥalitza* 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 *ḥalitza*. The Mordekhai adds that from Rashi's commentary it would seem that the dispute here centers on whether to consider *ḥalitza* 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 *ḥalitza* it is viewed as if the marriage contract had already been collected. However, the later commentaries challenged

Rashi's understanding and explained that *ḥalitza* 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 *ḥalitza* in front of three individuals renders this a court case, they disagree as to whether this *ḥalitza* court should be compared to the beginning or the verdict of a monetary court case.

אֵי מוֹק, – אי מוֹק, – סְתָמָא תִּנְיָא: 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 Rashba, 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*.

Halitza using one's left foot – תְּלִיצָה בְּשֵׂמָאל – If the *yavam* removed the shoe from the left foot of the *yavam*, her *halitza* is disqualified, in accordance with the unattributed mishna. If the *yavam* 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 *yavam* (Rambam *Sefer Nashim, Hilkhot Yibbum* 4:17; *Shulḥan Arukh, Even HaEzer* 169:22 and *Seder Halitza* 55).

The right side for the leper's purification – יָמִין בְּטַהֲרַת מְצוּרָע – 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 Mehusei Kappara* 4:2).

Piercing the right side – רִצְיָעָה בְּיָמִין – 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 Kinyan, Hilkhot Avadim* 3:9).

Cedarwood, hyssop, and scarlet thread – אֶרֶז וְאֵזוֹב וְשָׁנִי – 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 Tahara, Hilkhot Tumat Tzara'at* 11:1).

NOTES

Halitza using one's left foot is invalid – תְּלִיצָה בְּשֵׂמָאל פְּסוּלָה – The prohibition against using the left side of the body was stated only with regard to the foot of the *yavam*, but there is no such restriction regarding the performing of *halitza* with the left hand. Everyone agrees that if a *yavam* performed *halitza* using her left hand, the *halitza* is valid, as the Gemara says later that she can remove the shoe even with her teeth (Ritva).

The early commentaries (see *Tosefot Rid*) discussed whether the requirement to perform *halitza* on the left foot of the *yavam* applies even to a *yavam* 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 hands, 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 *halakhot* 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 – הַסְתֵּרָה בְּדַבְרֵי רַבִּי אֶלְעָזָר – 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.

ואמר רב יוסף בר מימימי [אמר רב נחמן] אין הלכה באותו הוגג ואיבעית אימא: כולהו נמי יחידא קתני להו. דתנאי, אמר רבי ישמעאל ברבי יוסי: אני ראיתי את רבי ישמעאל בן אלישע, שחלץ במוק, ביחודי, ובלילה.

And Rav Yosef bar Minyumi said that Rav Nahman said: The *halakha* does not follow that pair, i.e., Rabbi Shimon and Rabbi Yoḥanan the Cobbler. Evidently, Rabba bar Ḥiyya relied on the individual opinion of Rabbi Akiva, who permitted *halitza* in private, and therefore Shmuel commented regarding Rabbi bar Ḥiyya'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.**

בשמאל חליצתה" כו'. מאי טעמא דרבנן? אמר עולא: ילפינן "רגל" "רגל" ממצורע, מה להלן דימין, אף כאן דימין.

It was taught in the mishna that if *halitza* was performed using his left foot,^h her *halitza* is invalid,ⁿ 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 (Leviticus 14:14), so too here, with respect to *halitza*, it is the right foot that must be used.**

ורבי אלעזר לא יליף "רגל" "רגל" ממצורע? והתנאי, רבי אלעזר אומר מנין לרציעה שהיא באזן הימנית? נאמר כאן "אזן" ונאמר להלן "אזן", מה להלן ימין – אף כאן ימין!

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: From 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,^h as it is stated explicitly there, so too here, with regard to piercing the ear, it is the right ear.^h This statement of Rabbi Elazar implies that he does learn a verbal analogy about the word "right."ⁿ**

אמר רב יצחק בר יוסף אמר רבי יוחנן: מוחלקת השיטה.

Rav Yitzḥak bar Yosef said that Rabbi Yoḥanan 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.**

רבא אמר: לעולם לא תפודך "אזן" "אזן" – מופני: "רגל" "רגל" – לא מופני.

Rava said: **Actually, do not reverse the opinions. The words "ear" and "ear" are free terms, i.e., they are superfluous in their context and therefore it is clear that the Torah included those terms for the express purpose of establishing the verbal analogy. A verbal analogy that is based on otherwise extraneous terms cannot be logically refuted. Therefore, the superfluous "ear" teaches that piercing is done on the right ear. However, the words "foot" and "foot" are not free, because the word "foot," written with regard to the *yavam*, is necessary in its context and is not superfluous. Therefore, the verbal analogy of the word "foot" is incomplete.**

וכי לא מופני מאי פירכא איכא? איכא למיפרך: מה למצורע – שכן טעון עץ ארו ואזוב ושני תולעת.

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.^h 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.**

If she removed the shoe...but did not recite, etc. – חֲלִיצַתָּהּ כְּשֵׁרָה. קְרָאָהּ וְרִקְקָה, אֲבָל לֹא קְרָאָהּ – חֲלִיצָה – חֲלִיצַתָּהּ פְּסוּלָה. חֲלִיצָה וְקְרָאָהּ, אֲבָל לֹא קְרָאָהּ – חֲלִיצָה וְרִקְקָה – רַבִּי אֶלְעָזָר אוֹמֵר: חֲלִיצַתָּהּ פְּסוּלָה, רַבִּי עֲקִיבָא אוֹמֵר: חֲלִיצַתָּהּ כְּשֵׁרָה.

If she recited the text and spat but did not remove the shoe – חֲלִיצָה – חֲלִיצַתָּהּ כְּשֵׁרָה וְרִקְקָה אֲבָל לֹא חֲלִיצָה: If the *yevama* did not remove the shoe of the *yavam*, even if she spat or recited the text or did both, her *halitza* is invalid, in accordance with the mishna (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 4:14).

Perek XII

Daf 104 Amud b

NOTES

Any term that constitutes an action – כָּל דְּבַר שֶׁהוּא – מַעֲשֵׂה: The Rosh asks why it is taken for granted that the spitting is viewed as an action and the recitation of the verses is not. 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 directs the movement of a domesticated animal by using one's voice to direct the beast. In cases where one's 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 (*Tosefot HaRosh*).

If a deaf-mute man underwent *halitza* [*she'nehelatz*] – הַחֵרֵשׁ שֶׁנִּחְלַץ: The *Nimmukei Yosef* notes, based on the Rambam, that although the term *nehelatz* is used often, to connote any individual who underwent *halitza*, it is particularly appropriate with regard to the deaf-mute. This passive term, which seems to refer to one who was completely passive during the *halitza* procedure, is more appropriate for a deaf-mute who lacks intellectual capacity than for a normal *yavam* who may assist somewhat in the *halitza* process through his cooperation with the *yevama*.

אָמַר לִיה רַבִּי אֶלְעָזָר: "כִּכְהָ יַעֲשֶׂה" – כָּל דְּבַר שֶׁהוּא מַעֲשֵׂה מְעַבְבֵּן. אָמַר לִיה רַבִּי עֲקִיבָא: מִשָּׁם רָאִיָּה?! "כִּכְהָ יַעֲשֶׂה לְאִישׁ" – כָּל דְּבַר שֶׁהוּא מַעֲשֵׂה בְּאִישׁ.

הַחֵרֵשׁ שֶׁנִּחְלַץ, וְהַחֵרֵשֶׁת שֶׁנִּחְלַצָה, וְחוֹלְצֵת לְקָטָן – חֲלִיצַתָּהּ פְּסוּלָה. קִטְנָה שֶׁנִּחְלַצָה – תַּחְלוּץ מִשְׁתַּגְּדִיל, וְאִם לֹא חֲלִיצָה – חֲלִיצַתָּהּ פְּסוּלָה. חֲלִיצָה בְּשֵׁנִים אוֹ בְּשִׁלְשָׁה, וְנִמְצָא אֶחָד מֵהֶן קְרוֹב אוֹ פְּסוּל – חֲלִיצַתָּהּ פְּסוּלָה, רַבִּי שְׁמַעוֹן וְרַבִּי יוֹחָנָן הַסַּנְדֵּלֵר מְכַשְׂרִין. וּמַעֲשֵׂה בְּאֶחָד שֶׁנִּחְלַץ בֵּינוֹ לְבֵינָהּ בְּבֵית הָאֲסוּרִים, וְבֵא מַעֲשֵׂה לְפָנֵי רַבִּי עֲקִיבָא וְהַכְשִׁיר.

גַּמְ' אָמַר רַבָּא: הַשְּׂתָא דְאַמְרַת קְרִיאָהּ לֹא מֵיַעֲבָבָא, לְפִיכֵן, אִלֵּם וְאַלְמַת שֶׁנִּחְלַצוּ – חֲלִיצַתָּהּ כְּשֵׁרָה.

MISHNA If she, i.e., the *yevama*, removed the shoe and spat in accordance with the *halakha* but did not recite^h the necessary text, her *halitza* is valid. If she recited the text and spat but did not remove the shoe,^h her *halitza* is disqualified. If she removed the shoe and recited the text but did not spit, Rabbi Elazar says: Her *halitza* is disqualified, while Rabbi Akiva says: Her *halitza* is valid.

Rabbi Elazar said to him: The verse states: "So shall it be done to the man who does not build his brother's house" (Deuteronomy 25:9). "So" is an exclusionary term indicating that only precisely in this fashion is *halitza* valid. Therefore, any term that constitutes an actionⁿ for *halitza* is indispensable. **Rabbi Akiva said to him:** You derive proof from there? But it states: "So shall it be done to the man" indicating that only a term constituting an action toward the man, namely any aspect of *halitza* that concerns the man's body, such as removal of his shoe, is indispensable. But spitting, which does not involve the man, although it takes place in his presence, is not indispensable.

The mishna lists additional *halakhot* with regard to *halitza*. If a deaf-mute man underwent *halitza*,^{nh} 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*,^h 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 relative^h 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.

GEMARA Rava said: Now that you have said that recitation of the text is not indispensable in order for the *halitza* to be valid, therefore if a mute man or a mute woman performed *halitza*, their *halitza* is valid. Although the statements should be recited *ab initio*, since the recitation is not indispensable, mute individuals can perform *halitza*.

HALAKHA

A deaf-mute man underwent *halitza* – חֵרֵשׁ שֶׁנִּחְלַץ: Deaf-mutes, imbeciles, and minors may not perform *halitza* (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 4:16; *Shulḥan Arukh*, *Even HaEzer* 171:12).

A female minor performed *halitza* – קִטְנָה שֶׁנִּחְלַצָה: A female minor may enter into levirate marriage, but may not perform *halitza* (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 4:16; *Shulḥan Arukh*, *Even HaEzer* 171:11).

One of them is found to be a relative – מֵהֶן קְרוֹב וְכוּ': The mitzva of *halitza* takes place before three Jews who are not related to one another, to the *yavam*, or to the *yevama*. If one of them is found to be a relative or otherwise disqualified for judgment, or a convert, the *halitza* is invalid. This is in accordance with the unattributed mishna, and not in accordance with Rabbi Akiva's individual opinion (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 4:16; *Shulḥan Arukh*, *Even HaEzer* 169:1–2).

תנן: חרש שנחלץ, והחרשת שחלצה, והחולצת מן הקטן – חליצתה פסולה. מאי טעמא? לאו משום דלא בני קרייה מנהו? לא, משום דלא בני דעה מנהו.

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.**

אי הכי, אלם ואלמת נמי! אמר רבא: אלם ואלמת בני דעה מנהו, ופומיהו הוא דכאיב להו.

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.

והא אמרי דבי רבי ינאי: לפי שאינו ב"אמר" ו"אמרה"! אלא, כי אתמר דרבא – איפא אתמר: חרש שנחלץ, והחרשת שחלצה, והחולצת מן הקטן – חליצתה פסולה.

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?^N 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.**

אמר רבא: השתא דאמרת קרייה מעבבא, לפיכך, אלם ואלמת שחלצו – חליצתן פסולה. ומתניתין כרבי זירא.

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^H performed *halitza*,^N 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.

דאמר רבי זירא: כל הראוי לביילה אין ביילה מעבבת בו, וכל שאין ראוי לביילה – ביילה מעבבת.

This is that which Rabbi Zeira said: **Whatever is fitting to be mixed,^H mixing is not indispensable to it, and it is valid even if it is not mixed. And whatever is not 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.

שלחו ליה לאבוה דשמואל: יבמה שרקקה – תחלוץ. מפלל דאיפסלא לה מאחין.

They sent the following teaching from Eretz Yisrael to the father of Shmuel: Once a *yevama* has spat^N she must perform a complete *halitza*^H 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*.**

They cannot fulfill the requirements of: He says, and: She shall say – שאינו באמר ואמרה – *Tosafot* ask: From where does Rabbi Yannai know that the reason the mishna disqualifies a deaf-mute man and woman is that they are incapable of reciting the verses, as there is a more logical reason to disqualify them, namely that the Gemara does not consider them to have intellectual capacity? The Ramban answers that Rabbi Yannai understands the term deaf-mute in the mishna as a term that includes all deaf individuals, whether they speak or not. Since a deaf individual who is not also mute is considered to have full intellectual capacity, then the main reason the mishna disqualifies for *halitza* one who is deaf must be that they are not capable of reciting the required text.

The Rambam and other halakhic authorities maintain similarly: Since the mishna did not list a deaf-mute here together with an imbecile, although they are normally grouped together when referring to those who lack intellectual capacity, apparently the mishna is referring to a deaf individual who can speak and is consequently considered to have intellectual capacity. Although in general his actions have halakhic significance, his *halitza* is invalid (see Jerusalem Talmud).

A mute man or woman performed *halitza* – שחלצו: The Ritva suggests that perhaps even a deaf individual who can speak and who is capable of reciting the required statements during *halitza* is disqualified from performing *halitza*, as he cannot hear what the *yevama* says to him and consequently cannot respond on his own. Therefore, he may be considered incapable of properly reciting the verses of *halitza*.

Once a *yevama* has spat – יבמה שרקקה: The early commentaries write that this applies only when she spat before him in the presence of a court; if she merely spat outside of a court it is certain that her spitting has no halakhic significance to disqualify her for levirate marriage, even according to rabbinic law. As proof, they cite the concern mentioned later in the Gemara that a *yevama* who grew up among the brothers might have removed a shoe from one of them, although the Gemara did not seem concerned about the more likely possibility that she spat before one of them. Evidently, even if she had spit in their presence, it would not be significant, as it was not done in the presence of a court. Spitting outside of a court is insignificant, because at times people spit without forethought; therefore it is assumed that the spitting was done without any intention to perform *halitza* (Meiri; see *Tosefot Had Mikamma'ei*).

HALAKHA

A mute man or woman – אלם ואלמת: 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 HaEzer* 169:1–2 and *Seder Halitza* 43).

Whatever is fitting to be mixed – כל הראוי לביילה: 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 Ma'aseh HaKorbanot* 17:6).

Once a *yevama* has spat she must perform *halitza* – יבמה שרקקה תחלוץ: If a *yevama* spat before her *yavam* 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 HaEzer* 169:45).

NOTES

In a case where there is a mitzva – במקום מצוה: The Rashba and the Ritva explain that the logical progression should be understood as follows: At first, the assumption was that a *yevama* who spat is disqualified from levirate marriage according to Torah law, as she is considered to have successfully performed part of the *halitza*. Consequently, they compared this case with the case of a sacrificial offering for which only part of its necessary validating elements were offered. Finally, the Gemara concluded, according to all opinions, even Rabbi Akiva's, that the *yevama* is disqualified by rabbinic law but is not disqualified at all by Torah law.

BACKGROUND

The lambs sacrificed on...*Shavuot* – כבשי עצרת: The Torah requires that two male lambs be sacrificed as communal peace-offerings to accompany the two loaves of bread offered in the Temple on *Shavuot* (see Leviticus 23:17–20). The loaves and the sheep were waved together in a special ceremony before the altar.



Priests bringing lambs for sacrifice on *Shavuot*

מני? אילימא רבי עקיבא, השתא
ומה במקום מצוה, דאיבא למימר
מידי דהוה אימורים, דכי ליתנהו –
לא מעבבי,

וכי איתנהו – מעבבי,

אמר רבי עקיבא: לא מעבבא –
מאחין איפסלא?

ואלא לרבי אלעזר,

והא שני דברים המתירין נגהו, ושני
דברים המתירין אין מעלין זה בלא
זה!

אלא כרבי, דתנא: כבשי עצרת אין
מקדשין הלחם אלא בשחיטה.

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^N 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.

When the fats of the offering are no longer present for offering, it is permitted for the sacrificial meat to be eaten by the priests through the sprinkling of blood alone, even without offering the fatty portions on the altar. But when the fatty portions are present and extant, then they are considered indispensable,^H and the priests are not permitted to eat their portions of the offering until the fatty portions are burned on the altar.

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 *yevamin*.

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*,^B consecrate the loaves that accompany them only by means of their slaughter,^H as the slaughtering of the lambs consecrates the bread.

HALAKHA

If the fats are present then they are indispensable – ...אימורים: 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, Hilkhhot Ma'aseh HaKorbanot* 9:11).

The lambs sacrificed on *Shavuot* consecrate the loaves by means of their slaughter – כבשי עצרת מקדשים בשחיטה: 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, Hilkhhot Pesulei HaMukdashin* 17:18).

ביצד? שחטן לשמן וזרק דמן לשמן - קדש הלחם. שחט שלא לשמן וזרק לשמן - לא קדש הלחם. שחטן לשמן וזרק דמן שלא לשמן - קדוש ואינו קדוש. דברי רבי.

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.

רבי אלעזר ברבי שמעון אומר: לעולם אינו קדוש, עד שישחוט לשמן ויזרוק דמן לשמן.

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.

ומי אמר רבי עקיבא רקיקה לא פסולה? והתניא: חלצה ולא

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**

Perek XII
Daf 105 Amud a

רקיקה ולא קראה - חליצתה כשירה, רקיקה ולא חלצה ולא קראה - חליצתה פסולה, קראה ולא רקיקה ולא חלצה - אין באן בית מיוחש.

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 spit⁴ or did not remove the shoe, there is no doubt that she has done nothing, and her action has no halakhic significance.

מני? אילימא רבי אליעזר - חלצה ולא רקיקה ולא קראה חליצתה כשירה? והא אמר רבי אליעזר: "ככה יעשה" דבר שהוא מעשה - מעבב! אלא פשיטא - רבי עקיבא וקתני: רקיקה ולא חלצה ולא קראה - חליצתה פסולה. למאן?

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 is 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*?

אילימא לעלמא - פשיטא! מי הויא חליצה דאישתריא לעלמא? אלא לאו - לא חזין שמע מינה.

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 marriage to the brothers, which is not in accordance with the previous assumption with regard to his opinion.

HALAKHA

קראה ולא רקיקה - וכי: If the *yevama* recited the text, and even if the *yavam* 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 *yevamin*, in accordance with all opinions (Rambam *Sefer Nashim*, *Hilkhhot Yibbum* 4:14; *Shulhan Arukh*, *Even HaEzer* 169:47).