Ravin, son of Rav Nahman, said to Rav Sheshet: This matter, that the betrothal of a minor girl remains in suspension, should be understood differently. It means that her betrothal is provisional as long as she is still a minor. If he has sexual intercourse with her after she reaches majority, yes, her betrothal is realized; if he does not engage in intercourse with her after she reaches majority, her betrothal is not realized. For she says to herself: He has an advantage over me in that he can divorce me, and I have an advantage over him, as I can refuse him. Since the marriage of a minor depends upon her ongoing consent, as she can refuse him at any time, it remains provisional until it is consummated when she is an adult.

The Gemara asks: But does Rav truly think that only if he has intercourse with her after she becomes an adult, then yes, her betrothal is realized, but if he did not engage in intercourse with her, then no, is it not realized? Wasn’t it stated that with regard to a minor who had not refused her husband and reached majority, and then went and married another, Rav said: She does not require a bill of divorce from the second man, as she is fully married to the first and consequently her second marriage is invalid? And Shmuel said: She does require a bill of divorce from the second man, as it is uncertain whether her second marriage is valid.

What, is it not a case where he did not have intercourse with her after she reached majority? If so, Rav thinks that even when he did not have intercourse with her, her marriage is fully realized once she reaches majority. The Gemara rejects this: No, this is referring to a case where he did have intercourse with her. The Gemara asks: If it is referring to a case where he had intercourse with her, what is Shmuel’s reasoning? If the first one engaged in intercourse with her after she reached majority, then the marriage was fully realized. Under such circumstances, the second betrothal would not take effect. The Gemara answers: Shmuel holds that when anyone has sexual intercourse with a woman he married as a minor, his intention is that the intercourse is within the framework established by the initial betrothal and is not a new act of acquisition.

The Gemara asks: But if this is the basis of the dispute, they already disagreed about this once, as it was stated with regard to the following case: A man betrothed a woman on some condition, and married her without mentioning the condition, and the condition was not fulfilled. Rav says: She requires a bill of divorce from him, and Shmuel says: She does not require a bill of divorce from him.

The Gemara explains: Rav says she requires a bill of divorce from him, for since he married her, he apparently retracted his condition, and is therefore married to her even though the condition was not met. And Shmuel says: She does not require a bill of divorce from him, because anyone who has sexual intercourse with his wife, his intention is that the intercourse is within the framework established by the initial betrothal and the condition he set at the time of betrothal still stands. Since it was not fulfilled, the marriage is annulled. If so, Rav and Shmuel already disagreed about this same issue.

Halakha

One who betroths a minor who reaches majority – This matter that the betrothal of a minor girl remains in suspension, should be understood differently. It means that her betrothal is provisional as long as she is still a minor. If he has sexual intercourse with her after she reaches majority, yes, her betrothal is realized; if he does not engage in intercourse with her after she reaches majority, her betrothal is not realized. For she says to herself: He has an advantage over me in that he can divorce me, and I have an advantage over him, as I can refuse him. Since the marriage of a minor depends upon her ongoing consent, as she can refuse him at any time, it remains provisional until it is consummated when she is an adult.

This matter that the betrothal of a minor girl remains in suspension, should be understood differently. It means that her betrothal is provisional as long as she is still a minor. If he has sexual intercourse with her after she reaches majority, yes, her betrothal is realized; if he does not engage in intercourse with her after she reaches majority, her betrothal is not realized. For she says to herself: He has an advantage over me in that he can divorce me, and I have an advantage over him, as I can refuse him. Since the marriage of a minor depends upon her ongoing consent, as she can refuse him at any time, it remains provisional until it is consummated when she is an adult.

But they already disagreed about this once – This question, like the similar question that appears elsewhere in the Gemara: But they already said this once, does not imply that a scholar would never repeat the same thing twice. It means, rather, that if the scholar makes a halakhic statement, there is no reason for him to repeat the same thing in a different form with no original content. Likewise, with respect to a halakhic dispute, there is no reason to differentiate between two topics when the foundation of the dispute is identical (Tosafot; Tosafot HaRosh).

Halakha

Betrothed a woman on some condition, and married her without mentioning it – If a man betrothed a woman based on a condition, but married her or engaged in sexual intercourse with her without specifying any such condition, she requires a bill of divorce from him in order to be released from the marriage even if the condition was not fulfilled. This is because he retracted the condition when he married her or engaged in intercourse with her. This ruling is in accordance with Rav, whom the halakha follows in cases of prohibitions (Rambam Sefer Nashim, Hilkhos Ishut 7:23; Shulhan Arukh, Even HaEzer 38:35).
BACKGROUND

Neresh – שֶׁרֶשׁ: A Babylonian city near the Neresh River, south of Sura. This was an important agricultural and commercial center that was home to a large number of date palm farmers and alcoholic beverage producers. The city’s inhabitants were considered uncultured. Nevertheless, it was home to a Jewish community for many generations, producing no small number of Sages. At one point, the prominent sage Rav Pappa was the head of the yeshiva in Neresh.

NOTES

This bride snatcher acted improperly, etc. – רַבִּי חָנָן מַכִּסָּא: Rashi explains that the Sages abrogated his betrothal because they established a general rule that if a man seizes another man’s wife, his betrothal does not apply. The Ramban and others questioned Rashi’s statement by pointing out cases that appear to be similar, in which the fact that a man took a woman designated for another man does not cause the betrothal to be abrogated, despite the fact that the behavior is despicable. The Ramban offers two explanations as to the Sages saw fit abrogate the betrothal specifically in this case in two reasons: One, as opposed to other cases, this case appears to be one in which her consent was given under duress and it is only then that the Sages abrogate the betrothal. Two, in this case, she was already betrothed by rabbinic law, the Sages sought to uphold that status.

This works out well if he betrothed her with money – וְרַבִּי חָנָן מַכִּסָּא: The Meiri asks with regard to this case and other cases elsewhere in the Gemara: How is it possible to annul the marriage if the husband is a deaf-mute and for the minor. Although the act is, at face value, an act of betrothal, it is unclear which of these marriages the husband prefers.

It is the case that the Sages abrogated this marriage. The Meiri asks with regard to this case and other cases elsewhere in the Gemara: How is it possible to annul the marriage if the husband is a deaf-mute and for the minor. Although the act is, at face value, an act of betrothal, it is unclear which of these marriages the husband prefers.

The Gemara asks: And did Rav actually say that when he engaged in sexual intercourse with her, yes, the original marriage is valid, and if he did not have intercourse with her, no, it is not valid? Wasn’t there an incident in the city of Neresh where a woman was betrothed when she was a minor, and the husband married her with money? And Rav Bruna and Rav Hananel, the students of Rav, were there and they did not require her to receive a bill of divorce from the latter husband. Presumably, they regarded her as fully married to the first husband, so the marriage to the second marriage never took effect, despite the fact that the first marriage had not yet been consummated.

Ravina said to Rav Ashi: This works out well if the second man betrothed her with money, as then the Sages could declare that money to be ownerless property and void the betrothal. If he betrothed her by means of intercourse, what is the halakha? How can the Sages dissolve the betrothal when the sexual act took place? The Gemara answers: The Sages rendered his sexual act a licentious sexual act, which does not create a bond of betrothal. With regard to the dispute in the mishna, Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Eliezer, and the minor is instructed to make a declaration of refusal. Likewise, Rabbi Elazar said: The halakha is in accordance with the opinion of Rabbi Eliezer.

HALAKHA

Two orphaned minors who became candidates for levirate marriage – רבֵּינוּ חָנָן וּרְאוּבֵּן וַיַּמְלַּכְּרוּ לָהֶם בְּחַיָּיוֹתָם: If a man was married to two orphaned minors, whose mother or brothers married them off, and he died, or if he was married to two deaf-mutes and he died, if the yavam has sexual intercourse with one of them, the rival wife is exempted from levirate marriage in accordance with the mishna (Rambam, Sefer Nashim, Hilkhot Yibbur 5:23; Shulchan Arukh, Even HaEzer 171:2).

A minor and a deaf-mute – רבֵּינוּ חָנָן וּרְאוּבֵּן: If a man was married to an orphaned minor and a deaf-mute and died childless, and the yavam has sexual intercourse with one of them, it does not exempt the rival wife from levirate marriage, in accordance with the mishna (Rambam, Sefer Nashim, Hilkhot Yibbur 5:23; Shulchan Arukh, Even HaEzer 171:1).

MISHNA

If a man was married to two orphaned minors and died, consumption of levirate marriage or halitza with one of them exempts her rival wife from either levirate marriage or halitza, rendering her free to remarry. Likewise, if two deaf-mutes were married to one man who died, consumption of levirate marriage or halitza with one of them exempts her rival wife. In both of these cases, both women are married by rabbinic law and consequently become yevomot by rabbinic law. Since their statuses are equal, one can exempt the other. If one wife is a minor and the other is a deaf-mute, consumption of levirate marriage or halitza with one of them does not exempt her rival wife. Although both women are married by rabbinic law, their statuses are not the same and one cannot exempt the other.
A halakhically competent wife and a deaf-mute – תינוקת חכמה

If a man was married to one woman who was halakhically competent and to another woman who was a deaf-mute, and he died, if the yavam has sexual intercourse with the halakhically competent woman or if she performs halitza, the deaf-mute wife is exempt from levirate marriage. However, if he has sexual intercourse with the deaf-mute, it does not exempt the halakhically competent woman; halitza performed by the deaf-mute has no effect (Rambam Sefer Nashim, Hilkhot Yibbum 5:25; Shulhan Arukh, Even HaEzer 171:1).

An adult and a minor – חיות וחיות אחת

If a man was married to two women, one an adult and one an orphaned minor, and died, sexual intercourse of the yavam with the adult woman, or her performance of halitza, exempts the minor. However, sexual intercourse of the yavam with the minor does not exempt the adult woman and she must either consummate the levirate marriage or perform halitza (Rambam Sefer Nashim, Hilkhot Yibbum 5:25; Shulhan Arukh, Even HaEzer 171:3).

Halitza performed by a deaf-mute – חיות שני

Halitza performed by a deaf-mute cannot exempt her rival wife. This ruling is in accordance with Rav Giddel and the conclusion of the Gemara that follows (Rambam Sefer Nashim, Hilkhot Yibbum 5:23; Shulhan Arukh, Even HaEzer 171:2).

GEMARA The mishna states that halitza by one deaf-mute exempts the other. The Gemara asks: Can a deaf-mute perform halitza? Didn’t we learn in a mishna (10:4b): If a male deaf-mute performs halitza, and if a female deaf-mute performs halitza, and if a woman performs halitza on a minor boy, her halitza is disqualified?

Rav Giddel said that Rav said: The mishna is not referring to a deaf-mute’s halitza, but rather to consummation of levirate marriage with one of the deaf-mutes. Rava said: You can even say it is referring to halitza. Here, the mishna is referring to a woman who was a deaf-mute from the outset, when he married her, and there the mishna that disqualifies the halitza is referring to someone who was halakhically competent when she was married and afterward became a deaf-mute.

The difference is that a deaf-mute from the outset, just as she entered into marriage with her first husband so she leaves the levirate bond by means of halitza. Both her marriage and her status as a yavama are by rabbinic law. However, one who was halakhically competent, so that she was married by Torah law, and later became a deaf-mute, no, she cannot be released by halitza, since recitation is indispensable for her halitza, and she cannot recite the text that a yavama must recite.

Abaye raised an objection to this: And is one who is a deaf-mute from the outset a candidate for halitza? Didn’t we learn in a mishna (Yevamot 112b): Two brothers, one who is halakhically competent and one who is a deaf-mute, are married to two unrelated women, one who is halakhically competent and one deaf-mute. If the male deaf-mute, who is the husband of the female deaf-mute, dies, what should the halakhically competent man, who is the husband of the halakhically competent woman, do? He may consummate the levirate marriage, but there is no option of performing halitza. And if he wants to divorce her later, he may divorce her.

If the halakhically competent man, husband of the halakhically competent woman, dies, what should the male deaf-mute, who is the husband of the female deaf-mute, do? He may consummate the levirate marriage, but he may never divorce her, as a deaf-mute is not halakhically competent to divorce a woman to whom he is married by Torah law. What, is it not referring to a deaf-mute from the outset? And it is taught: Yes, he may consummate the levirate marriage,

NOTES

Recitation is indispensable for her – כו חיות

Actually, a simpler argument could have been offered here: Lack of intellectual capacity invalidates the halitza of the deaf-mute, as she does not understand what she is doing. The Ritva explains that the lack of intellectual capacity would certainly preclude the halitza of a total deaf-mute, as one who can neither hear nor speak is regarded as halakhically incompetent, but the Gemara preferred to use an argument that has a broader scope: This reason is also relevant to those who can hear but cannot speak.
but no, he may not perform halitza. The Gemara rejects this: No, it is referring to a halakhically competent woman who later became a deaf-mute, and halitza performed by a deaf-mute does not have the power to undo a levirate bond that is valid by Torah law.

Come and hear proof from a baraita: Two halakhically competent brothers are married to two unrelated women, one who is halakhically competent and one who is a deaf-mute. If the halakhically competent man who is the husband of the female deaf-mute dies, what should the halakhically competent man who is the husband of the halakhically competent woman do? He consummates the levirate marriage with the deaf-mute, and if he later wishes to divorce her, he may divorce her. But if the halakhically competent man who is the husband of the halakhically competent woman dies, what should the halakhically competent man who is the husband of the female deaf-mute do? He may either perform halitza or consummate the levirate marriage.

What, is it not the case in this baraita that since he is halakhically competent from the outset, one may presume that she is a deaf-mute from the outset as well? And it is taught yes, he may consummate the levirate marriage with the yevama who is a deaf-mute, but no, he may not perform halitza to her, thereby indicating that halitza cannot be performed even though as a deaf-mute from the outset, she is a yevama by rabbinic law and not by Torah law. The Gemara rejects this: Are the cases comparable? This case is as it is, i.e., the husband is competent throughout, and that case is as it is, i.e., the wife was not a deaf-mute at the outset.

The Gemara raised an objection to this from a mishna (Yevamot 11b): Two brothers, one who is halakhically competent and one who is a deaf-mute, are married to two sisters, one who is halakhically competent and one who is a deaf-mute. If the male deaf-mute who is the husband of the female deaf-mute dies, what shall the halakhically competent man who is the husband of the halakhically competent woman do? The female deaf-mute leaves and is exempt from levirate marriage due to the prohibition against marrying the sister of one’s wife.

If the halakhically competent man who is the husband of the halakhically competent woman dies, what should the male deaf-mute who is the husband of the female deaf-mute do? He releases his wife, the female deaf-mute, with a bill of divorce, and his brother’s wife is forbidden forever and may never remarry. He cannot remain married because his wife is the sister of his yevama by Torah law. He cannot consummate the levirate marriage with her because she is the sister of his ex-wife. Apparently, halitza is not an option because he is a deaf-mute, and his halitza cannot dissolve a levirate bond that is established by Torah law.

And if you would say: Here, too, it is referring to a man who was halakhically competent and later became a deaf-mute, can such a person divorce his wife? Didn’t we learn the following in the mishna (11b): If a halakhically competent man married a halakhically competent woman and she became a deaf-mute, he may divorce her; if she became mentally incompetent, he may not divorce her, because of a rabbinic ordinance to protect her from harm. If he himself became a deaf-mute or became mentally incompetent, he may never divorce her. Since he was competent when he married her, he cannot dissolve a marriage that is by Torah law when he is incompetent.
Rather, is it not referring to a male who was deaf-mute from the outset? And since he was a deaf-mute from the outset, she was also a deaf-mute from the outset. And since the sisters in these cases were deaf-mutes from the outset, then the unrelated women were also deaf-mutes from the outset, and we learned in the mishna with regard to the unrelated women that yes, he may consummate the levirate marriage with them, but no, he may not perform *halitza*. When this question was presented to Rabba, he was silent and had no response.

When Abaye came before Rav Yosef and told him of the matter, Rav Yosef said to him: What is the reason that you raised an objection to him based on this? For he could teach, i.e., explain to you, as follows: The sisters the mishna referred to were deaf-mutes at the outset, whereas the unrelated women referred to were halakhically competent women who later became deaf-mutes.

Rather, you should have raised an objection to him from this mishna (11a): In the cases of two deaf-mute brothers married to two halakhically competent sisters or to two deaf-mute sisters or to two sisters, one halakhically competent and one a deaf-mute; and likewise, two deaf-mute sisters married to two halakhically competent brothers or to two deaf-mute brothers or to two brothers, one halakhically competent and one a deaf-mute, all these women are exempt from *halitza* and from levirate marriage in the event of the death of one of the brothers while childless. And if, in these cases, the women were unrelated to one another, the surviving brothers should consummate levirate marriage with them, and if they wish to divorce them subsequently, they may divorce them.

The Gemara clarifies: What are the circumstances? If we say the mishna is referring to men who were halakhically competent and later became deaf-mutes, then in that case can they release them? But didn’t we learn in the mishna (11b): If she became mentally incompetent, he may not divorce her; if he became a deaf-mute or mentally incompetent, he may never divorce her?

Rather, is it not referring to men who were deaf-mutes at the outset? And since they were deaf-mutes at the outset, the women were also deaf-mutes at the outset, and it is taught there: If, in these cases, they were unrelated to one another, the surviving brothers should consummate levirate marriage with them. This implies: Yes, they should consummate levirate marriage with them, but no, they should not perform *halitza*. From this conclusion is apparent that a female deaf-mute may not perform *halitza*; the refutation of the opinion of Rabba is a conclusive refutation.

---

**NOTES**

*Was silent – קָּשָּׁה: The Gemara does not say who was silent, though it was apparently Rabba, Abaye’s teacher to whom he presumably raised the objection. This is supported by the fact that at the end of the discussion, the concluding Gemara identifies Rabba’s opinion as that which is refuted. On the other hand, according to the printed text of the Gemara, the original suggestion to distinguish between a woman who was a deaf-mute from the outset and a woman who became a deaf-mute subsequent to her marriage was made by Rava, Abaye’s colleague. Though at least some manuscripts support the printed text, it is likely that the original suggestion was made by Rabba rather than Rava. Though these names are spelled slightly differently, they are versions of the same name, and the difference in spelling the names is a way that the Gemara distinguishes between these two famous amoraim.*

**BACKGROUND**

Pumbedita – פּוּמְבְּדִיתָא. Pumbedita, a city on the Euphrates River northwest of Neharde’a, was an important center of the Babylonian Jewish community for many generations. As early as the Second Temple period, Pumbedita was referred to simply as the Diaspora. After the destruction of Neharde’a, some scholars from its yeshiva relocated to Pumbedita, and Torah study continued there without interruption until the end of the geonic period.

The scholars of Pumbedita were particularly renowned for their acumen. The best-known heads of the Pumbedita yeshiva are its founder, Rav Yehuda, as well as Rabba, Rav Yosef, Abaye, Rav Nahman bar Yitzhak, Rav Zevid, and Ramma bar Pappa. The Pumbedita yeshiva was prominent in the geonic period, as well, often overshadowing the yeshiva in Sura. The last prominent heads of the Pumbedita yeshiva were the renowned geonim Rav Sherira Gaon and his son, Rav Hai Gaon.

---

**LANGUAGE**

Posing challenges (kamakvu akvata) – קָּמָקְו עַקְוָּּתָא. The version of the text cited in the *Arukh* reads: *kamakhu akhata*. According to the *Arukh*, this expression is related to the word blunt (khefa) in Hebrew, as in: “If the iron is blunt (khefa)” (Ecclesiastes 10:10). In this context, the Sages are metaphorically making another blunt by asking each other questions. Rashi explains the phrase to mean convening, or gathering together, as in the verse: “He will gather together (yikhar) the people” (Genesis 49:10).
Even if she happened before him as the widow of his brother who was deaf-mute, if a man is married to a deaf-mute and an orphaned minor, and he dies without children, and both of the women happen before his brothers for levirate marriage, the act of sexual intercourse requires anitza and a minor and one a deaf-mute, or if the deaf-mute was preferable to him, as she was suitable for sexual intercourse and was of his kind, and therefore the marriage to her was more complete.

Rav HIsda said: Learn from this statement that Rav holds that a married deaf-mute is partially acquired, and a minor is either acquired or not acquired, i.e., there is uncertainty as to whether she was acquired completely or not acquired at all. For if it enters your mind to say the opposite, that the deaf-mute is either acquired or not acquired, while the minor is partially acquired, then with regard to the deaf-mute woman, why should he consummate the levirate marriage and then release her with a bill of divorce?

HALAKHA

How can their situation be rectified? The Gemara explains: They wondered if the minor was preferable to him, since she eventually would have come to full intellectual capacity when she reached majority, or if the deaf-mute was preferable, since she is an adult and she is suitable for sexual intercourse. Given the uncertainty, it cannot be determined whose initial marriage was more complete and therefore the levirate marriage of one of them cannot exempt her rival wife. However, if she happened before him for levirate marriage as the widow of his brother who was deaf-mute, certainly the female deaf-mute was preferable to him, as she was suitable for sexual intercourse and was of his kind, and therefore the marriage to her was more complete.

And I, Rav Nahman, said to them: Even if she happened before him as the widow of his brother who was deaf-mute, it is still uncertain, because the difference between the marriage of a minor and a deaf-mute in this case is independent of the original husband’s preferences. They are different types of relationships.

The Gemara asks: How can their situation be rectified, so that they can remarry? Rav Hisda said that Rav said: He consummates the levirate marriage with the deaf-mute and then releases her by means of a bill of divorce. He cannot stay married to her because the subsequent halitza of the minor will disqualify her as the rival wife of his yevama who has performed halitza [halitza]. The minor must wait until she reaches majority and then perform halitza.

NOTES

How can their situation be rectified? – Rav Hisda said: Learn from this statement that Rav holds that a married deaf-mute is partially acquired, and a minor is either acquired or not acquired, i.e., there is uncertainty as to whether she was acquired completely or not acquired at all. For if it enters your mind to say the opposite, that the deaf-mute is either acquired or not acquired, while the minor is partially acquired, then with regard to the deaf-mute woman, why should he consummate the levirate marriage and then release her with a bill of divorce?

HALAKHA

Even if she happened before him as the widow of his brother who was deaf-mute – רב חסדא אמר: יבש ברהpekא יבש ברהpekא ורבעא דל bois ד使って יבש ברהpekא יבש ברהpekא. If two widows from one household happen before a yevamah for levirate marriage, and one of them is a minor and one a deaf-mute, the halitza of one of them does not exempt the other from requiring halitza herself. This is the case regardless of whether the brother who died was himself halakhically competent. This ruling is in accordance with the opinion of Rav Nahman (Shulhan Arukh, Even Ha’zer 171:1).

How can their situation be rectified? – Rav Hisda: If a man is married to a deaf-mute and an orphaned minor, and he dies without children, and both of the women happen before his brothers for levirate marriage, the act of sexual intercourse with one of the women does not exempt her rival wife from levirate marriage. How can their situation be rectified? The minor is instructed to refuse him, and the yevamah marries the deaf-mute, whom he may subsequently divorce if he wishes. This ruling is not in accordance with Rav, but with Rabbi Elazar’s opinion in the mishna that the minor should be instructed to refuse. The Ra’avad disagrees and rules in accordance with Rav’s opinion that the levirate marriage is consummated with the deaf-mute, who subsequently should be divorced, and the minor must wait until she reaches majority and then perform halitza. However, most halakhic authorities are of the opinion that the minor should be instructed to refuse (see Sefer Hazekhut; Rambam Sefer Nashim, Hilkhot Yibbum 5:24; Shulhan Arukh, Even Ha’zer 171:1).

NOTES

How can their situation be rectified? – Rav Hisda: Most halakhic authorities, including the raf and Rambam (see HALAKHA), rule against Rav, and follow the opinion of Rabbi Elazar in the following mishna that in such a case the minor should be instructed to refuse, thus annulling her marriage and making it possible for the yevamah to stay married to the deaf-mute. The Ra’avad disagrees, arguing that Rabbi Elazar’s ruling applies only in a case where one of the women is permitted to enter into levirate marriage (see fam sheh Shimos). The Mei writes that even according to those who apply Rabbi Elazar’s ruling to this case and would have the court instruct the minor to refuse, Rav’s statement applies when the minor does not wish to refuse or when she has already matured.

Learn from this statement that Rav holds – רב חסדא אמר: יבש ברהpekא יבש ברהpekא. The early commentaries explain why the Gemara does not entertain the possibility that marriage to a deaf-mute and to a minor could have the same status as either partial marriage or of marriage of uncertain status. They say that Rav Hisda had a tradition from Rav that one of these is a partial marriage and the other is of uncertain status. The purpose of the Gemara’s discussion is to clarify which is which.

Partially acquired – שמהאשראתא: The Sages did not institute an incomplete acquisition for a female deaf-mute. Rather, since a deaf-mute is not regarded as fully halakhically competent, she cannot grant full consent, and therefore her status as married is inferior to that of a halakhically competent woman (Hazan 68).

She is either acquired or not acquired – שמעה תעלתא: The Rashba explains that the uncertainty is whether the Sages instituted full-fledged betrothal for a minor or whether, given the possibility of refusal, the minor’s betrothal should not be regarded as true betrothal (Responsa of the Rashba).