

ורב זביד אמר: אין בנים בלא סימנים. ונבדוק! חיישינן שמא נשרו. הניחא למאן דאמר חוששין.

אלא למאן דאמר אין חוששין מאי איכא למימר? אפילו למאן דאמר אין חוששין, משום צער לידה – חיישינן.

”כיצד פוטרות צרותיהן” וכו’. מנהיג מילי? אמר רב יהודה: דאמר קרא “לצרור”, התורה ריבטה צרות הרבה.

רב אשי אמר: סברא היא, צרה מאי טעמא אסירא – דבמקום ערוה קיימא, צרת צרה נמי – במקום ערוה קיימא.

”כיצד אם מתו הן” כו’. ואפילו בנים ולבסוף גירש?

§ And Rav Zevid said: There are no children without signs<sup>N</sup> of puberty. In other words, if a girl gives birth, she definitely possesses the signs of puberty. The Gemara asks: **But if so, let us examine** to see whether these physical signs are present, so that there is no need to depend on a presumption. The Gemara answers: **We are concerned lest the hairs that constitute the sign have fallen off.** The Gemara comments: **This works out well according to the one who said that in general we are concerned lest signs fall off, i.e., that there are cases in which she is in fact mature but the hairs have come off.**

However, according to the one who said that if there are in fact hairs they will certainly be found, and we are not concerned that they may have fallen out, what is there to say? The Gemara answers: **Even according to the one who said that in ordinary circumstances we are not concerned that the hairs may have fallen out, in this case, due to the pain of childbirth we are concerned that they might have fallen out, and therefore it is impossible to examine the matter conclusively.**

§ The Gemara returns to the mishna: **How do they exempt their rival wives and the rival wives of their rival wives?** The Gemara asks: **From where are these matters, that not only is a rival wife exempt but the rival wife of a rival wife is exempt as well, derived?** Rav Yehuda said that this is as the verse states: “And you shall not take a woman to her sister, to be a rival [*litzror*]<sup>N</sup> to her” (Leviticus 18:18). The term *litzror* is written, with the letter *reish* appearing twice, rather than *latzor*, with a single *reish*, which means that the Torah amplified and included many rival wives. In other words, this verse includes not only the rival wife of a forbidden relative, but also the rival wife of a rival wife.

Rav Ashi said: It is a logical inference, which does not require a source from the Torah. **What is the reason that a rival wife of a forbidden relative is prohibited?** The reason is that she stands in place of a forbidden relative. Since the forbidden relative caused her exemption from levirate marriage, she too is considered a forbidden relative who remains categorized as a brother’s wife. Therefore, the rival wife of a rival wife also stands in place of a forbidden relative, as she is like the rival wife of a forbidden relative and is therefore forbidden herself.

§ The mishna taught: **How so? If the forbidden relative died, performed refusal, or was divorced, from that moment onward their rival wives are no longer considered the rival wives of a forbidden relative and are permitted.** The Gemara remarks: This legal ruling with regard to a divorce is presented as a general principle and is therefore correct even if at the time that the deceased brother married the rival wife he was married to the forbidden relative, and ultimately divorced<sup>H</sup> the relative, which means that for a period of time the women were rival wives. Even under these circumstances the prohibition of a rival wife of a forbidden relative does not apply, and she is permitted to enter into levirate marriage.

NOTES

There are no children without signs – אין בנים בלא סימנים – The early commentaries dispute the precise meaning of this statement. Rashi explains that in Rav Zevid’s opinion, a minor who gives birth is assumed to have developed signs of puberty, and signs of puberty from eleven to twelve years of age are equivalent to signs after age twelve. Others agree, but for a different reason: Although Rav Zevid maintains that under ordinary circumstances the appearance of signs between the ages of eleven and twelve is equivalent to the earlier appearance of signs, childbirth is considered not a regular sign but an absolute sign of maturity (Rabbeinu Yitzhak in *Tosafot*). Ramban and Rashba explain similarly, albeit with a slight variation.

Yet others contend that childbirth is not possible at any age without prior definite signs of puberty. When the Gemara suggests an examination, it does so not because a physical examination is necessary; rather, it is asking about the presumption itself. In other words, it is saying that if this presumption is correct, the matter could be confirmed by examination (Ramban; Rashba; Ritva). The answer, according to this opinion, is that there are in fact signs, but even if they are not found this would not constitute contradictory evidence, as it is possible that due to the pain of childbirth and the difficulty of performing an examination at the right time, the signs have fallen off (see Rashba).

A completely different opinion is that although there is no childbearing without signs, these signs are efficacious only after the age of twelve (Rabbi Yehuda bar Natan). This is apparently the opinion of Rabbi Avraham Av Beit Din as well (see Ramban).

As the verse states: To be a rival [*litzror*] – דאמר קרא לצרור – Several commentaries omit this statement from the *baraita* cited earlier (3b), since if this opinion is explicitly stated in a *baraita* it does not stand to reason that Rav Ashi would take issue with it (*Tosafot*). Others maintain that this interpretation refers only to the rival wife of a rival wife (*Tosefot HaRosh*). Yet others contend that in the opinion of Rav Ashi the *baraita* does not cite this homiletic interpretation as the true source of the *halakha*, but merely as support, as the ruling that the rival wife of a rival wife is exempt is actually based on logical reasoning (Ritva).

HALAKHA

אפילו בנים ולבסוף – אפילו בנים ולבסוף – Even if he married and ultimately divorced – With regard to a man who was married both to a woman who was a forbidden relative of her potential *yavam* and to another woman, if during the lifetime of the husband the forbidden relative died or if he divorced her, or if she performed refusal, and he subsequently died childless, her rival wife is permitted

in levirate marriage, as a forbidden relative renders her rival wife forbidden only at the moment when the mitzva of levirate marriage takes effect, in accordance with the opinion of Rava (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:2; *Shulhan Arukh, Even HaEzer* 173:7).

**Disjointed [tavra] – תברא:** This expression generally means that various sections of a single mishna or *baraita* reflect disputing opinions. Some commentaries claim that this phrase is used only when the dispute is not explicit (see *Yad Malakhi*). Rashi and others explain that the term *tavra* means broken. In other words, the mishna does not constitute a single unit but is composed of two or more separate sections. Others maintain that this term denotes the taking of an oath, or that it is an expression of special emphasis. In other words: It is clear and evident that such and such is the case. Accordingly, the Gemara should be read as follows: Certainly, he who taught this did not teach that (*Arukh*, citing Rabbeinu Hananel).

**Actually, a single tanna – לעולם חד תנא:** According to this interpretation, the phrase: It is with regard to this case that they said, does not come to exclude other examples but simply to include the present case (Rabbi Yehuda bar Natan).

**And let her perform refusal now – ותמאן השתא:** Some commentaries ask: In light of the statement that the mishna is in accordance with the opinion of Abba Shaul that the mitzva of *halitza* is preferable to that of levirate marriage, this question is surprising. Why should she perform an act of refusal to enable levirate marriage rather than *halitza*? They answer that the wording of the mishna: Performs *halitza* and does not enter into levirate marriage, indicates that she must undergo *halitza* and does not have the option of levirate marriage at all. *Tosafot* cite a similar interpretation; however, see Meiri.

This question was also raised in the Jerusalem Talmud, in a slightly different form. The Gemara there explains that the phrase: Who could refuse even if she did not, refers to a minor who died, which means that she can no longer perform refusal at all. The early commentaries write that the Gemara here could have explained likewise, but it preferred to interpret the mishna in a manner that suits all cases rather than limit it to a specific example (see Ramban and Rashba).

**Can refuse the levirate betrothal...but she cannot refuse his bond – ממאנת למאמרו ואינה ממאנת לזיקתו:** The main discussion on this matter of the refusal of a *yevama* appears later in the Gemara (107a). According to one opinion, refusal nullifies only an extant connection. Rabbi Oshaya rules in accordance with this opinion when he states that refusal applies solely to marriage, as this is a relationship based on mutual consent. In contrast, refusal does not apply to a levirate bond, which is a duty mandated by Torah law. The dissenting opinion is that the refusal of a *yevama* is in fact the retroactive annulment of the first marriage, which dissolves the levirate bond automatically. In the Jerusalem Talmud other opinions are cited that differentiate between the ways in which a *yevama* can perform the act of refusal.

ורמינהו: שלשה אחים, שנים מהן נשואים שתי אחיות ואחד נשוי נכרית, גירש אחד מבעלי אחיות אשתו ומת הנשוי נכרית, וכנסה המגרש ומת – זו היא שאמרו: שאם מתו או נתגרשו – צרותיהן מותרות.

טעמא דגירש ואחר כך כנס, אבל כנס ואחר כך גירש – לא!

אמר רבי ירמיה: תברא, מי ששנה זו לא שנה זו. האי תנא סבר: מיתה מפלת,

והאי תנא סבר: נשואין הראשונים מפלים.

רבא אמר: לעולם חד תנא הוא, "זו זין צריך לומר זו" קתני.

"וכל שיכולה למאן. ותמאן השתא ותתייבם! לימא מסייעא ליה לרבי אושעיא.

דאמר רבי אושעיא: ממאנת למאמרו ואינה ממאנת לזיקתו!

And the Gemara raises a contradiction from a different mishna (30a), which discusses **three brothers, two of whom are married to two sisters and one is married to an unrelated woman. One of the husbands of the sisters subsequently divorced his wife, and the one who was married to the unrelated woman died, and the one who divorced his wife married the *yevama* by levirate marriage and afterward died as well, which means that this *yevama* once again came for levirate marriage before the remaining brother, who was married to one of the sisters. It is with regard to this case that they said that if they died or were divorced their rival wives are permitted.** This concludes the mishna.

The Gemara infers from this mishna: **The reason she is permitted is that the *yavam* first divorced the sister and only afterward married the unrelated woman.** In this case, the unrelated woman was never actually the rival wife of a sister, despite the fact that they were, at different times, married to the same man. **However, if the *yavam* first married the unrelated woman and afterward divorced the sister, she would not be permitted to enter into levirate marriage because for a period of time she had been the rival wife of a forbidden relative.**

These two *mishnayot* apparently contradict each other. **Rabbi Yirmeya said:** This mishna is **disjointed**,<sup>N</sup> i.e., the *mishnayot* are truly incompatible, and the *tanna* who taught this *halakha* did not teach that *halakha*. The reason for the difference in opinions is that **this *tanna*, of the mishna here, maintains that death causes her to come before him for levirate marriage.** In other words, the decisive moment that determines the obligation in or exemption from levirate marriage is the moment of the childless brother's death. Since in the case of the mishna here she was not the rival wife of a forbidden relative at the time of his death, the prohibition does not apply to her.

**And that *tanna* of the mishna dealing with three brothers maintains that the first marriage causes her to come before him for levirate marriage.** In other words, the levirate bond is established at the time of the marriage, and since the second wife was the rival wife of a forbidden relative for at least a brief period, her exemption from levirate marriage was determined then.

**Rava said:** Actually, both *mishnayot* represent the opinion of a **single *tanna*,<sup>N</sup> but he teaches the mishna employing the style: This and it is unnecessary to say that.** In other words, the mishna here is referring to a case where he first married and later divorced, while the mishna that deals with three brothers is speaking of a simpler, more obvious case, in which he first divorced and later married the second wife. In that case she is certainly permitted. Accordingly, there is no real contradiction here between the *mishnayot*, as they utilize different styles of teaching.

**S** The mishna taught: **And if any of these forbidden relatives was a minor who could refuse her husband, then even if she did not refuse him, her rival wife performs *halitza* and does not enter into levirate marriage. The Gemara asks: And let the minor perform refusal now,<sup>N</sup> thereby annulling the marriage retroactively after the death of her husband, and let her rival wife enter into levirate marriage.** Since this option is not accepted, **let us say that it supports the opinion of Rabbi Oshaya.**

**As Rabbi Oshaya said:** A *yevama* who is a minor can **refuse the levirate betrothal of the *yavam*.** In other words, if he betrothed her she is free to say that she does not desire to marry him, a declaration that severs any connection between them. **But she cannot refuse his bond.<sup>N</sup> Provided that he has not performed a levirate betrothal, this minor *yevama* cannot annul the ties between them by a refusal, as theirs is not a bond of marriage, and the institution of refusal was established only with regard to marriage.** According to this opinion, it is evident that a minor *yevama* who is a forbidden relative cannot perform refusal so as to enable her rival wife to enter levirate marriage.

Six women with whom relations are forbidden are... severe – שש עריות חמורות – In a case where a woman was apparently married to a relative with whom marriage is actually invalid, and this man died, the *yavam* is permitted to take her rival wife in marriage. If this woman who was forbidden to the deceased brother was permitted to the *yavam*, he may marry her and also enter into levirate marriage with the other woman, the proper wife of the deceased (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:12; *Shulhan Arukh, Even HaEzer* 173:2).

לא, צרת ערוה שאני. דתני רמי בר יהזקאל: מיאנה בבעל – מותרת לאביו, מיאנה ביבם – אסורה לאביו.

The Gemara rejects this suggestion: No; it is possible that a minor *yevama* can indeed refuse a levirate bond, but the rival wife of a forbidden relative is different, as she is not permitted in levirate marriage even if the forbidden relative herself can perform refusal. Why? As Rami bar Yehezkel taught in a *baraita*: If she refused the husband, thereby annulling the marriage, she is permitted to his father, as the marriage bond was entirely nullified retroactively and she is not considered his daughter-in-law at all. If, however, she refused only the *yavam*, she is forbidden to his father.

אלמא: משעת נפילה נראית ככלתו, הכא נמי משעת נפילה נראית כצרת בתו.

Apparently, the reason is that at the moment of her coming before him for levirate marriage she had the appearance of his daughter-in-law. Since people will think she is his daughter-in-law, she is forbidden to the father. Here, too, at the moment of her coming before him for levirate marriage she had the appearance of his daughter's rival wife.<sup>N</sup> Consequently, the Sages did not permit her to enter into levirate marriage even if the other wife refuses the husband.

מתני' שש עריות חמורות מאלו, מפני שנשואות לאחרים, צרותיהן מותרות:

**MISHNA** Six women with whom relations are forbidden who were not enumerated in the first mishna are forbidden by prohibitions that are more severe<sup>H</sup> than those<sup>N</sup> listed in that mishna because they may be married only to others and may never be married to any of the brothers, due to the closeness of their relationship. However, this stringency entails a corresponding leniency: Since the *halakha* of levirate marriage is entirely inapplicable in these cases, their rival wives are permitted. The rival wife of a forbidden relative is forbidden herself only if the mitzva of levirate marriage is applicable, but where it is not in effect she is permitted.

אמו, ואשת אביו, ואחות אביו, אחותו מאביו, ואשת אחי אביו, ואשת אחיו מאביו.

The six women with whom relations are forbidden are as follows: His mother, and his father's wife, and his father's sister, and his paternal half sister, and the wife of his father's brother, and the wife of his paternal half brother. Each of these women with whom relations are forbidden is forbidden equally to all of the brothers, and the mitzva of levirate marriage is inapplicable. Therefore, her rival wife is permitted.

בית שמאי מתירין הצרות לאחים, ובית הלל אוסרים.

Up to this point, the discussions were based on the assumption that not only may a forbidden relative not enter into levirate marriage, but her rival wife is also exempt. However, this issue is subject to a long-standing dispute. Beit Shammai permit the rival wives to the brothers, as they did not accept the interpretation of the verses that indicates that rival wives are prohibited. And Beit Hillel forbid them. The previous *mishnayot* are in accordance with the opinion of Beit Hillel.

NOTES

נראית – She had the appearance of his daughter's rival wife – כצרת בתו: Some commentaries maintain that according to the opinion of Rami bar Yehezkel, a refusal indeed annuls the marriage retroactively and cancels the levirate bond entirely. Consequently, if there is no rival wife of a forbidden relative, the levirate bond is nullified by the refusal. In this case, however, as the woman appears to be his daughter's rival wife, there is concern lest a rival wife of a forbidden relative might be mistakenly permitted in other cases, which is a transgression punishable by *karet*. In standard cases of refusal there is no such concern, as even if they mistakenly render the *yevama* permitted to all, this would entail only a regular prohibition (Rid).

Six women with whom relations are forbidden are more severe than those – שש עריות חמורות מאלו – Since these forbidden women may not marry the *yevamin* but only other men, their rival wives should be defined as rival wives of those with whom relations are forbidden where the mitzva does not apply. Yet they are not forbidden at all, but the reason is not because they are forbidden by prohibitions that are more severe than those of the first list. Some commentaries explain that the mishna is teaching that even if a *yavam* did marry one of these women, whether intentionally or unwittingly, the marriage is entirely invalid, and therefore her rival wives are permitted (Rambam's Commentary on the Mishna).

HALAKHA

**Halitza for rival wives – תְּלִיצָה לְצִדּוֹת** – If one performs the act of *halitza* with a woman exempt from levirate marriage and *halitza*, e.g., the rival wife of a forbidden relative, it is not considered *halitza* and she is fit to marry a priest, in accordance with the opinion of Beit Hillel (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 4:16).

NOTES

**If they entered into levirate marriage Beit Shammai deem them fit, etc.** – **נְתִיבָמוּ, בֵּית שַׁמַּי מְכַשְׂרִים וְכוּ** – Rashi and most commentaries explain that question is whether a rival wife who entered into levirate marriage and was subsequently widowed by the *yavam* is fit to marry a priest. Others claim that the dispute is with regard to the status of the children born to these rival wives. According to Beit Shammai they are legitimate, whereas Beit Hillel maintain that they are disqualified as *mamzerim*.

**Beit Shammai did not refrain, etc.** – **לֹא נִמְנְעוּ בֵּית שַׁמַּי** – **וְכוּ**: This observation was stated specifically with regard to this dispute rather than one of the many other disagreements between Beit Shammai and Beit Hillel, because in other cases it is possible simply to act stringently in accordance with the conflicting opinion. Here, however, the adoption of the stringency of the other opinion would constitute a violation of a prohibition of their own ruling, and therefore the conflict could not be resolved in this manner (*Lekah Yosef*; see Ritva).

**What is the reason of Beit Shammai – מאי טעמא דבית – שַׁמַּי**: Why doesn't the Gemara simply state that Beit Shammai do not accept Beit Hillel's interpretation of the term *litzor* (*Tosafot*)? Some commentaries explain that the Gemara did not want to say that Beit Shammai merely negate the opinion of Beit Hillel, as it preferred to seek a positive reason for their ruling.

**Outside, indicates by inference that there is, etc.** – **חוּצָה** – **מִכְּלַל דְּאִיכָּא וְכוּ**: Some commentaries say that this statement serves to explain why the verse is superfluous. Since the simple meaning of the term: Outside, is not necessary to understand the verse, it is therefore available for interpretation (*Tosefot Rid*). In the Jerusalem Talmud (1:6) a problematic comparison is drawn between the opinion of Beit Shammai and that of the Samaritans, who similarly derived from here that only a woman betrothed, who is outside a proper marriage is fit for levirate marriage.

**For that which Rav Yehuda said that Rav said – לְכַדְרֵי** – **יְהוּדָה אָמַר רַב**: The commentaries point out that Rav's opinion is not accepted by everyone, as Shmuel disagrees with him (*Tosafot*). They explain that Shmuel requires this verse for a different *halakha*. Some explain that as the Gemara will conclude that a different ruling is derived from this verse, it did not deem it necessary to clarify all of the various opinions (Rashba).

חֲלָצוּ, בֵּית שַׁמַּי פּוֹסְלִין מִן הַבְּהוּנָה, וּבֵית הַלֵּל מְכַשְׂרִין. נְתִיבָמוּ, בֵּית שַׁמַּי מְכַשְׂרִין וּבֵית הַלֵּל פּוֹסְלִין.

אִף עַל פִּי שְׂאֵלוֹ אוֹסְרִים וְאֵלוֹ מְתִירִין, אֵלּוֹ פּוֹסְלִין וְאֵלוֹ מְכַשְׂרִין – לֹא נִמְנְעוּ בֵּית שַׁמַּי מְלִישָׁא נְשִׁים מִבֵּית הַלֵּל, וְלֹא בֵּית הַלֵּל מִבֵּית שַׁמַּי. כָּל הַטְּהוּרוֹת וְהַטְּמְאוֹת שֶׁהֵיוּ אֵלּוֹ מְטַהְרִים וְאֵלוֹ מְטַמְּאִין – לֹא נִמְנְעוּ עוֹשֵׂין טְהוּרוֹת אֵלּוֹ עַל גְּבֵי אֵלּוֹ.

**גמ' אָמַר רַבִּי שְׁמַעוֹן בֶּן פִּזִּי: מֵאֵי טַעְמָא דְּבֵית שַׁמַּי – דְּכַתִּיב "לֹא תִהְיֶה אִשֶׁת הַמֵּת הַחוּצָה לְאִישׁ זָר", "חוּצָה" מִכְּלַל דְּאִיכָּא פְּנִימִית, וְאָמַר רַחֲמָנָא: "לֹא תִהְיֶה".**

וּבֵית הַלֵּל: מִיַּבְעֵי לְהוּ לְכַדְרֵי יְהוּדָה אָמַר רַב. דְּאָמַר רַב יְהוּדָה אָמַר רַב מִנֵּן שְׂאִין קִידוּשֵׁין תּוֹפְסִין בִּיבְמָה, שְׁנֵאמַר "לֹא תִהְיֶה אִשֶׁת הַמֵּת הַחוּצָה לְאִישׁ זָר" – לֹא תִהְיֶה בָּהּ הַיְוָה לְזָר.

וּבֵית שַׁמַּי: מִי כְּתִיב "לְחוּץ"? "חוּצָה" כְּתִיב. וּבֵית הַלֵּל: בֵּינֵן דְּכַתִּיב "חוּצָה" כְּמָאן דְּכַתִּיב "לְחוּץ" דְּמִי.

If any of the rival wives of the brother performed *halitza*,<sup>h</sup> Beit Shammai disqualify her from marrying into the priesthood, as in their opinion these rival wives were fit for levirate marriage, which means that the *halitza* was fully valid. Consequently, they are disqualified from marrying a priest, like all other women who perform *halitza*. And Beit Hillel<sup>p</sup> deem them fit, as they maintain that no legal act of *halitza* was performed here at all. If they entered into levirate marriage, Beit Shammai deem them fit<sup>n</sup> for the priesthood, as in their opinion, this is a fully legal levirate marriage. And Beit Hillel disqualify them, because they engaged in licentious sexual relations as the rival wives of a forbidden relative.

**S** The mishna comments: Although Beit Hillel prohibit the rival wives to the brothers and Beit Shammai permit them, and although these disqualify these women and those deem them fit, Beit Shammai did not refrain<sup>n</sup> from marrying women from Beit Hillel, nor did Beit Hillel refrain from marrying women from Beit Shammai. Furthermore, with regard to all of the disputes concerning the *halakhot* of ritual purity and impurity, where these rule that an article is ritually pure and those rule it ritually impure, they did not refrain from handling ritually pure objects each with the other, as Beit Shammai and Beit Hillel frequently used each other's vessels.

**GEMARA** Rabbi Shimon ben Pazi said: What is the reason for the opinion of Beit Shammai?<sup>n</sup> As it is written: "The wife of the dead man shall not be married outside of the family to one not of his kin" (Deuteronomy 25:5). The term "outside" indicates by inference that there is<sup>n</sup> a woman who is considered inside, i.e., a close relative of the *yavam*, who is inside his family. And the Merciful One states: "Shall not be married" and also "to one not of his kin." In other words, even when one of the wives is a forbidden relative, the rival wife who is outside the family of the *yavam* is obligated in levirate marriage.

And how do Beit Hillel respond to this argument of Beit Shammai? They require these passages for that which Rav Yehuda said that Rav said,<sup>n</sup> as Rav Yehuda said that Rav said: From where is it derived that betrothal is not effective in the case of a *yevama* who did not perform *halitza*, if the betrothal is performed by an unrelated man and not a *yavam*? This betrothal is not valid at all, as it is stated: The wife of the dead man shall not be married outside of the family to one not of his kin" (Deuteronomy 25:5). This verse indicates that there shall not be in her case the becoming married to one not of his kin.

And how do Beit Shammai respond to this claim? They ask: Is it written: To the outside [*lahutz*], which might indicate betrothal to an unrelated man? It is actually written "outside [*hutza*]," which is an adjective describing this woman as one who is from the outside. And Beit Hillel, what is their response? They maintain that since it is written "outside," it is considered as though it is written: To the outside.

PERSONALITIES

**Beit Shammai and Beit Hillel – בֵּית שַׁמַּי וּבֵית הַלֵּל** – These refer to the groups of disciples of the Sages Hillel and Shammai. Although there are only three recorded matters of dispute between Hillel and Shammai themselves, their students were constant disputants who served together in the Sanhedrin at the end of the Second Temple period and after its destruction, and disagreed about many points of *halakha*. With regard to the disagreements of these two houses, a mishna (*Avot* 5:20) states: Any controversy waged for the sake of Heaven shall in the end be of lasting worth, but any that is not waged for the sake of Heaven shall in the end lead to no permanent result. Which

controversy was an example of one waged in the service of Heaven? It is the controversy of Hillel and Shammai. And which was not for the sake Heaven? It is the controversy of Korah and his company.

Generally speaking, the disciples of Hillel and Shammai mirrored the positions of their teachers, the open, tolerant Hillel and the harsh, severe Shammai, although there are exceptions to this rule. All of the cases in which the disciples of Shammai were more lenient than the disciples of Hillel are listed in tractate *Eduyyot*. In most disputes between Beit Shammai and Beit Hillel, the *halakha* is in accordance with the opinion of Beit Hillel.

Placed a *heh* at its end – הָהֵא בְסוּפָהּ: In the Jerusalem Talmud the point is raised that the variation on the term netherworld [*she'ol*] in the verse: “The wicked shall return to the netherworld [*lish'olal*]” (Psalms 9:18), apparently contradicts this principle, as it includes both a *lamed* at the beginning and a *heh* at the end. The Gemara there explains that this refers to an extra level of depth inside the netherworld, i.e., the lowest chamber in the netherworld (Ritva).

To include a betrothed woman – לְרֵבּוֹת הָאֵרוּסָה: The commentaries ask why this is not simply derived from the phrase “wife of the dead man” (Deuteronomy 25:5), which includes both married and betrothed women. They answer that since the Torah later states: “His brother’s house” (Deuteronomy 25:9), an expression that apparently refers only to a married woman, a special verse was necessary to include a betrothed woman. Others add that the assumption that a betrothed woman is unfit for levirate marriage is based on the reference to the deceased as having no child, which indicates that he was fully married and could have fathered a child (Rashba).

Beit Shammai apply that a prohibition does not take effect where another prohibition already exists – בֵּית שַׁמַּי דְּאֵין אִיסוּר חָל עַל אִיסוּר: Despite the apparently straightforward logic of this explanation, it raises many difficulties, which are scrutinized by the early and later commentaries. One difficulty is that this principle, here applied by Beit Shammai, is in fact accepted as *halakha*; many *tanna'im* and *amora'im* hold that a prohibition does not take effect where another prohibition already exists, and it cannot be that they all follow the ruling of Beit Shammai. Evidently, Beit Hillel also accept that principle in most cases, but this instance is an exception, as the term *litzror* indicates a different ruling (*Tosafot Yeshanim*; Ritva).

Some claim that there is a difference between the opinions, as Beit Shammai maintain that a prohibition does not take effect at all where another prohibition already exists, and it is as though there were no prohibition, whereas Beit Hillel maintain that although the second prohibition does not entail any penalty, it is not entirely negated (*Ahiezer*). An additional difficulty is that it does not stand to reason that Beit Shammai would reject the interpretation of *litzror* merely because of their application of the principle that a prohibition does not take effect where another prohibition already exists. Consequently, some commentaries explain that Beit Shammai do not entirely reject the interpretation of the verse, as they hold that this interpretation is valid in cases where the two prohibitions come into effect simultaneously. In these cases, Beit Shammai concede that the prohibition of a rival wife of a forbidden relative applies (*Tosafot Yeshanim*; see Meiri). According to this interpretation the ensuing deliberations of the Gemara with regard to which prohibition came first may be more readily understood (see Rashba).

*Tosafot* and most early commentaries explain that one further difficulty is that if in fact the principle that a prohibition does not take effect where another prohibition already exists applies to these cases, then even the forbidden relative herself should be permitted. Some commentaries explain that the prohibition of a forbidden relative is suspended until the death of the husband. When he dies, the prohibition of a brother’s wife is nullified, and the other prohibition comes into effect. However, for the exemption of a rival wife the prohibition would have had to have been in effect during his lifetime.

דְּתַנִּי, רַבִּי נְחֵמְיָה אָמַר: כָּל תִּיבָה שְׁצָרִיכָה לְמִדָּת בְּתַחֲלָתָהּ – הַטִּיל לָהּ הַכְּתוּב הֵא בְסוּפָהּ. וְתַנָּא דְבֵי רַבִּי יִשְׁמַעֵאל: כְּגוֹן “אֵלִים” “אֵלִימָה”, “מַחְנִימָה”, “מִצְרַיִם” “מִצְרַיִמָה”, “דְּבַלְתִּימָה”, “יְרוּשָׁלַיִמָה”, “מִדְבָּרָה”.

As it is taught in a *baraita*: Rabbi Nehemya says that with regard to any word that requires the letter *lamed* at its beginning, meaning: To, the verse at times placed a letter *heh* at its end,<sup>N</sup> but the meaning is the same. And the school of Rabbi Yishmael taught: For example, the term: To “Elim” (Exodus 16:1) can be rendered as “Elima” (Exodus 15:27) instead of *le’Elim*; “Mahanaim” (1 Kings 2:8) becomes “Mahanaïma” (II Samuel 17:24); “Mitzraim” (e.g., Genesis 13:1) into “Mitzraïma” (Genesis 12:10); Divlatayim is “Divlataïma” (Numbers 33:46); to *Yerushalaim* is “Yerushalaima” (Ezekiel 8:3); and “midbara” (Joshua 18:12) means: To the wilderness [*midbar*]. All these words that contain the letter *heh* at the end mean the same as if there were a *lamed* at the beginning.

בֵּית שַׁמַּי, דְּרַב יְהוּדָה אָמַר רַב מְנַא לְהוּ? מִ“לְאִישׁ זָר” נִפְקָא.

The Gemara asks: And Beit Shammai, from where do they derive that *halakha* that Rav Yehuda said that Rav said? The Gemara answers: They derive it from the phrase: “To one not of his kin” (Deuteronomy 25:5). This phrase indicates that marriage is invalid with an unrelated man. However, they learn another matter from the term “outside.”

בֵּית הִלֵּל נִמְי, תִּיפּוּק לְהוּ מִ“לְאִישׁ זָר”! אֵין הָבֵי נִמְי “חֻצָּה” לְמָה לִי – לְרֵבּוֹת הָאֵרוּסָה.

The Gemara asks: But if so, let Beit Hillel, too, derive this *halakha* from: “To one not of his kin.” The Gemara answers: Yes, it is indeed so. They, too, infer it from this source. Then why do I need the term “outside”? This word was necessary to include a betrothed woman.<sup>NH</sup> With regard to a woman who was betrothed but not yet married to the deceased brother, although she is still technically outside his house, she is nevertheless obligated in levirate marriage.

וְאִידָּן: מִ“חֻצָּה” “הַחֻצָּה” – וְאִידָּן: “חֻצָּה” “הַחֻצָּה” לֹא מִשְׁמַע לְהוּ.

And the other one, Beit Shammai, infers this halakhic ruling from a single superfluous letter, as instead of “outside” being written as *hutza* it is written as *hahutza*. And as for the other one, Beit Hillel, they do not derive a *halakha* from the linguistic difference between *hutza* and *hahutza*, as they maintain that this is not a significant enough difference.

רַבָּא אָמַר: טַעֲמִיָהּ דְּבֵית שַׁמַּי, דְּאֵין אִיסוּר חָל עַל אִיסוּר.

§ Rava said: The rationale of Beit Shammai for their opinion that rival wives are permitted in levirate marriage is not due to a specific verse. Rather, Beit Shammai apply the well-known halakhic principle that a prohibition does not take effect where another prohibition already exists.<sup>NH</sup> Since the first wife was already a prohibited relation to her brother-in-law during his brother’s lifetime, the second prohibition of a wife’s sister does not apply to her. Accordingly, her presence is entirely disregarded, as though there is no forbidden relative here to exempt the rival wife.

תִּינַח הֵיכָא דְנִשְׂא מִת וְאַחַר כֵּן נִשְׂא חַי – לֹא אֲתִי אִיסוּר אַחֹת אִשָּׁה וְחִייל אִיסוּר אִשָּׁת אָח, אֲלֵא נִשְׂא חַי וְאַחַר כֵּן נִשְׂא מִת, אַחֹת אִשָּׁה קָדִים!

The Gemara raises a difficulty: This works out well where the deceased brother had first married one sister and afterward the surviving brother had married another sister, as in this case it is possible to say that the prohibition of a wife’s sister does not come and apply in addition to the prohibition of a brother’s wife. However, if the surviving brother had married one sister and afterward the deceased brother had married another sister, in this case the prohibition of a wife’s sister precedes that of a brother’s wife. How can it be said in this situation that this prohibition of a forbidden relative does not take effect where another prohibition already exists, if actually it came first?

#### HALAKHA

Levirate marriage with a betrothed woman – יִיבִים לְאֵרוּסָה: The mitzva of levirate marriage applies whether the *yevama* was married to the deceased brother or betrothed to him (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 1:1; *Shulhan Arukh, Even HaEzer* 44:7).

A prohibition does not take effect where another prohi-

bition already exists – אֵין אִיסוּר חָל עַל אִיסוּר: It is an important principle with regard to all prohibitions in the Torah that a prohibition does not take effect where another prohibition already exists, unless both prohibitions came into effect at once, or if one prohibition adds to the other prohibition, or if the second is a more inclusive prohibition (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 17:8).

The time of reading of the Scroll of Esther – **זמן קריאת מגילת אסתר**: The Scroll of Esther is read on the fifteenth of Adar in cities that has been surrounded by a wall from the days of Joshua, and on the fourteenth in all other places. In earlier generations, it was read in the small villages only on Monday or Thursday, which meant that they would read even on the eleventh, twelfth, or thirteenth of Adar (Rambam *Sefer Zemanim, Hilkhot Megilla* 1:4, 7).

**Cutting over the dead – חבוּרָה עַל מַת**: One who makes a single incision in his flesh in mourning for the dead is liable to receive lashes for violating the prohibition: “You shall not cut yourselves...for the dead” (Deuteronomy 14:1; Rambam *Sefer HaMadda, Hilkhot Avoda Zara* 12:12, 13).

NOTES

**לֹא תִגְדְּדוּ** – [titgodedu]: You shall not cut yourselves. The root *g-d-d* bears several meanings, two of which can be found in the Torah: the creation of a wound or bruise, or a group or gathering. As a result of this double meaning, the statement in Deuteronomy is interpreted by the Sages as referring to two separate prohibitions.

**לִימָא קְרָא לֹא** – Let the verse state: You shall not cut. **תִּגְדְּדוּ**: If the verse were stated in this form, it would be evident that there is a prohibition against cutting one's flesh. The meaning of the reflexive form of the verb: “You shall not cut yourselves,” further indicates the division of the people into separate and individual factions (Ritva).

**וְאִימָא** – But say that the entire verse comes for this – **בּוֹלִיָּה לְהִיבָהּ הוּא דְאִתָּא**: According to Rashi, the Gemara is suggesting that the entire verse might come only to prohibit the formation of factions and is not related to the practices of mourning at all. The problem is that it is unlikely that a verse would not refer to its context at all. However, it is possible to explain that as the Torah had just stated: “You are children of the Lord” (Deuteronomy 14:1), it might have been thought that the verse follows this statement with two prohibitions that involve behavior unbecoming for children of God: Gathering into contentious factions and making a bald spot for the dead (Ritva; *Ramat Shmuel*). Other early commentaries cite the interpretation of the *ge'onim* that the question is actually whether the verse might be prohibiting only cutting for the dead.

**מִיּוֹן דְּלֹא אֶתִי אִיסוּר אֶשְׂתְּ אַח וְחַיִּיל אֶאִיסוּר אַחוֹת אֶשְׂתָּה** – הָיְוָא לָהּ צֶרֶת עֲרֵוּה שְׂלֵא בְּמָקוֹם מִצְוָה, וְשָׂרְיָא.

**“חֲלִיצוּ, בֵּית שְׁמַאי פּוֹסְלִים” וכו'.**  
**פְּשִׁיטָא!**

**לְאִפּוּקֵי דְרַבִּי יוֹחָנָן בֶּן נוּרִי, דְּאָמַר: בּוֹאֵוּ וְנִתְקַן לְהֵם לְצִוּוֹת שְׁיֵהוּ חוֹלְצוֹת וְלֹא מִתְיַבְּבוֹת – קָא מְשַׁמַּע לָן דְּבֵית הִלֵּל מְכַשְׂרִים.**

**“נִתְיַבְּבוּ בֵּית הִלֵּל פּוֹסְלִין” כּו'. הָא תּוֹ לָמָּה לִּי? אִיִּדִי דְתַנָּא חֲלִיצוּ, תַּנָּא נַמְי נִתְיַבְּבוּ.**

**תַּנּוּן הָתֵם: מְגִילָה נִקְרָאת בְּאֶחָד עֶשֶׂר וּבְשֵׁנִים עֶשֶׂר וּבְשִׁלְשָׁה עֶשֶׂר וּבְאַרְבָּעָה עֶשֶׂר וּבְחֲמִשָּׁה עֶשֶׂר, לֹא פְחוֹת וְלֹא יוֹתֵר.**

**אָמַר לִיָּה רִישׁ לְקִישׁ לְרַבִּי יוֹחָנָן: אִיקְרִי כְּאֵן “לֹא תִגְדְּדוּ” – לֹא תַעֲשׂוּ אַגְדוֹת אַגְדוֹת! הָאִי “לֹא תִתְגְּדְּדוּ” מִיַּבְּעֵי לִיָּה לְגוֹפִיָּה, דְּאָמַר רַחֲמֵנָא: לֹא תַעֲשׂוּ חֲבוּרָה עַל מַת!**

**אִם בֶּן לִימָא קְרָא “לֹא תִגְדְּדוּ”, מֵאִי “תִּתְגְּדְּדוּ” – שְׁמַע מִינָהּ לְהִכִּי הוּא דְאִתָּא. וְאִימָא בּוֹלִיָּה לְהִכִּי הוּא דְאִתָּא? אִם בֶּן לִימָא קְרָא “לֹא תִגְדְּדוּ” מֵאִי “לֹא תִתְגְּדְּדוּ” – שְׁמַע מִינָהּ תַּרְתֵּי.**

The Gemara answers: **Since the prohibition of a brother's wife does not come and apply in addition to the prohibition of a wife's sister, the status of a brother's wife does not pertain to her and she is not obligated in levirate marriage with him at all. This means that the other wife is a rival wife of a forbidden relative where no mitzva applies, and she is therefore permitted.**

**S** The mishna taught: If any of the rival wives of the brother performed *halitza*, Beit Shammai disqualify her from marrying into the priesthood, as they hold that the *halitza* was fully valid. The Gemara asks: If the rival wives are obligated in the mitzva of levirate marriage and they performed *halitza*, it is obvious that the status of a woman who had undergone *halitza* applies to them.

The Gemara answers: This statement comes to exclude the opinion of Rabbi Yohanan ben Nuri, who said: **Come and let us institute for rival wives of women with whom relations are forbidden that they should perform halitza and not enter into levirate marriage.** If this ordinance were accepted, these rival wives would be disqualified by rabbinic law, even according to the opinion of Beit Hillel. The mishna therefore teaches us that Beit Hillel deem the rival wives fully fit to marry into the priesthood, as no *halitza* was instituted for rival wives and any *halitza* performed with them is entirely meaningless.

**S** The mishna further taught: **If they entered into levirate marriage, Beit Shammai deem them fit for the priesthood and Beit Hillel disqualify them.** The Gemara asks: **Why do I need this as well, as this halakha follows logically from the previous statement concerning halitza?** The Gemara answers that **since the mishna taught: Performed halitza, it also taught the case of: Entered into levirate marriage, despite the fact that this was not necessary, as even without this ruling the matter would have been understood.**

**S** Apropos the mishna's comments concerning the details of the relationship between Beit Shammai and Beit Hillel, the Gemara discusses the issue of disputes in general. **We learned in a mishna there, in tractate Megilla (2a): The Megilla, the Scroll of Esther, is read<sup>h</sup> on the eleventh of Adar, on the twelfth, on the thirteenth, on the fourteenth, or on the fifteenth, in cities surrounded by a wall, no earlier and no later than this.** The obligation to read the Megilla on the fourteenth or fifteenth of Adar is stated in the Megilla itself, while the additional days were instituted by the Sages to allow residents of villages, who would come to the cities on Mondays and Thursdays and supply water and rations to the residents of the cities, to hear the reading of the Megilla at that opportunity.

**Reish Lakish said to Rabbi Yohanan: I should read here the verse: “You shall not cut yourselves [titgodedu]” (Deuteronomy 14:1),<sup>n</sup> which is interpreted as meaning: Do not become numerous factions [agudot].** In other words, the Jewish people should be united, rather than divided into disparate groups that act in different ways. Before analyzing this issue, the Gemara asks: **This verse: “You shall not cut yourselves,” is required for the matter itself, as the Merciful One is saying: Do not cut yourselves over the dead.<sup>h</sup> How is the halakha concerning factions derived from this apparently straightforward verse?**

The Gemara answers: **If so, that the verse comes to teach only about the practices of mourning, let the verse state only: You shall not cut.<sup>n</sup> What is the meaning of: “You shall not cut yourselves”? Learn from this that it comes for this purpose as well, to teach the prohibition against splitting into factions.** The Gemara asks: **But in that case, one can say that the entire verse comes for this<sup>n</sup> purpose and does not refer to cutting for the dead at all. The Gemara answers: If so, let the verse state: Lo tagodu, rather than lo titgodedu, both of which mean: You shall not cut. What is the meaning of: “Lo titgodedu”? Conclude two conclusions from it: Both the simple prohibition against making cuts for the dead and the matter of dividing into factions.**

אָמַר לִיה: עַד כָּאן לֹא שָׁנִיתָ מְקוֹם שְׁנֵהֲגוּ לַעֲשׂוֹת מְלָאכָה בְּעֶרְבֵי פֶסַחִים עַד חֲצוֹת – עוֹשִׂין, מְקוֹם שְׁנֵהֲגוּ שְׁלֹא לַעֲשׂוֹת – אֵין עוֹשִׂין?

אָמַר לִיה: אָמִינָא לָךְ אָנָּא אִיסוּרָא, דְּאָמַר רַב שְׁמֵן בַּר אַבְבָּא אָמַר רַבִּי יוֹחָנָן: “לְקַיִּים אֶת יְמֵי הַפּוּרִים בְּזִמְנֵיהֶם,” זְמַנִּים הַרְבֵּה תִּיקְנוּ לָהֶם חֻכְמִים, וְאֵת אֲמֵרְתָּ לִי מִנְהַגָּא!

וְהֵתֵם לָאוּ אִיסוּרָא הָוִיא? וְהֵתֵנָּן: (בְּלִילָה) בֵּית שְׁמַאי אוֹסְרִין וּבֵית הַלֵּל מְתִירִין!

אָמַר לִיה: הֵתֵם הָרוּאָה אוֹמַר מְלָאכָה הוּא דְלִית לִיה. וְהָא בֵּית שְׁמַאי מְתִירִין הַצְּרוֹת לְאַחֵים, וּבֵית הַלֵּל אוֹסְרִים!

After this incidental discussion, the Gemara returns to the basic question raised by Reish Lakish: Why doesn't the reading of the Scroll of Esther in different places at different times violate the prohibition against breaking into factions? Rabbi Yoḥanan said to him: Have you not taught until now:<sup>N</sup> In a place where the people were accustomed to perform labor on Passover eve<sup>H</sup> until midday, one may do so on that day; in a place where the people were accustomed not to perform labor, one may not do so? This shows that different places can have different customs without violating the prohibition against dividing into factions.

Reish Lakish said to Rabbi Yoḥanan: I speak to you of a prohibition, as residents of villages are prohibited from reading the Megilla with a blessing on the fifteenth of Adar, as Rav Shemen bar Abba said that Rabbi Yoḥanan said: The verse “to confirm these days of Purim in their appointed times” (Esther 9:31) teaches that the Sages instituted many times for their reading, and it is prohibited to deviate from these dates. And you speak to me about a custom that does not involve a prohibition. How can a prohibition be established in a manner that involves the formation of factions among the people?

Rabbi Yoḥanan replied: And in that case there, on Passover eve, is there no prohibition involved? But didn't we learn in a mishna: On the night before the fourteenth of Nisan, Beit Shammai prohibit the performance of work and Beit Hillel permit it. Evidently, there is indeed a prohibition involved, and yet some perform work while others do not, which splits the people into factions.

Reish Lakish said to him: In that case there, the different factions are not noticeable, as one who sees another idle says: It is because he has no labor to perform. Therefore, refraining from work does not have the appearance of breaking off into factions. Rabbi Yoḥanan raises a difficulty: But Beit Shammai permit rival wives to the brothers, and Beit Hillel prohibit this practice. This is an example of a clear prohibition, and yet two different traditions were followed.

NOTES

עַד כָּאן לֹא שָׁנִיתָ: This raises the question: Doesn't Reish Lakish's question apply to this *halakha* as well? If so, this is not an answer but an additional difficulty. Evidently, even Reish Lakish would agree that divergent behavior in different places does not constitute the formation of factions. Rabbi Yoḥanan is attempting to say that different legal rulings for villages, towns, and cities stem from the disparate customs in these places (Rosh).

HALAKHA

עֲשִׂיתָ מְלָאכָה בְּעֶרְבֵי פֶסַח – Performing labor on Passover eve – In a place where it is customary to perform labor on Passover eve, the residents may do so, and in a place where this is not the custom, they may not perform labor (Rambam *Sefer Zemanim, Hilkhot Yom Tov* 8:18; *Shulḥan Arukh, Oraḥ Ḥayyim* 468:3).

Perek I  
Daf 14 Amud a

מִי סְבֵרְתָּ עָשׂוּ בֵּית שְׁמַאי כְּדַבְרֵיהֶם? לֹא עָשׂוּ בֵּית שְׁמַאי כְּדַבְרֵיהֶם. וְרַבִּי יוֹחָנָן אָמַר: עָשׂוּ וְעָשׂוּ, וּבְפִלּוּגָתָא [דְּרַב וְשְׁמוּאֵל], דְּרַב אוֹמַר: לֹא עָשׂוּ בֵּית שְׁמַאי כְּדַבְרֵיהֶם, וְשְׁמוּאֵל אָמַר: עָשׂוּ וְעָשׂוּ.

Reish Lakish said to him: Do you hold that Beit Shammai actually acted in accordance with their own statement? Beit Shammai did not in fact act in accordance with their own statement,<sup>N</sup> as the dispute was merely theoretical. And Rabbi Yoḥanan said: Beit Shammai certainly did act<sup>N</sup> in accordance with their opinion. The Gemara comments: And this is also reflected in the dispute between Rav and Shmuel, as Rav says: Beit Shammai did not act in accordance with their own statement, and Shmuel said: They certainly did act in that manner.

אֵימַת? אֵילִימָא קוּדְם בַּת קוּל – מֵאֵי טַעְמָא דְּמֵאן דְּאָמַר לֹא עָשׂוּ? וְאָלָא לְאַחַר בַּת קוּל – מֵאֵי טַעְמָא דְּמֵאן דְּאָמַר עָשׂוּ?

The Gemara inquires: When does this question apply? If we say that it is referring to the period prior to the Divine Voice that declared that the *halakha* is in accordance with the opinion of Beit Hillel, then what is the rationale of the one who said that Beit Shammai did not act in accordance with their opinion? But rather, if one would say it is referring to after the Divine Voice, what is the reason for the one who said that they did act in accordance with their opinion? After all, the Divine Voice established that the *halakha* is in accordance with the opinion of Beit Hillel.

NOTES

Beit Shammai did not act in accordance with their statement – לֹא עָשׂוּ בֵּית שְׁמַאי כְּדַבְרֵיהֶם – The suggestion is that Beit Shammai demanded that the rival wives perform *halitza*, which prevented them from coming into conflict with the opinion of Beit Hillel (Ritva). Many early and later commentaries discuss the possibility that Beit Shammai followed their own opinion only with regard to stringent rulings, not leniencies. The same question applies in general to other disputes between Beit Shammai and Beit Hillel.

They certainly did act [*asu ve'asu*] – עָשׂוּ וְעָשׂוּ: Although this kind of emphatic language by doubling the word is common, in this case some commentaries explain that the repetition of the word *asu* means: They themselves did so and also instructed others to do the same (Rashba).