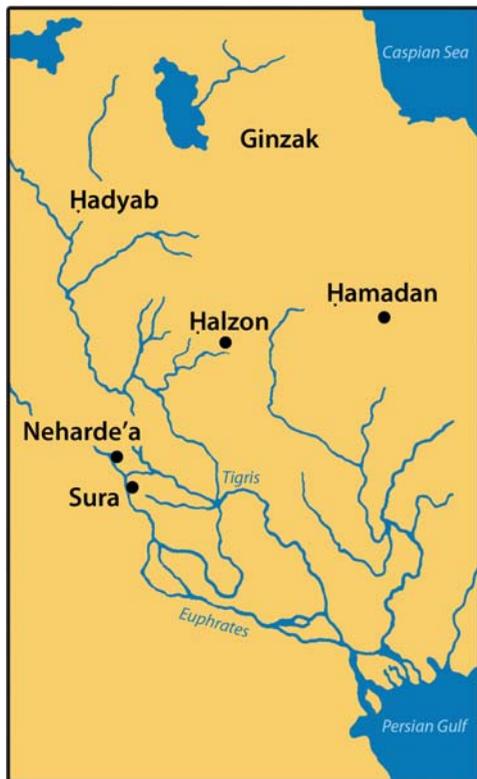


BACKGROUND

The exile of the ten tribes – גלות עשרת השבטים – The Sages identified the places to which the ten tribes were exiled, all of which were close to the sources of the Tigris and Euphrates Rivers, or in the land of Medes, northeast of the Jewish settlement in Babylonia. Some of the places listed have been identified with near certainty, while the exact names and locations of others remain doubtful.



Places of exile of the ten tribes, relative to cities of Jewish settlement

HALAKHA

A son from a gentile woman – בן מן הנכרית: The son of a Jew from a gentile woman or slave woman is not considered his son (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 12:7).

The son of your daughter from a gentile – בן בתך הבא מן הגוי: The offspring of a gentile man and a Jewish woman is a fit Jew, as he is called: Your son. However, he is disqualified from the priesthood (*Shulhan Arukh, Even HaEzer* 4:19).

בְּדוֹכְתָא דְקַבְיֵעִי, דְאָמַר רַבִּי אַבְבָּא בַר כַּהֲנָא: "וַיִּנְחֵם בְּחָלָח וּבְחָבוֹר נְהַר גּוֹזָן וְעָרֵי מְדִי." חָלַח – זֶה חֲלוּזָן, וְחָבוֹר

The Gemara responds: Rav Yehuda means that there is a concern only with regard to those who came from the permanent dwelling places of the ten tribes. As Rabbi Abba bar Kahana said that the verse states about those exiled from Samaria: "And he put them in Halah, and in Habor, on the river of Gozan, and in the cities of the Medes" (1 Kings 18:11). Rabbi Abba bar Kahana proceeded to identify these places. Halah; this is the place called Halzon. And Habor;

זו תְּדִיב, נְהַר גּוֹזָן – זו גִּינְזַק, וְעָרֵי מְדִי – זו חֲמַדָּן וְחֲבוֹרֵתֶיהָ, וְאָמַר לָהּ: זו נִיְהַר וְחֲבוֹרֵתֶיהָ. חֲבוֹרֵתֶיהָ מֵאָדָּם? אָמַר שְׂמוּאֵל: כִּרְךָ, מוֹשְׁבֵי חֵידְקֵי וְדוּמְקֵיָא. אָמַר רַבִּי יוֹהָנָן: וְכוּלָּן לְפָסוּל,

this is Hadyab. The river of Gozan; this is Ginzak. And the cities of the Medes; this is Hamadan and its surroundings.^B And some say: This is Nihar and its surroundings. The Gemara asks: Which are its surroundings? Shmuel said: Kerakh, Mushkhei, Hidkei, and Domakya are the surroundings of Hamadan. Rabbi Yohanan said: And all of them are for disqualification.^N In other words, if someone from one of these places wishes to convert, there is concern that he might be a descendant of a Jew and therefore a mamzer. Consequently, they all are disqualified.

כִּי אָמַרְתֶּיהָ קַמִּיָּה דְשְׂמוּאֵל: אָמַר לִי: בְּנֵךְ הַבָּא מִן יִשְׂרָאֵלִית קְרוּי בְּנֵךְ, וְאִין בְּנֵךְ הַבָּא מִן הַגּוֹיָה קְרוּי בְּנֵךְ – אֵלֶּיָּא בְּנֵה.

Rav Yehuda continued his recounting: When I said this halakha, that there is a concern about the betrothal of gentiles nowadays, before Shmuel, he said to me: One need not worry about this, as your son from a Jewish woman^N is called your son, i.e., he inherits his lineage from you, and your son from a gentile woman is not called your son, but rather her son.^H Consequently, all children born to Jews from gentile women are not considered Jews, as their lineage is determined by their gentile mothers.

וְהֵאִיבָא בְּנוֹת, וְאָמַר רַבִּינָא: שְׁמַע מִיָּנָה בֶּן בִּתְךָ הַבָּא מִן הַגּוֹי קְרוּי בְּנֵךְ! גְּמִירֵי דְבִנְתָּא דְהָהוּא דְרָא אִי צִטְרוּיִי אֶצְטְרוּ.

The Gemara asks: Aren't there Jewish girls who were captured by gentiles, whose children are considered to be Jews? And Ravina said: Learn from this that the son of your daughter from a gentile^H is called your son. If so, the descendants of Jewish women captured by gentiles would indeed be Jews. The Gemara answers: This is no concern, as it is learned as a tradition that the girls from the ten tribes of that generation became barren^N and did not give birth to any offspring, whereas some of the exiled men of the ten tribes married gentile women. Consequently, all of the children born there were gentiles.

NOTES

And all of them are for disqualification – וְכוּלָּן לְפָסוּל: Rashi explains that those born in these places were not careful about forbidden unions, and their offspring are therefore mamzerim. The other commentaries ask why Rashi interpreted the Gemara in this manner. After all, the offspring of a Jewish man and a gentile woman is himself a mamzer, as Rashi himself wrote, in accordance with the opinion of Rav Asi (Maharsha). If so, it is enough to state that these tribes intermingled, without having to stipulate that they engaged in sexual intercourse with forbidden relations. Some explain that Rabbi Yohanan issued his statement even in accordance with the opinion that the offspring of a Jewish man and a gentile woman is not a mamzer. Rabbi Yohanan is saying that even so, they would all be disqualified as mamzerim, due to marriage with women with whom relations are forbidden (Yosef Lekah; see Maharsha and Arza DeVei Rav).

verse states: "For he will turn away your son," and not: She will turn away, it is evidently referring to the offspring of a gentile man and a Jewish woman. Since the verse does not deal with the fate of the son of a gentile woman, this indicates that he is not considered to be a Jew at all. Others add that it stands to reason that a son raised as a Jew would not turn astray to idol worship, and therefore the verse is certainly referring to the son of one's daughter who was raised among the gentiles (Tosafot Yeshanim). Others maintain that the phrase "He will turn away your son" is referring to the father of the gentile wife, who is in fact the subject of the verse. According to this interpretation, the turning away mentioned in the verse actually means that the son of this union will be removed from the continuation of Judaism, as his children will not be considered Jews. The Rambam explains likewise.

Your son from a Jewish woman, etc. – בְּנֵךְ הַבָּא מִן הַיִּשְׂרָאֵלִית – וְכוּ: The statements of Shmuel and Ravina refer to a homiletical interpretation of the following verses: "Neither shall you make marriages with them: Your daughter you shall not give to his son, nor his daughter shall you take for your son. For he will turn away your son from following Me, that they may serve other gods" (Deuteronomy 7:3-4). Rashi explains that as the

Became barren – אִי צִטְרוּיִי אֶצְטְרוּ: Some commentaries explain that they purposely drank a tonic to make themselves barren (Rivan), or that they made themselves repulsive to those who wished to have intercourse with them (Meiri), or that their wombs were damaged from consecutive acts of rape (Tosefot Rid). Alternatively, some state that the pain from the long journey and slavery caused them to lose the ability to bear children (Meiri; see Rashi and Rif on Kiddushin).

Sat behind – אַחֲרֵיהֶם – יתב: In the earlier generations, it was customary for Torah scholars to sit before their masters in a particular order, with the most prominent students in the first rows and the lesser students behind them. A significant portion of the time was dedicated to discussions between the rabbi and the more outstanding students seated in the front row, especially when there was no study hall where the lecture could be transmitted to everyone. Younger students would ask older students for explanations of the rabbi's statements or pose questions to them that they dared not pose directly to the rabbi.

PERSONALITIES

Rav Hamnuna – רב המננא: Rav Hamnuna was a second-generation Babylonian, a disciple of Rav. There was another Rav Hamnuna in the following generation who was also associated with Rav, although he was primarily a student of Rav Hisda. This Rav Hamnuna perpetuated the tradition of the school of Rav. He was affiliated with Rav Huna, whose halakhic authority he accepted. Rav Hamnuna was also the head of an academy in his own right and taught many of the outstanding Sages of the next generation, including Rabbi Zeira and Rav Yosef.

איכא דאמר: כי אמריתיה קמיה דשמואל
אמר לי: לא זוו משם עד שעשאום גוים
גמורים, שנאמר "בה' בגדו כי בנים זרים
ילדו".

There are those who say that Rav Yehuda actually related the following: When I said this *halakha* before Shmuel, he said to me: They did not move from there, the place where they deliberated on this matter, until they rendered all of them, including those who intermingled with the ten tribes in different locations, full-fledged gentiles.^N Consequently, there is no concern that their betrothals might be of any effect, as it is stated: "They have dealt treacherously against the Lord, for they have begotten strange children" (Hosea 5:7).

יתב רב יוסף אחריה דרב כהנא, ויתב
רב כהנא קמיה דרב יהודה, ויתב וקאמר:
עתידין ישראל דעבדי יומא טבא כי
תרבי תרמוד. והא תריב! התיא תמוד
הואי. רב אשי אמר: היינו תרמוד היינו
תמוד, אכפולי הוא דמכפל. תריב מהאי
גיסא – אותיב מהאי גיסא, ואי תריב
מהאי גיסא – אותיב מהאי גיסא.

The Gemara relates: Rav Yosef sat behind^B Rav Kahana, and Rav Kahana sat before Rav Yehuda, and he sat and he said this tradition: In the future, the Jews will establish a Festival day when Tarmod is destroyed.^N The Gemara asks: But it has already been destroyed. The Gemara answers: That place that was destroyed was Tamud, not Tarmod. Rav Ashi said: Tarmod is the same as Tamud. However, the city is doubled. In other words, when it is destroyed from this side it is settled on that side, and when it is destroyed from that side it is settled on this side. Consequently, it has not yet been entirely destroyed.

יתב רב המננא קמיה דעולא וקא הוי
בשמעתא. אמר: מה גברא ומה גברא,
אי לאו דהרפניא מאתיה! אכסוף. אמר
ליה: כסף גלגלתא להיכא יהבת? אמר
ליה: לפום נהרא. אמר ליה: אם כן – מפום
נהרא את.

The Gemara relates: Rav Hamnuna^P sat before Ulla and was engaged in the study of *halakha*. Ulla said about him: What a man; what a man. In other words: What a great man this Rav Hamnuna is. If only Harpanya were not his city, as the inhabitants of that place are all of flawed lineage, which indicates that the lineage of Rav Hamnuna is likewise impaired. Rav Hamnuna was ashamed. Ulla said to him: Where do you give the money for payment of the poll tax? He said to him: I pay it to the city of Pum Nahara, as my city is subject to taxation by that city. He said to him: If so, you are from Pum Nahara, not Harpanya, and your lineage is evidently not flawed.

מאי הרפניא? אמר רבי זירא: הר שהכל
פוזין בו. במתניתא תנא: כל שאין מכיר
משפחתו ושבוטו נפנה לשם, אמר רבא:
והיא עמוקה משאול, שנאמר "מיד
שאול אפדים ממות אגאלם", ואילו פסול
דידהו – לית להו תקנתא.

The Gemara asks: What is the meaning of the name Harpanya? Rabbi Zeira said: It means the mountain to which all turn [*har shehakol ponin bo*]. In other words, it is the destination for all those who could not find wives anywhere else, as most of its population is of flawed lineage. It is taught in a *baraita*:^N All those who do not know their family or tribe turn there. Rava said: This type of flaw is appalling and is deeper than the netherworld, as is stated: "Shall I ransom them from the power of the netherworld? Shall I redeem them from death?" (Hosea 13:14). This verse indicates that it is possible to be ransomed and released from the netherworld, whereas their disqualification cannot be rectified.

NOTES

עד שעשאום – Until they rendered them full-fledged gentiles – גוים גמורים: Some commentaries derive from here that the Sages decreed that someone who is fully assimilated among gentiles is considered a gentile for all intents and purposes, and neither he nor his descendants are Jews at all. This is the opinion of several early commentaries with regard to an apostate, that he is no longer considered a Jew with regard to levirate marriage or *halitza*.

דעבדי יומא טבא כי תרבי תרמוד – Establish a Festival day when Tarmod is destroyed – יומא טבא כי תרבי תרמוד: Rashi says that this is due to the disqualification of *mamzerim*. Others suggest that the reason is that the inhabitants of Tarmod were sworn enemies of the Jews, and according to tradition they participated in the conquests of

Jerusalem during the destruction of both the First and Second Temples (*Arukh LaNer*).

It is taught in a *baraita* – במתניתא תנא: Some commentaries ask what this *baraita* adds to the statement of Rabbi Zeira. A different version of the text reads: He should turn there. In other words, this is a recommendation, as they are not strict about lineage in Harpanya, and for this reason their lineage is considered flawed (Rivan). Others differentiate between the opinion of Rabbi Zeira, who maintains that everyone turns to Harpanya, even actual *mamzerim*, which indicates that its residents are definitely disqualified, and the statement of the *baraita*, from which it can be inferred that the inhabitants of Harpanya are merely of uncertain lineage (*Yosef Lekah*).

NOTES

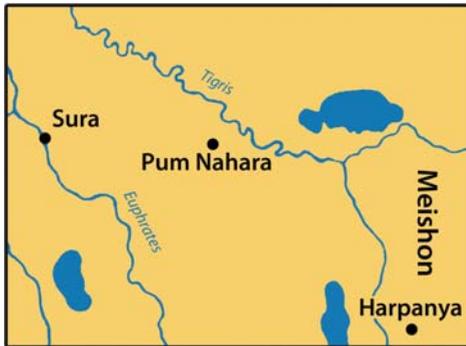
משום פסולי דמישון – מישון: Due to the disqualification of Meishon – In the Jerusalem Talmud it is stated that the disqualified residents of Meishon were not *mamzerim* but were priestly families that assimilated and became disqualified from the priesthood [*halalim*] by marrying unfit women. Consequently, they are uncertain *halalim*.

קבא רבא וקבא זוטא – A large ephah and a small ephah: Some commentaries cite a different interpretation: Both great individuals of prestigious lineage, the so-called large ephah, and lesser ones of disqualified lineage, a small ephah, descended to Babylonia, which is a geographically low place and for this reason is dubbed the netherworld. There, these individuals intermarried. A similar expression appears later in the tractate (70a).

BACKGROUND

Meishon and Harpanya – מישון והרפניא: The region of Meishon was east-southeast of the central Jewish settlement in Babylonia and was considered a place bereft of Torah and populated by individuals of unfit lineage. In contrast, Pumbedra, which was apparently considered within the primary Jewish settlement and was home to important Sages, was viewed as pure with regard to the lineage of its residents.

Tadmor, or Tarmod, is located hundreds of kilometers northwest of Meishon, and there is no geographical link between the two places. However, it is possible that there were ties of other kinds between these two cities.



Meishon and Harpanya

פסולי דהרפניא משום פסולי דמישון
 ופסולי דמישון משום פסולי דתַרְמוֹד.
 פסולי דתַרְמוֹד משום עבדי שלמה,

והיינו דאמרי אינשי: קבא רבא וקבא
 זוטא, מיגדר ואויל לשאול, ומשאול
 לתַרְמוֹד, ומתַרְמוֹד למישון, וממישון
 להרפניא.

הדרן עלך חמש עשרה נשים

The Gemara comments: **Those who are disqualified from Harpanya are unfit due to the disqualification of the inhabitants of nearby Meishon,**^N who were unfit and intermarried with the residents of Harpanya. **Those disqualified from Meishon are unfit due to those disqualified from Tarmod, and those disqualified from Tarmod are disqualified due to the servants of Solomon.**

The Gemara comments: **And this explains the folk saying that people say in this regard: A large ephah and a small ephah,**^N which are both inaccurate utensils that may not be used for measuring, **roll onward to the netherworld, and from the netherworld to Tarmod, and from Tarmod to Meishon, and from Meishon to Harpanya.**^B The same idea expressed by the Sages with regard to the disqualification of lineage was also incorporated into a well-known adage among commoners.

מתני' ביצד אשת אחיו שלא היה בעולמו? שני אחים, ומת אחד מהן; ונולד להן אה, ואחר כך ייבם השני את אשת אחיו ומת. הראשונה יוצאה משום אשת אחיו שלא היה בעולמו, והשנייה משום צרתה.

עשה בה מאמר ומת – שניה חולצת ולא מתנייבמת.

גמ' אמר רב נחמן: מאן דתני ראשונה לא משתבש, מאן דתני שנייה לא משתבש. מאן דתני

MISHNA Each of the women enumerated in the first chapter causes exemption from levirate marriage and *halitza* for her rival wives. This is due to the close family relationship she has with her brother-in-law, making her forbidden to him. The single exception is the case explained in this mishna. **What is the case of the wife of a brother^N with whom he did not coexist?**^H For example: If there were two brothers, and one of them died childless, and subsequently a brother of theirs was born, after which the second brother, the elder, took his deceased brother's wife in levirate marriage, and then died as well. Consequently, two women require levirate marriage: The widow of the first brother who had been taken in levirate marriage by the second brother, and the widow of the second brother, the first widow's rival wife. **The first** widow, who had been the wife of the first brother to die, **goes out** without any obligation to be taken in levirate marriage by the youngest brother who was born later, **since she is the wife of a brother with whom he did not coexist**. The first deceased brother never lived at the same time as the newly born brother. **The second** widow, who had been married to the second brother, is exempt **due to her rival wife**.

The mishna discusses an additional situation: If the second brother had **performed only levirate betrothal^B with her**, meaning that he had not yet consummated the marriage, **and then died**, both the wife betrothed by a levirate betrothal to the second brother and the wife of the second brother fall before the youngest brother born after the death of the first brother. In that case, the first wife certainly goes out and is exempt from both *halitza* and levirate marriage, since she is to him the wife of a brother with whom he did not coexist. **The second**, however, was never effectively the rival wife of the first brother's wife, as the first brother's wife had only been betrothed by levirate betrothal and was not fully married to the second brother. Therefore, **she performs halitza and may not enter into levirate marriage**.

GEMARA Rav Nahman said: **He who taught** the version of the mishna which reads: **The first** widow goes out, **is not mistaken** in his version, and **he who taught** a variant version of the mishna which reads: **The second** widow goes out, **is not mistaken** either, since it is possible to understand the mishna both ways. Both versions of the text can refer to the same woman, i.e., the wife of the first brother, by different titles. The Gemara explains that **he who taught**:

ראשונה לא משתבש. מאי ראשונה – ראשונה לנפילה, ומאן דתני שנייה לא משתבש: מאי שנייה – שנייה לנשואין. מי לא עסקינן דיבם ואחר כך בנס? אלא: מאי שנייה – שנייה בנשואין.

The first, is not mistaken, as what is the meaning of **first**? It means **the first to fall** before her *yavam* for levirate marriage. **And he who taught** referring to her as **the second is not mistaken** either, as what is the meaning of **second**? It means **the second to enter marriage**. Since the second deceased brother was already married to one woman, this *yevama* whom he took in levirate marriage was his second wife. The Gemara wonders: Is this the necessary order of events? **Are we not also dealing with** a scenario in which the second brother **took the wife of the first brother in levirate marriage and then later took** another wife? Would such a situation not merit the same ruling? **Rather, what is the meaning of calling the wife of the first brother the second?** It means **she who had been married for a second time**. She had already been married twice, whereas the wife of the second brother had been married only once.

NOTES

ביצד – What is the case of the wife of a brother, etc. – **אשת אחיו וכו'**: The mishna comes to clarify the fundamental principle concerning the *halakha* of the wife of his brother with whom he did not coexist, and not to discuss all of its details, since those were already discussed in the previous chapter (Rashba).

HALAKHA

The wife of a brother with whom he did not coexist – **אשת אחיו שלא היה בעולמו**: The levirate bond does not apply at all to the wife of a brother with whom one did not coexist. Therefore, she is exempt from levirate marriage and consequently forbidden to the *yavam*, and also causes exemption for her rival wives. In fact, she causes exemption for the rival wives of her rival wives as well, as per the ruling concerning all forbidden relations (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:16–17; *Shulhan Arukh, Even HaEzer* 173:12).

BACKGROUND

Levirate betrothal [*ma'amar*] – **מאמר**: The betrothal performed by a *yavam* based on his levirate bond with his *yevama* is called *ma'amar*. A levirate betrothal does not have the halakhic status of an ordinary betrothal, since the levirate bond between *yavam* and widow is not dependent upon betrothal. Rather, it is a sort of continuation of the previous marriage to her deceased husband. Full marriage with one's sister-in-law comes into effect by intercourse alone. However, the Sages instituted this type of betrothal with a *yevama* for reasons of modesty, so that the *yavam* would not have intercourse with her without betrothal.

Wife of a brother with whom he did not coexist – *Tosafot* ask: Why doesn't the Gemara employ the principle that the Torah's ways are pleasant (see Proverbs 3:17), used in several other areas of *halakha*, and say that it would not be appropriate for a woman to wait her entire life for a brother to possibly be born to her late husband? In the Jerusalem Talmud the applicability of this concept is discussed. *Tosafot* answer that the verse comes to exclude even the case where the mother-in-law was pregnant at the time of the husband's death, so that the wait would be finite. The Rashba adds that the verse is necessary to teach the case when several *yevamin* were alive, in which case the principle of the Torah's ways of pleasantness would not apply, as well as to exclude any later born brother from the obligation of levirate marriage.

United in an inheritance – *MiYotzei B'Nehle*: The Rashba challenges this explanation, as there are certain situations in which maternal half brothers inherit a common inheritance from their mother. He answers that since such a case occurs only infrequently, that cannot be the criterion used to determine brotherhood with regard to levirate marriage.

HALAKHA

Excludes his maternal half brother – *פרט לאחיו מן האם*: Maternal half brothers are not considered brothers for purposes of levirate marriage. If a man dies and has brothers only by his mother, then his widow is permitted to marry anyone (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 1:7; *Shulhan Arukh, Even HaEzer* 157:1).

אִשְׁתְּ אָחִיו שְׁלֵא הָיָה בְּעוֹלָמוֹ הֵיכָא בְּתִיבָא? אָמַר רַב יְהוּדָה אָמַר רַב: אָמַר קָרָא "כִּי יֵשְׁבוּ אַחִים יַחְדָּו" – שְׁהִיְתָה לָהֶם יְשִׁיבָה אַחַת בְּעוֹלָם. פֶּרֶט לְאִשְׁתְּ אָחִיו שְׁלֵא הָיָה בְּעוֹלָמוֹ. "יַחְדָּו" – מִיּוֹתְדִים בְּנִחְלָה, פֶּרֶט לְאָחִיו מִן הָאֵם.

רַבָּה אָמַר: אָחִין מִן הָאָב – יִלְיָף "אַחֻוּה" "אַחֻוּה" מִבְּנֵי יַעֲקֹב, מֵה לְהֵלֵן מִן הָאָב וְלֹא מִן הָאֵם, אִף כָּאֵן מִן הָאָב וְלֹא מִן הָאֵם.

וְלִילְיָף "אַחֻוּה" "אַחֻוּה" מִעֲרִיּוֹת! דִּנְיָן "אַחִים" מִ"אַחִים", וְאֵין דִּנְיָן אַחִים מִ"אַחִיךָ".

מֵאֵי נִפְקָא מִיָּנָה? הָא תִּנְא דְבֵי רַבִּי יִשְׁמַעֵאל: "וְשָׁב הַכֹּהֵן" וְיָבֵא הַכֹּהֵן" זֶה הָיָה שׁוֹבֵה זֶה הָיָה בִּיאָה! הֲנֵי מִלִּי הֵיכָא דְלִיכָא מִיָּדִי דְדָמִי לִיה, אֲבָל הֵיכָא דְאִיכָא מִיָּדִי דְדָמִי לִיה – מִדְדָמִי לִיה יִלְפִינָן.

וְלִילְיָף "אַחֻוּה" "אַחֻוּה" מְלוֹט, דְכִתְבִּיב "כִּי אָנְשִׁים אַחִים אָנְחָנוּ!" מִסְתַּבְרָא, מִבְּנֵי יַעֲקֹב הָוָה לִיה לְמִילָף, מְשׁוּם דְמִפְנֵי מִדְהוּה לִיה לְמַכְתָּב "שְׁנַיִם עָשָׂר עֶבְדֶיךָ בְּנֵי אַבְיָנוּ" וְכִתְבִּיב "אַחִים" – שְׁמַע מִיָּנָה לְאִפְנוּיָי.

The Gemara turns from a review of the language used in the mishna to a discussion of the *halakhot* of a wife of a brother with whom one did not coexist. **Where is it written** that the mitzva of levirate marriage does not apply in the case of the wife of a brother with whom he did not coexist?^N Rav Yehuda said that Rav said: **The verse states** "If brothers dwell together and one of them dies" (Deuteronomy 25:5), meaning that they had a common dwelling together in the world. This excludes the wife of a brother with whom he did not coexist. Furthermore, it is derived: "Together" means that they were united together in an inheritance;^N i.e., they are united in that they inherit together. In other words, since property is inherited by sons from their father, it can be inferred that the verse is speaking specifically of brothers from the same father. This excludes his maternal half brother,^N with whom he is not united by inheritance, since only brothers who share the same father inherit from each other.

Rabba said: **One learns** the ruling that levirate marriage applies only to brothers from the same father by the verbal analogy between the term brotherhood used in the context of levirate marriage and the term brotherhood from the children of Jacob. **Just as there**, with regard to the children of Jacob, they are all brothers from the father and not from the mother, since they were from four different mothers, so too, here, in the case of levirate marriage, it is referring specifically to brothers from the father and not from the mother.

The Gemara raises an objection: Why should we learn from the children of Jacob? **Let it derive** the meaning of the term brotherhood by verbal analogy to the term brotherhood from the verses discussing those with whom relations are forbidden. In the *halakhot* of forbidden relations, both paternal and maternal half brothers are considered brothers, and are thereby subject to such prohibitions as those against relations with a brother's wife. The Gemara answers: The first analogy is preferable, as we infer "brothers" from "brothers." The word "brothers" is stated both with regard to the children of Jacob and with regard to the *halakhot* of levirate marriage, whereas with regard to forbidden relations it says "your brother," and one cannot make an inference to "brothers" from "your brother."

The Gemara objects: **What difference does it make** if there is a minor difference between the words being compared? **As the school of Rabbi Yishmael taught** a verbal analogy with regard to leprosy of houses between the verse "and the priest shall return [*veshav*]" (Leviticus 14:39) and the verse "and the priest shall come [*uva*]" (Leviticus 14:44), from which it is derived that this is the *halakha* with regard to returning, i.e., it is after seven days, and this is the same *halakha* with regard to coming, that it is after seven days. Consequently, a less pronounced difference of one letter between the Hebrew words for "brothers" and "your brother" should certainly not prevent the teaching of a verbal analogy. The Gemara responds: **This applies when nothing else was more similar, but where there is something similar we infer from that which is more similar.** In such situations, it is preferable to learn from the word that bears greater similarity.

The Gemara objects on another count: **Let the halakha derive** the meaning of the term brotherhood from the term brotherhood from Lot, as it is written that Abraham said to Lot: "For we are brothers" (Genesis 13:8). From here one could conclude that the word brothers means relatives and not necessarily brothers. The Gemara rejects this: **It is more reasonable to derive from the children of Jacob, due to the fact that the word "brothers" is free in its context and is therefore available to be used in a verbal analogy: Since it could have written: We your servants are twelve children of our father, but instead it writes: "Twelve brothers, the children of one man" (Genesis 42:13), learn from here that this comes to render the word "brothers" free so that it may be allocated to another matter, i.e., the definition of brothers.**

It was necessary to write brothers, etc. – איצטרין למכתב. – אהים וכו'. *Tosafot Yeshanim* raise the question: Would it not have been possible to omit the word “brothers” in reference to Lot and to omit “together” in the verses that discuss levirate marriage? If so, they are both unnecessary. Ramban answers that if the word “brothers” had not been written, the word “brother” might have been interpreted in the widest sense as referring to fellow men and not necessarily to relatives, just as many times in the Torah the words “your brother” refer to any Jewish person. Consequently, it was necessary to write “brothers” in reference to Lot to teach that the “brothers” referred to in the context of levirate marriage are specifically relatives (see Ritva).

Free – מִפְּנֵי: There is a tannaitic dispute with regard to the authority of a verbal analogy [*gezera shava*] where the key words are not superfluous in their respective contexts. In the Jerusalem Talmud, even in the case of a verbal analogy where the key words are not at all superfluous, the analogy may be expounded, with the caveat that it is open to refutation. This type of verbal analogy is really an enhanced analogy [*binyan av*] and is essentially nothing more than a logical connection based on the idea that identical expressions in two *halakhot* indicate that the Torah intended to emphasize the connection between them. However, in the Babylonian Talmud, a verbal analogy may be expounded only if the key word is superfluous in at least one of the verses. According to Rabbi Yishmael, the superfluity of the key word in one verse is sufficient proof that the Torah intended that this verbal analogy should be derived, and it cannot be refuted. The Sages who disagree with him hold that even that type of verbal analogy can be logically refuted.

BACKGROUND

Levirate bond – זיקה: This refers to the relationship between a *yevama* and her deceased husband's brothers, from the time of the husband's death until one of the brothers performs levirate marriage or *halitza* with the widow. The precise nature of the relationship between the *yevama* and her *yevamin* during this period is the subject of much talmudic debate. In certain respects they are already considered to be betrothed from the time of the husband's death. For this reason, for example, a *yavam* may not marry a close relative of his *yevama*. The bond is either transformed into marriage by levirate marriage or nullified and severed by *halitza*.

LANGUAGE

Levirate bond [*zikka*] – זיקה: From the root *z-k-k*, meaning connected or tied. The modern Hebrew words *zikim* or *azikim*, meaning handcuffs, come from the same source. While this root is also used literally in certain contexts, most of its usage by the Sages is abstract or metaphorical and represents legal, psychological, or sometimes sexual bonds. The word *zikka* is an abstract noun meaning a tie or a connection, and it indicates that an element is lacking.

ואיצטרין למכתב אחים, ואיצטרין למכתב יחדו. דאי כתב רחמנא אחים הוה אמנא: לילף אחיה אחיה מלוט וכי תימא לא מפני לאי, אפנוי מפני מדהוה ליה למכתב רעים – וכתב אחים, שמע מינה לאפנוי – כתב רחמנא יחדו, המיוחדים בנחלה.

The Gemara comments: **And although Rav Yehuda and Rabba learned the same ruling from two different passages, according to both it was necessary to write “brothers”^N and it was necessary to write “together”** in the verses discussing levirate marriage, **as, if the Merciful One had written only “brothers,” I would say that one should infer the meaning of the term “brothers” from the term “brothers” from Lot. And if you would say it is not free^N there in the same way that the word “brothers” is free in the passage concerning the children of Jacob, this is not so; in fact, it is free.** With regard to Lot **it could have written: Friends**, as they were not actual brothers but relatives, **and yet “brothers” is written.** One might learn from here that this is free to be allocated elsewhere and teach that such relatives are called brothers even for levirate marriage. Therefore, **the Torah wrote “together”** to teach that this applies specifically to those brothers who are united in an inheritance.

ואי כתב רחמנא יחדו, הוה אמנא: דמייחדים באבא ובאמא, צריכא.

And if the Merciful One had written “together” alone and not added “brothers,” I would say that they must have both the same father and mother together, and that otherwise the mitzva of levirate marriage would not apply. Therefore, “brothers” is written to compare this to the children of Jacob, who were brothers from the same father but not the same mother. It is for this reason, then, that it is necessary to write both.

והא מהיכא תיתי? יבום בנחלה תלא רחמנא. ונחלה מן האב ולא מן האם היא! איצטרין, סלקא דעתך אמנא: הואיל וחידוש הוא, דקמשתרי ערוה גביה – אימא עד דמייחדים באבא ובאמא, צריכא.

The Gemara asks about the last supposition: **But from where would it be derived** that perhaps levirate marriage would apply only if they are full brothers, sharing both a father and mother? Why should one assume that maternal brotherhood is also of import here? Doesn't the Merciful One make levirate marriage dependent upon inheritance? The Torah states that the *yavam* who performs the levirate marriage will establish the name of his deceased brother, meaning that he inherits from him, **and inheritance comes from the father and not from the mother.** Nevertheless, this was necessary, as it could enter your mind to say that since this *halakha* of levirate marriage is a novelty in that a woman who was a forbidden relation to him as a brother's wife is now rendered permitted, say that this permissibility will be limited **only to cases of brothers with the same father and same mother together.** It is due to this possibility that the verbal analogy to the brothers who were the children of Jacob is necessary.

אמר רב הונא אמר רב: שומרת יבם שמתה – מותר באמה. אלמא קסבר: אין זיקה. ולימא: הלכה כדברי האומר אין זיקה!

§ Rav Huna said that Rav said: In the case of a widow whose husband had died childless and who is waiting for her *yavam* to perform levirate marriage or set her free with *halitza*, who then died before her *yavam* could take her in levirate marriage, the *yavam* is permitted to marry her mother. The levirate obligation does not create a familial relation between them. **Apparently,** Rav Huna says that Rav holds that the levirate bond [*zikka*]^{Bl} is not substantial. In other words, the bond formed between the *yevama* and her *yavam* requiring levirate marriage does not create a halakhic connection between the two. The Gemara asks: **Then let him say explicitly: The halakha is in accordance with the statement of he who says that the levirate bond is not substantial,** as this issue is in fact a matter of dispute between *tanna'im*. Why did he not simply conclude that the *halakha* is in accordance with the opinion of the *tanna* who held that the levirate bond is not substantial?

אי הוה אמר הכי הוה אמנא: הני מילי בתרי, אבל בחד יש זיקה.

The Gemara answers: **If he had said that, I would say: This statement that the levirate bond is not substantial applies only in reference to two brothers, each of whom has the possibility to take her in levirate marriage.** In such cases the levirate bond between either one of the brothers and the *yevama* is not absolute, as it is always possible for the other brother to marry her instead. **But in cases of one brother, then since the obligation to the *yevama* is exclusively his, I would say that the levirate bond is substantial.**

וְלִימָא: הֲלָכָה כְּדַבְרֵי הָאוֹמֵר אִין זִיקָה אֶפְלוּ בְּחֵד? אִי אָמַר הָכִי הָוָה אָמֵינָא אֶפְלוּ מִחַיִּים, קַמְשָׁמַע לָן: לְאַחַר מִיתָה – אִין, מִחַיִּים – לֹא, מִשּׁוּם דְּאָסוּר לְבַטֵּל מִצְוֹת יְבָמִין.

The Gemara asks: **Then let him say:** The *halakha* is in accordance with the statement of the one who says that the levirate bond is not substantial, even in the case of one brother. The Gemara answers: **If he had said that, I would say:** Even if his *yevama* were alive and required levirate marriage with him, he would be allowed to take her mother in marriage. Therefore, **this comes to teach us that after death, yes, he is permitted to marry her mother; but while she is alive, he is not.** Why not? This is because it is prohibited to nullify the mitzva of levirate marriage. Were he to marry her mother, he would no longer be able to take the daughter in levirate marriage because his wife's daughter is forbidden to him. As a result of his marriage, he would cancel the mitzva of levirate marriage so that it could no longer apply to him.

תָּנַן: יְבָמִתּוּ שְׂמִיתָה – מוֹתֵר בְּאַחֻזָּתָהּ. בְּאַחֻזָּתָהּ אִין, בְּאִמָּהּ לֹא!

The Gemara raises an objection to the statement of Rav Huna: **We learned in a mishna (49a):** If his *yevama* dies, he is permitted to marry her sister. A precise reading of this phrase leads to the implication that with regard to her sister, yes, it is permitted, as even if it had been his wife who had died he would be permitted to marry her sister. But with regard to her mother, no, it is not permitted.

הוּא הָדִין דְּאֶפְלוּ בְּאִמָּהּ, וְאִיִּדֵי דְתֵנָא רִישָׁא אֲשֶׁתּוֹ שְׂמִיתָה מוֹתֵר בְּאַחֻזָּתָהּ, בְּאַחֻזָּתָהּ – אִין, אֲבָל בְּאִמָּהּ – לֹא. דְּהוּיָא לָהּ אִיסוּרָא דְאוֹרְיִיתָא, תֵּנָא נְמִי סִיפָא מוֹתֵר בְּאַחֻזָּתָהּ.

The Gemara rejects this: No evidence can be derived from here, as it is possible to say that the same is true even for her mother, that she too is permitted. **But since it taught in the first clause of this mishna: If his wife dies he is permitted to take her sister,** and there the language is precise and implies: **Her sister, yes, but her mother, no,** as she is forbidden by Torah law because it is prohibited for a man to marry both a woman and her daughter even after one of them dies, therefore he used the same language when he taught the latter clause of the same mishna that he is permitted to take her sister. However, in the latter clause it is not an exact reading, and in actuality one is allowed to marry any of her relatives. This completes the Gemara's explanation of Rav Huna's opinion.

וְרַב יְהוּדָה אָמַר: שׁוֹמְרֵת יָבָם שְׂמִיתָה – אָסוּר בְּאִמָּהּ. אֲלֵמָא קְסַבְר: יֵשׁ זִיקָה. וְלִימָא: הֲלָכָה כְּדַבְרֵי הָאוֹמֵר יֵשׁ זִיקָה!

And Rav Yehuda said: In the case of a widow who dies while waiting for her brother-in-law to perform *halitza* or levirate marriage, he is prohibited from marrying her mother.¹¹ The Gemara comments: **Apparently Rav Yehuda holds that the levirate bond is substantial;** this would mean that the attachment between the *yevama* and the *yavam* is like that of marriage and that the *yavam* is therefore prohibited from marrying her relatives. **But it must be asked: Why does Rav Yehuda say it in such a way? Let him say:** The *halakha* is in accordance with the statement of the one who says that the levirate bond is substantial.

אִי הָוָה אָמַר הָכִי הָוָה אָמֵינָא: הֲנִי מִיְלֵי בְּחֵד, אֲבָל בְּתַרִי אִין זִיקָה. וְהָאֵל אִי פְלִיגִי – בְּתַרִי פְלִיגִי! אֲלֵא, אִי אָמַר הָכִי

The Gemara responds: **If he would have said that, I would say that with regard to the levirate bond, this applies in the case of one brother, but if there were two brothers then the levirate bond is not substantial.** The Gemara objects: **But when the *tanna'im* disagree, they disagree in a case of two brothers,** so how could one think that Rav Yehuda is speaking only in the case of a single brother? **Rather, one must say: If he were to say that the conclusive halakhic ruling is that the bond is substantial,**

HALAKHA

A widow who dies while waiting for her brother-in-law, he is prohibited from marrying her mother – שׁוֹמְרֵת יָבָם שְׂמִיתָה – אָסוּר בְּאִמָּהּ: If one's *yevama* dies before he performs *halitza*, then her relatives are forbidden to him as though she had been his wife.

This *halakha* is ruled in accordance with the opinion of Rav Yehuda in the name of Shmuel (18b), because it seems from the talmudic discussion that the *amora'im* made great efforts to resolve the difficulties in accordance with his opinion, and

this implies that the *halakha* is ruled in accordance with his opinion (*Beit Yosef*). Although this contradicts the principle that the *halakha* is ruled in accordance with the opinion of Rav in his disputes with Shmuel, some versions of the text show that Rav Yehuda's statement was in fact said in the name of Rav. In that case, there is an amoraic dispute with regard to his opinion, and the *halakha* is ruled in accordance with the more certain opinion (Rabbeinu Hananel; Rambam *Sefer Nashim, Hilkhhot Yibbum VaHalitza* 1:13; *Shulhan Arukh, Even HaEzer* 159:5).