

היה אמינא: מחיים, אבל לאחר מיתה פקעה לה זיקה, קא משמע לן דזיקה בכדי לא פקעה. לימא מסייע ליה: נבמתו שמתה מותר באחותה, באחותה - אין, באמה - לא.

הוא הדין דאפילו באמה, ואידי דתנא רישא אשתו שמתה מותר באחותה, דוקא באחותה אבל באמה לא, דהויא לה איסורא דאורייתא - תנא נמי סיפא מותר באחותה.

מתיהב רב הונא בר חייא: עשה בה מאמר ומת - שניה חולצת ולא מתנייבמת. טעמא - דעבד בה מאמר, הא לא עבד בה מאמר - שניה נמי יבומי מייבמה. ואי אמרת יש זיקה, הויא לה צרת אשת אחיו שלא היה בעולמו בויקה!

אמר רבה: הוא הדין דאף על גב דלא עבד בה מאמר - שניה מחלץ חלצה, יבומי לא מייבמה.

והא דקתני מאמר - לאפוקי מבית שמאי דאמרי: מאמר קונה קנין גמור, קא משמע לן.

איתיביה אבוי: שני אחין בעולם אחד, ומת אחד מהן בלא ולד, ועמד השני הזה לעשות מאמר ביבמתו, ולא הספיק לעשות בה מאמר עד שנוולד לו אח, ומת, הראשונה יוצאה משום אשת אחיו שלא היה בעולמו, ושניה - או חולצת או מתנייבמת. ואי אמרת יש זיקה - הויא לה צרת אשת אחיו שלא היה בעולמו בויקה!

I would say that the levirate bond applies as long as the *yevama* requiring levirate marriage is alive but that after her death the bond was terminated. In other words, after the *yevama* died any relationship between the two dissolved. This comes to teach us that the bond is not terminated without cause but instead requires an actual act, such as *halitza* or levirate marriage. Until one of these acts is performed, the bond remains in place. Let us say that it supports Rav Yehuda's opinion from that which was taught: If his *yevama* dies, he is permitted to marry her sister. From here the Gemara deduces: Her sister, yes; her mother, no, in accordance with the opinion of Rav Yehuda.

The Gemara rejects this: The same is true, that even her mother is permitted. And this language was used only since he taught in the first clause of the *baraita*: If his wife dies he is permitted to take her sister; specifically her sister but not her mother, as she is forbidden by Torah law. Therefore, he also taught in the latter clause that he is permitted to marry her sister.

Rav Huna bar Hiyya raised an objection to this from the mishna: If he performed levirate betrothal with her and then died, the second woman performs *halitza* and may not enter into levirate marriage. This implies that the reason is specifically that he performed levirate betrothal with her. Had the brother not performed levirate betrothal with her, the second woman would also be permitted to enter into levirate marriage. And if you say that the levirate bond is substantial, then she would be considered a rival wife of the wife of a brother with whom the third brother did not coexist by that bond.<sup>h</sup> Since the wife of a brother with whom he did not coexist is prohibited from entering into levirate marriage, her rival wife would likewise be forbidden from doing so.

Rabba said: This should not be read precisely, as the same is true even if the second brother did not perform levirate betrothal; the second woman must perform *halitza* but may not enter into levirate marriage, as the levirate bond renders her a rival wife of the wife of a brother with whom the third brother did not coexist.

And the reason that it teaches the case of levirate betrothal specifically was in order to exclude the opinion of Beit Shammai,<sup>n</sup> who said: The legal status of levirate betrothal with a *yevama* eligible for levirate marriage is that of a full-fledged acquisition, and it is legally binding to the same degree as an actual betrothal. Therefore, even *halitza* would be unnecessary, similar to the case of a rival wife of a forbidden relation. This is what it comes to teach us: Even if he performed levirate betrothal she is not truly considered the rival wife of a forbidden relation; the prohibition concerning her is by rabbinic law, and she is therefore required to perform *halitza*.

Abaye raised an objection to this from that which was taught: In the case of two brothers who coexisted, and one died childless and the second arose to perform levirate betrothal with his *yevama* but did not manage to perform levirate betrothal before a third brother was born, and then the second brother, who also had a wife, died, whereby both women would fall before the newly born brother for levirate marriage, then the first goes out and is not obligated in levirate marriage because she is the wife of his brother with whom he did not coexist, and the second woman, who was the wife of the second brother, either performs *halitza* or enters into levirate marriage. But if you say that the levirate bond is substantial, then the wife of the second brother would be rendered a rival wife of the wife of a brother with whom he did not coexist by that bond.

HALAKHA

A rival wife of the wife of a brother with whom he did not coexist by that bond - צרת אשת אחיו שלא - היתה בעולמו בויקה: If there were two brothers and one died childless, and subsequently a third brother was born, then if the second brother dies, even if he had not yet performed levirate betrothal to the widow of the first brother, the third brother must nevertheless perform *halitza* for the wife of the second brother, and she may not enter into levirate marriage with him, since they ruled that the levirate bond is substantial. Accordingly, the levirate bond rendered the wife of the second brother a rival wife of the wife of the first brother, with whom the third brother did not coexist, as per Shmuel's opinion.

Rambam explains that this *halakha* applies only if the second brother had performed levirate betrothal. The author of the *Maggid Mishne* challenges this, since Rambam himself concludes explicitly that there is a levirate bond even if there was no levirate betrothal (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:18; *Shulhan Arukh, Even HaEzer* 173:12).

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In order to exclude the opinion of Beit Shammai - לאפוקי מבית שמאי: *Tosafot Yeshanim* raise the question: Isn't it already known that when Beit Shammai express an opinion and Beit Hillel disagree, the opinion of Beit Shammai is considered as though it were not in the mishna at all and is completely disregarded? If so, why would it be necessary to explicitly exclude the opinion of Beit Shammai? The answer given is that in fact, the opinion that levirate betrothal constitutes a fully effective acquisition is not exclusive to Beit Shammai but is actually the opinion of several other *tanna'im*, and so it was necessary to exclude that opinion.



אמר ליה: דרבן גמליאל אדרבי מאיר קרמית? לא, הכי קאמרין: רבי מאיר חייש אפילו לספיקא, רבן גמליאל – אפילו לודאי לא חייש! דלמא, מאן דלא חייש אפילו לודאי לא חייש, ומאן דחייש – אפילו לספיקא חייש.

Rabba said to Abaye: Do you wish to raise a contradiction between the words of Rabban Gamliel and Rabbi Meir? This would imply that the contradiction needs to be resolved, but statements from two different *tanna'im* do not need to agree or to be resolved. Abaye responded: No, in fact this is what we meant to say: How could one possibly say that Rabbi Meir is concerned lest there be nullification of the mitzva of levirate marriage even when it is uncertain because perhaps the first brother will not die, whereas Rabban Gamliel is not concerned that the mitzva be nullified even when it is certain? It is surprising that there should be such a great difference between the tannaitic opinions. Rabba answered: Perhaps the one who is not concerned about nullification of the mitzva of levirate marriage is not concerned even if nullification is certain, and the one who is concerned is concerned even if nullification is uncertain.

אמר ליה אביי לרב יוסף: הא דרב יהודה – דשמואל היא, דתנן:

With regard to the actual dispute between Rav Huna and Rav Yehuda, Abaye said to Rav Yosef: This *halakha* stated by Rav Yehuda, that even if a woman waiting for levirate marriage dies her mother is still forbidden to the *yavam*, is from his teacher Shmuel and not from Rav, who was also one of his teachers. Evidence for this can be found in that which we learned in a mishna (41a):

Perek II  
Daf 18 Amud b

שומרת יבם שקדש אחיו את אחותה, משום רבי יהודה בן בתירה אמרו: אומרים לו, המתן עד שייעשה אחיך מעשה. ואמר שמואל: הלכה כרבי יהודה בן בתירה.

In the case of a widow waiting for her *yavam* to take her in levirate marriage or perform *halitza*, if his brother betrothed<sup>H</sup> her sister<sup>N</sup> they said in the name of Rabbi Yehuda ben Beteira: They say to the brother who betrothed her: Wait and do not marry your betrothed until your brother performs the required action, either *halitza* or levirate marriage. This is because until that time the levirate bond is still applicable and the woman betrothed to you is forbidden to you as the sister of a woman bonded to you. And Shmuel said: The *halakha* is in accordance with the opinion of Rabbi Yehuda ben Beteira. From here one may infer that Shmuel holds that the levirate bond is substantial.

אמר ליה: דאי דרב מאי? (אמר ליה): קשיא דרב אדרב! דלמא אמוראי נהו, ואלויבא דרב? בין דאיתמר משמיה דשמואל בהדיא, ומשמיה דרב כאמוראי – לא שבקינן משמיה דשמואל בהדיא ומוקמינן כאמוראי ואלויבא דרב.

Rav Yosef said to him: And if it were the opinion of Rav, what problem would there be? Abaye said to him: It is difficult because there would be a contradiction between the opinion of Rav and another statement of Rav, since Rav Huna cited Rav, and the conclusion from his statements was that the levirate bond is not substantial. He said to him: Rav Huna and Rav Yehuda each cited Rav. Perhaps they are *amora'im* and disagree in accordance with the opinion of Rav, i.e., with regard to his opinion? The Gemara answers: Since that which was stated in the name of Shmuel was explicit, while that said in the name of Rav must be explained as an amoraic dispute, we will not leave that statement said explicitly in the name of Shmuel and explain it as an amoraic dispute according to the opinion of Rav.

אמר רב פהנא, אמריתיה לשמעיה קמיה דרב זביד מנהרדעא, אמר: אתון הכי מתניתו ליה, אנו בהדיא מתנינן: אמר רב יהודה אמר שמואל: שומרת יבם שמתה – אסור באמה. אלמא קסבר: יש זיקה. ואודא שמואל לטעמיה, דאמר שמואל: הלכה כרבי יהודה בן בתירה.

Rav Kahana said: I reported this discussion before Rav Zevid of Neharde'a. He said: That is how you teach this, without knowing for certain that Rav Yehuda was stating the *halakha* in the name of Shmuel. We learn it explicitly: Rav Yehuda said that Shmuel said: In the case of a widow waiting for her *yavam* who died before he could perform *halitza* or levirate marriage, he is prohibited from marrying her mother. Apparently Shmuel holds that the levirate bond is substantial.<sup>H</sup> And Shmuel conforms to his standard line of reasoning, as Shmuel also said: The *halakha* is in accordance with the opinion of Rabbi Yehuda ben Beteira.

HALAKHA

A widow waiting for her *yavam*, if his brother betrothed, etc. – שומרת יבם שקדש אחיו וכו' – If a woman happened before several brothers for levirate marriage, and one of the brothers betrothed the sister of this woman who was bound to him, he is prohibited from marrying his betrothed until one of the brothers takes the widow in levirate marriage or performs *halitza* for her, in accordance with the opinion of Rabbi Yehuda ben Beteira and Shmuel. Some say that if he already married her he is permitted to engage in intercourse even before another brother releases the widow (*Tosafot*), whereas others disagree (*Nimmukei Yosef*). The later commentaries say that if there is another brother who can perform *halitza*, the brother who is married to the widow's sister should wait to consummate the marriage until after *halitza* has been performed (*Pithei Teshuva; Shulhan Arukh, Even HaEzer 159:5*).

The levirate bond is substantial – יש זיקה: Where the mitzva of levirate marriage applies, the relatives of the *yevama* are forbidden to the *yavam* whether there is a single *yavam* or there are many. Even if she dies, her close relatives are forbidden to him (*Shulhan Arukh, Even HaEzer 159:5*).

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קדש אחיו את אחותה – His brother betrothed her sister – The early commentaries discuss the reasons for this *halakha*, as one might have thought that the brother's betrothal of the sister effectively terminated the levirate bond between him and his brother's widow. *Tosafot* explain that the reason that he must wait is as a penalty because it was prohibited for him to betroth the sister of a woman with whom he has a levirate bond. However, Ramban challenges this answer, and suggests that the levirate bond lessens the validity of the betrothal to her sister, as the existence of a levirate bond renders this case similar to that of one who betroths the sister of his betrothed.

Some authorities hold that even if he actually married his betrothed he is told to wait and not engage in intercourse with her (*Ritva; Meiri; Nimmukei Yosef; see Halakha section*).

The wife of a brother with whom he did not coexist – **אִשְׁתְּ אָחִיו שְׁלֵא הָיָה בְּעוֹלָמוֹ**: The wife of a brother with whom a newly born brother did not coexist is forbidden to him, whether this youngest brother was born before or after another brother took her in levirate marriage. This ruling is in accordance with the opinion of the first *tanna* in the mishna (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaHalitza* 6:17; *Shulhan Arukh*, *Even HaEzer* 173:12).

וְצָרִיכִי דְאֵי אֲשַׁמְעִינֵי יֵשׁ וְיִקָּה – הָיָה אֲמִינָא: הֲנֵי מִלֵּי – בְּחֵד, אֲבָל בְּתָרֵי – לֹא, קָא מְשַׁמַּע לָן. וְאֵי אֲשַׁמְעִינֵי הַלְכָה פְּרָבִי יְהוּדָה בֶּן בְּתוּרָה – הָיָה אֲמִינָא הֲנֵי מִלֵּי מַתִּיִּים, אֲבָל לְאַחַר מִיתָה – פְּקָעָה לָהּ וְיִקָּה, קָא מְשַׁמַּע לָן: דְּוִיקָה בְּכַדֵּי לֹא פְקָעָה.

The Gemara comments: Both statements by Shmuel on the subject are necessary and there was no redundancy here, as, if he were to teach us only the principle that the levirate bond is substantial, I would say that this applies only to the case of one *yavam* but not to a case of two *yevamin*, where the levirate bond is not as strong. This comes to teach us that even in the case of two *yevamin* there is a bond, and that is the conclusive *halakha* put forth by Rabbi Yehuda ben Beteira. And if he were to teach us only that the *halakha* is in accordance with the opinion of Rabbi Yehuda ben Beteira, I would say that this applies only in the case where the woman awaiting levirate marriage is living, but after her death the levirate bond is terminated and he is permitted to marry her relatives. This comes to teach us that the levirate bond is not terminated without cause but rather it is necessary to perform some act in order to exempt her from it.

מתני' שני אחים ומת אחד מהן, ויבם השני את אשת אחיו, ואחר כך נולד להן אב ואם – הראשונה יוצאה משום אשת אחיו שלא היה בעולמו, והשנייה משום צרתה, עשה בה מאמר, ומת – השנייה חולצת ולא מתניבמת.

**MISHNA** If there were two brothers, and one died, and the second entered into levirate marriage with his brother's wife while he was already married to another woman, and subsequently a third brother was born to them, and the second brother then died, whereby both of his wives happened before the third brother for levirate marriage, then the first woman, who was the wife of the first brother, is exempt due to the fact that she is the wife of a brother with whom the third brother did not coexist,<sup>h</sup> and the second woman, who was the first wife of the second brother, is exempt due to her rival wife. If the second brother had performed only levirate betrothal with her and then died before fully marrying her, the second woman performs *halitza* and may not enter into levirate marriage, as the levirate betrothal is not considered a sufficiently valid marriage so as to render her the rival wife of a relation forbidden to the third brother.

רבי שמעון אומר: מייבם לאיוז מהן שירצה, או חולץ לאיוז מהן שירצה.

Rabbi Shimon says with regard to the first clause of the mishna: The third brother either enters into levirate marriage with whichever one he wishes, or he performs *halitza* with whichever one he wishes. Since he was born after his second brother had already entered into levirate marriage with the first brother's widow, she is considered the wife of a brother with whom he did coexist, not the wife of a brother with whom he did not coexist. Therefore, he may enter into levirate marriage with her.

גמ' אמר רב אושעיא: חלוק היה רבי שמעון אף בראשונה. ממיאי – מדקתני משנה יתירה –

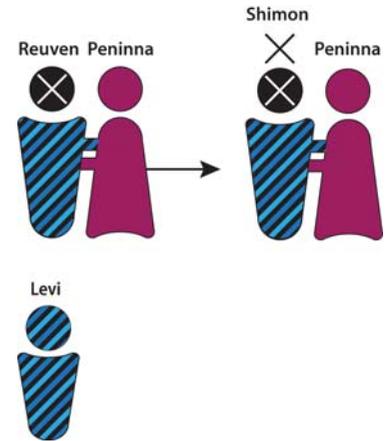
**GEMARA** Rav Oshaya<sup>n</sup> said: Rabbi Shimon's opinion differed even on the first mishna. That is, Rabbi Shimon disagreed not only in the case stated explicitly in this mishna, in which the newly born brother came into the world after the widow of his first brother had already married his second brother, but he also disagreed in the case of the first mishna in the chapter, where the third brother was born prior to his second brother entering into levirate marriage with the widow. From where is this derived? Rav Oshaya came to this conclusion from the fact that it teaches a superfluous mishna.

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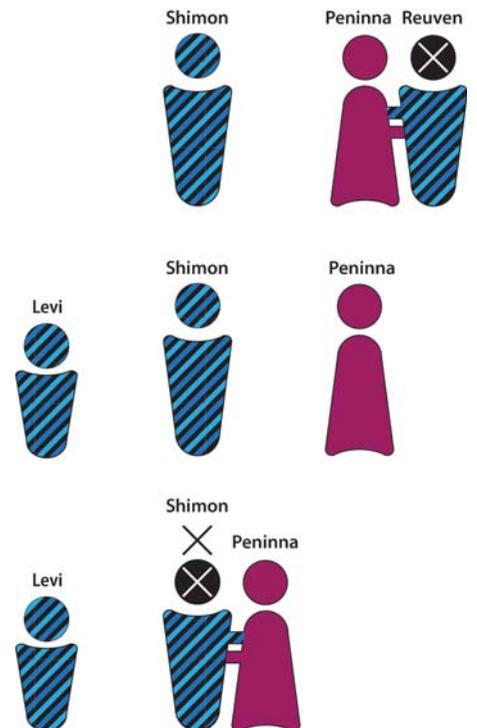
Rav Oshaya – רב אושעיא: *Masoret HaShas* emends the text here to read: Rabbi Oshaya. The reason for this is that later (19a) the Gemara cites a *baraita* which challenges this opinion, and states: This is a conclusive refutation of the opinion of Rabbi Oshaya. Rabbi Oshaya, also known as Rabbi Hoshaya, was a first generation *amora* who lived in Eretz Yisrael.

However, elsewhere in this discussion, Rav Oshaya is also mentioned. Rav Oshaya, also known as Rav Hoshaya, was a third generation *amora* who was born and lived in Babylonia. He was a student of Rav Yehuda and Rav Huna, and a friend of Rava. He eventually moved to Eretz Yisrael, where he received ordination.

**מת יבם – גולד ויבם:** Reuven and Shimon were brothers from the same father, and Reuven was married to Peninna. Reuven died childless and Shimon entered into levirate marriage with Peninna. Later, a third brother, Levi, was born. According to Rabbi Shimon, since at the time that Levi was born Peninna was already the wife of Shimon, a brother with whom he did coexist, when Shimon dies Peninna is permitted to Levi.



**מת – גולד ויבם:** Reuven and Shimon were brothers from the same father. Reuven was married to Peninna and subsequently died. After his death, a third brother, Levi, was born. To Levi, Peninna is a wife of a brother with whom he did not coexist. Therefore, even if Shimon later enters into levirate marriage with her and then dies childless, Peninna remains forbidden to Levi. According to most authorities, in the Gemara Rabbi Shimon agrees that in this case, Peninna is forbidden to Levi because for the period of time between Levi's birth and the levirate marriage to Shimon she was forbidden to Levi as the wife of a brother with whom he did not coexist.



בבא דרישא למאן קתני לה? אילימא לרבנן – השתא יבם ולבסוף נולד, דכי אשכחא בהתיירא אשכחא, אסרי רבנן – נולד ואחר כך יבם מיבעיא? אלא לאו – לרבי שמעון איצטריך,

How so? In accordance with whose opinion is it teaching the section of the first clause, i.e., the previous mishna? If we say it is the opinion of the Rabbis, who prohibit marriage to the wife of a brother with whom one did not coexist in all cases, then let us look at the second mishna. Now that even in the case where the second brother entered into levirate marriage and afterward the third brother was born,<sup>8</sup> such that when he found her, i.e., when he was born, she had a permitted status, as she was already married to the second brother, she was never in his lifetime the wife of a brother with whom he did not coexist but was in fact for him the wife of a living brother. Nevertheless, even under such circumstances, the Rabbis prohibit him from entering into levirate marriage with her. Is it necessary, then, to teach the case presented in the first mishna of a third brother who was born and subsequently the second brother entered into levirate marriage with the wife of the first brother?<sup>8</sup> According to the opinion of the Rabbis, this first mishna is redundant. Rather, is it not that it was necessary to state this first mishna for the opinion of Rabbi Shimon?

ותנא רישא להודיעך כחו דרבי שמעון, ותנא סיפא להודיעך כחן דרבנן. ובדין הוא דנפלוג רבי שמעון ברישא, אלא נטר להו לרבנן עד דמסיימי למילתיהו, והדר פליג עלייהו.

If so, this is how it must be understood: The first mishna was taught in order to convey to you the far-reaching nature of the opinion of Rabbi Shimon, which allows even the case specified in the first mishna, and the latter clause, i.e., the present mishna, was taught to convey the far-reaching nature of the opinion of the Rabbis, that even if the third brother was born after levirate marriage to the second brother she remains forbidden to the third brother. And by right it should have explained that Rabbi Shimon disagrees even in the first mishna, but the author of the mishna waited until the Rabbis finished their words, and then he went back and wrote that Rabbi Shimon disagreed with them.

אלא, אשת אחיו שלא היה בעולמו, לרבי שמעון היכי משכחת לה? בחד אחא, ומית, ונולד לו אח. אי נמי: בתרי, ולא יבם ולא מית.

The Gemara asks: But according to the opinion of Rabbi Shimon, how can you find<sup>n</sup> this case of the wife of a brother with whom he did not coexist? The Gemara answers: It is in the case of a single brother who died and subsequently another brother was born to him. Here, the widow would be the wife of a brother with whom he did not coexist, and she would not be required to perform *halitza* or enter into levirate marriage with him. Alternatively, it can be found in the case of two brothers, one of whom died, and the remaining brother did not take the deceased brother's wife in levirate marriage, and did not die,<sup>n</sup> and in the meantime a third brother was born. She still has the levirate bond due to the deceased brother, who was a brother with whom the newly born brother did not coexist.

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According to the opinion of Rabbi Shimon how can you find – לרבי שמעון היכי משכחת לה – One may ask how the Gemara knew that Rabbi Shimon holds that the wife of a brother with whom one did not coexist is in fact forbidden. It seems that it was clear to the Gemara that the fifteen women enumerated in the mishna (2a–2b) are agreed on by all opinions, and that even Rabbi Shimon agreed with this *halakha* in principle (Ritva).

Two brothers and the remaining brother...did not die – בתרי...ולא מית: If the levirate bond is like marriage, then the

widow of the first brother should be forbidden to any newly born brother, since she is the wife of the living brother, even if that brother has not yet performed levirate marriage. If so, then in Rabbi Shimon's opinion why was it necessary for the verse to state the word "together" specifically to render the *yevama* forbidden to a newly born brother? Perhaps his reasoning can be explained simply by saying that after another brother is born, the bond with the living brother was retroactively never absolute (see Ritva).

Rav Yosef strongly objects to this – מתקוף לה רב יוסף – The early commentaries ask why the Gemara did not state that Rabbi Shimon held the levirate bond to be like marriage specifically in the case where she later entered into levirate marriage, and why it sufficed to mention only that he performed a levirate betrothal. The Ramban answers that the principle that a levirate bond renders her like a married woman fully applies only if she ultimately marries. But if he does not take her in levirate marriage, she is not considered like a married woman (see Meiri). The Ritva explains that the Sages relied here upon the common sense reasoning that a bond to two brothers cannot render her like a married woman, even in Rabbi Shimon's opinion. Additionally, from the continuation of the discussion it would seem that this difficulty was not pertinent to the matter of the levirate bond but rather related to the validity of the levirate betrothal (Meiri).

בשלמא יבם ואחר כך נולד – בי  
אשכחה בהתיארא אשכחה, אלא נולד  
ואחר כך יבם – מאי טעמא? קסבר:  
יש זיקה, וזיקה בכנוסה דמא.

The Gemara proceeds to clarify Rabbi Shimon's position: **Granted**, in the case when the second brother first performed levirate marriage and subsequently the third brother was born, it is possible to explain that when the third brother found her, i.e., when he was born, he found her in a permitted state because when he was born she was already the wife of a living brother with whom he coexisted. **But if he was born and subsequently the second brother performed levirate marriage, what is the reason** that Rabbi Shimon renders her permitted? The Gemara answers: One must say that Rabbi Shimon holds that the levirate bond is substantial, and that the bond itself created a tie of kinship. Moreover, a woman with a levirate bond is considered like a married woman. Since there is a bond between the *yevama* and the living brother it is as though she were already married to him. Accordingly, she is, for the new brother, like the wife of his brother with whom he coexisted.

מתקוף לה רב יוסף: השתא זיקה  
ומאמר מספקא ליה לרבי שמעון אי  
ככנוסה דמא אי לאו ככנוסה דמא,  
זיקה לחודה מיבעיא?

Rav Yosef strongly objects to this:<sup>11</sup> Now that in the case of a levirate bond and a levirate betrothal together Rabbi Shimon is uncertain as to whether she is similar to a married woman or an unmarried woman, is it necessary to say that by levirate bond alone she is not like a married woman? If so, how can the Gemara assume that for Rabbi Shimon, the levirate bond alone gives her the status of a married woman?

מאי היא? דתנן: שלשה אחין נשואין  
שלש נשים נכריות, ומת אחד מהם  
ועשה בה שני מאמר, ומת – הרי אלו  
חולצות ולא מתייבמות.

What is the proof that this is Rabbi Shimon's opinion? As we learned in a mishna (31b): In the case of three brothers who were married<sup>12</sup> to three unrelated women, and one of the brothers died, and the second brother performed levirate betrothal with the widow and subsequently died, then these women, both the first wife of the second brother and the betrothed widow of the first brother, must perform *halitza* and may not enter into levirate marriage with the third brother.

שנאמר "ומת אחד מהם יבמה יבא  
עליה" – מי שעליה זיקת יבם אחד,  
ולא שעליה זיקת שני יבמין.

What is the reason that the wife of the first brother is not eligible for levirate marriage? As it is stated: "And one of them dies... her brother-in-law will have intercourse with her and will take her to him to be his wife and consummate the levirate marriage" (Deuteronomy 25:5). From here it is derived: **She who is subject to a levirate bond with a single *yavam* enters levirate marriage and not she who is subject to a levirate bond with two *yevamin*.** This woman requires levirate marriage due to the death of the first brother, and also, due to the subsequent levirate betrothal, requires levirate marriage following the death of the second brother.

רבי שמעון אומר: מייבם לא יזהו מהן  
שירצה, וחולץ לשניה. יבומי תרוניהו  
לא – דדלמא יש זיקה, והו שני יבמות  
הבאות

However, Rabbi Shimon says: Let him enter into levirate marriage with whichever he wishes and perform *halitza* with the second. Rabbi Shimon does not accept the homiletical interpretation forbidding a woman who is subject to two levirate bonds. The Gemara explains his opinion: Rabbi Shimon does not allow him to take both in levirate marriage. Why not? Perhaps the levirate bond is substantial, and combined with the levirate bond to the second brother the woman might be considered to be already married to the second brother, and then these two women would be two *yevamot* who come

#### HALAKHA

Three brothers married, etc. – שלשה אחין נשואין וכו' – If three brothers were married to three unrelated women and one died childless, and the second brother performed a levirate betrothal with his *yevama* and then died before he could consummate the marriage, whereby both his wife and the *yevama* fall before the third brother, those women must perform *halitza* and may not enter into levirate marriage. This

is because the wife of the first deceased brother is subject to two levirate bonds and therefore cannot enter into levirate marriage, and the second, as her rival wife, performs *halitza* but may not enter into levirate marriage, as she is forbidden to the third brother by rabbinic law (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:27; *Shulhan Arukh, Even HaEzer* 174:4).