

NOTES

The wife of a father's father's brother, etc. – אִשְׁתְּ אָחִי – אָבִי הָאָבִי וכו': The early commentaries ask why the Gemara did not similarly inquire about the sister of one's mother's mother, as she is an equally close relative. They answered that the Gemara did not ask about every possible case, but took these two cases as examples. These specific cases were used because the Gemara's question is based on the fact that one generation below them is a forbidden relation by Torah law.

HALAKHA

The wife of one's father's father's brother, etc. – אִשְׁתְּ אָחִי אָבִי אָבִי: The wife of one's father's father's paternal half brother is permitted as well as both the maternal and paternal half sisters of one's father's father, in accordance with the statement of Ameimar. This is the halakha according to She'iltot deRav Aḥai Gaon and Rabbeinu Ḥananel and is also the opinion of the Rambam and the Rif. There is an opinion that these relations are forbidden (Tur, citing Ri; Rosh on Yevamot 40b). The halakha is ruled in accordance with the first opinion (Shulḥan Arukh, Even HaEzer 15:18).

PERSONALITIES

Mar, son of Rabbana – מַר בְּרִיהַ דְּרַבְנָא: Mar, son of Rabbana, was also known as Mar, son of Ravina. He was one of the outstanding fourth-generation Babylonian amora'im and the son of Ravina I. He was renowned in the Talmud as an extremely God-fearing man, and others derived proper behavior for a God-fearing individual from his conduct. He was vigilant in avoiding excessive levity or any matter that lessened the appropriate deference to God. He was particularly careful in his choice of words in order to avoid any possibility of affronting his teachers. He studied primarily with Rav Nahman bar Yitzḥak as a disciple-colleague. The Talmud relates that he left halakic notes that served as the basis for discussion in subsequent generations.

שָׁלַח לִיהִי רַב מְשַׁרְשִׁיבָא מִתּוֹסְפִינָא לְרַב פַּפִּי: יִלְמְדֵנוּ רַבֵּינוּ, אִשְׁתְּ אָחִי אָבִי הָאָבִי, וְאֶחָוֹת אָבִי הָאָבִי, מֵהוּ? מִדְּלִמְטָה עָרוּהוּ – לְמַעַלְהָ נִמְי וְזָרוּ בֵּיהּ, אִו דְּלִמָּא, הָא אִיתְפְּלִיג דְּרַתָּא?

§ Rav Mesharshiyya from Tusneya sent a message to Rav Pappi: Let our Master teach us: What is the halakha with regard to the wife of a father's father's brotherⁿ and the sister of a father's father? Did the Sages prohibit these as secondary forbidden relations? The Gemara presents the different sides of the dilemma: Since one generation below is a forbidden relation, i.e., a father's sister and the wife of a father's paternal brother, who are both forbidden by Torah law, perhaps the Sages also decreed about the women one generation above. Or, perhaps the generations are separate and the women in the generation above are not considered to be forbidden relatives.

תָּא שְׁמַע: "מִה הֵן שְׁנִיּוֹת", וְלֹא קִתְּשִׁיב לָהּ בְּהֵיחָדָהוּ.

The Gemara attempts to answer: Come and hear from that baraita cited above, which taught: What are the secondary forbidden relationships that were prohibited? And these women, i.e., the wife of one's father's father's brother and the sister of his father's father were not reckoned among them. This implies that these women are permitted.

תַּנָּא וְשִׁייר. מַאי שִׁייר דְּהָאִי שִׁייר? שִׁייר שְׁנִיּוֹת דְּבִי רַבִּי חִיָּיא.

The Gemara replies that this is not conclusive. Perhaps the tanna of the baraita taught some examples and omitted other examples of secondary forbidden relations; i.e., perhaps the list is not exhaustive. The Gemara asks: What else did he omit that he omitted this? It cannot be that the tanna had an exhaustive list except for one case. He either left out more than one case or he included all possible cases. The Gemara answers: He omitted the list of secondary forbidden relationships that were enumerated by the school of Rabbi Ḥiyya, which is listed later. Therefore, this baraita is not conclusive, as the tanna left out many cases.

אָמַיְמַר אַכְשֵׁר בְּאִשְׁתְּ אָחִי אָבִי אָבִי, וּבְאֶחָוֹת אָבִי אָבִי. אָמַר לִיהִי רַב הִלֵּל לְרַב אֲשִׁי: לְדִידִי חֲזִינָא לִי שְׁנִיּוֹת מַר בְּרִיהַ דְּרַבְנָא, וּבְתִיבָן שִׁיתְסָרִי לְאִיסוּרָא. מַאי לָאו תַּמְנִי דְּמַתְנִיתָא וְשִׁית דְּבִי רַבִּי חִיָּיא, וְהֵנָּה תִּרְתִּי – הָא שִׁיתְסָרִי!

The Gemara states that Ameimar permitted the wife of one's father's father's brotherⁿ and the sister of one's father's father. Rav Hillel said to Rav Ashi, challenging Ameimar's statement: I myself saw a list of secondary forbidden relationships written by Mar, son of Rabbana,^p and it was written there that sixteen women were forbidden. What, is it not that these sixteen must be the eight cases listed in the baraita, and six from the school of Rabbi Ḥiyya, and these two cases of the wife of one's father's father's brother and one's father's father's sister, and this totals sixteen?

וְלִטְעַמִּיךְ שִׁיתְסָרִי הוּוּיָן, דְּהָא אִיכָּא אִשְׁתְּ אָחִי הָאָם מִן הָאָם, דְּפִשְׁטִינָן לְאִיסוּרָא! הָא לָא קִשְׁיָא.

Rav Ashi defended Ameimar's opinion: And according to your reasoning, Rav Hillel, that these cases should be included, there are seventeen cases, as there is the additional case of the wife of a mother's maternal half brother, whose status was resolved earlier, concluding that she is forbidden. If it is as you say, then there should be seventeen cases. The Gemara answers on behalf of Rav Hillel: This is not difficult.

Perek II
Daf 22 Amud a

הֵנָּה תִּרְתִּי דְּדַמְיִין לְהַדְדִי – בְּחֻדָּא קִשְׁיָב לְהוּ, וְהָא שִׁיתְסָרִי. וְהָא מִכָּל מְקוֹם לְדִידִי חֲזִינָן לֵן דְּבְתִיבָן לְאִיסוּרָא! אָמַר לִיהִי: וְלִטְעַמִּיךְ, אִי הוּוּ כְּתִיב לְהִיתְעָרָא – מִי הוּוּת סְמַכְתָּ עֲלֵיהוּ? דְּמַר בְּרִיהַ דְּרַבְנָא – מִי חֲתִים עֲלֵיהוּ? הִשְׁתָּא נִמְי דְּכְתִיב לְאִיסוּרָא – לָאו מַר בְּרִיהַ דְּרַבְנָא חֲתִים עֲלֵיהוּ.

Those two, the wife of a father's father's brother and the sister of a father's father, are similar to each other and are counted as a single case, and so there are sixteen. The Gemara restates Rav Hillel's challenge to Ameimar's opinion: But in any case I myself saw them written as prohibited. Rav Ashi said to Rav Hillel: And according to your reasoning, if in the list it was written that they were permitted, would you have relied on that? Is the signature of Mar, son of Rabbana, signed on it? Although you saw the list, you don't know for certain who wrote it. Now too, that it is written that they are prohibited, the same holds true; the signature of Mar, son of Rabbana, is not signed on it, and so it cannot be relied upon to reject the opinion of Ameimar.

The third generation from one's son and one's daughter – **שְׁלִישֵׁי שְׁבָבָנוּ וְשְׁבָבָתוֹ**: One's great-granddaughter is forbidden as a secondary relation (Rambam *Sefer Nashim, Hilkhot Ishut* 1:6; *Shulhan Arukh, Even HaEzer* 15:12).

The third generation from the son and daughter of his wife – **שְׁלִישֵׁי שְׁבָבָן וְשְׁבָבַת אִשְׁתּוֹ**: One's wife's great-granddaughter is forbidden as a secondary relation (*Shulhan Arukh, Even HaEzer* 15:14; and see Rambam *Sefer Nashim, Hilkhot Ishut* 1:6 and *Kesef Mishne* there).

The fourth generation from his father-in-law and from his mother-in-law – **רְבִיעֵי שְׁבָחָמוֹ וְשְׁבָחָמוֹתוֹ**: One's wife's great-grandmother is forbidden as a secondary relation (Rambam *Sefer Nashim, Hilkhot Ishut* 1:6; *Shulhan Arukh, Even HaEzer* 15:15).

A conclusion for the secondary forbidden relationships of Rabbi Hiyya – **הִפְסֵק בְּשֵׁנוֹת דְּרַבִּי חֵייא**: The Rosh holds that the secondary relations enumerated by Rabbi Hiyya do not end but continue upward and downward for all generations (see Ramban). According to the Rambam they do end, since the Gemara does not give a definitive answer, and in cases of uncertainty with regard to rabbinic decrees, the *halakha* is ruled in accordance with the lenient opinion (Rambam *Sefer Nashim, Hilkhot Ishut* 1:6; *Shulhan Arukh, Even HaEzer* 15:15).

תַּנּוּ דְּבֵי רַבִּי חֵייא: שְׁלִישֵׁי שְׁבָבָנוּ וְשְׁבָבָתוֹ: וְשְׁבָבָן אִשְׁתּוֹ וְשְׁבָבַת אִשְׁתּוֹ – שְׁנִיָּה, רְבִיעֵי שְׁבָחָמוֹ וְשְׁבָחָמוֹתוֹ – שְׁנִיָּה.

אָמַר לִיהוּ רַבִּינָא לְרַב אֲשִׁי: מַאי שָׂנָא לְמַעְלָה, דְּקַחְשִׁיב לָהּ לְאִשְׁתּוֹ, וּמַאי שָׂנָא לְמַטָּה, דְּלֹא קַחְשִׁיב לָהּ לְאִשְׁתּוֹ? לְמַעְלָה, דְּאִסּוּרָא מִבְּחָ אִשְׁתּוֹ קָא אֲתֵי, חָשִׁיב לָהּ. לְמַטָּה, דְּאִסּוּרָא לְאוּ מִבְּחָ אִשְׁתּוֹ קָאָתֵי – לָא קַחְשִׁיב לָהּ.

וְהָא בְּנֵי אִשְׁתּוֹ וּבְתֵי אִשְׁתּוֹ, דְּאִסּוּרָא מִבְּחָ אִשְׁתּוֹ קָאָתֵי וְלֹא חָשִׁיב לָהּ! אֵיידִי דְּתַנָּא שְׁלִישָׁה דְּוֵרוֹת לְמַטָּה דִּידֵיהּ, וְלֹא חָשְׁבָהּ, תַּנָּא נְמוּ שְׁלִישָׁה דְּוֵרוֹת לְמַטָּה דִּידֵיהּ וְלֹא חָשְׁבָהּ.

אָמַר לִיהוּ רַב אֲשִׁי לְרַב כְּהָנָא: שְׁנִיּוֹת דְּבֵי רַבִּי חֵייא יֵשׁ לְהֵן הִפְסֵק אוּ אֵין לְהֵם הִפְסֵק?

תָּא שָׁמַע דְּאָמַר רַב: אַרְבַּע נָשִׁים יֵשׁ לְהֵם הִפְסֵק, וְתוּ לֹא. דְּלִמָּא, כִּי קָאָמַר רַב – לְהֵיא מִתְנִיָּתָא: תָּא שָׁמַע, שְׁלִישֵׁי וּרְבִיעֵי, שְׁלִישֵׁי וּרְבִיעֵי – אֵין, טְפִי – לֹא! דְּלִמָּא מְשִׁלִּישֵׁי וְאִילָךְ, מְרַבִּיעֵי וְאִילָךְ.

אָמַר לִיהוּ רַבָּא לְרַב נַחְמָן: חֲזִי מַר הָאֵי מְרַבְּנֵן דְּאִתָּא מִמַּעַרְבָא וְאָמַר: בְּעוּ בְּמַעַרְבָא, גְּזוּרֵי שְׁנִיּוֹת בְּגֵרִים אוּ לֹא גְּזוּרֵי שְׁנִיּוֹת בְּגֵרִים?

§ One of the Sages of the school of Rabbi Hiyya taught: The third generation from one's son and one's daughter,^H i.e., one's great-grandchildren, and the third generation from his wife's son and his wife's daughter,^H i.e., one's wife's great-grandchildren, are all forbidden as secondary forbidden relationships. So too, the fourth generation from his father-in-law and from his mother-in-law,^H i.e., his wife's great-grandmothers, are prohibited as secondary forbidden relationships.

Ravina said to Rav Ashi: What is different between the generations above, referring to his wife's great-grandmothers, such that the Sage counts his wife as one of the generations and refers to them as the fourth generation, and what is different with regard to the generations below, referring to his great-granddaughters, such that he did not count his wife and referred to them as only the third generation? The Gemara answers: When counting above, the prohibition stems from his wife, as they are not his blood relatives but his wife's. Therefore, she is counted. When counting below, however, the prohibition does not stem from his wife, as they are his own blood relatives, and so she was not counted.

The Gemara objects: But he includes the granddaughter of his wife's son and his wife's daughter in his list of those forbidden due to his wife, yet he does not count her and refer to this as the fourth generation. The Gemara answers: Since he already taught three generations below himself, i.e., his own great-granddaughter, and there he did not count from his wife because it is his own blood relative, he taught three generations below his wife and did not count her. Instead, he referred to her great-granddaughter also as three generations below to maintain the uniform style of his words.

Rav Ashi said to Rav Kahana: Do those secondary forbidden relationships taught by one of the Sages of the school of Rabbi Hiyya have a conclusion,^H or do they not have a conclusion? Are those specified cases alone forbidden, or are all generations above and below also forbidden?

Come and hear that which Rav said: Four women have a conclusion. This implies that it is only these four and no more. The Gemara rejects this: Perhaps when Rav said this he was referring only to the relationships listed in the *baraita* and not to all cases of secondary relationships. The Gemara suggests: Come and hear from the *baraita* itself, which states: The third generation from his son and his daughter and the fourth generation from his father-in-law and mother-in-law. This implies that with regard to the third and the fourth generations, yes, they are forbidden; but more than that, no. The Gemara rejects this: Perhaps this means from the third onward and from the fourth onward. The Gemara does not resolve this issue.

§ Rava said to Rav Nahman: Did the Master see this one of the Sages who came from the West, Eretz Yisrael, who said: In the West they asked whether the Sages issued a decree prohibiting secondary forbidden relationships for converts, or whether they did not issue a decree prohibiting secondary forbidden relationships for converts?^N

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שְׁנִיּוֹת בְּגֵרִים – Secondary forbidden relationships for converts – The reason for the rabbinic prohibition against marriage of converts to their relatives is lest the converts say that they came from a more stringent sanctity as gentiles to a state of lesser sanctity as Jews, since previously forbidden relationships would then be permitted to them. The Ritva writes that by this rationale, in the case of one who converts to Judaism from a religion that is more stringent with regard to forbidden relationships, these relations should remain forbidden to the convert even after his conversion to Judaism.

Forbidden relations for a convert – איסור עריות בגר: By Torah law it is permitted for a convert to marry any of his relatives who converted, even his mother or sister. However, the Sages decreed it prohibited for converts to marry close relatives so that one who converted would not think that he came from a greater state of sanctity, before he was Jewish, into a state of lesser sanctity (Rambam *Sefer Kedusha, Hilkhoh Issurei Bia* 14:12; *Shulhan Arukh, Yoreh De'a* 269:1).

Secondary relationships for a convert – שניות בגר: The Sages did not render prohibited secondary relationships of converts. Therefore, a convert may marry his maternal grandmother. Similarly, a born Jew is permitted to marry a converted woman and her maternal grandmother, though marrying a woman and her grandmother who were born Jewish is a rabbinic prohibition (*Shulhan Arukh, Yoreh De'a* 269:8).

Testimony of related converts – עדות גרים קרובים: Once a gentile converts, his biological relations no longer have the legal status of relations. Even if twin brothers convert, they may testify together as a pair of witnesses (Rambam *Sefer Shofetim, Hilkhoh Edut* 13:2; *Shulhan Arukh, Yoreh De'a* 269:10 and *Hoshen Mishpat* 33:11).

The legal status of a convert who just converted is like that of a child just born – גר שנתגייר כקטן שנולד דמי: A gentile who converts and a freed gentile slave have the legal status of newly born children, and any previous familial relationships are considered nonexistent (Rambam *Sefer Kedusha, Hilkhoh Issurei Bia* 14:11; *Shulhan Arukh, Yoreh De'a* 269:10 and *Hoshen Mishpat* 33:11).

A brother of any kind – אָח מְבֹלְ מְקוּם: Every paternal half brother, even if he is of flawed lineage or a *mamzer*, causes his *yevama* to require levirate marriage or *halitza*. A half brother whose mother is a gentile or a Canaanite maidservant is not considered a brother in this regard (Rambam *Sefer Nashim, Hilkhoh Yibbum VaHalitza* 1:6; *Shulhan Arukh, Even HaEzer* 157:1).

A child of any kind – בֶּן מְבֹלְ מְקוּם: If one dies and leaves a child or any descendants, whether of unflawed or flawed lineage, even a *mamzer*, his widow is exempt from levirate marriage. This holds true in all cases except for children from Canaanite maidservants or gentile women (Rambam *Sefer Nashim, Hilkhoh Yibbum VaHalitza* 1:3–4; *Shulhan Arukh, Even HaEzer* 156:2).

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In what way is this case different from forbidden relations – **ומאי שנא מעריות**: *Tosafot* ask: The reason just given, i.e., lest it be said that the converts came from a more stringent level of sanctity to a more lenient level, should be sufficient to explain the difference between forbidden relations and testimony. With regard to the *halakhah* of testimony there is no disqualification for gentiles who are related. They explain that the primary reason for the rabbinic decree is to avoid confusion with regard to such relationships between Jews. This rationale fits with the opinion that maternal brothers may not testify together *ab initio*, as in such a case there is also a concern that it may lead to confusion (see Ritva; *Tosafot Yeshanim*).

A brother of any kind – אָח מְבֹלְ מְקוּם: The Gemara explains that this expression was adopted in order to teach the additional case of a brother who is a *mamzer*. This discussion is also the basis for those early commentaries who rule that a brother who converts to another religion still causes his *yevama* to require levirate marriage. Some commentaries differentiated between a brother who had already converted to another religion at the time of his brother's marriage and one who converted after the marriage (see *Otzar HaGe'onim*; Ritva).

אָמַר לִיה: הַשְׁתָּא, וּמָה עָרוּה גּוֹפָה, אִי לָאוּ שְׂלֵי אִימָרוּ בְּאִין מְקֻדְוֶשָׁה חֲמוּרָה לְקֻדְוֶשָׁה קְלָה לֹא גִזְרוּ בְּהוּ רַבָּנַן – שְׁנִיּוֹת מִיבְעִיא?!

אָמַר רַב נַחֲמָן: גֵּרִים, הוֹאִיל וְאָתוּ לֵידוֹן גִּמְמָא בְּהוּ מִלְתָּא: אַחִין מִן הָאִם לֹא יְעִידוּ, וְאִם הָעִידוּ – עֵדוּתָן עֵדוּת. אַחִין מִן הָאָב מְעִידִין לְבִתְחֻלָּה. אֲמִימָרוּ אָמַר: אֲפִילוּ אַחִין מִן הָאִם נִמְי מְעִידִין לְבִתְחֻלָּה.

וּמֵאִי שְׁנָא מְעִירוֹת? עָרוּה לְבַל מְסוּרָה, עֵדוּת – לְבִית דִּין מְסוּרָה, וְגַר שְׁנִיּוֹתֵי בְּקָטָן שְׁנוּלֵד דְּמִי.

מתני' מי שיש לו אח מבול מקום – זוקק את אשת אחיו ליבום, ואָחיו הוא לְבַל דְּבַר, חוּץ מִמִּי שֵׁישׁ לוֹ אָח מִן הַשְּׂפִיחָה וּמִן הַגּוֹיָה. מִי שֵׁישׁ לוֹ בֶּן מְבֹל מְקוּם – פּוֹטֵר אֶשֶׁת אָבִיו מִן הַיְבּוּם, וְחַיִּיב עַל מִבְתּוֹ וְעַל קְלָתוֹ, וּבְנֵו לְבַל דְּבַר – חוּץ מִמִּי שֵׁישׁ לוֹ בֶּן מִן הַשְּׂפִיחָה וּמִן הַגּוֹיָה.

Rav Nahman did not answer whether he had seen this Sage, but said to him: Now, with regard to all the forbidden relationships themselves, were it not for the fact that if converts would find that as Jews they were permitted to enter into relationships that were forbidden to them as gentiles and would say that they went from a state of more stringent sanctity as gentiles to a state of lesser sanctity as Jews, then the Sages would not have decreed to prohibit these relationships.⁴¹ Without the rabbinic decree it would have been permitted for a convert to marry even a close female relative, even his twin sister, who also converted. This is because a convert has the legal status of a newborn, with no family ties. Is it necessary to state that the Sages did not extend that decree to include secondary forbidden relationships?⁴² The purpose of the rabbinic prohibitions is to protect the Torah prohibitions, but in the case of converts this particular Torah prohibition does not apply.

Rav Nahman said: Since the issue of converts and their relatives has come to hand and is the topic of discussion, let us say a matter of halakha: Maternal half brothers who both convert may not testify together as a pair of witnesses before the court, but if they did testify, their testimony is valid. Although blood relatives are invalid as witnesses, converts are considered as though they have no relations. Paternal half brothers who both convert may testify together *ab initio*, since the *halakha* does not consider paternal half brothers of gentiles to be true relatives. Ameimar said: Even maternal half brothers may also testify together *ab initio*.⁴³

In what way is this case different from forbidden relations,⁴⁴ where a convert may not marry his maternal sister due to rabbinic decree? The *halakhah* of forbidden relations are handed over to all, and every individual chooses his own wife. Therefore, the Sages issued a decree to prevent confusion between the status of a convert and that of a born Jew. However, testimony is handed over to the court, and the court knows to distinguish between the status of a born Jew and that of a convert. And the legal status of a convert who just converted is like that of a child just born,⁴⁵ and all previous family ties become irrelevant.

MISHNA In the case of anyone who has a brother of any kind,⁴⁶ that brother creates a levirate bond causing his *yevama* to be required to perform levirate marriage if the first brother dies childless. And he is his brother in all respects, except for one who has a brother born from a Canaanite maidservant or from a gentile woman, as these do not have the legal status of brothers. Similarly, in the case of anyone who has a child of any kind,⁴⁷ that child exempts his father's wife from levirate marriage, since his father did not die childless. And that child is liable to receive capital punishment if he strikes his father or curses him. And he is his child in all respects, except for whoever has a child born from a Canaanite maidservant or from a gentile woman, as these do not have the halakhic status of children.

BACKGROUND

The legal status of a convert who just converted is like that of a child just born – **גר שנתגייר כקטן דמי**: This is a fundamental principle in *halakha*, and it means that through the act of conversion a convert becomes like a new person and all ties that he had with his previous gentile world are severed. Since he is considered like a newly born child, all his biological relations are consequently not considered by *halakha* to be related to him. Despite this, the Sages decreed that a gentile may not marry one of his blood relatives if they

also converted. There are two reasons for this: (1) A convert might think that he has descended from a greater sanctity to a lesser sanctity. The Sages did not want him to think that what was forbidden to him as a gentile is now permitted. A convert intends to ascend to a higher sanctity and does not seek leniencies. (2) Others may not realize that this individual is a convert, and therefore when they see him marrying a woman who appears to be forbidden to him, this might lead them to erroneous conclusions.

גמ' מכל מקום לאתויי מאי? אמר רב יהודה לאתויי ממזר. פשיטא, אחיו הוא! מהו דתימא: לילף אחיה אחיה מבני יעקב, מה להלן כשרין ולא פסולין, אף כאן כשרין ולא פסולין – קא משמע לן.

GEMARA The Gemara asks: With regard to the statement that a brother of any kind causes his *yevama* to be required to perform levirate marriage, what additional case does this come to add? Rav Yehuda said: This adds the case of a *mamzer*, who, notwithstanding his status, is considered a brother. The Gemara wonders: But isn't that obvious? He is his brother. The Gemara explains: This is necessary lest you say: Let us derive a verbal analogy between the word "brother" stated in the verse with regard to levirate marriage and "brother" stated with regard to the children of Jacob. Just as there, Jacob's children are of unflawed lineage and not of flawed lineage and are not *mamzerim*, so too here, one might think that only brothers of unflawed lineage and not brothers of flawed lineage, i.e., *mamzerim*, obligate the *yevama* in levirate marriage. Therefore, this teaches us that a *mamzer* is considered a brother for the purposes of levirate marriage.

ואימא הכי נמי! ביון דלעגנן יבום מיפטור נפטור

The Gemara asks: And say that is indeed the *halakha*. Perhaps a brother who is a *mamzer* does not obligate his *yevama* in levirate marriage. The Gemara answers: Since with regard to levirate marriage, if the husband had a child who was a *mamzer* he would exempt the wife from levirate marriage,

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the husband's brother also causes a levirate bond with his *yevama* even if he is a *mamzer*.

ואחיו הוא לכל דבר. למאי הלכתא? ליוורשו וליטמא לו.

S The mishna stated that he is his brother in all respects. The Gemara asks: With regard to what *halakha* was this said? The Gemara answers: To inherit from him,^h and to become ritually impure for him^h if he is a priest, as a brother is one of the relations for whom a priest is permitted to become ritually impure by attending his funeral.

פשיטא, אחיו הוא! סלקא דעתך אמינא: הואיל וכתוב "כי אם לשארו הקרוב אליו" ואמר מר: שארו – זו אשתו, וכתוב "לא יטמא בעל בעמיו להחלו", יש בעל שטמא ויש בעל שאין מטמא, הא כיצד? מטמא הוא לאשתו בשרה, ואין מטמא לאשתו פסולה.

The Gemara asks: Isn't this obvious, as he is his brother? The Gemara answers: It might enter your mind to say that a priest does not become impure for his brother of flawed lineage, since it is written with regard to priests: "None shall defile himself for the dead among his people except for his kin, that is near unto him" (Leviticus 21:1-2), and the Master said "his kin"; this is his wife, and a priest may defile himself for his wife. But it is written: "He shall not defile himself, being a husband among his people, to profane himself" (Leviticus 21:4), implying that he may not defile himself for his wife. This apparent contradiction is resolved as follows: There is a husband who does become impure for his wife, and there is a husband who does not become impure. How so? He becomes impure for his wife if she was fit and was permitted to a priest, but he does not become impure for his wife if she was unfit^h to marry a priest.

הכי נמי מטמא הוא לאח כשר ואין מטמא לאח פסול, קא משמע לן. ואימא הכי נמי! התם לאפוקי קיימא, הכא – אחיו הוא.

So too, one might have thought that a priest becomes impure for a brother who is of unflawed lineage and not a *mamzer*, but he does not become impure for a brother of flawed lineage. Therefore, this comes to teach us that he does become impure for a brother who is a *mamzer*. The Gemara asks: Say this also, that by the same reasoning by which a priest may not become impure for a wife who was unfit for him, he may not become impure for an unfit brother either. Just as he does not become impure for an unfit wife, he should not become impure for an unfit brother? The Gemara answers: The two cases are different, as there, with regard to the unfit wife, she stands to be dismissed,ⁿ since according to Torah law unfit women must be divorced. For this reason he does not become impure for her. Here, he is his brother.

HALAKHA

To inherit from him – ליוורשו: All relatives, even those born through transgression, inherit just as those born in accordance with *halakha*. A *mamzer* brother or son inherits just like offspring of unflawed lineage (Rambam *Sefer Mishpatim, Hilkhot Nahalot* 1:7; *Shulhan Arukh, Hoshen Mishpat* 276:6).

To become ritually impure for him – ליטמא לו: A priest becomes ritually impure for his father, his mother, his brother, his unmarried sister, his son, and his daughter, even if they are unfit or *mamzerim* (Rambam *Sefer Shofetim, Hilkhot Evel* 2:9; *Shulhan Arukh, Yoreh De'a* 373:4).

His wife if she was unfit – אשתו פסולה: A priest becomes ritually impure for his wife if she was permitted to marry him, but if it was prohibited for her to marry him he may not become impure for her (Rambam *Sefer Shofetim, Hilkhot Evel* 2:9; *Shulhan Arukh, Yoreh De'a* 373:4).

NOTES

She stands to be dismissed – לאפוקי קיימא: With regard to the exceptions when a priest may become ritually impure, the Torah states: "Except for his kin, that is near unto him" (Leviticus 21:2). The Gemara explains that "his kin" is referring to his wife. A wife who is prohibited to the priest is not considered to be "his kin."

NOTES

A son of any kind – בן מכל מקום: In the Jerusalem Talmud the following point is added: Since he is considered his son in all regards, the father fulfills the mitzva to be fruitful and multiply through this son. Also, he is considered his son with regard to all matters of forbidden relations.

And he has no child, meaning investigate him – וכן אין – עינין עליו: Rashi explains that the word “no [ain]” could have been written without the letter yod. The homiletical interpretation is derived from the additional letter; the word spelled in this way bears similarity to the word for eye [ayyen], which implies investigation (see *Tosefot Yom Tov*). In the *Sma* this interpretation is explained differently: The Torah’s stress on the phrase “has no” indicates that he has absolutely no children of any kind in any place.

One who acts according to the deeds of your people – עושה מעשה עמך: Rambam maintains that a *mamzer* son is still obligated to respect his father and to fear him even if he is exempt from punishment for cursing or striking him (*Sefer Shofetim, Hilkhos Mamrim* 6:11). However, other authorities disagree (*Tur, Yoreh De’a* 240).

HALAKHA

He is liable to receive punishment if he strikes his father or curses him – תיביב על מכתו ועל קללתו: According to the opinion of the Rambam and the Rif, even if parents were totally wicked and transgressors, and even if they were sentenced to death, it is prohibited for the son to strike them or curse them. However, *Tosafot* hold that in such a case there is no prohibition. If he did strike them or curse them in that case, then he is exempt from punishment. If they repented, even if they were sentenced to death, he is liable to receive punishment for striking or cursing them, even if he is acting as the agent of the court carrying out their punishment (Rambam *Sefer Shofetim, Hilkhos Mamrim* 5:12; *Shulhan Arukh, Yoreh De’a* 241:4).

His sister... the daughter of his father’s wife – אחותו... בת אשת אביו: If one engages in sexual relations with his sister born of a woman married to his father, he is liable twice, once for his sister and once for the daughter of his father’s wife, in accordance with the opinion of the first *tanna* and against the lone dissenting opinion (Rambam *Sefer Kedusha, Hilkhos Issurei Bia* 2:4).

Prohibition against relations with one’s sister – איסור אחותו: One’s sister is forbidden to him by Torah law, whether she is his maternal or paternal half-sister, and whether she is fit or unfit for marriage, and even if she is a *mamzeret*, except for a sister born to his father by a gentile woman or a Canaanite maidservant, as then she is not considered his sister at all (*Shulhan Arukh, Even HaEzer* 15:10).

”חופץ ממי שיש לו אח מן השפחה וכן הגוייה”, מאי טעמא? אמר קרא ”האשה וילדיה תהיה לאדוניה”.

”מי שיש לו בן מכל מקום פוטר” וכו’. מכל מקום לאתויי מאי? אמר רב יהודה: לאתויי ממוזר. מאי טעמא? דאמר קרא ”ובן אין לו” – עינין עליו.

”וחייב על מכתו”, אמאי? קרי כאן ”ונשיא בעמך לא תאור” – בעושה מעשה עמך!

דאמר רב פנחס משמיה דרב פפא: בעושה תשובה – הכא נמי בשעשה תשובה.

והאי בר תשובה הוא? והתנן: שמעון בן מנסיא אומר: איזהו ”מעוות לא יוכל לתקון”, זה הבא על הערוה והוליד ממנה ממוזר! השתא מיהא עושה מעשה עמך הוא.

תנו רבנן: הבא על אחותו והיא בת אשת אביו – חייב משום אחותו, ומשום בת אשת אביו. רבי יוסי בן יהודה אומר: אינו חייב אלא משום אחותו בלבד, ולא מפני בת אשת אביו.

מאי טעמיהו דרבנן? אמרי: מכדי כתיב ”ערוה אחותך בת אביך או בת אביך” – ערוה בת אשת אביך מולדת אביך אחותך היא” למה לי? שמע מינה: לחייבו משום אחותו ומשום בת אשת אביו.

S The mishna says: **Except for whoever has a brother born from a Canaanite maidservant or from a gentile woman**, as in these cases he is not considered a brother. The Gemara asks: **What is the reason for this halakha?** The Gemara answers: **The verse states with regard to a Jewish slave who has children with a Canaanite maidservant: “The wife and her children shall be her master’s”** (Exodus 21:4). This means that the children also have the status of Canaanite slaves, which implies that the lineage of a Canaanite maidservant’s child comes from the mother and not from the father.

The mishna states: With regard to **anyone who has a son of any kind**,ⁿ that son exempts his father’s wife from any levirate bond. The Gemara asks: **What is added by the phrase: Of any kind?** Rav Yehuda said: **It adds a child who is a mamzer. What is the reason that a mamzer exempts a woman from any levirate bond? As the verse states with regard to levirate marriage: “And he has no [ain lo] child”** (Deuteronomy 25:5). The phrase *ain lo* can be understood as *ayyen alav*, meaning **investigate him**.ⁿ That is to say, investigate whether he is indeed childless, because any child, even a *mamzer*, exempts the widow from a levirate bond.

It states in the mishna that a child who is a *mamzer* is liable to receive punishment if he strikes his father or curses him.^h The Gemara asks: **Why should he be liable? Read here the verse: “You shall not curse a ruler of your people”** (Exodus 22:27), which is interpreted to imply that the prohibition against cursing applies only to **one who acts according to the deeds of your people**.ⁿ However, this father must have engaged in sexual relations with a woman who was forbidden to him in order to have a child who is a *mamzer*. Therefore, he did not act according to the deeds of the people. In that case, why should this son be liable to receive punishment for hitting him or cursing him?

The Gemara answers: **As Rav Pinehas said in the name of Rav Pappa with regard to a different matter: This is referring to one who performs repentance. Here too, it is referring to one who performed repentance after the mamzer was born.** He is thereafter considered to be living in accordance with *halakha*, and so his *mamzer* son is liable to receive punishment for cursing him.

The Gemara objects: **Is he in fact able to repent after fathering a mamzer? Didn’t we learn in a mishna that Shimon ben Menasya says: Which is: “That which is crooked cannot be made straight”** (Ecclesiastes 1:15)? This is referring to **one who engaged in intercourse with a relative who is forbidden to him and fathered a mamzer with her**. This implies that he has no possibility of achieving total repentance. The Gemara responds: **At least now, after repenting, he is considered as one who acts according to the deeds of your people.** Although he cannot totally rectify his transgression, his child is liable to receive punishment for cursing or hitting him.

S The Sages taught: **He who unwittingly engages in sexual relations with his sister, who is the daughter of his father’s lawful wife,^h is liable and must bring two sin-offerings. He must bring one sin-offering because she is his sister^h and another because she is the daughter of his father’s wife, which is mentioned in a separate verse in the Torah. Rabbi Yosei ben Yehuda says: He is liable only because she is his sister alone, and not because of the prohibition against engaging in sexual relations with the daughter of his father’s wife.**

The Gemara asks: **What is the reason for the opinion of the Rabbis, the first tanna of the baraita? They said: Since it is written in the Torah: “The nakedness of your sister, the daughter of your father, or the daughter of your mother...you shall not uncover”** (Leviticus 18:9), then why do I need the verse: **“The nakedness of your father’s wife’s daughter, begotten of your father, she is your sister...you shall not uncover”** (Leviticus 18:11)? **Conclude from this that the additional verse serves to make him liable separately due to the fact that she is his sister and due to the fact that she is his father’s wife’s daughter.**

The Sages do not derive an additional prohibition by way of a logical derivation – אין מזהירין מן הדין – Some commentaries explain that according to all opinions, one is permitted in general to draw his own *a fortiori* inferences. Therefore, there is concern that one might err in his considerations on the matter, and consequently these inferences may not be relied upon in cases where it would lead to one being liable to receive lashes. On the other hand, the Maharsha in tractate *Sanhedrin* cites the *Sefer Mitzvot Gadol* and states that it is unknown whether the punishment derived by an *a fortiori* inference is severe enough to atone for the transgression performed. Others explain that this principle is a Torah decree, without reason (*Yosef Lekah*).

ורבי יוסי ברבי יהודה: אמר קרא "אחותך היא", משום אחותו אתה מחייבו ואי אתה מחייבו משום בת אשת אביו –

And Rabbi Yosei, son of Rabbi Yehuda, says: The verse states: "She is your sister," which comes to limit and emphasize that you hold him liable due to the fact that she is his sister but you do not hold him liable a second time due to the fact that she is also his father's wife's daughter.

ורבנן, האי "אחותך היא" מאי עבדי ליה? מיבעי ליה לתייבו על אחותו בת אביו ובת אמו, לומר שאין מזהירין מן הדין.

The Gemara asks: And what do the Rabbis do with this verse: "She is your sister"? They require it in order to hold him liable to receive punishment for having relations with his sister who is both the daughter of his father and the daughter of his mother, to say that the Sages do not derive an additional Torah prohibition by way of a logical derivation, i.e., an *a fortiori* inference.^N In other words, although it would seem that since he is liable to receive punishment for having relations with his father's daughter and also for his mother's daughter, this must be all the more true in a case where she is the daughter of both his father and his mother, yet nevertheless, there is no new prohibition here. Therefore, the matter was taught explicitly in the Torah, to teach that the Sages may not derive additional prohibitions by way of a *fortiori* inferences.

ורבי יוסי ברבי יהודה? אם כן לכתוב רחמנא "אחותך", "היא" למה לי – משום אחותך אתה מחייבו ואי אתה מחייבו משום בת אשת אביו.

And Rabbi Yosei, son of Rabbi Yehuda, says: If so, that the matter was written for this purpose, then the Merciful One should have written only: Your sister. Why do I need the phrase "she is"? This limits the *halakha* and teaches that for unintentional intercourse with his sister who is also his father's wife's daughter you hold him liable because she is his sister; you do not additionally hold him liable because she is his father's wife's daughter.

ורבנן? אף על גב דכתוב "אחותך" איצטרך למכתב "היא", שלא תאמר: בעלמא מזהירין מן הדין.

And how do the Rabbis interpret the additional phrase "she is"? Although "your sister" is written, it was necessary to write "she is" so that you not say that generally the Sages may derive additional prohibitions by way of a logical derivation, i.e., an *a fortiori* inference.

וכי תימא: "אחותך" דכתב רחמנא למה לי – מילתא דאתיא בקל וחומר טרח וכתב לה קרא – כתב רחמנא "היא".

The Gemara explains how this principle is derived from the text. As, if you would say: Why do I need the term "your sister" that the Merciful One writes in the Torah, since it is possible to derive this by a *fortiori* inference and it therefore appears redundant? The answer is that the Torah wrote this apparently redundant term to teach the principle that with regard to a matter that could be derived by means of an *a fortiori* inference, the verse unnecessarily wrote it explicitly. The Merciful One writes the term "she is" in order to teach that just as in this case the Sages may not derive additional prohibitions by way of an *a fortiori* inference, so too, in all other cases they may not derive additional prohibitions that are not stated in the text.

ורבי יוסי ברבי יהודה: אם כן לכתביה רחמנא ל"אחותך היא" באיך קרא.

And Rabbi Yosei, son of Rabbi Yehuda, says: If this is the reason for the verse, then let the Merciful One write: She is your sister, in the other verse, which states: "The nakedness of your sister, the daughter of your father, or the daughter of your mother," and not in the verse that speaks of the daughter of one's father's wife.

ורבי יוסי ברבי יהודה, האי "בת אשת אביו" מאי עביד ליה? מיבעי ליה: מי שיש לו אישות לאביו בה, פרט לאחותו משפחה וגויה, שאין אישות לאביו בה.

The Gemara asks: And what does Rabbi Yosei, son of Rabbi Yehuda, do with this verse, which states: "The daughter of your father's wife" (Leviticus 18:9)? He requires it to teach that one is liable only for relations with a half-sister whose mother is someone with whom there is no possibility of forging marital ties with your father, even if she was not in actuality his wife. This comes to exclude his sister from a Canaanite maidservant or a gentile woman, with whom your father cannot have marital ties, since betrothal does not take effect with these women.

ואימא: פרט לאחותו מאנסה? הדין לא מצית אמרת, מדרבא.

The Gemara asks: So say: "Your father's wife's daughter" comes to teach specifically the case of a daughter from a woman married to his father, thereby excluding from the definition of: His sister, his sister from a woman who had been raped. Perhaps if she was born of a woman who was not married to his father she would not be considered his sister. The Gemara answers: You cannot say that due to the reason said by Rava.

אחותו מאונקתו – His sister by a woman his father raped – If a daughter was born from a woman his father raped, rather than married, then as that daughter's paternal half brother he is liable to receive punishment for relations with her only because she is his sister but not as the daughter of his father's wife (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:4).

דְּרַבָּא רַמִּי: כְּתִיב "עֲרוֹת בֵּת בְּנֵךְ אוֹ בֵּת בִּתְךָ לֹא תִגְלֶה", הָא בֵּת בְּנֵה דִידָהּ וּבֵת בִּתְהָהּ דִידָהּ – שְׂרִי, וּכְתִיב "עֲרוֹת אִשָּׁה וּבִתָּהּ לֹא תִגְלֶה אֶת בֵּת בְּנֵהּ וְאֶת בֵּת בִּתְהָהּ". הָא מִיָּצֵד?

As Rava raised a contradiction: In one verse it is written: "The nakedness of your son's daughter, or of your daughter's daughter, you shall not uncover" (Leviticus 18:10), which implies, consequently, that her son's daughter or her daughter's daughter is permitted. And it is written elsewhere: "You shall not uncover the nakedness of a woman and her daughter; you shall not take her son's daughter or her daughter's daughter" (Leviticus 18:17), which states explicitly that her son's daughter and daughter's daughter are prohibited. How can these texts be reconciled?

כָּאן בְּאוֹנְסִין כָּאן בְּנִשְׁוֹאִין.

Here, it is referring to a daughter by a woman whom one raped, in which case he is allowed to marry her daughter provided she is not also his daughter. There, it is referring to a woman whom one married, in which case it is forbidden to marry her daughter under any circumstances. However, even in a case where one's father raped a woman, one is still permitted to marry the woman's daughter by another man. If one's father had a daughter with this woman, one would be prohibited from having a relationship with that daughter, as she is his paternal half-sister.^h

Perek II
Daf 23 Amud a

Betrothal comes into effect with women who are forbidden and one would be liable for violating prohibitions – תִּיבִי לְאוּן תַּפְּשִׁי בְּהוּ קְדוּשִׁין – If one betroths a woman forbidden to him by a prohibition, the betrothal is nevertheless fully effective (Rambam *Sefer Nashim, Hilkhot Ishut* 4:14; *Shulhan Arukh, Even HaEzer* 44:7).

Prohibition against union with one's sister – אִיסוּר אָחוֹת – One's sister is forbidden to him by Torah law, whether she is a paternal or maternal sister, whether she is a sister from her father's marriage or outside of marriage. Even a sister born from a forbidden union is considered a sister and one is liable to receive punishment for having relations with her (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:1; *Shulhan Arukh, Even HaEzer* 15:10).

וְאִימָא פְּרִט לְחִיבֵי לְאוּן? אָמַר רַב פֶּפְאָה: חִיבֵי לְאוּן תַּפְּשִׁי בְּהוּ קְדוּשִׁין.

The Gemara raises a challenge: And say that the verse: "The daughter of your father's wife" comes to exclude women who were forbidden, as they are liable for violating prohibitions but were nevertheless married to his father, such as a *mamzeret*. If so, his sister from such a union would not be considered his sister. Rav Pappa said: Betrothal comes into effect with women who are forbidden, and one would be liable for violating prohibitions^h despite the fact that union with them is forbidden, and so she is called the wife of your father.

דְּכִתִּיב "כִּי תִהְיֶינָּה לְאִישׁ שְׁתֵּי נָשִׁים הָאֶחָת אֲהוּבָה וְהָאֶחָת שְׂנוּאָה", וְכִי יֵשׁ אֲהוּבָה לְפָנֵי הַמְּקוֹם וְיֵשׁ שְׂנוּאָה לְפָנֵי הַמְּקוֹם? אָלֵא: אֲהוּבָה – אֲהוּבָה בְּנִשְׁוֹאִיָּה, שְׂנוּאָה – שְׂנוּאָה בְּנִשְׁוֹאִיָּה, וְאָמַר רַחֲמָנָא: "כִּי תִהְיֶינָּה".

This is derived from the verse in which it is written: "If a man has two wives, the one beloved, and the other hated" (Deuteronomy 21:15). Is there one who is loved by the Omnipresent and one who is hated by the Omnipresent? Rather, "beloved" means her marriage is beloved, as it was permitted for her to be married, in accordance with *halakha*, and "hated" means her marriage is hated because it was not permitted for her to be married, according to *halakha*. And the Merciful One states: "If a man has two wives," meaning that both are considered to be married.

וְאִימָא פְּרִט לְחִיבֵי בְּרִיתוֹת – אָמַר רַבָּא: אָמַר קְרָא "עֲרוֹת אֲחוֹתְךָ בֵּת אָבִיךָ אוֹ בֵּת אִמְךָ מוֹלְדֵת בֵּית אוֹ מוֹלְדֵת חוּץ", בֵּין שְׂאוּמָרִים לוֹ לְאָבִיךָ: "קַיִּים", בֵּין שְׂאוּמָרִים לוֹ לְאָבִיךָ "הוֹצֵא", וְאָמַר רַחֲמָנָא: "אֲחוֹתְךָ הִיא" –

The Gemara asks: Say that this verse comes to exclude a union between one's father and a woman that is forbidden to him as they are liable to receive *karet*, and that since betrothal does not come into effect with her there is no marriage bond. Perhaps a sister born of such a woman would not be prohibited as the daughter of one's father's wife. Rava said that the verse states: "The nakedness of your sister, the daughter of your father, or the daughter of your mother, whether born at home or born outside" (Leviticus 18:9).^h This includes all daughters, whether from a woman for whom the Sages tell your father: Maintain her within your home, or whether the Sages tell your father she is a woman who is forbidden to him and therefore: Send her out of your home. And the Merciful One states that nevertheless: "She is your sister." Even the daughter of a woman who was forbidden to your father such that both parties are liable to receive *karet* is called your sister.