

NOTES

In accordance with the statement of the one who says that the levirate bond is substantial – לדברי האומר יש ויקה – Most of the early commentaries hold that Rav presented an opinion that was not his own and that he does not accept. Rivan, however, says that there is an amoraic dispute as to whether or not Rav holds that the levirate bond is substantial, and the opinion presented here follows that of the amora who maintains that Rav is of the opinion that the levirate bond is substantial (see *Yevamot* 18b).

נפלה אידך חלץ לה האי מפקע ויקתו, חלץ לה האי מפקע ויקתו.

Another third sister then happened before the brothers for levirate marriage. When this first brother performs *halitza* with her, he terminates his levirate bond, and when this second brother performs *halitza* with her, he terminates his levirate bond. However, neither brother can, by performing *halitza*, terminate the other brother's levirate bond because each brother's *halitza* is invalid, as each brother is unable to consummate the levirate marriage in this case. This is due to the woman's status as the sister of a woman with whom he performed *halitza*.

והאמר רב: אין ויקה! לדברי האומר יש ויקה קאמר.

The Gemara asks: How can this statement be cited in the name of Rav? But didn't Rav say: The levirate bond is not substantial. This *halakha*, however, was explained based on the assumption that the levirate bond is substantial. The Gemara answers: Indeed, according to Rav himself it is unnecessary to perform *halitza* with multiple brothers. He, however, states this *halakha* in accordance with the statement of the one who says that the levirate bond is substantial,ⁿ despite the fact that he does not hold this himself.

ושמואל אמר: אחד חולץ לכולן. מבדי שמינין ליה לשמואל דאמר: חליצה מעליא בעינין, דאמר שמואל.

And with regard to the above case Shmuel said a different halakhic ruling: It is sufficient if one brother performs *halitza* with each of the sisters. The Gemara raises a difficulty: But since we have heard that Shmuel said: We require a full-fledged *halitza*, and invalid *halitza* does not result in complete exemption, this ruling is difficult. It is not clear why the invalid *halitza* in this case would be sufficient, as Shmuel said:

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HALAKHA

If he performed *halitza* with the sisters the rival wives are not exempt – חלץ לאחיות לא נפטרו צרות: In the case of three brothers, two of whom were married to two sisters, where each had a rival wife, and the brothers died and their wives happened before the third brother for levirate marriage, if the *yavam* performs the act of *halitza* with the rival wives then the sisters are thereby exempt as well. However, if he performs *halitza* with the sisters, the rival wives do not become exempt, in accordance with the opinion of Shmuel as explained by Rav Ashi (Rambam *Sefer Nashim, Hilkhot Yibbum* 7:9; *Shulhan Arukh, Even HaEzer* 170:17, 174:1).

To exempt the woman herself...exempt – מפטרא נפשה – פטרה: It would seem that even according to those authorities who rule that in the case of invalid *halitza* the woman must repeat the *halitza* with the other brothers, this is required in order to completely nullify the levirate bond and exempt the rival wives. The woman who performed the invalid *halitza*, however, is free of her bond and is permitted to the general public without repeating the *halitza*. At the very least, she is permitted after the fact (see *Beit Shmuel*; Rambam *Sefer Nashim, Hilkhot Yibbum* 5:12; *Shulhan Arukh, Even HaEzer* 170:19).

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Shimon's *halitza*, a valid *halitza* – חליצה דשמעון חליצה כשרה – פטרה: Some commentaries say that when Reuven performed *halitza* with the first sister, Shimon's bond with her was completely nullified, and therefore when Shimon performs *halitza* with the second sister it is a completely valid *halitza* (see Rashba). Others explain that even if some aspect of Shimon's original bond with the first sister remains intact, his act of *halitza* with the second sister is nevertheless more efficacious than the *halitza* performed by Reuven (Rivan).

Since most are with him – כיוון דרובה גביה – פטרה: This follows the principle that in any matter, the majority is equivalent to the entirety (Ritva).

חלץ לאחיות לא נפטרו צרות. היבא דקיימא חליצה דשמעון חליצה כשרה, חליץ לה ראובן חליצה פסולה.

In the case of three brothers, two of whom were married to several women, including two sisters, and the two married brothers later died, and their wives happened before the *yavam* for levirate marriage, if the *yavam* performed *halitza* with the sisters who were among the wives, the rival wives are not thereby exempt.⁴¹ One can deduce from here that since the *yavam* cannot consummate the levirate marriage with the sisters, as each is the sister of a woman with whom he has a levirate bond, then the act of *halitza* is invalid, and invalid *halitza* is ineffective in exempting their rival wives. It is concluded from here that even Shmuel requires valid *halitza*, i.e., *halitza* that occurs when there is a possibility of consummating the levirate marriage. According to this rationale, however, Shmuel's ruling in the above case is difficult: With regard to the second sister, when there exists the possibility for Shimon's *halitza*, i.e., the *halitza* of the second brother who did not yet perform *halitza*, to be a valid *halitza*,ⁿ would it be allowed for Reuven, the brother who already did *halitza* with one sister, to perform invalid *halitza* with her?

מאי "אחד חולץ לכולן" נמי דקאמר – אאמצינית. והא כולן קאמר! כיון דרובה גביה קרי ליה "כולן". ואיבעית אימא: כי קאמר שמואל חליצה מעליא בעינין – הני מילי למיפטור צרתה, אבל מפטרא נפשה – פטרה.

The Gemara resolves this difficulty by reinterpreting Shmuel's statement. What does it mean that it says: One performs *halitza* with each of them, that Shmuel stated? Shmuel says that with regard to the middle one, i.e., the third sister, one of the two brothers performs *halitza* with her. The Gemara asks: But didn't he say: Each of them, indicating that one brother performs *halitza* with all of the sisters? The Gemara answers: Since the brother who performed *halitza* with one sister repeats the act with another, it turns out that most of the acts of *halitza* are performed with him,ⁿ and this is called: With each of them. And if you wish, say a different answer: When Shmuel said we require a full-fledged *halitza*, this applies only to exempt her rival wife by means of that *halitza*. But to exempt the woman herself, even invalid *halitza* would render her exempt.⁴¹ In the case above, since no rival wives are involved, it would be sufficient for one brother to perform *halitza* with each of the sisters.

גופא, אמר שמואל: חלץ לאחיות – לא נפטרו צרות, לצרות – נפטרו אחיות. חלץ לבעלת הגט – לא נפטרה צרה, לצרה – נפטרה בעלת הגט.

§ Apropos of Shmuel's statement, the Gemara examines the matter itself. **Shmuel said:** In the case of three brothers, two of whom were married to several women, including two sisters, and the two married brothers later died, and their wives happened before the *yavam* for levirate marriage, if the *yavam* performed *halitza* with the sisters,^b the rival wives are not thereby exempt. But if he performed *halitza* with the rival wives, the sisters are exempt.ⁿ Similarly, if he gave a bill of divorce to one of these women, whereby he would no longer be permitted to consummate the levirate marriage with them due to a rabbinic decree, and he then performed *halitza* with the woman who received a bill of divorce, the rival wife is not thereby exempt. Since he was unable to consummate the levirate marriage with her, the *halitza* performed with her was invalid, and invalid *halitza* does not exempt the rival wife. If he performed the act of *halitza* with the rival wife, then the woman who received a bill of divorce is exempt.ⁿ

חלץ לבעלת המאמר – לא נפטרה צרה, לצרה – נפטרה בעלת מאמר.

The ruling is similar with regard to the case where the *yavam* performed *ma'amar*, i.e., levirate betrothal,ⁿ to one of the wives. If he then performed *halitza* with the woman who received his levirate betrothal then the rival wife is not exempt. Indeed, this *halitza* is invalid as well, for once the *yavam* performed levirate betrothal, this act can be rescinded only by means of a bill of divorce. Because the woman needs to receive a bill of divorce in addition to the *halitza* in order to exempt her from her bond, the *halitza* is considered invalid and is not sufficient to exempt the rival wife. But if the *yavam* performed *halitza* with the rival wife, then she who received his levirate betrothal is exemptⁿ from *halitza* and requires only a bill of divorce.^h

מאי שנא לאחיות דלא נפטרו צרות – דהויא לו אחות אשה בויקה, חלץ לצרות נמי לא ליפטרו אחיות, דהויא להו צרות אחות אשה בויקה! קקבר שמואל: אין ויקה.

The Gemara asks: What is different in the two cases? Why, if he performed *halitza* with the sisters, are the rival wives not exempt? This is because the sister is related to him as the sister of a woman with whom he has a levirate bond. Since, under these circumstances he would not be permitted to consummate the levirate marriage with her, her *halitza* is then considered invalid *halitza*. However, if that is so, when he performed *halitza* with the rival wives, the sisters should not be exempt either, as the rival wives are related to him as rival wives of the sister of a woman with whom he has a levirate bond. If the woman is forbidden to him due to a relationship created by the levirate bond, then her rival wife is forbidden to him in the same way, and her *halitza* would be invalid as well. The Gemara answers: **Shmuel holds that the levirate bond is not substantial**, and therefore the levirate bond does not create a relationship between the *yavam* and the sisters such that the prohibition would be extended to the rival wives as well.

NOTES

לצרות נפטרו – אֲחֵי: Even though there is some small deficiency in the performance of *halitza* with the rival wives, this deficiency is, according to all opinions, negligible (*Tosefot Rid*).

The woman who received a bill of divorce is exempt – נפטרה בעלת הגט: It is preferable to perform *halitza* with the rival wife, although she is not eligible to enter into levirate marriage because the *yavam* did not perform any previous act with her, unlike with the woman who received a bill of divorce (*Tosefot Rid*).

Levirate betrothal – מאמר: The Sages instituted that even in cases of levirate marriage, which can be effected by conjugal relations alone according to Torah law, the *yavam* should first perform betrothal by means of a legal document or a transfer of money accompanied by a verbal declaration of betrothal. As opposed to standard betrothal, this levirate betrothal is not binding by Torah law.

She who received levirate betrothal is exempt – נפטרה בעלת מאמר: Although the rival wife of one who received levirate betrothal is also forbidden to the *yavam*, as he is allowed to build one household and not two, it is still preferable to perform *halitza* with the rival wife. This is because a woman who received levirate betrothal is not exempt from her connection with him by the act of *halitza* alone but would require a bill of divorce as well (see *Tosefot Rid*).

With regard to the deficiency in the *halitza* of a woman who had received levirate betrothal, some commentaries explain that the performance of levirate betrothal renders this woman ineligible for levirate marriage with the other brothers, and even a slight deficiency in the levirate bond renders the *halitza* deficient (see Rivan and Ramban).

Tosafot explain that the woman who received levirate betrothal is somewhat similar to a woman who entered into marriage. Marriage completely nullifies the levirate bond; levirate betrothal weakens the levirate bond.

HALAKHA

Halitza with a woman who received a bill of divorce or levirate betrothal – חליצה לבעלת הגט או מאמר: In the case of one who performed levirate betrothal with his *yevama* or gave her a bill of divorce, if she had a rival wife and he then came to perform *halitza* with one of the women, *halitza* with the woman who received the bill of divorce or levirate betrothal would not exempt her rival wife from performing *halitza*. *Halitza* with the rival wife, however, does render the woman who received a bill of divorce or levirate betrothal exempt from performing *halitza*, in accordance with the statement of Shmuel (*Shulhan Arukh, Even HaEzer* 170:17).

BACKGROUND

He performed *halitza* with the sisters – חלץ לאחיות: Reuven, Shimon, and Levi are paternal brothers. Shimon married Rachel and Hanna. Levi married Rachel's sister, Leah, and Miriam. When Shimon and Levi die childless, their wives happen before Reuven for levirate marriage. If Reuven first performs *halitza* with Leah and then afterward with Rachel, Rachel's *halitza* is considered invalid. Although Rachel herself is rendered exempt through this *halitza*, her rival wife Hanna is not. However, Leah's *halitza* is valid, and therefore her rival wife Miriam is rendered exempt by it.



In accordance with the statement of those who say that the levirate bond is not substantial – לְדַבְרֵי הָאוֹמְרִים אֵין זִיקָה: The early commentaries raise an objection: The Gemara maintains that the ruling that *ḥalitza* with a woman who received a bill of divorce does not exempt her rival wife was said only in accordance with the opinion that the levirate bond is substantial (*Yevamot* 51a). If so, how can the Gemara here explain that Shmuel stated this ruling in accordance with the opinion that the levirate bond is not substantial?

Tosafot, Ramban, and others hold that the present discussion is cited for the sake of the talmudic argumentation alone and does not represent a true summary of the issue. However, *Tosafot Yeshanim* say that the two *halakhot* mentioned follow two different opinions: The first *halakha*, which discusses *ḥalitza* with sisters, follows the opinion that the levirate bond is not substantial. The *halakha* that discusses *ḥalitza* with a woman who received a bill of divorce follows the opinion that the levirate bond is substantial.

Rival wives in general – צִרוֹת דְּעֵלְמָא: This phrase indicates that this *halakha* applies to any case that is similar to this one. The Sages occasionally employ the plural forms in order to establish a general ruling (Rashi). The Rivan understands that this ruling extends to all instances of a rival wife of a woman who is forbidden to the *yavam* by rabbinic law. This includes not only women prohibited to the *yavam* due to the levirate bond, but also women who are secondary forbidden relationships by rabbinic law.

Shmuel... began, etc. – שְׂמוּאֵל... הִתְחִיל וְכוּ': Some commentaries explain this passage specifically according to the opinion that the levirate bond is substantial, similar to the next answer suggested by the Gemara in the name of Rav Ashi. If so, the Gemara changes its assumption during the course of its discussion. Although this type of change would normally be noted by the word *rather*, as that word is generally employed to indicate the retraction of a previous explanation and the introduction of a new suggestion, this practice is not strictly adhered to if the first opinion is presented anonymously and not in the name of a specific *amora* (*Tosefot HaRosh*; Ramban).

וְהָא אָמַר שְׂמוּאֵל: יֵשׁ זִיקָה! לְדַבְרֵי הָאוֹמְרִים אֵין זִיקָה קְאָמַר.

אֵי הֵכֵן, חָלַץ לְאֶחָיוֹת אִמָּאֵי לֹא נִפְטְרוּ צִרוֹת? בְּשִׁלְמָא צָרָה דְּרַחֵל לֹא תִפְטֵר – דְּכִינּוּן דְּחָלַץ לָהּ לְלֵאָה וְהָדָר חָלַץ לְרַחֵל – הָיָא לָהּ חֲלִיצָה דְּרַחֵל חֲלִיצָה פְּסוּלָה. אֵלְא צָרָה דְּלֵאָה תִפְטֵר!

מָאֵי "לֹא נִפְטְרוּ צִרוֹת" נִמְי דְּקָאָמַר – אֶצְרָה דְּרַחֵל, וְהָא "צִרוֹת" קְאָמַר! צִרוֹת דְּעֵלְמָא.

אֵי הֵכֵן, חָלַץ "לְצִרוֹת נִפְטְרוּ אֶחָיוֹת", וְאֶצְרָה דְּרַחֵל מִי מִפְטָרָא? וְהָא תַנּוּ: אָסוּר אָדָם בְּצָרָת קְרוֹבַת חֲלוּצָתוֹ!

שְׂמוּאֵל נִמְי, הִתְחִיל וְלֹא הִתְחִיל קְאָמַר: הִתְחִיל בְּאֶחָיוֹת – לֹא יִגְמוֹר בְּצִרוֹת, דְּתַנּוּ: אָסוּר אָדָם בְּצָרָת קְרוֹבַת חֲלוּצָתוֹ, הִתְחִיל בְּצִרוֹת – יִגְמוֹר אֶף בְּאֶחָיוֹת, דְּתַנּוּ: מוֹתֵר אָדָם בְּקְרוֹבַת צָרָת חֲלוּצָתוֹ.

The Gemara challenges: **But didn't Shmuel say explicitly that the levirate bond is substantial?** The Gemara responds: **He stated this *halakha* in accordance with the statement of those who say that the levirate bond is not substantial,**ⁿ although he himself maintains the opposite.

The Gemara asks: **If that is indeed so**, that he stated this ruling in accordance with the opinion that the levirate bond is not substantial, then when the *yavam* performed *ḥalitza* with the sisters, why were their rival wives not exempt? **Granted, Rachel's rival wife, i.e., the rival wife of the second sister, would not be exempt, for once he performed *ḥalitza* with Leah, the first sister, and then later performed *ḥalitza* with Rachel, it turns out that Rachel's *ḥalitza* was invalid *ḥalitza*,**^h as he could not consummate the levirate marriage with Rachel because she is the sister of a woman with whom he performed *ḥalitza*, and invalid *ḥalitza* does not exempt a rival wife. **However, the rival wife of Leah should be exempt** because if the levirate bond is not substantial, the *ḥalitza* with the first sister would have been completely valid.

The Gemara explains: **What does it mean that it says: The rival wives are not exempt, that Shmuel stated?** It is referring only to the rival wife of Rachel, the second sister, who is not exempt. The Gemara challenges: **But he said rival wives in the plural, seeming to refer to both rival wives?** The Gemara answers: **He spoke of rival wives in general.**ⁿ In other words, this is a general *halakha*, and for that reason it was stated in the plural. However, it does not mean that both the rival wife of the first sister and the rival wife of the second sister are not exempt.

The Gemara challenges this: **If that is so**, that when Shmuel chose to speak in the plural he was referring only to the rival wife of Rachel, there arises a difficulty with the second half of the statement: **If he performed *ḥalitza* with the rival wives, the sisters are exempt. But would Rachel become exempt by *ḥalitza* performed with her rival wife? But didn't we learn in a mishna: A man is forbidden to marry the rival wife of a close relative of his *ḥalutza*?** Once the *yavam* performs *ḥalitza* with one sister, Leah, then her sister's rival wife, i.e., Rachel's rival wife, would be considered the rival wife of the sister of a woman with whom he performed *ḥalitza*. Being as she is forbidden to him, her *ḥalitza* is invalid and should not exempt Rachel.

The Gemara answers: **Shmuel also meant to distinguish between a case where he beganⁿ and the case where he did not begin.** This is how his statement should be understood: **If he began by performing *ḥalitza* with one of the sisters, he may not finish by performing a second act of *ḥalitza* with any one of the rival wives, as we learned in a mishna (4ob): A man is forbidden to marry the rival wife of a close relative of his *ḥalutza*.**^h Due to this prohibition, *ḥalitza* performed with the second rival wife is invalid *ḥalitza* and would not exempt the second sister. If, however, **he began with the rival wives and performed the first *ḥalitza* with the rival wife of Leah, he may finish with the sisters as well and perform the second *ḥalitza* with Leah, as we learned in a mishna (4ob): A man is permitted to marry the close relative of the rival wife of his *ḥalutza*.**^h Therefore, if he performed *ḥalitza* with Leah's rival wife, then Rachel, who is the sister of the rival wife of his *ḥalutza*, is permitted to him. He can therefore perform a completely valid *ḥalitza* with her and thereby exempt her rival wife.

HALAKHA

Invalid *ḥalitza* must be repeated – חֲלִיצָה פְּסוּלָה צְרִיכָה לְהוֹדוֹר: There are a variety of opinions with regard to this *halakha*. Some authorities determined that in cases of invalid *ḥalitza*, if there are several *yevamin* the woman must repeat the *ḥalitza* with all of the *yevamin*. If, however, there are two sisters-in-law whose *ḥalitza* is considered invalid and only a single *yavam*, he can exempt them both through a single act of *ḥalitza*. Some say that if there are two sisters-in-law he must perform *ḥalitza* with each of them (Ramban). Other authorities hold that invalid *ḥalitza* does not necessitate that the woman repeat the *ḥalitza* with the other brothers, and even in the case of two *yevamin* and a

single *yevama*, a single act of *ḥalitza* would suffice. It seems that most of the halakhic authorities hold in accordance with this opinion (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 5:12; *Shulḥan Arukh*, *Even HaEzer* 170:5, 19).

Forbidden to marry the rival wife of a close relative of his *ḥalutza* – אָסוּר... בְּצָרָת קְרוֹבַת חֲלוּצָתוֹ: The Sages considered a woman with whom one performed *ḥalitza* to be like his wife, and therefore he is forbidden to marry her close relatives, including her sister, mother, etc. If a close relative of the woman with whom he performed *ḥalitza* is married to his brother, then her rival wife is likewise forbidden to him. If, however, she is

married to another man, her rival wife is permitted to him, as per most halakhic authorities, but not in accordance with Rashi (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 6:20; *Shulḥan Arukh*, *Even HaEzer* 162:5).

Permitted to marry the close relative of the rival wife of his *ḥalutza* – מוֹתֵר... בְּקְרוֹבַת צָרָת חֲלוּצָתוֹ: A man is allowed to marry the sister, or any other relatives, of the rival wife of a woman with whom he performed *ḥalitza*, in accordance with the mishna cited here (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 1:13; *Shulḥan Arukh*, *Even HaEzer* 162:4).

The levirate bond is not so strong – לֹא אֵלִימָא זִיקָה – This assertion does not mean that the bond does not affect the rival wives at all, as rival wives may not enter into levirate marriage, even according to Rav Ashi's opinion. Rather, this means that the levirate bond is not so strong as to disqualify the rival wives in the same way that it disqualifies the sisters.

It is taught in accordance with the opinion of Rav Ashi – תִּנְיָא בְּוִתְיָה דְּרַב אֲשִׁי: It is not possible to interpret this *baraita* as the words of Shmuel were interpreted, by adding: He began, and; He did not begin, since it would have been necessary for the *baraita* to add additional segments clarifying the matter (*Tosafot*; see Ritva).

Whose opinion is this? It is Beit Shammai – הָא מְנֵי, בֵּית – This matter is also raised in the Jerusalem Talmud, and there, too, it was suggested that the *baraita* should be interpreted as the opinion of Rabbi Yoḥanan ben Nuri. There, however, the Gemara does not suggest the hard-pressed explanation that the Sages proceeded to establish this amendment (see *Tosafot*). Instead, the Gemara establishes the *baraita* as one version of the opinion of Beit Shammai, which itself is the matter of a tannaitic dispute.

Summary of the talmudic discussion – סִיכּוּם הַסְּגוּיָה – In this complicated talmudic discussion, the Gemara assumes that Rav and Shmuel made statements opposing their own opinions and also suggests various interpretations of Shmuel's statements wherein it is unclear whether or not these interpretations concur with one another. This leads the commentaries and especially the halakhic authorities to arrive at vastly different conclusions. The Rema and the Ramban conclude that the *halakha* follows Rav with regard to invalid *ḥalitza*. Since Rav made his statement in accordance with the opinion that the levirate bond is substantial, as is the halakhic conclusion, we must follow the principle that the *halakha* is in accordance with the opinion of Rav in matters of prohibitions. Therefore, according to the Ramban and others, in cases of invalid *ḥalitza*, each sister must repeat the *ḥalitza* with all the other *yevamin*.

According to most authorities, the Rif concludes that the *halakha* is in accordance with the most straightforward explanation of Shmuel, which is the latter explanation of his words. Therefore, one *yavam* performs *ḥalitza* with each of the sisters. The Rif establishes the *halakha* in accordance with the opinion of Shmuel, in opposition to Rav, because the principle that the *halakha* follows Rav applies only if Rav employs his own opinion in the dispute but not when he offers an explanation of another opinion that is not his own (*Nimmukei Yosef*).

The early commentaries were divided over how to understand the Ramban's opinion here, for it would seem that his words support two different opinions. Most commentaries maintain that he establishes the *halakha* in accordance with Shmuel and the latter explanation in the Gemara (Ramban; Rashba; Meiri; Tur).

The Ra'avad, *Tosafot*, and the Rosh all establish the *halakha* in accordance with the opinion of Shmuel, but according to the first formulation. Accordingly, the middle woman does not require *ḥalitza* with all of the brothers but the second sister does require *ḥalitza* from the second brother. They reason that where it is possible to perform valid *ḥalitza*, invalid *ḥalitza* does not suffice to exempt the woman. There are, however, differences of opinion within these commentaries. It would seem that the Ra'avad holds that after the fact the latter explanation can be relied upon (see *Beit Shmuel*). However, *Tosafot* maintain that even after the fact the *halakha* is according to the first explanation.

רב אשי אמר: לעולם בדיקאמרת, ומשום דלא אלימא זיקה לשווי לצרה בערוה.

Rav Ashi said: Actually, Shmuel's statement should be interpreted as you originally said, that Shmuel's rationale for these *halakhot* accords with his opinion that the levirate bond is substantial. As for the objection that was raised as to why the sisters would be exempted by *ḥalitza* performed with the rival wives if these rival wives were considered the rival wife of the sister of a woman with whom the *yavam* had a levirate bond, this can be resolved as follows: This is because the levirate bond is not so strong^N as to render the status of a rival wife like an actual forbidden relative. The levirate bond is sufficient to prohibit levirate marriage with the sister of a woman with whom he has a levirate bond, but not sufficient to prohibit their rival wives to the *yavam*.

תניא בותיה דרב אשי: חלץ לאחיות – לא נפטרו צרות, הא לצרות נפטרו אחיות – מאי טעמא, לאו משום דקסבר יש זיקה, ולא אלימא זיקה לשווייה לצרה בערוה?!

The Gemara comments: It is taught in a *baraita* in accordance with the opinion of Rav Ashi:^N If he performed *ḥalitza* with the sisters, the rival wives are not exempt from levirate marriage. From here one can deduce: Consequently, if he performed *ḥalitza* with the rival wives, the sisters are exempt. What is the reason for this? Is it not because this *tanna* held that the levirate bond is substantial, and therefore the rival wives were not rendered exempt by the *ḥalitza* of the sisters, but nevertheless the levirate bond is not so strong as to render the rival wife equivalent to a forbidden relative? Therefore, the prohibition with regard to the rival wives in this case is less severe than the prohibition concerning the sisters themselves, and when they perform *ḥalitza*, the *ḥalitza* is valid and the sisters are exempt.

אמר רבי אבא בר ממל: הא מני – בית שמאי היא, דתנן: בית שמאי מתירין הצרות לאחיו. אי הכי, יבומי נמי תתייבם!

Rabbi Abba bar Memel rejected this explanation and said: In accordance with whose opinion is this *baraita* taught? It is in accordance with the opinion of Beit Shammai,^N as we learned in a mishna: Beit Shammai permitted the rival wives to marry the brothers; even if they are the rival wives of his actual relatives, they are permitted to enter into levirate marriage. In the case above, where they are merely rival wives of the sister with whom he has a levirate bond, all the more so they are permitted to enter into levirate marriage. The Gemara objects: If that is so, if this ruling is in accordance with the opinion of Beit Shammai, who say that the rival wives are permitted, then the rival wife should enter into levirate marriage as well. Why does it speak here only of *ḥalitza* but not of the possibility of entering levirate marriage?

כרבי יוחנן בן נורי, דאמר: בואו ונתקן להם לצרות שיהו חולצות ולא מתייבמות. והאמר מר לא הספיקו לגמור את הדבר עד שנטרפה השערה! אמר רב נחמן בר יצחק: אתריו תזורי ותקני.

The Gemara answers: The ruling is in accordance with the opinion of Rabbi Yoḥanan ben Nuri, who said: Come and let us establish a ruling that the rival wives must perform *ḥalitza* and may not enter into levirate marriage, thereby circumventing the dispute between Beit Shammai and Beit Hillel. Although Beit Shammai permitted the rival wives to perform levirate betrothal, they should perform *ḥalitza* instead in order to conform to Beit Hillel's opinion as well. The Gemara objects: But didn't the Master say that they did not succeed in finalizing the matter and establishing Rabbi Yoḥanan ben Nuri's amendment before the times of trouble^B came in the form of the anti-Jewish decrees, and so this ruling was never actually established? Rav Nahman bar Yitzḥak said: After his time, other Sages returned to this issue and established this amendment in accordance with his opinion.^N

איבעיא להו:

§ Apropos of the statement of Shmuel with regard to a woman who received a bill of divorce and a woman who received levirate betrothal, a dilemma was raised before the Sages:

BACKGROUND

Times of trouble – נטרפה השערה: It would seem, according to the chronology of the generations, that this is referring to several times of distress that occurred successively over one period. This period extended from the polemic of Trajan and Kitos, also known as the Diaspora Revolt, which destroyed

the Jewish settlement in several lands adjacent to Israel, through the bar Kokheva revolt, which caused total upheaval in Jewish life. These disturbances completely prevented the Sanhedrin's ability to take organized action, including instituting ordinances, e.g., obligatory *ḥalitza* for rival wives.

HALAKHA

A woman who received a bill of divorce and a woman who received levirate betrothal – **בְּעֵלַת הַגֵּט וּבְעֵלַת מֵאָמֶר** – משום: If two *yevamot* from a single household happened before a *yavam* for levirate marriage, and he delivered a bill of divorce to one and performed levirate betrothal with the other, then he can perform the act of *halitza* with whichever of them he choose and thereby exempt the second (Shulhan Arukh, Even HaEzer 170:17).

Two sisters, *yevamot*, who happened before one *yavam* for levirate marriage – **שְׁתֵּי אֲחִיּוֹת יְבָמוֹת שֶׁנִּפְּלוּ לְפָנָיו יָבֵם** – אָחֵד: In the case of two sisters who happened before a *yavam* for levirate marriage one after the other, if the second sister died before he had performed any act the first sister is permitted to him. If, however, the first sister died, the second is forbidden. This ruling is in accordance with the opinion of Rabbi Yoḥanan, as the *halakha* follows him in disputes with Rav (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 7:4; Shulhan Arukh, *Even HaEzer* 175:1).

בְּעֵלַת הַגֵּט וּבְעֵלַת מֵאָמֶר – אִיזוּ מֵהֵן קוֹדְמָתָא? בְּעֵלַת הַגֵּט עֲדִיפָא – מִשּׁוּם דְּאִתְחִיל בֵּיהּ בְּחֵלְיָא, אוּ דְלִמָּא בְּעֵלַת מֵאָמֶר עֲדִיפָא מִשּׁוּם דְּקָרוּבָה לְבִיאָהּ?

אָמַר רַב אֲשִׁי, תָּא שְׂמַע: וּמוֹדָה רַבִּין גַּמְלִיאֵל שְׁנֵי גֵט אַחֵר מֵאָמֶר, וּמֵאָמֶר אַחֵר גֵּט.

אִי גֵט עֲדִיף – לֹא לִיהִי מֵאָמֶר אֲבִתְרִיהּ, וְאִי מֵאָמֶר עֲדִיף – לֹא לִיהִי גֵט אֲבִתְרִיהּ! אֵלֶּא לֹא שְׂמַע מִינָהּ בִּי הֲדַדִּי נִינְהוּ, שְׂמַע מִינָהּ.

אָמַר רַב הוּנָא אָמַר רַב: שְׁתֵּי אֲחִיּוֹת יְבָמוֹת שֶׁנִּפְּלוּ לְפָנָיו יָבֵם אָחֵד, חָלַץ לְרֵאשׁוֹנָה – הוֹתֵרָהּ, חָלַץ לְשֵׁנִיָּה – הוֹתֵרָהּ.

If two women happened before a single *yavam* for levirate marriage, and one is a woman who received a bill of divorce and the other is a woman who received levirate betrothal,¹¹ which has precedence for *halitza*? Is the woman who received a bill of divorce preferred¹² because he began the process of *halitza* with her, as presenting a bill of divorce represents the first step separating the woman from him? Or perhaps the woman who received levirate betrothal is preferred, because she is closest to being able to enter into permitted sexual intercourse. The act of levirate betrothal is generally done just prior to levirate marriage and is equivalent to the act of betrothal in non-levirate contexts. As a result, levirate betrothal strengthens the connection between the woman and the *yavam*. For this reason, it may be preferable to perform *halitza* with the woman who received levirate betrothal.

Rav Ashi said: Come and hear: The Sages disputed the ruling with regard to a *yavam* who performed levirate betrothal with one sister-in-law and then performed it with her rival wife as well, or conversely, gave both women a bill of divorce. In such cases, would the second levirate betrothal or bill of divorce be effective? It was taught: And Rabban Gamliel concedes that a bill of divorce is effective after levirate betrothal. Therefore, the bill of divorce that the *yavam* gave to one *yevama* after having performed levirate betrothal with the other *yevama* is effective to some degree. Similarly, Rabban Gamliel concedes that levirate betrothal performed after a bill of divorce is effective.

If the bill of divorce is preferred to levirate betrothal, then levirate betrothal performed afterward should not be effective. The opposite would hold true as well: And if levirate betrothal is preferred, then a bill of divorce given afterward should not be effective. Rather, must one not conclude from this statement that the two are equivalent to each other?¹³ The Gemara summarizes: Indeed, conclude from this statement that they are equivalent. Therefore, neither the woman who received a bill of divorce nor the woman who received levirate betrothal has precedence for *halitza*.

§ Rav Huna said that Rav said: In a case of two sisters who became *yevamot*, i.e., the two sisters were married to two brothers who died, who happened before one *yavam* for levirate marriage,¹⁴ if he performed *halitza* with the first sister, then she is permitted to marry any man. If he performed *halitza* with the second sister, then she is permitted to do so as well.

NOTES

11 Is the woman who received a bill of divorce preferred, etc. – **בְּעֵלַת הַגֵּט עֲדִיפָא וְכוּ'**: The use of the word preferred does not accurately represent the meaning here, and therefore the early commentaries diverge in their interpretation of it. According to the first suggestion of *Tosafot*, the word preferred simply clarifies the question of which woman underwent an act of more importance, and therefore this clarification does not decide the ruling of precedence with regard to *halitza*.
From the words of the Rivan, however, it seems that being preferred indicates precedence for the purposes of *halitza*. According to this explanation, the question at hand is: Once the *yavam* began the process of nullification with the woman who received a bill of divorce, would it be more appropriate for him to continue the process and do *halitza* with her, or would the woman who received levirate betrothal hold precedence because her levirate bond is more complete? Alternatively, *Tosafot Yeshanim* explain that the question is: Which woman is it preferable to release from the levirate bond by performing *halitza* with her rival wife; the woman who received a bill of divorce, because her bond was already weakened and therefore *halitza* with her would be less powerful, or the woman who received levirate betrothal, because her levirate bond was weakened by the performance of levirate betrothal?
12 The two are equivalent to each other – **הֲדַדִּי נִינְהוּ**: Some commentaries hold that since the act of *halitza* with either one of the women is equally flawed, both acts are considered invalid *halitza*. Accordingly, the *halitza* would have to be repeated with both women in order to release them from their levirate bonds (*Tosefot HaRosh*; see *Tosafot* and Ramban). However, according to Rashi and most halakhic authorities, since each act of *halitza* is equally flawed, *halitza* with one woman is sufficient to exempt the other. The Meiri adds another reason for this ruling, and states that invalid *halitza* requires repetition only if there was some form of levirate bond in place. In this case, a single act of *halitza* suffices, as there is no levirate bond.

מתה ראשונה מותר בשנייה, ואין צריך לומר מתה שנייה שמוותר בראשונה, משום דהויא יבמה שהותרה ונאסרה וחזרה והותרה – תחזור להיתירה הראשון.

ורבי יוחנן אמר: מתה שנייה – מותר בראשונה. אבל מתה ראשונה – אסור בשנייה. מאי טעמא – שכל יבמה שאין אני קורא בה בשעת נפילה “יבמה יבא עליה” הרי זו כאישת אח שיש לה בנים, ואסורה.

ורב לית ליה האי סברא? והאמר רב: כל אשה שאין אני קורא בה בשעת נפילה “יבמה יבא עליה” הרי היא כאישת אח שיש לו בנים ואסורה! הני מילי היכא דקאי באפה אסור אחות אשה דאורייתא, אבל הכא – זיקה דרבנן היא.

If the first sister died before the *yavam* was able to perform *halitza* with her, then he is permitted to take the second^N sister in levirate marriage, for even if had actually been married to the first sister, one is permitted to marry the sister of his wife after his wife dies. And needless to say, if the second sister died, then he is permitted to take the first sister in levirate marriage because she would be considered a *yevama* who was permitted at the time that she happened before the *yavam* for levirate marriage; and then later forbidden as the sister of a woman with whom he has a levirate bond when the second sister happened before him for levirate marriage; and subsequently became permitted by the death of the second sister. Therefore, she can return completely to her original permitted status.

However, Rabbi Yoḥanan said: If the second sister dies, he is permitted to take the first. But if the first sister dies, he is prohibited from taking the second sister. What is the reason for this ruling? The reason is that any *yevama* to whom the verse “her brother-in-law will have intercourse with her” (Deuteronomy 25:5) cannot be applied at the time that she happens before him for levirate marriage because she was forbidden to him at that moment, is then forever considered to be like the wife of a brother who has children, and she is forbidden to him. Because the second sister was forbidden to the *yavam* at the time that she happened before him for levirate marriage, being the sister of a woman with whom he had a levirate bond, she can never again be permitted to him.

The Gemara asks: And does Rav not accept that reason?^N Didn't Rav himself say the exact same words: Any woman to whom the verse “her brother-in-law will have intercourse with her” cannot be applied at the time that she happens before him for levirate marriage is then considered to be like the wife of a brother who has children,^N and she is forbidden to him? The Gemara answers: This applies only when the prohibition that stands before her and prevents the levirate marriage is the prohibition against marrying the sister of one's wife, which is prohibited by Torah law. Therefore, if the woman who happens before the *yavam* for levirate marriage is his wife's sister, he is prohibited from performing levirate marriage even if his wife dies afterward. But here the prohibition to marry the sister stems from a relationship created by a levirate bond. This prohibition is by rabbinic law,^N and therefore the bond does not render her forbidden to him forever.

NOTES

Rav said... the first died, he is permitted to take the second – אמר רב... מתה ראשונה מותר בשנייה: There are several different opinions as to how to explain Rav's ruling. Rabbeinu Ḥananel holds that Rav is consistent with his opinion that the levirate bond is not substantial, and he apparently thought that those who maintain that the levirate bond is substantial hold that the levirate bond has the force of Torah law (see Rashba). Therefore, the *yavam* is not permitted to consummate the levirate marriage with one of the sisters *ab initio* due to the prohibition against negating the mitzva of levirate marriage (see *Tosafot*).

The Meiri analyzes the issue in a similar way. He states that although Rav holds that the levirate bond is not substantial, the *yavam* is nevertheless unable to consummate the levirate marriage with any one of the sisters *ab initio*, since both of them happened before him for levirate marriage, and marrying one would negate the mitzva of levirate marriage with the other. Similarly, the *yavam* cannot perform the act of *halitza* with one sister *ab initio* and then consummate the levirate marriage with the other since, she would be rendered forbidden to him as the sister of a woman with whom he performed *halitza*.

Alternatively, the Ramban says that Rav's ruling is also consistent with the opinion that the levirate bond is substantial.

Accordingly, the reason why the *yavam* is permitted to take the second sister is that a levirate bond has the force of rabbinic law and is therefore not sufficiently binding to cause the *yevama* to be forbidden to him forever.

ורב לית ליה האי סברא – The commentaries ask why the Gemara did not object to Rav based on an explicit mishna that states: She is now forbidden to him forever since she was forbidden to him at one time (*Yevamot* 32a; see *Tosafot*). The Ramban explains that had the Gemara objected based on that mishna, Rav could have resolved the objection by noting that the mishna explicitly refers to a case involving a relationship forbidden by Torah law. Alternatively, he could have said that the *halakha* in the mishna, as later becomes clear, is in accordance with the opinion of Rabbi Eliezer, but that the Rabbis disagree with him.

כאישת אח שיש לו בנים – One must say that this means that she is like the wife of a brother who has children at the time of his death, such that even if the children later died she would not again require *halitza* (see *Meromei Sadeh*).

הכא זיקה דרבנן היא – Here a levirate bond by rabbinic law – According to those who maintain that this ruling of Rav is consistent with his opinion that the levirate bond is not substantial, this resolution proves difficult because, according to this opinion, there should be no bond at all.

The Rashba explains that Rav agrees that there is a prohibition in place. However, it does not stem from the levirate bond, but rather it is a rabbinic prohibition against negating the mitzva of levirate marriage. He would therefore interpret this phrase to mean that there is a rabbinic prohibition not to negate the levirate bond of the second woman.

Tosafot Yeshanim ask about a different aspect of this ruling: Why doesn't Rav prohibit the second woman, as she was forbidden to the *yavam* at the time of her husband's death due to the possibility of negating the mitzva of levirate marriage, as becomes clear later in the Gemara? He answers that one must differentiate between an actual prohibition with regard to a specific woman and a decree stemming from concern lest the mitzva of levirate marriage be negated, for such a concern indeed becomes irrelevant with the death of the other woman.

Raised an objection to Rabbi Yoḥanan, etc. – **אייתביה... לרבי יוחנן וכו'**: Some commentaries suggest that Rabbi Yosei bar Ḥanina's objection poses a more significant difficulty to Rav's position, but it was not mentioned as an objection to Rav because Rav held that this mishna is in accordance with the opinion that the levirate bond is substantial, though Rav himself does not maintain that stance (*Tosafot*). The Meiri adds further that since there is a principle that Rav is considered like a *tanna*, in that he can disagree with a mishna, it is less compelling to challenge his ruling from a mishna. *Tosefot HaRosh* explains that in truth this objection applies to Rav as well, but since Rabbi Yosei bar Ḥanina was close to Rabbi Yoḥanan and from the same generation as him, he raised it against him specifically. Moreover, this issue is later resolved on its own in the process of the talmudic deliberations in accordance with Rav's opinion, as Rav is concerned lest the mitzva of levirate marriage be negated. Alternatively, the Rivan holds that there is no difficulty for Rav here at all because Rav holds that in cases of invalid *ḥalitza*, the woman must repeat the *ḥalitza* with all of the brothers. In that case, the second woman would be the sister of his *ḥalitza*, which would preclude the possibility of consummating the levirate marriage. The Rashba proves from the fact the Gemara did not resolve the issue in this way, according to Rabbi Yoḥanan's opinion, that Rabbi Yoḥanan agrees with Shmuel, both with regard to the question of whether the levirate bond is substantial as well as with regard to the issue of whether a woman who performed invalid *ḥalitza* must repeat it with all of the brothers.

אייתביה רבי יוסי בר חנינא לרבי יוחנן: ארבעה אחיו, שנים מהם נשואים שהיו אחיות, ומתו הנשואין את האחיות – הרי אלו חולצות ולא מתייבמות. ואמאי? ליקו חד מיניהו לחלוץ לה לשנייה, ותיהו ראשונה לגבי אידך כיבמה שהותרה ונאסרה וחזרה והותרה – תחזור להיתרה הראשון!

אמר ליה: אחיות איני יודע מי שנאן. ולימא ליה: מאי "חולצות" נמי דקתני – חולצת חדא! "חולצות" קתני.

ולימא ליה: מאי "חולצות" חולצות דעלמא! הרי אלו קתני. ולימא: דחליץ ליה לראשונה ברישא! "חולצות"

Rabbi Yosei bar Ḥanina raised an objection to the opinion of Rabbi Yoḥanan^N from the mishna: In the case of four brothers, two of whom were married to two sisters, and those married to the sisters died, then those sisters must perform *ḥalitza* and may not enter into levirate marriage. And why does the mishna require *ḥalitza*? Let one of the brothers rise and perform *ḥalitza* with the second sister, i.e., the sister whose husband died later. As a result, the first would be like a *yevama* who was permitted at the time of her husband's death but later became forbidden due to the bond that was created with her sister, and she then subsequently became permitted by means of *ḥalitza* performed with her sister, insofar as the other brother, i.e., he who did not perform *ḥalitza*, is concerned. Therefore, she should return to her original permitted status.

Rabbi Yoḥanan said to him: I do not know who taught: Sisters. Rabbi Yoḥanan was in doubt as to the correct version of this mishna, as he could not find any reasonable explanation of this mishna according to any known opinion. The Gemara asks: Why did Rabbi Yoḥanan respond in such an extreme manner. Let him say to him, to Rabbi Yosei bar Ḥanina, an alternate solution: What is the meaning of the ruling that the sisters perform *ḥalitza*, which the mishna teaches? The meaning is that one sister performs *ḥalitza*. The Gemara answers: Such a solution is untenable, as the mishna teaches the ruling using the words: Perform *ḥalitza*, in the plural.

The Gemara suggests: And let Rabbi Yoḥanan say to him: What is the meaning of the ruling to perform *ḥalitza*? They perform *ḥalitza* in general. Accordingly, the mishna teaches that in such cases the second women performs *ḥalitza*. The Gemara responds: The mishna teaches: Then those women perform *ḥalitza*. The emphasis on the word: Those, indicates that it is specifically those two women who both perform *ḥalitza*. The Gemara asks further: And let him say that the mishna is referring only to the specific case where the *yavam* performed *ḥalitza* with the first sister first. As a result, there was no longer be any possibility of rendering the second sister permitted, as Rabbi Yoḥanan permitted levirate marriage only in the case where *ḥalitza* was performed with the second sister first. The Gemara answers: This cannot be suggested either, for the phrase: Perform *ḥalitza*,

Perek III

Daf 28 Amud a

NOTES

And let him say...lest he proceed, etc. – **דלמא קדים וכו'**: One can ask with regard to this question: Doesn't Rabbi Yoḥanan himself hold that if the second sister dies the first is permitted? This indicates that he is not concerned that there might be confusion of this kind. This difficulty can be resolved by asserting that Rabbi Yoḥanan allows the first sister to enter into levirate marriage only in the case where one of the sisters died, as in such a situation there is no concern for confusion. However, in a case where both sisters are alive, perhaps there would be concern, and therefore this rabbinic decree would apply. The Gemara, however, did not assume this distinction when it raised the objection, but rather understood that the fear of confusing the women was a legitimate concern in all cases (Rashba).

It teaches they may not enter into levirate marriage – **ולא מתייבמות קתני**: The Rivan explains that if the matter were prohibited by rabbinic decree, it would have sufficed to say: They perform *ḥalitza*. The fact that the mishna repeated the ruling and stressed that they may not enter into levirate marriage indicates that this matter was a conclusive halakhic ruling.

לכתחלה קתני. ולימא ליה גזירה דלמא קדים וחליץ לראשונה ברישא! "ולא מתייבמות" קתני, דליבא דין ביום הכא בלל.

implies that the mishna teaches a case in which *ḥalitza* is performed *ab initio*. This indicates that this is the first course of action and the only way to resolve the situation. The Gemara asks further: And let him say to him the following: The mishna prohibits levirate marriage *ab initio* in this case, due to a rabbinic decree lest he proceed^N and perform the *ḥalitza* with the first^H sister first, whereby it would be prohibited to consummate the levirate marriage with the second. Perhaps for this reason the Sages decreed that it is prohibited to consummate the levirate marriage even if *ḥalitza* was performed with the second sister. The Gemara answers: It teaches: They may not enter into levirate marriage.^N This indicates that the *halakha* of levirate marriage does not apply here at all. Accordingly, even after the fact, if he performed *ḥalitza* with the second sister, the *halakha* of levirate marriage would not apply to the first sister.

HALAKHA

Lest he proceed and perform the *ḥalitza* with the first, etc. – **דלמא קדים וחליץ לראשונה וכו'**: If there were four brothers, and two of them were married to two sisters, and the two married brothers died one after the other, and one of the surviving brothers proceeded to perform *ḥalitza* with the second sister, then the first sister is rendered permitted to the other brother. It seems that even Rabbi Yoḥanan is in agreement with this *halakha*, but he could not find a way to interpret the mishna to accord with this ruling (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 7:1; *Shulḥan Arukh*, *Even HaEzer* 175:1).