

Any woman who makes a vow, etc. – כִּל הַנּוֹדֶרֶת וְכוּ: The commentaries ask: If providing a woman's sustenance is reason enough to justify the husband's ability to nullify his wife's vows, then why was it necessary for the Torah to write the passage on nullification of vows? It must be that this halakhic rationale was established after the Torah explicitly stated the primary ruling with regard to the nullification of vows (*Tosafot Yeshanim*). This idea can be found in a slightly different form in the Responsa of the Rosh, where he says that even though one does not generally interpret the *halakha* based on the underlying rationale of the verses, in the case of nullification of vows, one does utilize the underlying rationale in order to determine how to apply the *halakhot*.

וְלִרְבִּי אֶלְעָזָר, דְּאָמַר: מֵאִמֵּר לְבֵית שְׁמַאי אֵינוֹ קוֹנֵה אֶלָּא לְדַחֲוֵת לְצַרְה בְּלִבָּד, אִמְמַאי מִיִּפְר בְּשׁוֹתְפוֹת? אָמַר לְךָ רַבִּי אֶלְעָזָר: אֵימַר דְּאִמְרֵי אָנָּא אֵינוֹ קוֹנֵה אֶלָּא לְדַחֲוֵת לְצַרְה בְּלִבָּד – דְּלֵא סָגִי לָהּ בְּגִישָׁא אֶלָּא בְּעֵי נַמִּי חֲלִיצָה, לְהַפֵּר נְדָרֶיהָ – מִי אִמְרִינָּהּ?

The Gemara questions this reading of the mishna: **And according to the opinion of Rabbi Elazar, who said that for Beit Shammai levirate betrothal acquires the woman only insofar as it precludes a rival wife from entering levirate marriage, and it is not a full-fledged acquisition, why should the yavam nullify her vows, even if he does so in conjunction with her father?** The Gemara answers: **Rabbi Eliezer could have said to you: One can say that when I said that levirate betrothal acquires the woman only insofar as it precludes the rival wife from entering levirate marriage, it was to emphasize that a bill of divorce would not suffice for her, but rather she also requires *halitza*. However, with regard to the matter of nullifying her vows, do we say that levirate betrothal is not effective, and that he cannot nullify her vows alone?**

וְאִיבְעִית אִימָא, אָמַר לְךָ רַבִּי אֶלְעָזָר: וְלִרְבִּי נַחֲמָן בַּר יִצְחָק מִי נִחָא? מִי קִתְּנִי "יִפְרוּ" וְ"יִפְר" קִתְּנִי. אֶלָּא הֲכָא בְּמַאי עֲסָקִינָּהּ – שְׁעִמְדָה בְּדִין וּפְסָקוּ לָהּ מִזִּנְוֹת מִשְׁלֹה.

**And if you wish, say an alternate explanation: Rabbi Elazar could have said to you: And as for Rav Nahman bar Yitzhak, does this resolution that the mishna is only referring to a case where the father and the yavam can nullify her vows together work out well? Did the mishna teach that they can nullify her vows? It teaches that he can nullify her vows in the singular, implying that he nullifies the vows alone and not in conjunction with anyone else. Rather, the mishna must be explained differently: With what are we dealing here? It is a case where the yavam, regardless of whether or not he performed levirate betrothal, did not want to consummate the levirate marriage or perform *halitza*. Therefore, the yevama stood in court so as to compel him to consummate the levirate marriage or perform *halitza*, and it ruled that he must supply her sustenance.** Because she is bound to him and cannot marry another, the court ruled that he was responsible for her livelihood.

וְכִדְרַב פְּנַחַס מִשְׁמִיָּה דְרַבָּא, דְּאָמַר רַב פְּנַחַס מִשְׁמִיָּה דְרַבָּא: כָּל הַנּוֹדֶרֶת – עַל דַּעַת בְּעֵלָהּ הִיא נוֹדֶרֶת.

**And this is in accordance with the statement that Rav Pinehas said in the name of Rava, as Rav Pinehas said in the name of Rava: Any woman who makes a vow,<sup>n</sup> makes her vow with the consent of her husband.** Because she is dependent upon her husband for her livelihood, she does not act without his consent. In this case, because the yavam is responsible to supply the yevama with sustenance, it is assumed that her vows are also made with his consent. It is for this reason that he can nullify her vows without her father. Consequently, no conclusive proof can be derived from here with regard to the strength of acquisition through levirate betrothal.

Perek III  
Daf 30 Amud a

מִתְנִי' שְׁלִישָׁה אַחִין, שְׁנַיִם מֵהֶם נְשׁוּאִים שְׁתֵּי אַחִיוֹת וְאֶחָד נְשׁוּי נְכָרִית. מֵת אֶחָד מִבְּעֵלֵי אַחִיוֹת, וְכֵּן נְשׁוּי נְכָרִית אֶת אֶשְׁתּוֹ, וְמֵת – הִרְאִשׁוּנָה יוֹצֵאָה מִשׁוּם אַחֻת אִשָּׁה, וְשִׁנְיָה מִשׁוּם צָרְתָהּ. עָשָׂה בָּהּ מֵאִמֵּר וְמֵת – נְכָרִית חוֹלְצָת וְלֵא מִתְיַבְּמַת.

**MISHNA** In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: **The husband of one of the sisters died childless, and the brother who was married to the unrelated woman married, i.e., performed levirate marriage with, the deceased brother's wife and later died himself, childless.** In this situation, both women happen for levirate marriage before the other, remaining, brother. **The first woman is dismissed due to the prohibition proscribing the sister of one's wife, as she is the sister of this brother's wife, and the second woman is dismissed due to her status as the first woman's rival wife.** Following the first levirate marriage, this second woman became the rival wife of the sister, and is therefore exempt from levirate marriage as well. If, however, the brother married to the unrelated woman performed only levirate betrothal, but had not yet consummated the levirate marriage with the sister, and he died, the unrelated woman, whose halakhic status with regard to *yibbum* is similar to that of a sister's rival wife, must perform *halitza* and may not enter into levirate marriage.

**Exemption for the rival wife of a forbidden relative – פטור צרת ערוה:** In the case where there were three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: The brother who was married to the unrelated woman died, and the husband of the first sister married his wife, the unrelated woman, and then died childless as well. Two women now happen before the third brother, the husband of the second sister, for levirate marriage, and both are exempt from levirate marriage and *halitza*, one as a sister of his wife and the other as the rival wife of that first sister. If the husband of a sister did not enter into marriage with the unrelated woman, whether or not he performed levirate betrothal with her, then the unrelated woman must perform *halitza* and may not enter into levirate marriage, for she would be the rival wife of his wife's sister by levirate bond. This is the opinion of the Rif, the Rosh, and other halakhic authorities who conclude that the *halakha* is in accordance with the opinion of Rav Ashi, who states that the levirate bond is substantial, as appears later.

The Rambam, however, cites the language of the mishna, specifying that the husband performed levirate betrothal. According to the *Tur*, the Rambam holds that specifically if he performed levirate betrothal with the unrelated woman would she be required to perform *halitza* (see *Or Same'ah*). The *Beit Yosef* holds, however, that the Rambam accepted the Rif's opinion but merely opted to copy the formulation found in the mishna rather than be precise (Rambam *Sefer Nashim, Hilkhot Yibbum* 7:7; *Shulhan Arukh, Even HaEzer* 175:7).

**גמ' טעמא דעבד בה מאמר. הא לא עבד בה מאמר – נכרית יבומי נמי מייבמה. אמר רב נחמן: זאת אומרת אין ויקה, ואפילו בחד אחא.**

**GEMARA** The Gemara deduces the following *halakha* from the second clause of the mishna: **The reason that the mishna requires *halitza* is specifically because he, the brother who was married to the unrelated woman, performed levirate betrothal with the sister.<sup>N</sup> Consequently, had he not performed levirate betrothal with her, the unrelated woman would be permitted to enter into levirate marriage as well. This is true despite the fact that the levirate bond could potentially render her the rival wife of his wife's sister. Rav Nahman said: That is to say, the levirate bond is not substantial;<sup>N</sup> the woman requiring levirate marriage is not considered married to the *yavam*. And this is true even if the levirate bond was with a single brother, as this widowed sister happened for levirate marriage only before the brother who was married to the unrelated woman; her levirate bond was with him alone.**

**מתני' שלשה אחים, שנים מהם נשואים שתי אחיות ואחד נשוי נכרית. מת הנשוי נכרית, וכנס אחד מבועלי אחיות את אשתו ומת – הראשונה יוצאת משום אחות אשה, ושניה משום צרתה. עשה בה מאמר ומת – נכרית חולצת ולא מתייבמת.**

**MISHNA** In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: **He who was married to the unrelated woman died, and one of the husbands of the sisters married his wife, and then died childless as well. The first woman, i.e., the sister who was originally married to the brother who performed levirate marriage, is dismissed and is exempt from levirate marriage due to her status as the sister of his wife. And the second woman, i.e., the unrelated woman who had entered into levirate marriage, is dismissed as her rival wife.<sup>H</sup> If, however, he performed levirate betrothal with the unrelated woman, and then died, then this unrelated woman must perform *halitza* and may not enter into levirate marriage, as levirate betrothal rendered her status with regard to *yibbum* as similar to the rival wife of his wife's sister.**

**גמ' הא תו למה לי? היינו הך! השתא, ומה התם דאחות אשה הויא צרה לנכרית אמרת: נכרית אסורה, הכא, דנכרית הויא צרה לאחות אשה – לא כל שכן?**

**GEMARA** The Gemara asks: **Why do I need this mishna as well? This principle is identical<sup>N</sup> to the principle behind the ruling in the previous mishna, and therefore this ruling can easily be deduced from the previous ruling. Now, just as there,<sup>N</sup> when his wife's sister became rival wife of the unrelated woman<sup>N</sup> who was already the brother's wife, you say that the unrelated woman is forbidden despite the fact that the forbidden relative joined later, here, where the unrelated woman became the rival wife of his wife's sister afterward, is it not all the more so clear that she is exempt as a rival wife?**

NOTES

The reason is because he performed levirate betrothal with the sister – טעמא דעבד בה מאמר – In the Jerusalem Talmud as well, both this mishna and the following one are understood as referring specifically to cases where he performed levirate betrothal. They explain there that the ruling in the mishna conforms with both the opinion of Rabbi Shimon, who is in doubt as to whether levirate betrothal effects a full-fledged acquisition or does not bring about acquisition at all, as well as according to the opinion of the Rabbis, who hold that levirate betrothal effects a partial acquisition. According to both opinions, albeit for different reasons, the woman performs *halitza* but may not enter into levirate marriage.

That is to say, the levirate bond is not substantial – זאת אומרת – אין ויקה: *Tosafot* wonder: Why did Rav Nahman not deduce this from the first mishna of the second chapter of the tractate? One commentary explains that it could be said that the purpose of that earlier mishna was only to exclude the statement of Beit Shammai with regard to levirate betrothal, and therefore one could not deduce the status of the levirate bond from there.

However, it was necessary to say this only once, such that when the mishna repeated this ruling it perforce indicated that the levirate bond is not substantial (Rabbi Akiva Eiger). Additionally, since the previous mishna in this chapter mentioned the dispute between the houses of Shammai and Hillel with regard to the issue of levirate betrothal, it would not be appropriate for the next mishna to categorically exclude the opinion of Beit Shammai (*Melo HaRo'im*).

This is identical, etc. – היינו הך וכו' – *Tosafot* point out that in other cases the Gemara might have resolved this question by invoking the structural principle: This, and it is unnecessary to say that. There are times when the mishna states two *halakhot* and the second one seems to be unnecessary and obvious once the first one is stated. This redundancy is resolved by attributing the repetition to the style of: this, and it is unnecessary to say that. In this case, however, that explanation does not suffice, because the entire mishna is superfluous. Furthermore, if that were the case it would have been possible to unite the two *mishnayot* with a single opening (*Ritva*).

**השתא ומה התם וכו' –** Rashi and most of the commentaries hold that the question and answer revolve primarily around the fact that he performed levirate betrothal. However, the Rashash holds that this could be referring to the principal *halakha* itself: Is the rival wife of a forbidden relative prohibited only if she was the second wife, married after the forbidden relative herself?

**His wife's sister became rival wife of the unrelated woman – אחות אשה הויא צרה לנכרית:** The later commentaries explain in various ways why there might be a difference between rulings in these cases. One commentary explains that if he married the forbidden relative first, the prohibition with regard to a wife's sister was already in place, and there was never any possibility for the rival wife to become eligible to enter into levirate marriage. If, however, he had married the rival wife first, it could be said that she was, by her very marriage, eligible to enter into levirate marriage, and that a forbidden relative cannot negate that original permitted status once it is in place (*Hiddushei Batra*; see *Or Same'ah*).

BACKGROUND

A mishna does not move from its place – משנה – משה: There is a dispute among the early commentaries, as well as among modern scholars, as to whether Rabbi Yehuda HaNasi actually wrote the Mishna or if he merely edited it into its final form for the purposes of oral study. In either case, even according to those who say that he fixed the Mishna in writing, it was not commonly available, and its study primarily continued orally. Since students learned the mishnayot orally in their proper order, omitting a particular mishna and replacing it with a similar one, or combining two mishnayot into one, could cause confusion in the students' learning. It is for this reason that Rabbi Yehuda HaNasi left the original mishna in place, even if it was unnecessary (see Ritva).

NOTES

The sister is forbidden to him – הרי זו אסורה עליו – The Rambam in his Commentary on the Mishna writes that while the halakha with regard to a sister was explicit, the halakha with regard to the unrelated woman, her rival wife, was not, and in his opinion she must perform halitza but may not enter into levirate marriage due to uncertainty. In contrast, the Rambam himself concludes in Mishne Torah, in accordance with the opinions of all the early commentaries, that this woman is released without halitza. If we decide, as does Rav, that the sister is forbidden like the wife of a brother who has children, then her rival wife is the rival wife of a forbidden relative and is exempt. The later commentaries attempt to explain Rambam's uncertainty in this matter.

HALAKHA

She was forbidden to him at one time – נאסרה עליו – שעה אחת: In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: One of the husbands of the sisters died, and the brother who was married to the unrelated woman married his wife. Later, the wife of the other brother, i.e., the sister of the woman who entered into levirate marriage, died. Afterward, the brother who was married to the unrelated woman died. In this case, the widowed brother is not permitted to take his deceased brother's wife in levirate marriage because she was forbidden to him the first time she happened before him for levirate marriage. As she was forbidden to him at one time, she is forbidden to him forever (Rambam Sefer Nashim, Hilkhot Yibbum 7:11; Shulhan Arukh, Even HaEzer 175:1).

תנא הך תנא ברישא, והך חזיא להתיירא, ושריא. והדר חזיא לאיסורא.

ואידי דחביבה ליה – אקדמה, ומשנה לא זזה ממקומה.

מתני' שלשה אחין, שנים מהם נשואים שתי אחיות ואחד נשוי נכרית. מת אחד מבעלי אחיות, וכנס נשוי נכרית את אשתו, ומתה אשתו של שני, ואחר כך מת נשוי נכרית – הרי זו אסורה עליו עולמית, הואיל ונאסרה עליו שעה אחת.

גמ' אמר רב יהודה אמר רב: כל יבמה שאין אני קורא בה בשעת נפילה "יבמה ובא עליה" הרי היא כאשת אח שיש לה בנים, ואסורה. מאי קא משמע לן? תנינא: הרי זו אסורה עליו עולמית, הואיל ונאסרה עליו שעה אחת!

מהו דתימא: הני מילי – היכא דלא איחזיא לה בנפילה ראשונה, אבל היכא דאיחזיא לה בנפילה ראשונה – אימא תישתרי, קא משמע לן.

The Gemara answers: This mishna was unnecessary, and this is how the duplication occurred: **The tanna taught this mishna at first, and with regard to that previous case saw it fitting to render her permitted, and he permitted her to the brother, for he held that if the forbidden relative joined the man's household later, then she would not render the first wife prohibited as the rival wife of a forbidden relative. And then the tanna subsequently retracted and saw it fitting to render the woman forbidden.** He decided that this woman should be considered the rival wife of a forbidden relative as well, and therefore rendered her forbidden to the brother.

And since that case was novel, it was beloved to him and he taught it earlier. In truth, it would have now been possible to eliminate the present mishna, for there was no longer any novelty in it; its ruling could be derived by an a fortiori argument from the previous ruling. However, a mishna does not move from its place.<sup>8</sup> Since this version of the mishna had already been fixed, it was deemed inappropriate to remove it completely, and it remained in place despite the fact that it was no longer necessary.

**MISHNA** In the case of three brothers, two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: One of the husbands of the sisters died, and he who was married to the unrelated woman married the deceased husband's wife, and then the wife of the second brother, the other one of the sisters, died. Afterward, the brother who was married to the unrelated woman died, leaving two women for levirate marriage before the remaining brother: The unrelated woman and the woman who was previously prohibited as the sister of his deceased wife. In this case, the sister is forbidden to him<sup>n</sup> forever. She is not forbidden due to her status as his wife's sister, as his wife already died and one's wife's sister is permitted after the wife's death. However, since she was already forbidden to him at one time,<sup>h</sup> she is forbidden to him forever. When she first happened before the brothers for levirate marriage, before the third brother married her, she was forbidden to the second brother as his wife's sister. Therefore, she is forbidden to him forever. In addition, she exempts her rival wife, the unrelated woman, from levirate marriage.

**GEMARA** Rav Yehuda said that Rav said a principle on this matter: 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 with whom she has children, and she is forbidden to him. The Gemara asks: What is Rav teaching us with this statement? We already learned this in the mishna: She is forbidden to him forever, since she was forbidden to him at one time.

The Gemara answers: This was necessary lest you say that this ruling applies only in cases where she was not eligible at all during the first time that she happened before the brothers for levirate marriage. Such is the case in the mishna, when she was forbidden to the yavam as his wife's sister the entire time that she was eligible for levirate marriage. Even though his wife died after the other yavam married this woman, because she was forbidden to him that entire time, she is forbidden to him forever. But in cases where she was eligible at some point during the first time she happened before the brothers for levirate marriage, such as in the scenario where the brother's wife died prior to the time when his other brother married her, one could say that she would be permitted. In that case, since the prohibition had in the meantime been canceled and she was indeed rendered eligible for levirate marriage with him during the period of the first time she happened before him, one might think that she would now be permitted. It is for this reason that Rav teaches us that even in this scenario she would be forbidden to him forever.



הא נמי תננא: שני אחיו נשואין שתי אחיות, מת אחד מהם ואחר כך מתה אשתו של שני – הרי זו אסורה עליו עולמית, הואיל ונאסרה עליו שעה אחת!

מהו דתימא: התם הוא דאידיחי לה מהאי ביתא לגמרי. אבל הכא, דלא אידיחי לה מהאי ביתא לגמרי, אימא: מיגו דחזיא להאי נשוי נכרית חזיא נמי להאי, קא משמע לן.

**מתני' שלשה אחים, שנים מהם נשואין שתי אחיות ואחד נשוי נכרית. גירש אחד מבעלי אחיות את אשתו, ומת נשוי נכרית, וכנסה המגרש ומת – זו היא שאמרו: וכולן שמתו או נתגרשו – צרותיהן מותרות.**

The Gemara raises an objection: **We learned this as well**, as a later mishna (32a) states: In the case of **two brothers who were married to two sisters, if one of them, i.e., one of the brothers, died and afterward the wife of the second brother died, then she, the surviving wife, is forbidden to him, the surviving brother, forever, since she was forbidden to him during the period she happened before him at one time.**

The Gemara answers: One cannot learn the halakhic principle from that case. **Lest you say that there she is forbidden forever because of the following argument:** When she was forbidden to the brother, **she was precluded from entering this household completely, i.e., from the entire obligation of levirate marriage.** She received total exemption from the mitzva of levirate marriage because this obligation applied only to the one remaining brother, and she was forbidden to him at the time that she happened before him for levirate marriage. **But here, however, in the case Rav is referring to, where she was not completely precluded from entering this household because she still required levirate marriage with another brother, one could say: Since she is eligible and permitted to this brother, who was married to the unrelated woman, she is eligible for this second brother following the death of his wife as well, in other words, she was not rendered completely exempt from the obligation of levirate marriage.** Lest one make this argument, Rav **teaches us** that under any circumstances she who was forbidden at one time is forbidden forever.

**MISHNA** In the case of **three brothers,<sup>B</sup> two of whom were married to two sisters and one who was married to an unrelated woman, the following occurred: Shimon, the husband of one of the sisters, divorced<sup>NH</sup> his wife, and then Levi, who was married to the unrelated woman, died, and Shimon, the man who divorced his wife, married, i.e., performed levirate marriage with, her,<sup>N</sup> i.e., this unrelated woman. And then Shimon himself later died, so that the unrelated woman happened for levirate marriage before Reuven, the third brother, who is married to the second sister. In this scenario, Reuven is allowed to consummate the levirate marriage with the unrelated woman. This is the case that was referred to when they said: And with regard to all those fifteen forbidden relatives who died or were divorced, their rival wives are permitted to enter into levirate marriage.** This is because at the time that they happened before the *yavam* for levirate marriage they were no longer the rival wives of a forbidden relative.

**NOTES**

**שלשה אחים... גירש וכו' –** *Tosafot* ask why it was necessary to state that there were three brothers, for this *halakha* could have been taught in a case with only two brothers. They explain this according to several different opinions. The *Rashba* writes that according to *Rava's* opinion cited later it was indeed not necessary to describe a case with three brothers. However, as the entire chapter is referring to cases of three brothers, that number was used in this case as well despite the fact that it is not necessary.

**The man who divorced his wife married her –** *המגרש* *Tosafot* ask how the man who divorced his wife could possibly marry this woman, for is she not the rival wife of his wife's sister due to the levirate bond with the third brother? They explain that while the husband who divorced his wife is alive, it is not relevant to consider the unrelated woman as the rival wife of his wife's sister. The issue of the rival wife of his wife's sister by levirate bond is relevant only when the other brother dies and both women happen before the third brother for levirate marriage (see *Tosefot HaRosh*).

**HALAKHA**

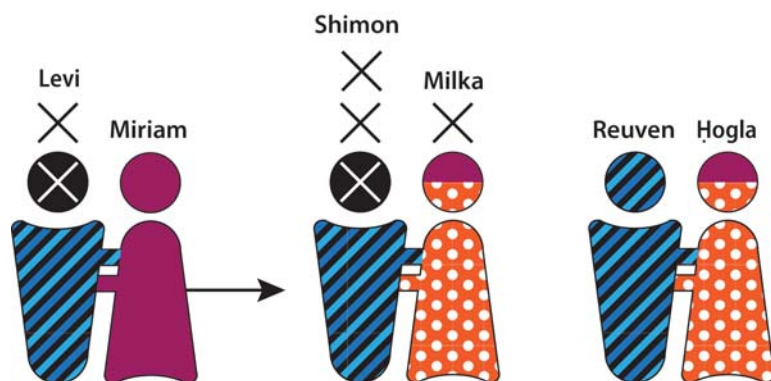
**He who divorces the close relative of his *yevama* –** *המגרש* *איך קרובת הבמיו*: In the case of three brothers, two of whom were married to two sisters and one of whom was married to an unrelated woman, the following occurred: The husband of one of the sisters divorced his wife, and the one married to an unrelated woman died, and the man who divorced his wife married this unrelated woman and then died. This woman would be permitted to the third brother, as she had never been the rival wife of his wife's sister.

If, however, the brother who was married to the unrelated woman died first, and then the husband of one of the sisters divorced his wife, even if he did not manage to marry the unrelated woman, she would nevertheless be forbidden to the remaining brother because she was the rival wife of his wife's sister by levirate bond, prior to the divorce.

And if the husband of one of the sisters entered into marriage with the unrelated woman and divorced the sister (whether the divorce took place before or after the marriage to the unrelated woman), if this brother dies as well then the unrelated woman is permitted to the husband of the other sister, for he takes her in levirate marriage as a consequence of the latest marriage, and at the time that she happened before him she was no longer the rival wife of his wife's sister (*Rambam Sefer Nashim, Hilkhot Yibbum 7:12; Shulhan Arukh, Even HaEzer 175:8*).

**BACKGROUND**

**Three brothers – שלשה אחים:** There were three paternal brothers, Reuven, Shimon, and Levi. Reuven and Shimon married two sisters, Høgla and Milka, respectively, while Levi married Miriam, who was not related to either of them. Eventually, Milka died, after which Levi died childless, and Shimon took Miriam in levirate marriage. If Shimon then dies childless, Reuven is allowed to take Miriam in levirate marriage, since she was never the rival wife of his wife's sister.



גמ' טעמא דגירוש ואחר כך מת, אבל מת ואחר כך גירוש - אסורה. אמר רב אשי: זאת אומרת יש ויקה, אפילו בתרי אחי.

**GEMARA** The Gemara deduces from here that the reason for this *halakha* is specifically that Shimon divorced his wife and after that Levi died and Shimon married the unrelated woman. But if Levi had died first, and later Shimon divorced his wife, then the unrelated woman would be forbidden to Reuven due to the levirate bond that existed between her and Shimon prior to the latter's divorce. She would be considered the rival wife of the divorced woman who is the sister of Reuven's wife. **Rav Ashi said: That is to say, the levirate bond is substantial, even with two brothers.** Although the unrelated woman required levirate marriage with two brothers, the levirate bond is substantial enough to create a relationship between the unrelated woman and Shimon such that the unrelated woman is considered the rival wife of the divorced woman, i.e., the sister of Reuven's wife.

ולרב אשי קשיא דרב נחמן! אמר לך רב אשי: הוא הדין דאף על גב דלא עבד בה מאמר נכרית - מיחלץ חלצה, יבומי לא מייבמה. והא דקתני מאמר - לאפוקי בית שמאי, דאמרי: מאמר קונה

The Gemara asks: **And according to Rav Ashi**, that which **Rav Nahman** said is **difficult**, as Rav Nahman deduced from the earlier mishna that the levirate bond is not substantial even in the case of a single brother. The Gemara answers: **Rav Ashi** could have **said to you**: Rav Nahman's deduction in the first mishna was not logically necessary. With regard to that mishna, one could have said that when the mishna requires *halitza* in the case of levirate betrothal, **the same is true even** in the case **where he** who was married to the unrelated woman **did not perform levirate betrothal with her**. In that case as well, **the unrelated woman must perform *halitza* and may not enter into levirate marriage** since she was the rival wife of his wife's sister by levirate bond. **And the reason that it teaches the ruling in the case of levirate betrothal** was not in order to inform us that she was forbidden due to levirate betrothal, but rather **to exclude** the statement of **Beit Shammai**,<sup>n</sup> **who say that through the act of levirate betrothal one acquires the *yevama***

**NOTES**

לאפוקי בית - שמאי: The question arises: If this mishna comes to exclude the statement of Beit Shammai, then why was it necessary to teach this twice, both here and in the second chapter? Alternatively, why was it necessary to teach in both places that the levirate bond is not substantial? Some commentaries explain that according to Rav Ashi, it is more reasonable to hold that the levirate bond is not substantial, and there-

fore it was necessary to repeat this in order to emphasize that the mishna is not teaching that the levirate bond is not substantial but rather that the mishna is excluding Beit Shammai's statement. Similarly, according to the opinion of Rav Nahman, it is more reasonable to maintain that the levirate bond is substantial, and therefore the matter was taught twice in order to emphasize that it is not (*Tosefot HaRosh; Tosafot Yeshanim*).

קנין גמור, קא משמע לן דלא בבית שמאי.

ולרב נחמן קשיא דרב אשי! וכי תימא: הוא הדין דאפילו מת ואחר כך גירש צרתה מותרת, אלא "זו היא" למעוטי מאי - למעוטי בנס ואחר כך גירש.

הניחא אי סבר לה ברבי ירמיה, דאמר: תברא, מי ששנה זו לא שנה זו,

והאי תנא סבר מיתה מפלת, והאי תנא סבר נישואין הראשונים מפילים.

"זו היא" למעוטי בנס ולבסוף גירש. אלא אי סבר לה ברבא, דאמר לעולם חד תנא הוא, ו"זו ואין צריך לומר זו" קתני - "זו היא" למעוטי מאי? על ברחק ברבי ירמיה סבירא ליה.

as a full-fledged acquisition. According to that opinion, the unrelated woman does not even require *halitza*, since she is considered to be a rival wife of a forbidden relative. This mishna teaches us that the *halakha* is not in accordance with the opinion of Beit Shammai.

The Gemara raises a question from the opposite perspective: **And according to Rav Nahman**, who deduced from the earlier mishna that the levirate bond is not substantial, the deduction of Rav Ashi that the levirate bond is substantial is **difficult**. **And if you would try to resolve this in a similar manner and say:** With regard to the ruling in the present mishna, which states that the sister's rival wife, i.e., the unrelated woman, **is permitted, the same is true even if Levi had died and then afterward the brother married to the other sister divorced his wife**, there is a difficulty. If that is the case, then **what does the phrase this is**, cited at the end of the mishna, **come to exclude?**<sup>N</sup> If we follow this explanation then the same ruling would hold true in all cases. The Gemara responds: **It excludes** the case where Shimon first **married** the unrelated woman **and only afterward divorced** the sister, as in such circumstances the unrelated woman is most certainly a rival wife of Reuven's wife's sister and is therefore not permitted.

The Gemara states: **This works out well if he holds in accordance with the opinion of Rabbi Yirmeya, who said with regard to a seeming contradiction between this mishna and an earlier mishna (13a): The mishnayot are disjointed; he who taught this mishna did not teach that mishna.** The earlier mishna established the principle that if a man was married to two women, one of whom was a forbidden relative, and he divorced the forbidden relative before he died, then the rival wife is no longer prohibited to the brothers.

This dispute is based upon the following: **This tanna** from the earlier mishna **holds that death determines** her status when **she happens** before the brothers, i.e., the crucial moment for determining whether the prohibition relating to rival wives applies is the moment at which the brother dies. In other words, whether the *yevama* is permitted to the *yavam* is determined by the status of the *yevama* at that given moment. Therefore, in the case where he had married a forbidden relative and later divorced her, the rival wife would be permitted. **And this tanna** of our present mishna **holds that the original marriage determines** her status when **she happens** before the brothers. If, at the time the woman was married to the deceased brother she was forbidden as a close relative, and her rival wife was likewise forbidden as the rival wife of a forbidden relative, then even though the status of the relative had changed at the time of the death of the brother, both she and her rival wife remain forbidden.

According to this opinion, it is indeed possible to state that the phrase **this is** comes to **exclude** the case where **he married** one woman **and ultimately divorced** the other. According to this mishna, in that case, the rival wives would be prohibited. **However, if he holds in accordance with the opinion of Rava, who said: Actually, understand this to be the opinion of a single tanna, and he teaches** the mishna employing the style: **This, and it is unnecessary to say that**, a difficulty remains. According to Rava, both *mishnayot* maintain the position that in the case where the *yavam* married one woman and ultimately divorced the other, the rival wife would be permitted. If that is the case, **what does the phrase this is come to exclude?** In what case would the rival wife be prohibited to the *yavam*? The Gemara responds: **Perforce Rav Nahman holds in accordance with the opinion of Rabbi Yirmeya** with regard to his interpretation of the *mishnayot*.

NOTES

**What does the phrase: This is, come to exclude – זו היא** למעוטי מאי: The commentaries held different opinions as to the meaning of this passage and its practical implications. According to Rashi, both Rav Nahman and Rav Ashi hold in accordance with the opinion of Rabbi Yirmeya that this mishna follows the opinion that the original marriage determines the status of the woman when she happens before the brothers for levirate marriage. Therefore, according to Rav Ashi, the phrase: This is, comes to exclude the case where one of the husbands married to a sister divorces his wife after the brother married to the unrelated woman dies. If he subsequently marries the unrelated woman and dies, this woman is forbidden upon his death to his other brother because she became the rival wife of his wife's sister by levirate bond. This is all the more true in the case where he married her prior to divorcing his wife. For Rav Nahman, the phrase: This is, comes to exclude specifically the case where he married and then later divorced. Rava, however, holds that: This is, comes to exclude the case where he dies without divorcing his wife at all.

The Rif's opinion on this matter is complicated. He rules in accordance with Rav Ashi's opinion that if Levi, the brother married to the unrelated woman, dies before Shimon divorces the sister to whom he is married, then when Shimon also dies the unrelated woman is forbidden to his brother Reuven as the rival wife of his wife's sister through the levirate bond. He also rules that the time of death of the husband determines the woman's status with regard to levirate marriage. It is unclear why it should matter whether the divorce took place before or after Levi died. As long as Shimon had already divorced the sister before he died, the unrelated woman should not be regarded as the rival wife of a forbidden relative.

The Rif offers two explanations as to why she is nevertheless forbidden to Reuven under such circumstances. According to the first explanation, this is a special stringency that is an extension of the rabbinic decree that the levirate bond creates substantial relationships. Since at the time of Levi's death she was the rival wife of Reuven's wife's sister due to the levirate bond, she is forbidden to Reuven after Shimon's death. This is despite the fact that in the parallel case, where Shimon was actually married to her and to Reuven's wife's sister, and then Shimon divorced the sister and subsequently died, she would be permitted to Reuven, because at the time of Shimon's death she was not the rival wife of a forbidden relative.

The Rif's second, preferred explanation is that in this case, at the moment of Levi's death, the unrelated woman becomes the rival wife of Reuven's wife's sister due to the levirate bond. She is therefore rendered forbidden to Reuven as such. Even though she loses this status after Shimon divorces his wife, once she was rendered forbidden to Reuven the first time she happened before him for levirate marriage, she can no longer be rendered permitted to him.



**Uncertainty with regard to the rival wife of a forbidden relative – ספק צרת ערוה:** If a woman underwent a betrothal whose status is uncertain or a divorce whose status is uncertain with the deceased brother, and she was a forbidden relative to her brother-in-law, and the deceased brother had another wife, then that rival wife must perform *halitza* and may not enter into levirate marriage (Rambam *Sefer Nashim, Hilkhot Yibbum* 6:22; *Shulhan Arukh, Even HaEzer* 173:3).

**Uncertainty with regard to betrothal – ספק קדושין:** If both the man and the woman were standing in the public domain, or in a domain that did not belong to either, and he threw her the betrothal item but it was lost before it reached her hand, if it fell in a place that was possibly closer to him and possibly closer to her in such a way that both could have guarded the object, or both could equally have not guarded the object, then this is a case of betrothal whose status is uncertain (Rambam *Sefer Nashim, Hilkhot Ishut* 4:22; *Shulhan Arukh, Even HaEzer* 30:5).

ולרבא, הניחא אי סבר לה ברב אשי – "זו היא" למעוטי מת בלא גירש, אלא אי סבר לה ברב נחמן: "זו היא" למעוטי מאי? על כרחך ברב אשי סבירא ליה.

**מתני' וכולן שהיו בהן קדושין או גרושין בספק – הרי אלו הצרות חולצות ולא מתניבמות. ביצד ספק קדושין? זרק לה קדושין, ספק קרוב לו ספק קרוב לה – זהו ספק קדושין.**

**ספק גרושין – כתב בכתב יד ואין עליו עדים, יש עליו עדים ואין בו זמן, יש בו זמן ואין בו אלא עד אחד – זהו ספק גרושין.**

**גמ' ואילו בגרושין ספק קרוב לו ספק קרוב לה – לא קתני.**

The Gemara raises a question from a different perspective: **And according to Rava**, who maintains that in both cases the rival wife is permitted, **this works out well if he holds in accordance with the opinion of Rav Ashi** that the levirate bond is substantial. In that case the phrase **this is** comes to exclude the case where **he died without divorcing his wife**. In this case the rival wife is forbidden because the entire time she was the rival wife of a forbidden relative by levirate bond. **If, however, he holds in accordance with the opinion of Rav Nahman** in this matter, **what does the phrase this is come to exclude?** The Gemara answers: **Perforce Rava holds in accordance with the opinion of Rav Ashi**. Accordingly, with regard to this *halakha* there is a connection between the various opinions as to how to interpret the *mishnayot* and the dispute.

**MISHNA** And if any of these fifteen women who are prohibited as forbidden relatives had undergone a betrothal or divorce whose status is uncertain<sup>H</sup> with the deceased brother, then those women who were their rival wives must perform *halitza* and may not enter into levirate marriage since they are possibly the rival wives of forbidden relatives. The mishna elaborates: **How** could there be a situation of **uncertainty with regard to betrothal?**<sup>H</sup> If in the public domain he threw her an item for the purpose of **betrothal** and there were eight cubits between them, and the item was **possibly closer to him**<sup>N</sup> and did not enter into her domain, and **possibly closer to her**, i.e., within four cubits of her, whereby she could acquire the object, **this is a case of uncertainty with regard to betrothal**.

**Uncertainty with regard to divorce** occurs when, for instance, **he wrote a bill of divorce in his handwriting**<sup>N</sup> but there are no signatures of witnesses on the document, or there are the signatures of witnesses on the document but there is no date written in it, or the date is written in it but there is only the signature of a single witness. Since there is doubt as to whether these three kinds of bills of divorce are valid, a woman who was divorced through them is only possibly divorced, and so **this case is called uncertainty with regard to divorce**.<sup>N</sup>

**GEMARA** The Gemara remarks: **But yet when discussing divorce, it does not teach** the case where it is **uncertain if the bill of divorce is closer to him, and uncertain if it is closer to her**. It would have been appropriate to describe this case, as it parallels the case involving the object of betrothal. He could have tossed it in such a way that it was not clear to whom the bill was closer.

NOTES

**ספק קרוב לו – רש"י** interprets this *halakha* as pertaining to the specific instance where there were exactly eight cubits between the two (see *Gittin* 78a). The Rashba, however, maintains that those conditions were stated specifically in the case of a bill of divorce, as it is required that the bill of divorce be delivered either into the woman's hand or into her domain. In contrast, with regard to betrothal, this condition is not necessary. Therefore, it is possible to establish that in this case there were more than eight cubits between them but there was doubt as to whether the item of betrothal was close enough to her that she could successfully guard it.

**כתב בכתב יד – רש"י** derives proof that a handwritten document is considered authoritative from the *halakhot* of documents where a bill of debt handwritten by the debtor is effectual even without witnesses, allowing the collection of payment of the debt from his available property. *Nimmukei Yosef* claims that these are not similar cases, since in monetary law a bill serves merely as evidence as to what had transpired, whereas a bill of divorce in

fact creates the divorce itself. Accordingly, he offers an alternative reason. Since the verse states: "And he writes her a bill of divorce," if the man divorcing his wife himself writes the bill, this sufficiently fulfills the primary requirements of the *halakha*. The opinion in the Jerusalem Talmud, however, accords with that of Rashi, as a comparison is drawn between a handwritten bill of divorce and the *halakhot* of monetary documents.

**זהו ספק גרושין – רש"י:** In truth, there is no actual doubt with regard to the divorce itself, since by Torah law these bills of divorce are effective. If she were to remarry subsequent to such a bill she would not require a divorce from her second husband. Rather, the Sages rendered these bills of divorce disqualified for various reasons, some of which are elucidated later. In any case, since they are not to be used *ab initio*, the Sages judged a woman who was divorced through them to be a divorcée whose status is uncertain. This is how the mishna is explained in the Jerusalem Talmud (see *Penei Moshe* there).

מאי טעמא? אמר רבא: אשה זו בחזקת  
היתר לשוק עומדת, ומספק אתה בא  
לאוסרה – אל תאסרנה מספק.

The Gemara asks: **What is the reason** the mishna did not present this situation as well? **Rabba said:** When this type of uncertainty exists, the performance of *halitza* is not mandatory, as **this woman, the rival wife, has the presumptive status of being permitted to marry a man from the general public.**<sup>N</sup> At the time of her marriage she was rendered a rival wife of a forbidden relative. **And due to an uncertainty alone would you render her forbidden** to the general public until she performs *halitza*, simply because it is unclear to us whether or not the forbidden relative had indeed been divorced? **Do not render her forbidden due to an uncertainty.** This is not, however, the case with the various bills of divorce mentioned in the mishna, for they are all certainly considered effective bills of divorce, even if the circumstances involved raise some questions or doubts.

אמר ליה אביי: אי הכי בקדושין נמי,  
נימא: אשה זו בחזקת היתר ליבם  
עומדת, ומספק אתה בא לאוסרה –  
אל תאסרנה מספק!

Abaye said to him: **If that is so, let us say** in the case of betrothal as well that **this woman, the rival wife, has the presumptive status of being permitted to the yavam**<sup>N</sup> before he betrothed the forbidden relative, **and due to the uncertainty** whether she is the rival wife of a forbidden relative **would you come and render her forbidden?** **Do not render her forbidden due to an uncertainty.** Consequently, you should permit her to enter into levirate marriage.

- הָתָם לְחִוּמָא.

The Gemara explains: **There**, with regard to betrothal, the *halakha* follows **the stringent ruling**, because the rival wife is certainly his wife and requires levirate marriage. As there is uncertainty with regard to the betrothal with the forbidden relative, the ruling is stringent; she may not enter into levirate marriage and must only perform *halitza*.

האי - חומרא דאתי לידי קולא הוא;  
זימנן דאזיל הוא ומקדש לה לאחותה  
קדושי ודאי,

The Gemara objects: Yet **this is a stringency that might bring about a leniency**<sup>N</sup> in another scenario. How so? **Sometimes** that same man who betrothed the forbidden relative might **go and betroth her sister with a betrothal** whose status is **certain**. If one says that due to a stringency the rival wife may not enter into levirate marriage due to her possible status as the rival wife of a forbidden relative, people might come to assume that the betrothal with the forbidden relative was a valid betrothal, and that the subsequent betrothal with her sister was not valid, since she is his wife's sister. This would be assumed because they would not know that the status of the first betrothal was itself uncertain and that only due to a stringent ruling is the rival wife not allowed to enter into levirate marriage. In fact, the status of the betrothal with the sister of the forbidden relative is also uncertain. As a result of this ruling, however, people might be led to think that a man's wife, i.e., the sister of the forbidden relative, is in fact permitted.

#### NOTES

Has the presumptive status of being permitted to a man from the general public – בחזקת היתר לשוק עומדת – *Tosafot* raise two issues with regard to this *halakha*. The first relates to the woman's presumed permitted status: If the forbidden relative was his first wife, and later he married this other woman, only after which he performed a divorce whose status is uncertain with the forbidden relative, then clearly the rival wife is presumed to be permitted to the general public. However, if he first divorced the forbidden relative with a divorce whose status is uncertain and later married the rival wife, what reason could there be for the rival wife to have the presumptive status of being permitted? *Tosafot* explain that even here it makes sense for her to have the presumptive status of being permitted, since the marriage to the forbidden relative was certain and the divorce was uncertain. Therefore, at the time of the rival wife's marriage, due to the marriage whose status was certain that had previously taken place, the rival wife was rendered a rival wife of a forbidden relative. The Ramban, on the other hand, explains that this passage was said only with regard to the case where he married the rival wife and then later divorced the forbidden relative, but in the opposite case there would be no presumption of permissibility.

The second issue is more fundamental. It says that this woman is presumed to be permitted to the general public.

However, it would seem that she had not yet merited such a status, as she was formerly married and therefore should have the status of a married woman who is forbidden to the public; only when her husband dies is there doubt with regard to the obligation of levirate marriage, and the question arises as to whether she should be permitted to the general public or not. This question is strengthened in light of the point some commentaries add that in the context of other *halakhot*, such as when there is doubt as to whether an animal was slaughtered properly, we presume from prohibition to prohibition. In other words, the prohibition against eating the animal in its life was not nullified even after it was slaughtered before us. Similarly, the woman should remain prohibited to the general public as a man's wife until we are certain that this prohibition no longer applies. The Ramban resolves this by saying that it is possible for an animal to remain prohibited, for certain reasons, even after its death, and therefore the prohibition is not automatically terminated with its death. This is different from the case of a woman, whose prohibited status ceases upon the death of her husband. The Rashba explains that an animal does not lose its prohibited status until some act is done, i.e., the appropriate slaughtering rituals, in order to render it fit for consumption. For a woman, however, the death of her husband suffices without any additional action (see *Tosafot Yeshanim*).

Has the presumptive status of being permitted to the *yavam* – בחזקת היתר ליבם עומדת – Here too the commentaries ask: This *halakha* is understandable in circumstances where he was first married to the rival wife and then later performed a betrothal whose status is uncertain with the forbidden relative, as it is clear that betrothal whose status is uncertain is not strong enough to nullify the rival wife's status as being permitted to the *yavam*. If, however, the betrothal whose status is uncertain took place first, then why would one assume the rival wife was permitted to the *yavam*? They explain that because the forbidden relative was originally single, and there is a doubt whether she lost this status, she maintains her presumed status as unmarried, and her rival wife cannot be rendered forbidden due to a betrothal whose status is uncertain (*Tosafot Yeshanim*).

**A stringency that might bring about a leniency – חומרא דאתי לידי קולא**: Often the Sages are stringent in places of doubt in order to prevent individuals from transgressing, and this is generally the reason for the tendency toward stringency. Occasionally, however, such as here, it is possible that stringency in one place will lead to a leniency in another. In such cases, it is best to leave the matter alone.



ואי נמי זימנין דאתא אחר ומקדש לה  
 לדידה קדושי נדאי, וכיון דאסר לה מר  
 לצרה לייבומי, אמרי: דקמא - קדושי  
 ודבתרא - לאו קדושי.

Alternatively, sometimes another man might come and betroth the forbidden relative herself with a betrothal whose status is certain, and since the Master rendered it prohibited for the rival wife to enter into levirate marriage, people would say that the betrothal of the first man, i.e., the deceased brother, was a fully effective betrothal, and that the betrothal of the latter man was not a valid betrothal. If she was married to the first man, then she is forbidden to the second as the man's wife, and betrothal cannot take effect with her. However, since the status of her betrothal to the first man was uncertain, then she is also considered possibly betrothed to the second man and would require a divorce from him as well. As a result, one can find a situation that would lead people to think that a man's wife is in fact permitted.

Perek III  
 Daf 31 Amud a

NOTES

All will know that this is merely a stringency – ומידע – וידעי דחומרא בעלמא הוא: The Rosh raises an objection: How would they know that this is a stringency? With regard to the case where there is a betrothal whose status is uncertain, if the rival wife is required to perform *halitza* because she is not exempt from levirate marriage, it would be known that this is a stringent measure. With regard to divorce, however, they might think that the man is performing the *halitza* simply because he does not wish to marry her for some other reason, and so there is no proof from here that there is a stringency involved. He resolves this by saying that Abaye is objecting to Rabba's line of reasoning, where it was suggested that requiring *halitza* would constitute a stringency that could lead to a leniency. In that context it was clear that Rabba assumed that people were aware of why *halitza* was being performed (*Tosefot HaRosh*).

If she performs *halitza* she might also enter into levirate marriage – אם חולצת מתנייבמת: The following objection could be raised: Since in several places the Sages declared that a woman must perform *halitza* due to some doubt, why did they not fear that she might mistakenly enter into levirate marriage in those cases as well? The commentaries resolve this by saying that if the concern and the doubt are general, then there is no reason to assume that they might make this mistake. Here, however, a new decree is being introduced by requiring *halitza* for this woman, and therefore it is necessary to check that in fact all of the problems are solved thereby (*Yosef Lekah*).

Let her enter into levirate marriage and there is no problem with that – תתייבם ואין בכך כלום: The talmudic discussion is as follows: Initially, the Gemara assumed that the concern lest she enter into levirate marriage was that this would nullify the rabbinic decree requiring the woman to perform *halitza* in this case. This response indicates that the concern is not for the rabbinic ordinance, but rather for the status of the woman, and since here she is presumed permissible, there is no reason to be concerned lest she enter into levirate marriage (*Ritva*; see *Melo HaRo'im*).

כיון דקא מצרכת חליצה – מידע ידעי  
 דחומרא בעלמא הוא. אי הכי גירושין  
 נמי ליחגי, וליצרכה חליצה, ומידע ידעי  
 דחומרא בעלמא הוא!

Rabba answered: Since you require *halitza* and you do not exempt her completely, all will know that this is merely a stringency<sup>N</sup> and that the Sages did not decide with certitude that the first betrothal was fully valid. Consequently, they would not come to disregard the other betrothal. Abaye raised a challenge: If so, let the mishna teach the case where it is uncertain whether the item is closer to him or closer to her with regard to divorce, and stipulate that she requires *halitza*. And they would know that this is merely a stringency and not make a mistake.

אם אתה אומר חולצת – מתנייבמת.  
 הכא נמי: אם אתה אומר חולצת –  
 מתנייבמת! ותתייבם, ואין בכך כלום –  
 אחזקה קא קיימא.

He answered him: A mistake could in fact be made here, as, if you say that she must perform *halitza* then she may also enter into levirate marriage. People might mistakenly think that if she is suitable for *halitza* then she is also suitable for levirate marriage, and as a result the woman might enter into levirate marriage, despite the fact that it is forbidden for her to do so. Abaye objected: Here too, in the case of uncertain betrothal, the concern exists that if you say that she performs *halitza* then she might also enter into levirate marriage.<sup>N</sup> Rabba answered: So let her enter into levirate marriage, and there is no problem with that.<sup>N</sup> In this instance she remains with her presumptive status as permitted because she was originally assumed to be permitted and was rendered forbidden only due to our concern. However, there would be no actual transgression involved even if she were to enter into levirate marriage.

אייתיביה אביי: נפל הבית עליו ועל בת  
 אחיו, ואין ידוע איזה מהם מת ראשון –  
 צרתה חולצת ולא מתנייבמת.

Abaye raised an objection to Rabba by citing a case where even in places of doubt, the woman requires *halitza*. As we learned in a mishna (67b): A house fell on him, on a certain man, and on his brother's daughter to whom this man was married, and he was childless, and it is unknown which of them died first. If the deceased wife had a rival wife, then her rival wife must perform *halitza* but may not enter into levirate marriage. If the man had died first, then at the time of his death the rival wife was forbidden to the *yavam* as the rival wife of his daughter and exempt from levirate marriage. If, however, the daughter had died first, then at the time of the husband's death the second wife was not the rival wife of a forbidden relative, and requires levirate marriage. It is due to this doubt that she must perform *halitza* and may not enter into levirate marriage.

אמאי? הכא נמי נימא: אשה זו בחזקת  
 היתר לשוק עומדת, ומספק אתה בא  
 לאסרה – אל תאסרנה מספק!

And according to Rabba's opinion, why is that so? Here too, let us say: This woman, the rival wife, has the presumptive status of being permitted to marry a man from the general public. This is because she was exempt from levirate marriage for the entire period of her marriage as the rival wife of a forbidden relative. And due to the uncertainty whether her rival wife was the first to die you come to render her forbidden and require that she perform *halitza*. Do not render her forbidden due to an uncertainty.