

We separate them for three months – מפרישין אותן – שולשה חדשים: In cases where a woman was mistakenly married in a forbidden manner, if she engaged in sexual intercourse, she is then separated for three months to check if she became pregnant. This is in order to distinguish between an illegitimate child and one who was conceived lawfully. If she was a minor, she is not separated, since the Sages did not make decrees for impossible eventualities (Rambam *Sefer Nashim, Hilkhot Geirushin* 11:18; *Shulhan Arukh, Even HaEzer* 13:8).

After rape a woman is permitted to return to an Israelite – ואנס בישראל מישרא שרי – If the wife of an Israelite was raped, she is permitted to her husband but forbidden to priests, such that if she is widowed, she is prohibited from marrying a priest (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 18:7–8; *Shulhan Arukh, Even HaEzer* 6:11).

NOTES

אי במויד – מי איבא קרבן: Although there are several *halakhot* in the Mishna that deal with cases of wicked individuals such as these, were the reference here to an intentional act, this particular mishna would not have taught anything especially novel. The only novel teaching would be the need to bury them among the completely wicked. If, however, the mishna is referring to a case where the men acted unintentionally, the novel element is the number of sin-offerings that they are obligated to bring (Rashash).

If intentionally, would there be an offering – מי איבא קרבן: Although it could be suggested that the husbands acted intentionally while the women were unaware and therefore acted unwittingly, such an explanation is not reasonable as the Mishna does not generally refer to two different types of behavior within a single case (Ramban).

A prohibition takes effect where another prohibition already exists – איסור תל על איסור: A prohibition takes effect where another prohibition already exists only if both prohibitions take effect simultaneously, or if the second prohibition is a more inclusive prohibition or an expanded prohibition (Rambam *Sefer Korbanot, Hilkhot Shegagot* 4:1).

ומפרישין אותן שולשה חדשים, שמא מעוברות הן, ואם היו קטנות שאינן ראויות לילד – מחזירים אותן מיד, ואם היו פהגות – נפסלו מן התרומה.

And following these forbidden sexual relations, we separate these women from their husbands for three months,¹⁴ lest they were impregnated by that forbidden act of intercourse. Doing so makes it possible to distinguish a child born of these relations, so that he could be rendered a *mamzer*. And if they were female minors and unable to bear children, then we immediately return them to their original husbands. And if they were daughters of priests, they are thereby disqualified from eating of *teruma*. By engaging in illicit sexual acts, they were rendered forbidden to priests and disqualified from eating *teruma*.

גמ' "החליפו", מידי ברשיעי עסקינן! ותו: הא דתני רבי חייא: הרי כאן שש עשרה חטאות. אי במויד – מי איבא קרבן? אמר רב יהודה, תני: הוחלפו.

GEMARA In the mishna it states: They switched this one with that one. Are we dealing with such wicked individualsⁿ that they would intentionally switch their wives? And furthermore, consider that which Rabbi Hiyya taught on this subject: There are sixteen sin-offerings here, four sin-offerings for each of the men and four for each of the women. Yet, if they had acted intentionally would there be an offering?ⁿ Sacrifices are brought only for unintentional acts. Rav Yehuda said: Teach instead they were switched, which indicates that the switching was not done intentionally; rather, the women were accidentally mixed up.

הכי נמי מסתברא, דקתני סיפא: אם היו קטנות שאינן ראויות לילד – מחזירין אותן מיד. ואי במויד – מי שריא? הא לא קשיא: פיתוי קטנה – אונס נהגו, ואונס בישראל מישרא שרי.

The Gemara comments: This, too, stands to reason from the fact that the latter clause teaches: If they were female minors and unable to bear children, then we immediately return them. And if this had been done intentionally, would it be permitted to return a woman who had engaged in illicit sexual acts to her husband? The Gemara comments: This is not difficult and does not disprove the notion that the act was intentional. Even if the act was intentional, these women would be permitted to return to their husbands. This is because the seduction of a minor girl is considered rape, and after rape a woman is permitted to return to an Israeliteⁿ husband.

אלא דקתני: מפרישין אותן שולשה חדשים שמא מעוברות הן, הא לאו מעוברות – שריין, ואי במויד – מי שרי? אלא לאו שמע מינה: הוחלפו, שמע מינה.

However, this can be derived from a different point that the mishna teaches: We separate these women from their husbands for three months, as perhaps they became pregnant. From here it can be deduced: Were it to become clear after three months that they are not pregnant, they are permitted to return to their husbands. And if they had acted intentionally, would this be permitted? Rather, must one not conclude from here that the mishna is referring to a case where they were switched inadvertently? The Gemara summarizes: Indeed, conclude from here that this is the case.

Perek III
Daf 34 Amud a

ומאן האי תנא דאית ליה איסור בולל ואיסור מוסקי ואיסור בת אחת?

The Gemara asks: According to Rabbi Hiyya, who teaches that this case incurs sixteen sin-offerings, who is this *tanna* who holds that a prohibition takes effect where another prohibition already existsⁿ for a more inclusive prohibition, an expanded prohibition, and a simultaneous prohibition? If these men are brothers, the moment that one betrothed a woman, that woman was immediately rendered forbidden to the second brother both as a married woman and as his brother's wife. When the second brother betrothed her sister, this added the prohibition pertaining to his wife's sister. This is a more inclusive prohibition because, as a result of this betrothal, the second brother is prohibited from engaging in sexual intercourse not only with his wife's sister, who is his brother's wife, but also with all of her other sisters. When this woman becomes a menstruating woman, she is forbidden to her husband as well, which is an expanded prohibition. Consequently, the mishna includes examples of all three types of prohibitions and asserts that they all take effect in this case. Therefore, the Gemara wonders which *tanna* holds that in each of these cases the prohibition takes effect even where another prohibition exists.

Obligation to bring four sin-offerings and one guilt-offering for a single eating – **חַיִּיב אַרְבַּע חֲטָאוֹת וְאֶשֶׁם** – **אָחַד בְּאֵכִילָה אַחַת**: One who was ritually impure and ate an olive-bulk of prohibited fats that were leftover from a consecrated animal on Yom Kippur is obligated to bring four sin-offerings: One for eating prohibited fat, one for eating *notar*, one for eating consecrated food while ritually impure, and one for eating on Yom Kippur. This ruling applies in a case where one had previously eaten other food, so that altogether he ate a total of a date-bulk. In addition, he is obligated to bring a guilt-offering for deriving benefit from consecrated property (Rambam *Sefer Korbanot, Hilkhot Shegagot* 6:4).

אָמַר רַב יְהוּדָה אָמַר רַב: רַבִּי מֵאִיר הִיא דְּתַנְיָא: יֵשׁ אוֹכֵל אֵכִילָה אַחַת וְחַיִּיב עָלֶיהָ אַרְבַּע חֲטָאוֹת וְאֶשֶׁם אַחַד.

טָמֵא שְׂאֵבֵל חֶלֶב וְהוּא נוֹתֵר מִן מוֹקְדָּשִׁין בְּיוֹם הַכִּפּוּרִים.

רַבִּי מֵאִיר אוֹמֵר: אִם הֵיְתָה שִׁבְתָּ וְהוֹצִיאָו בְּפִי – חַיִּיב. אָמְרוּ לוֹ: אֵינּוּ מִן הַשָּׁם.

Rav Yehuda said that Rav said: This is the opinion of Rabbi Meir,^N as it is taught in a *baraita*: There is one who performs a single act of eating^N an olive-bulk of food, and he is liable to bring four sin-offerings and one guilt-offering.^H

How so? This *halakha* applies to one who is ritually impure who ate forbidden fat^N that was *notar* from a consecrated offering, i.e., it remained after the time when it was permitted to eat it, and this occurred on Yom Kippur. One who did this is liable to bring one sin offering for eating consecrated food while impure, one for eating forbidden fat, one for eating *notar*,^N and one for eating on Yom Kippur. He is also liable to bring a guilt-offering for misuse of consecrated items. In this case, it was prohibited to eat the fat from the moment the animal was born. When the animal was consecrated, the prohibition against deriving benefit from it took effect on the entire animal, rendering this an expanded prohibition. When the priest became ritually impure and thereby prohibited from partaking of all sanctified foods, a more inclusive prohibition took effect. The moment the fat was rendered *notar*, it became prohibited to offer it on the altar as well, so that that is another instance of an expanded prohibition. Lastly, on Yom Kippur, an additional, more inclusive prohibition took effect because on Yom Kippur it is prohibited to eat all food, even that which is not consecrated.

Rabbi Meir says: There is one more sin-offering for which he may be liable. If it was Shabbat and he carried this olive-bulk of food from one domain to another in his mouth,^N he is liable for carrying out on Shabbat. The Rabbis said to Rabbi Meir: Liability for the sin-offering that you added is not incurred from violation of the same type of prohibition. He is liable for carrying out the food, not for eating it. In this example, the prohibitions of Shabbat and Yom Kippur take effect at the same moment, and therefore this last case would be an instance of simultaneous prohibitions, and Rabbi Meir holds that they take effect as well. Therefore, this *baraita* demonstrates that Rabbi Meir holds that prohibitions take effect where other prohibitions already exist in all of these instances: More inclusive prohibitions, expanded prohibitions, and simultaneous prohibitions.

NOTES

This is the opinion of Rabbi Meir – **רַבִּי מֵאִיר הִיא**: From the fact that the Gemara ascribes this opinion to Rabbi Meir, some infer that Rabbi Yosei does not hold that more inclusive prohibitions take effect where another prohibition already exists (see *Keren Or*). Many early commentaries, however, suggest that Rabbi Yosei maintains that more inclusive prohibitions take effect as well, and here the Gemara simply sought out a source where a *tanna* explicitly states that all three types of prohibitions do, in fact, take effect (*Tosafot Yeshanim*; Ritva; Meiri).

There is one who performs a single act of eating, etc. – **יֵשׁ אוֹכֵל אֵכִילָה אַחַת וְכוּ**: Rabbeinu Hananel explains that the simultaneous prohibitions here involve one who was rendered ritually impure and then grew two pubic hairs, indicating that he reached maturity. Under such circumstances, both the prohibition against eating consecrated food while ritually impure and the prohibition against eating forbidden fats take effect at once. Accordingly, the first *tanna* also holds that these three types of prohibitions, i.e., expanded prohibitions, more inclusive prohibitions, and simultaneous prohibitions, all take effect where another prohibition already exists. The Gemara, however, preferred to attribute this opinion to Rabbi Meir because unattributed *mishnayot* are generally considered to follow Rabbi Meir's opinion (see Rivan).

The Rif quotes this opinion and disagrees on several counts. He explains that the instance of simultaneous prohibitions

referred to here is specifically in the addition cited in the name of Rabbi Meir: Carrying on Yom Kippur and carrying on Shabbat. Because Yom Kippur occurred on Shabbat, these prohibitions took effect simultaneously. According to this opinion, it is clear why the mishna was attributed to Rabbi Meir and not to the first *tanna*, for even if the first *tanna* agrees in principle with the ruling of simultaneous prohibitions, the ruling was stated explicitly only by Rabbi Meir. Rashi also explains that the ruling with regard to simultaneous prohibitions is derived from Rabbi Meir's statement. However, according to Rashi's opinion, there is no prohibition against carrying from domain to domain on Yom Kippur. Therefore, he explains that the two simultaneous prohibitions are the prohibition against eating on Yom Kippur and the prohibition against carrying on Shabbat (see Ramban and Rashba).

חֶלֶב – This refers to the animal fats that are prohibited by Torah law. Intentionally eating these fats from kosher domesticated animals is incurring *karet* (see Leviticus 7:22–25), while one who does so unwittingly is liable to bring a sin-offering. The fats of non-domesticated kosher animals and of kosher birds may be eaten. Among the signs differentiating forbidden fats from permitted fats is that the forbidden fats lie above the meat and are not entwined with it. They are enclosed by a thin membrane and are easily peeled away from the meat. Most of the forbidden fats of a sacrificial animal were sacrificed on the altar.

נוֹתֵר – This refers to parts of an offering left over after the time permitted for it to be eaten. One who eats the leftover portion of an offering is liable for punishment by *karet*. The Sages decreed that the leftover portion should be considered ritually impure, so that the priests would be prompt and meticulous in its removal.

וְהוֹצִיאָו בְּפִי – Some early commentaries had a variant text that read only: And carried it out. This version raises a question: If there is no connection between this last activity and the eating previously mentioned, why did Rabbi Meir add this prohibited labor in particular when he could have cited any other prohibited labor performed at the same moment? His choice is understandable according to the version that reads: He took it out in his mouth, because eating can be considered a form of placing an item, which is a requisite element of the prohibition against carrying. Without it, there is no liability.

According to a different version, however, this choice would seem arbitrary. In truth, even according to the current version, there is difficulty, as the Sages debated the question of whether carrying in one's mouth would indeed be considered carrying, as this is not the normal way to carry food. Nonetheless, in this case, since one is doing so as part of the act of eating, it is considered normal to carry in one's mouth and he would be liable.

And in accordance with whose opinion is the statement of Rabbi Meir – וְרַבִּי מֵאִיר אֵלִיבָא דְמֵאן – Most commentaries explain, like Rashi, that this question relates to the present mishna, which was attributed to Rabbi Meir. However, Rabbeinu Hananel explains that this question relates to the mishna pertaining to the eating of prohibited fats. Because the latter mishna is dealing the prohibition of *notar*, it could be said that one was attempting to perform a mitzva, for he intended to remove the leftover foods to be burnt. The Rif and early commentaries disagree with this ruling.

And it became known that he was the son of a divorced woman – וְנוֹדַע שֶׁהוּא בֶן גְּרוּשָׁה: Some later commentaries wonder: Why should this priest be held liable? Since it was impossible for him to know beforehand that he would be disqualified, this should be considered a circumstance beyond his control, and he should therefore be exempt. The Ritva explains that the mishna is referring to a situation where a public rumor had been spread that this priest was disqualified, and so he should have acted with more caution.

HALAKHA

An unwitting violation in a matter that involved a mitzva – שָׁגַג בְּדַבְרֵי מִצְוָה: One who performs a transgression that requires the bringing of a sin-offering in the course of performing a mitzva is exempt from the obligation to bring an offering. This ruling applies only when one was both obligated to perform the mitzva and pressed for time (Rambam *Sefer Korbanot, Hilkhot Shegagot* 2:8).

A priest who was partaking of *teruma* and it became known that he was disqualified – כִּהְיוֹ אֹכֵל תְּרוּמָה וְנוֹדַע – If a priest was eating *teruma* and was informed that he was the son of a divorced woman or the son of a *halutza*, he must pay the principal alone but does not need to add a fifth of the sum that is the usually a penalty for unintentionally eating *teruma*. If at the time of eating he was pressed for time, such as is the case of eating leavened *teruma* on the eve of Passover, then he is exempt from payment, in accordance with the opinion of Rabbi Yehoshua and the conclusion in the Gemara (Rambam *Sefer Zera'im, Hilkhot Terumat* 10:12).

וְרַבִּי מֵאִיר אֵלִיבָא דְמֵאן? אִי אֵלִיבָא דְרַבִּי יְהוֹשֻׁעַ – הָאָמַר: טְעָה בְּדַבְרֵי מִצְוָה פְּטוּר. אֵלֶּא אֵלִיבָא דְרַבִּי אֵלִיעֶזֶר.

The Gemara continues to clarify the opinion of Rabbi Meir: **And in accordance with whose opinion is the statement of Rabbi Meir?**^N If you say that it is in accordance with the opinion of Rabbi Yehoshua, this is difficult. **Didn't Rabbi Yehoshua say that one who erred with regard to a mitzva is exempt** from bringing a sin-offering, i.e., one who unwittingly performed a transgression while intending to perform a mitzva is exempt from punishment?^H In the case in the mishna as well, the men intended to perform the mitzva of marriage but unwittingly violated a transgression because the wives were switched. Therefore, according to the opinion of Rabbi Yehoshua, they should be exempt from a sin-offering. **Rather**, this must be **in accordance with** the opinion of Rabbi Eliezer, who holds that even if one mistakenly transgressed while attempting to perform a mitzva, he is still obligated to bring a sin-offering.

אֵיבְעִית אִימָא: לְעוֹלָם אֵלִיבָא דְרַבִּי יְהוֹשֻׁעַ, כִּי קָאָמַר רַבִּי יְהוֹשֻׁעַ: טְעָה בְּדַבְרֵי מִצְוָה פְּטוּר – הֲנִי מִלִּי גַבִּי תִּינְקוּת, דְּזָמְנָו בְּהוּל. אֲבָל הָאִי כִּיּוֹן דָּאִין זְמַנָּו בְּהוּל – לָא.

If you wish, resolve this differently and say: **Actually**, this can be explained even according to the opinion of Rabbi Yehoshua. **When Rabbi Yehoshua says that one who erred with regard to a mitzva is exempt, this applies only to the case of babies who were mixed up** in such a way that on Shabbat the *mohel* mistakenly circumcised a baby whose time had not yet come for circumcision. Since the *mohel* did not fulfill the mitzva of circumcision, he should be liable for performing prohibited labor on Shabbat. However, Rabbi Yehoshua exempts him from a sin-offering **since he is pressed for time**. Because circumcision must be performed only on the day specified, he was rushed and anxious to perform the circumcision, and due to this sense of urgency he erred and thought that the proper time was on Shabbat. **In this case** in the mishna, **however**, where the mistake involved marriage, **since the brothers were not pressed for time** Rabbi Yehoshua does **not** deem the brothers exempt.

וְהָיִי תְרוּמָה דָּאִין זְמַנָּו בְּהוּל וְקָפְטַר! דְּתַנְּנָ: הִיָּה אֹכֵל בְּתְרוּמָה, וְנוֹדַע שֶׁהוּא בֶן גְּרוּשָׁה אוֹ בֶן חִלוּצָה – רַבִּי אֵלִיעֶזֶר מְחַיֵּב קָרָן וְחוּמְשָׁ, וְרַבִּי יְהוֹשֻׁעַ פּוֹטֵר.

The Gemara objects: **And yet** in the case of eating *teruma*, where **one is not pressed for time** and nevertheless Rabbi Yehoshua exempts him if the act involved a mitzva, **as we learned** in a mishna (*Pesahim* 72b): If a priest was partaking of *teruma* and it became known that he was the son of a divorced woman^N or the son of a *halutza* and thereby disqualified from the priesthood and prohibited from eating *teruma*,^H **Rabbi Eliezer deems him liable** to pay the value of the **principal** and an additional **fifth**, like any non-priest who unwittingly ate *teruma*. However, **Rabbi Yehoshua exempts** him because at the time of consumption he intended to perform a mitzva, for he thought that he was a priest eating of the *teruma*.

הָאִי תִּינְקוּת, דְּזָמְנָו בְּהוּל. אֲבָל הָאִי כִּיּוֹן דָּאִין זְמַנָּו בְּהוּל וְקָפְטַר! דְּתַנְּנָ: הִיָּה אֹכֵל בְּתְרוּמָה, וְנוֹדַע שֶׁהוּא בֶן גְּרוּשָׁה אוֹ בֶן חִלוּצָה – רַבִּי אֵלִיעֶזֶר מְחַיֵּב קָרָן וְחוּמְשָׁ, וְרַבִּי יְהוֹשֻׁעַ פּוֹטֵר.

The Gemara responds: **But wasn't it stated with regard to that** mishna: Rav Beivai bar Abaye said: **Here we are dealing with leavened teruma that was being eaten by the priest on the eve of Passover, for he is pressed for time**. In this case, he would rush to eat it so that it would not have to be burned.

וְאִי בְעִית אִימָא: בְּאִיסוּר בֵּית אַחַת, וְאֵלִיבָא דְרַבִּי שִׁמּוֹן.

The Gemara offers a different attribution of the mishna: **And if you wish, say** a different explanation: The mishna is not according to the opinion of Rabbi Meir, who deems one liable in cases of more inclusive prohibitions and expanded prohibitions. Rather, the mishna is referring only to cases of **simultaneous prohibitions, and in accordance with** the opinion of Rabbi Shimon.

בְּשִׁלְמָא כּוּלְהוּ – מִשְׁבַּחַת לְהוּ, דְּשׁוּיָנְהוּ שְׁלִיחַ, וְשׁוּיָ אִינְהוּ שְׁלִיחַ, וְפָגַע שְׁלִיחַ בְּשְׁלִיחַ. אֵלֶּא נְדוּת – הִיָּכִי מִשְׁבַּחַת לְהוּ?

The Gemara asks: **Granted**, with regard to **all of the prohibitions** in the mishna, **you can find that they take effect simultaneously** in the case where the men **appointed** a single **agent** to betroth the women for them, **and the women appointed an agent** to accept the betrothals for them, **and one agent encounters the other agent**. In this scenario, all the men become betrothed to all the women the moment that the agents meet, and the prohibitions all take effect simultaneously. **However**, with regard to the prohibition pertaining to **menstruating women, how can you find** the case where both women become menstruating women at the exact time of betrothal?

Continually discharge blood – שופעות: Generally, the flow of blood during a menstrual cycle continues several days. Although there are differences between the days insofar as the amount of blood is concerned, a woman is considered to be continually discharging blood during the entirety of her menstruation, generally five to seven days.

אמר רב אמר רב: בשופעות מתוך שלשה עשר לאחר שלשה עשר לאחיבי אינה, מתוך שנים עשר לאחר שנים עשר – לחיבי אינה.

Rav Amram said that Rav said: This is referring to a situation where the women continuously discharge menstrual blood^B from within the thirteenth^N year of the brothers until after they reached the age of thirteen, in order to deem the men liable for the prohibition pertaining to a menstruating woman. At the moment that the boys reached maturity and the betrothals went into effect, the sisters were forbidden as menstruating women. And the women were continuously discharging blood from within the twelfth year of the women until after the age of twelve, in order to deem the women liable for engaging in relations as a menstruating woman. Therefore, if this took place in such a way that on the exact day when the men reached maturity, i.e., their thirteenth birthday, the women reached maturity, i.e., their twelfth birthday, and at that moment they were menstruating, then all of the prohibitions would take effect simultaneously and they would be liable on all counts, according to Rabbi Shimon as well.

”מפרישים אותן.” והא אין אשה מתעברת בביתא ראשונה! אמר רב נחמן אמר רבה בר אבוח: שבועלו ושנו. ואלא הא דתנא רבי תייא: הרי באן שש עשרה חטאות, תלתין ותרתין הויין!

§ The mishna taught that we separate these women from their husbands for three months, as perhaps they became pregnant. The Gemara asks: But isn't it known that a virgin woman does not become pregnant^N from her first sexual act? Rav Nahman said that Rabba bar Avuh said: This is referring to a situation where they engaged in intercourse and then repeated the act, so that it is possible that the women were impregnated during the second act of intercourse. The Gemara asks: But if this is so, how can one explain that which Rabbi Hiyya teaches:^N Here, then, are sixteen sin-offerings? If there were indeed two acts of intercourse, then there should be thirty-two sin-offerings, since each prohibition was violated twice.

ולטעמין, לרבי אליעזר, דמחייב על כל פת ופת, טובא הויין! אלא, דבכח ראשון קחשיב – הכי נמי דביאה ראשונה קחשיב.

The Gemara answers: And according to your reasoning, that Rabbi Hiyya's enumeration of sin-offerings applies to all acts of intercourse, then according to the opinion of Rabbi Eliezer, who deems one liable to bring a sin-offering for each and every thrusting movement during a single act of intercourse, there would be many prohibitions that were violated. This would greatly multiply the number of sin-offerings required. Rather, it must be that Rabbi Hiyya, with regard to Rabbi Eliezer's opinion, is enumerating only the first thrusting movement in the intercourse. And so too, with regard to the Rabbis' opinion, he is enumerating only the first act of intercourse. If there were two acts of intercourse, however, the number of sin-offerings would be doubled.

אמר ליה רבא לרב נחמן:

Rava said to Rav Nahman:

NOTES

Where they continuously discharge blood from within the thirteenth, etc. – בשופעות מתוך שלשה עשר וכו' – Rashi posits that this is a case where male minors betrothed female minors prior to maturity, so that the betrothals and the prohibition with regard to a menstruating woman took effect simultaneously. *Tosafot*, the Ramban, and the Rashba question this explanation: Since there is no legal efficacy to an act performed by minors, how could these betrothals later take effect? Even if one were to suggest that this explanation follows Rabbi Meir's opinion, that it is possible to perform betrothal to effect acquisition with an item that has not yet come into being, it is still unclear whether this principle would apply to this case, where the one performing the betrothal is in fact a minor himself. Rivan and *Tosefot HaRosh* explain that if the betrothal was conditional and previously agreed upon, it could take effect upon their arrival at maturity (see *Mishne LaMelekh*).

Due to this difficulty, many early commentaries preferred Rabbeinu Hananel's version of the text which reads: They were continuously discharging blood from within three until after three. This indicates that the situation is one of female minors betrothed by their fathers to adult males. Before the age of three, any intercourse that takes place has no legal status, so that none of the prohibitions mentioned could apply. When they reached the age of three all of the prohibitions took effect simultaneously. This would create a situation where the males

would be liable for all of the prohibitions. However, when the Gemara states: Continuously discharging blood from within twelve, this is a separate scenario. It is a case where the women reached maturity and would therefore be liable for these prohibitions. According to this opinion, all of the prohibitions did not affect both the men and women at the same time. Rather there are two different scenarios: One in which all the prohibitions affected the men at the same time, and one where all the prohibitions affected the women at the same time. As a result, there is no need to adopt Rashi's unlikely description that this refers to two twin brothers who betrothed two twin sisters who were exactly one year younger than them.

But isn't it known that a virgin woman does not become pregnant, etc. – והא אין אשה מתעברת וכו' – The early commentaries ask: Why does the Gemara assume that this case refers to virgins? Perhaps it refers to women who had previously engaged in permissible intercourse, such as widows, or even women who had engaged in illicit intercourse. According to Rabbeinu Hananel's reading, which states that this is a case of three-year-old girls, this question is irrelevant. However, according to Rashi's version of the text, this is difficult. *Tosefot HaRosh*, citing the name Maharam MiRotenburg, states that these women were necessarily virgins because the mishna was particular in stating that these prohibitions took effect only following entrance into the wedding canopy. Had these women

been previously married, they would have already been subject to the prohibition pertaining to a married woman. Additionally, the Ritva explains the following: Given that neither the men nor the women were aware that the mix-up took place, it stands to reason that the women were modest virgins who would not be suspected of illicit sexual acts.

But if this is so, how can one explain that which Rabbi Hiyya teaches, etc. – ואלא הא דתנא רבי תייא וכו' – Rashi explains that since the Gemara, in its previous discussion of Rabbi Meir's opinion, already established that the mishna is in accordance with Rabbi Eliezer's opinion, it was necessary to explain the *baraita* about the number of potential sin-offerings in the mishna in accordance with Rabbi Eliezer's opinion as well. Moreover, only according to Rabbi Eliezer is one obligated to bring more than one sin-offering for acts of intercourse performed in one lapse of awareness (see 92a and *Karetot* 15a). Rashi argues that the notion that each thrusting movement obligates one in a separate sin-offering is an extension of this idea.

According to the Vilna Gaon, the attempt to resolve Rabbi Hiyya's *baraita* in this context is a textual corruption, and both the question and the answer should be omitted (*Haggahot HaGra*). Once the Gemara explained that the mishna could be understood in accordance with Rabbi Shimon's opinion, in a case where all the prohibitions took effect simultaneously, it was unnecessary to further posit that it follows Rabbi Eliezer.

וְהָאֵתָּמָר בְּבִיאָהּ רִאשׁוֹנָה אֵיבְרָא!
אָמַר לִיהָ: תָּמָר בְּאֶצְבַּע מַעֲבָה. דְּאָמַר
רַבִּי יִצְחָק: כָּל מוֹעֲבוֹת שְׁלֹשׁ בֵּית רַבִּי
תָּמָר שָׁמֶן, וְלָמָּה נִקְרָא שָׁמֶן תָּמָר?
עַל שֶׁם תָּמָר שְׁמַעְבָּה בְּאֶצְבָּעָהּ. וְהָאֵתָּמָר
הוּוּ עֵר וְאֹנָן! עֵר וְאֹנָן שְׁמָשׁוּ שְׁלֹא
בְּדִרְבָּה.

מִיָּתִיבֵי: כָּל עֲשָׂרִים וָאַרְבָּעָה חֳדָשׁ
דִּשׁ מִבְּפִנֵּים וּזְרָה מִבְּחוּץ, דְּבָרֵי רַבִּי
אֶלְעָזָר. אָמְרוּ לוֹ: הֲלָלוּ אֵינֶנּוּ אֶלְאִי
כְּמַעֲשֵׂה עֵר וְאֹנָן!

כְּמַעֲשֵׂה עֵר וְאֹנָן, וְלֹא כְּמַעֲשֵׂה עֵר
וְאֹנָן. כְּמַעֲשֵׂה עֵר וְאֹנָן – דְּכַתִּיב
”וְהָיָה אִם בָּא אֶל אִשְׁתּוֹ אַחֲיוֹ וְשָׁחַת
אֶרְצָה”, וְלֹא כְּמַעֲשֵׂה עֵר וְאֹנָן,
דְּאִילוּ הָתֵם – שְׁלֹא בְּדִרְבָּה, וְהִכָּא –
בְּדִרְבָּה.

בְּשִׁלְמָא אֹנָן – דְּכַתִּיב בִּיהּ ”וְשָׁחַת
אֶרְצָה”, אֶלְאִי עֵר מִנְלֵן? אָמַר רַב נַחֲמָן
בְּרִי יִצְחָק: דְּכַתִּיב ”וַיִּמָּת גַּם אוֹתוֹ”,
אִף הוּא בְּאוֹתוֹ מִיָּתָהּ מִתּוֹ. בְּשִׁלְמָא
אֹנָן – מִשּׁוּם ”לֹא לוֹ יִהְיֶה הַזֶּרַע”,
אֶלְאִי עֵר מֵאִי טַעְמָא עֲבַד כְּבִי? כְּבִי
שְׁלֹא תִתְעַבֵּר וְיִכְחִישׁ יָפִיָּהּ.

But didn't Tamar become pregnant from the first act of intercourse,^{N8} despite the fact that she was a virgin at the time of her sexual act with Judah? Rav Nahman said: Tamar broke her hymen with her finger prior to intercourse, and it is due to this that she became pregnant from the first act of intercourse, as Rabbi Yitzhak said: All of those women from the household of Rabbi Yehuda HaNasi who break their hymens^N are named Tamar by nickname. And why are they named Tamar? They are called this on account of Tamar, who broke her hymen with her finger. The Gemara wonders about the proof from Tamar itself: But weren't there Er and Onan, her previous husbands, who presumably engaged in sexual intercourse with her? The Gemara responds: Er and Onan engaged in sexual intercourse in an atypical manner, i.e., anal intercourse, and therefore she was still a virgin.

The Gemara raises an objection from the *Tosefta* (*Nidda* 5:6): After a woman gives birth, her husband penetrates inside and spills his semen outside^H for the entire twenty-four months during which the baby is breastfeeding, so that his wife not become pregnant, as that would terminate her milk production and the child might die. This is the statement of Rabbi Eliezer. They said to him: These acts are nothing other than acts similar to those of Er and Onan, which are prohibited. Regardless, it can be deduced from here that Er and Onan engaged in normative sexual intercourse with Tamar, only they did not fully complete the sexual act.

The Gemara answers: The *Tosefta* actually means that what they did was similar to the act of Er and Onan in some ways, but not similar to the act of Er and Onan in other ways. The Gemara elaborates: It was similar to the act of Er and Onan in that there was a spilling of semen, as it is written: “And it came to pass when he had intercourse with his brother's wife, that he spilled it on the ground” (Genesis 38:9). Yet it was not similar to the act of Er and Onan, as there Er and Onan engaged in sexual intercourse in an atypical manner, i.e., anal intercourse, while here the *Tosefta* is referring to sexual intercourse in a typical manner.

The Gemara continues to clarify what took place: Granted, Onan engaged in unnatural sexual intercourse with her, as it is written with regard to his act: “That he spilled it on the ground” (Genesis 38:9). However, from where do we derive that Er engaged in unnatural sexual intercourse with her? Rav Nahman bar Yitzhak said: As it is written with regard to Onan: “And He slew him also” (Genesis 38:10). This indicates that he, too, died the same death for performing the same transgression as his brother. The Gemara asks: Granted, Onan engaged in anal intercourse because he did not want Tamar to give birth as “he knew that the seed would not be his” (Genesis 38:9). However, with regard to Er, what is the reason he acted in this way? The Gemara responds: He did so in order that she not become pregnant and become less beautiful as a result of her pregnancy.

BACKGROUND

Become pregnant from the first act of intercourse – בְּבִיאָהּ רִאשׁוֹנָה אֵיבְרָא: According to contemporary medical knowledge, the fact that a woman is a virgin does not prevent her, in purely physiological terms, from becoming pregnant. However, it may be presumed that the pain that accompanies her first act of intercourse along with the accompanying

psychological factors can cause tension and other effects. These could render the possibility of impregnation minimal. The women of Rabbi Yehuda HaNasi's house prepared themselves both physically and emotionally for intercourse and were therefore able to become pregnant.

NOTES

But didn't Tamar become pregnant from the first act of intercourse – וְהָאֵתָּמָר בְּבִיאָהּ רִאשׁוֹנָה אֵיבְרָא: The Maharsha raises a challenge: Why did the Gemara assume that Tamar was impregnated by her first act of intercourse, so that it was necessary to entertain far-fetched ideas in order to explain how she became pregnant? Indeed, according to the simple understanding of the biblical narrative, Tamar's first husbands had typical sexual intercourse with her (see Genesis, chapter 38, and Rashi's commentary there; see *Midrash Rabba*).

The Maharsha suggests that perhaps support for the idea that Er and Onan did not engage in typical intercourse can be found in an interpretation of the verses in the Torah. Indeed, the Rashash presents evidence from Ibn Ezra's commentary, which cites the interpretation that the phrase “and he spilled it on the ground” is referring to unnatural intercourse. Ibn Ezra ultimately rejects this interpretation.

The various commentaries challenge this suggestion based on the fact that this verse is stated only with regard to Onan, not Er. *Ramat Shmuel* tries to resolve this problem by invoking the opinion that Judah, after the entire ordeal became known to him, did not cease his relations with her. It interprets the verse that reads: “And he knew her again no more” (Genesis 38:26) to mean: He did not cease to know her, i.e., to engage with her sexually. This was permitted because Tamar had engaged only in unnatural intercourse with her previous husbands, and according to the Noahide laws she was never considered to be married to his sons. Accordingly, this opinion serves as a support for the idea that Er and Onan did not engage in natural intercourse.

All of those from the household of Rabbi Yehuda HaNasi who break their hymens – כָּל מוֹעֲבוֹת שְׁלֹשׁ בֵּית רַבִּי: Some early commentaries cite a version of the text that reads: The household of David. The commentaries explain the rationale behind the women's behavior according to both readings. The Ritva states these women were so upright that they did not want any act of intercourse to be in vain, and therefore they wished to become pregnant even from the first act. The Meiri points out that the disciples of the household of Rabbi Yehuda HaNasi were exceedingly pious in their separation from women and the soldiers of David's household were often off in battle. Therefore, their wives wanted to ensure that they would become pregnant from the first act of intercourse.

HALAKHA

Penetrates inside and spills outside – דִּשׁ מִבְּפִנֵּים וּזְרָה מִבְּחוּץ: A man is prohibited from engaging in intercourse with his wife in a way that entails the spilling of his seed outside her body. One who does so has emitted semen in vain, which is a great sin (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 21:18; *Shulhan Arukh*, *Even HaEzer* 23:1).

HALAKHA

Ritual impurity from atypical intercourse – טומאת ביאה שלא כדרך: If one engages in anal intercourse with his wife, she remains ritually pure because the Torah ruled there to be ritual impurity in the concealed parts of the body only from typical intercourse (Rambam *Sefer Tahara, Hilkhot Avot HaTumot* 5:9).

Ritual impurity in the initial stage of sexual intercourse – טומאת הערא: If one engages in the initial stage of sexual intercourse with a woman, or even full intercourse but did not emit semen, then both the man and woman are ritually pure (Rambam *Sefer Tahara, Hilkhot Avot HaTumot* 5:10).

PERSONALITIES

Hon – הון: This Sage, one of Rav Nahman's sons, is rarely mentioned. It may be assumed that he is identical with Huna, son of Rav Nahman, and that Hon is a nickname or a Hebrew form of the same name.

תנו רבנן: "אותה" פרט לכלה, דברי רבי יהודה. וחקמים אומרים: פרט לשלא כדרך. אמר ליה הון בריה דרב נחמן לרב נחמן: לימא קא סבר רבי יהודה התורה חסה על תכשיטי כלה? אמר ליה: לפי שאין אשה מתעברת מביאה ראשונה.

במאי קמיפליגי? רבנן סברי "שכבת זרע" פרט להערא: "אותה" פרט לשלא כדרך. ורבי יהודה סבר: שלא כדרך והערא – מ"שכבת זרע" נפקא: "אותה" פרט לכלה.

כי אתא רבין אמר רבי יוחנן: כל ששהתה אחר בעלה עשר שנים ונשאת – שוב אינה יולדת. אמר רב נחמן: לא שנו אלא שאין דעתה להנשא, אבל דעתה להנשא – מתעברת. אמר ליה רבא לרב רב חסדא: קא מרנני רבנן אבתיך. אמרה ליה: אנא דעתאי עלך הואי.

ההיא דאתי לקמיה דרב יוסף, אמרה לו: רבי, אנא שהיתי אחר בעלי עשר שנים וילדתי. אמר לה: בתי, אל תוציאי לעו על דברי חכמים. אמרה ליה: לגוי נבעלתי.

The Sages taught: The verse states: "And the woman, with whom a man shall lie giving seed, they shall both bathe themselves in water, and be unclean until the evening" (Leviticus 15:18). The extra term "with whom" comes to exclude a bride who does not become ritually impure; this is the statement of Rabbi Yehuda. **And the Rabbis say:** It excludes the case of sexual intercourse performed in an atypical manner.^h Hon,^p son of Rav Nahman, said to Rav Nahman: Shall we say that Rabbi Yehuda holds: **The Torah spared a bride's adornments**, including her make-up, and therefore exempted her from submersion in water, as that might cause them ruin? Rav Nahman said to him: That is not the reason. Rather, **it is because a woman does not become pregnant from the first act of intercourse.** Therefore, that act of intercourse would not cause ritual impurity, as it is not considered intercourse that can result in the implanting of seed.

The Gemara asks: **With regard to what do Rabbi Yehuda and the Rabbis disagree? The Rabbis hold that the phrase "giving seed" excludes the initial stage of intercourse,**ⁿ during which there is no emission of semen.^h And the extra phrase "with whom" excludes intercourse that is performed in an atypical way. Rabbi Yehuda, on the other hand, holds that the exclusion of both atypical sexual intercourse and the initial stage of intercourse were derived from the phrase "giving seed," as neither of these are sexual acts that might bring about the birth of a seed, i.e., a child. The phrase "with whom" then excludes a bride.ⁿ

On the topic of intercourse that cannot result in conception, the Gemara relates the following: **When Ravin came from Eretz Yisrael to Babylonia, he said that Rabbi Yohanan said: Any woman who waits after her husband has died or divorced her for ten years without intercourse and is then married can no longer bear children. Rav Nahman said: They taught this principle only with regard to cases where she did not intend to get married at a later time, but if she intended to get married at some point, she can become pregnant later on. Rava said to his wife, the daughter of Rav Hisda:ⁿ The Sages are gossiping about you.** From the time she was widowed from her first husband until the time that she was married to Rava, more than ten years passed, yet she bore him children. It seemed as though she had engaged in intercourse in the meantime. **She said to him: My mind was on you.** Indeed, it is told that already as a young girl she prophesized that she would marry Rava.

The Gemara relates: **A certain woman who came before Rav Yosef said to him: My teacher, I waited after my husband's death for ten years, and nevertheless I gave birth. He said to her: My daughter, do not cast aspersions on the statement of the Sages. She said to him in confession: I had sexual intercourse with a gentile during those ten years.**

NOTES

Initial stage of intercourse – הערא: The Gemara presents a dispute as to the definition of the initial stage of intercourse (55b). One opinion maintains that the initial stage of intercourse occurs at the moment of external contact of the sexual organs. The other holds that the initial stage of intercourse is defined by the penetration of the corona. With regard to forbidden relations, one is liable for violating a prohibition if one engaged in this initial stage of intercourse, even if one did not complete the act of intercourse.

With whom excludes a bride – אותה פרט לכלה: This Torah law, which requires both the man and the woman to immerse following intercourse, is understood to be a special decree stated by the verses, as it does not follow the usual laws of ritual impurity.

It overrides the principle that an emission of semen causes ritual impurity only upon touch, which does not include contact with concealed parts of the body. This decree of ritual impurity is imparted even though intercourse applies only to acts of full-fledged intercourse that can lead to childbirth.

The daughter of Rav Hisda – בת רב חסדא: The daughter of Rav Hisda was married to Rami bar Hama. Over ten years after he died, she married Rava. The Gemara relates an incident that took place when she was a young girl (*Bava Batra* 12b). She was sitting in her father's lap when Rava and Rami bar Hama, both students of Rav Hisda, were sitting before him. Rav Hisda asked his daughter which of the two she desired, and she answered: Both. Rava responded: I will be the last.

Waiting period for a female minor who performed refusal – המתנה בממאנת: A female minor who refused her husband is not required to wait three months before marrying another man, as the rabbinic decree did not include her (Rambam *Sefer Nashim, Hilkhot Geirushin* 11:22; *Shulhan Arukh, Even HaEzer* 13:6).

Waiting period for a divorced woman – המתנה בגרושה: Every woman who was divorced must wait three months before marrying another man. The Sages did not distinguish between divorced women, so that even a minor divorced woman who cannot bear children must still wait three months (Rambam *Sefer Nashim, Hilkhot Geirushin* 11:20; *Shulhan Arukh, Even HaEzer* 23:1).

אמר שמואל: וכולן צריכות להמתין שלשה חדשים, חוץ מגיורת ומשוחררת קטנה. אבל קטנה בת ישראל – צריכה להמתין שלשה חדשים.

S Shmuel said: And all of those women who had sexual intercourse, and there is therefore a concern that they might be pregnant, must wait three months before marrying so as to differentiate between a child born from the previous intercourse and a child born from this marriage, **except for a female convert who is a minor and a female released slave who is a minor.** Although it is possible that they had sexual intercourse, they cannot become pregnant in any case. **However, a female Israelite who was a minor and had intercourse must wait three months** like all other women.

ובמאי? אי במיאון – והאמר שמואל דלא בעיא. ואי בגט – האמרה שמואל חדא זימנא. דאמר שמואל: מיאנה בו – אינה צריכה להמתין שלשה חדשים, נתן לה גט – צריכה להמתין שלשה חדשים! אלא בגרות.

The Gemara asks: **And with regard to what situation is this statement referring? If it is referring to a minor who was released from her marriage by refusal,** as a minor girl who was married to a man by her mother or brothers may refuse to remain married to her husband until reaching majority, **but didn't Shmuel say that she is not required to wait three months? And if it is referring to a woman who received a bill of divorce as a minor, didn't Shmuel already state this halakha one time?** Why would he repeat this ruling, as **Shmuel said: A female minor who refused her husband need not wait three months before her second marriage,**^h but if he gave her a bill of divorce, she must wait three months,^h so as not to make a distinction between an adult divorcée and a minor divorcée. **Rather, it must be that this is referring to a female minor who was involved in licentious sexual intercourse.**

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וגזרו רבנן קטנה משום גדולה.

And, although there is no possibility for her to become pregnant, the Sages issued a rabbinic decree requiring the three month waiting period for a female minor due to this requirement for a female adult who engaged in promiscuous sexual acts.

ומי גזרינן קטנה משום גדולה? והתנן: אם היו קטנות שאינן ראויות לילד – מהזוירין אותן מיד! אמר רב גידל אמר רב: הוראת שעה היתה. מכלל דהואי? אלא בהוראת שעה היתה, וחילוץ לא שבית.

The Gemara asks: **And do we issue a decree with regard to a female minor due to the ruling for a female adult? But didn't we learn in the mishna: If they were female minors who could not bear children, we return them^h immediately to their husbands?** This indicates that there is no concern for pregnancy, and the Sages did not issue a decree in this case. **Rav Giddel said that Rav said: This was a provisional edict issued in exigent circumstances, and therefore one cannot extrapolate from the case in the mishna to other situations.** The Gemara wonders: Can one assume **by inference that there was such an occurrence?** It would seem from the mishna that this was merely a possibility and not an actual occurrence, for if it actually happened it would have been appropriate for the mishna to relate the actual case. **Rather, the ruling in the mishna is like a provisional edict in that switching of wives, such as described in the mishna, is uncommon, and in cases that are not common, the Sages do not issue a decree.** Therefore, in the case of the mishna, the female minors were not required to wait.

אם היו – If they were female minors...we return them – קטנות...מהזוירין אותן: In situations where a woman was mistakenly married and then removed from her husband by a court, if she was a minor at the time, she is allowed to marry

another man. She need not wait because this is an uncommon occurrence and was not included in the rabbinic decree (Rambam *Sefer Nashim, Hilkhot Geirushin* 11:23; *Shulhan Arukh, Even HaEzer* 13:8).