מַאן תָּנָא? אָמַר רַבִּי יִצְחָק בַּר אַבְדִּימִי: אַבָּא שָׁאוּל הִיא, וְהָכִי קָאָמַר: ״יְבָמָהּ יָבֹא עָלֶיהָ״ מִצְוָה, שֶׁבִּתְחִלָּה הָיְתָה עָלָיו בִּכְלַל הֶיתֵּר, רָצָה לִשֵּׁם נוֹי – כּוֹנְסָהּ, רָצָה לְשׁוּם אֵישׁוּת – כּוֹנְסָהּ.

Who is the *tanna* **who taught** this *baraita*? **Rav Yitzḥak bar Avdimi said: It is Abba Shaul, and this is what** the *baraita* **is saying: "Her brother-in-law will have intercourse with her"** teaches that it is permitted to engage in intercourse with her only when his intention is to fulfill **a mitzva, as initially,** before she was married to his brother, **she** was **among** all other women who are **permitted to him,** and so, if **he wished,** then even **for the sake of** her **beauty he** was permitted to **marry her, or** similarly, if **he wished,** then even **for the sake of marital relations he** was permitted to **marry her.**

נֶאֶסְרָה, חָזְרָה וְהוּתְּרָה, יָכוֹל תַּחֲזוֹר לְהֶיתֵּירָהּ הָרִאשׁוֹן – תַּלְמוּד לוֹמַר ״יְבָמָהּ יָבֹא עָלֶיהָ״, לְמִצְוָה.

When she married his brother **she became forbidden** to him, and when his brother died without offspring **she reverted** from her forbidden status **and became permitted to him.** One **might** have thought that **she would** fully **revert to her original permitted status;** therefore, **the verse states: "Her brother-in-law will have intercourse with her"** to teach that he is permitted to marry her only when his intention is **for the mitzva.**

רָבָא אָמַר: אֲפִילּוּ תֵּימָא רַבָּנַן, וְהָכִי קָאָמַר: ״יְבָמָהּ יָבֹא עָלֶיהָ״ – מִצְוָה. שֶׁבִּתְחִלָּה הָיְתָה בִּכְלַל הֶיתֵּר. רָצָה – כּוֹנְסָהּ, רָצָה – אֵינוֹ כּוֹנְסָהּ.

Rava said: You can **even say** that the *baraita* is in accordance with **the Rabbis, and this is what** the *baraita* **is saying: "Her brother-in-law will have intercourse with her"** indicates that it is **a mitzva** to consummate the levirate marriage, **as initially,** before she was married to his brother, **she was among** all other women who are **permitted to him,** and so if **he wished, he** was permitted to **marry her, or** if **he wished, he** was permitted to choose **not to marry her.**

נֶאֶסְרָה, חָזְרָה וְהוּתְּרָה, יָכוֹל תַּחֲזוֹר לְהֶיתֵּירָהּ הָרִאשׁוֹן; רָצָה – כּוֹנְסָהּ, רָצָה – אֵינוֹ כּוֹנְסָהּ. רָצָה אֵינוֹ כּוֹנְסָהּ?

When she married his brother **she became forbidden** to him, and when his brother died without offspring **she reverted** from her forbidden status **and became permitted to him.** One **might** have thought that **she would** fully **revert to her original permitted status,** so that if **he wishes, he may marry her, or** if **he wishes, he may** choose **not to marry her.**

הָא אֲגִידָה בֵּיהּ, בִּכְדֵי תֵּיפּוֹק?! אֶלָּא אֵימָא: רָצָה – כּוֹנְסָהּ, רָצָה – חוֹלֵץ לָהּ. תַּלְמוּד לוֹמַר: ״יְבָמָהּ יָבֹא עָלֶיהָ״ – מִצְוָה.

The Gemara interjects that the logic of this last statement seems implausible: Does he really have the option to do as he wishes? **Isn't she bound to him** with a levirate bond? Could it be that **she will be released** from that bond **without** doing **anything? Rather,** emend the previous argument and instead **say:** One might think that if **he wishes, he may marry her, or** if **he wishes** not to do so, **he performs *ḥalitza* with her.** Therefore, **the verse states: "Her brother-in-law will have intercourse with her,"** to teach that it is now **a mitzva** to consummate the marriage, and doing so is preferable to performing *ḥalitza.*

אֵימָא רֵישָׁא: ״מַצּוֹת תֵּאָכֵל בְּמָקוֹם קָדוֹשׁ״ – מִצְוָה,

The *baraita* under discussion also presents another case that follows a similar model of initially being permitted, then prohibited, and then once again permitted. The Gemara analyzes the explanations of Rav Yitzḥak and Rava based on that clause of the *baraita*: **Say the first clause** and try to explain it in a way consistent with the various explanations of the latter clause: The Torah states concerning the meal-offerings eaten by the priests: **"It shall be eaten unleavened in a sacred place"** (Leviticus 6:9); this indicates that doing so is **a mitzva,**

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שֶׁבִּתְחִלָּה הָיְתָה עָלָיו בִּכְלַל הֶיתֵּר, נֶאֶסְרָה, וְחָזְרָה וְהוּתְּרָה, יָכוֹל תַּחֲזוֹר לְהֶיתֵּירָהּ הָרִאשׁוֹן – תַּלְמוּד לוֹמַר ״מַצּוֹת תֵּאָכֵל בְּמָקוֹם קָדוֹשׁ״ מִצְוָה.

as initially, before the flour was consecrated, **it was among** all other foods that are **permitted to him,** and then when the flour was consecrated as a meal-offering, **it became forbidden** to him, **and** then once a handful of the offering was brought on the altar, **it reverted** from its forbidden status **and became permitted to him.** One **might** have thought that **it would revert to its original permitted status;** therefore, **the verse states: "It shall be eaten unleavened in a sacred place"** (Leviticus 6:9), which indicates that it is **a mitzva**[H] to eat it.

HALAKHA

It shall be eaten unleavened…indicates that it is a mitzva – מַצּוֹת תֵּאָכֵל…מִצְוָה: After the handful has been taken from the meal-offering and burned on the altar, it is a positive mitzva for the priests to eat the remainder of the offering (Rambam *Sefer Avoda, Hilkhot Ma'aseh HaKorbanot* 10:2).

בִּשְׁלָמָא לְרָבָא, דְּאָמַר הָא מַנִּי רַבָּנַן הִיא – הָכָא הָכִי קָאָמַר: ״מַצּוֹת תֵּאָכֵל בְּמָקוֹם קָדוֹשׁ״ מִצְוָה. שֶׁבַּתְּחִלָּה הָיְתָה עָלָיו בִּכְלַל הֶיתֵּר, רָצָה – אוֹכְלָהּ, רָצָה – אֵינוֹ אוֹכְלָהּ. (נֶאֱסְרָה, חָזְרָה וְהוּתְּרָה, יָכוֹל תַּחֲזוֹר לְהֶיתֵּירָהּ רִאשׁוֹן) – רָצָה אוֹכְלָהּ, רָצָה אֵינוֹ אוֹכְלָהּ.

The Gemara asks: **Granted, according to Rava, who said:** In accordance with **whose** opinion **is this** *baraita*? **It is** in accordance with the opinion of **the Rabbis;** according to him, **here,** in the first clause, **this is what** the *baraita* **is saying: "It shall be eaten unleavened in a sacred place"** indicates that it is **a mitzva** for the priest who prepares the offering to eat it himself. **As, initially,** before the flour was consecrated, **it was among** all other foods that are **permitted to him:** If **he wishes, he may eat it, and if he wishes, he may** choose **not** to **eat it.** When the flour was consecrated, **it became forbidden** to him, **and** then once a handful was brought on the altar, **it reverted** from its forbidden status **and became permitted to him.** One **might** have thought that **it would revert to its original permitted status,** so that if **he wishes, he may eat it, and** if **he wishes, he may** choose **not** to **eat it.**

רָצָה אֵינוֹ אוֹכְלָהּ?! וְהָכְתִיב ״וְאָכְלוּ אֹתָם אֲשֶׁר כֻּפַּר בָּהֶם״ מְלַמֵּד שֶׁהַכֹּהֲנִים אוֹכְלִים וּבְעָלִים מִתְכַּפְּרִין!

The Gemara interjects that the logic of this last statement seems implausible: Could it be that if **he wishes, he may** choose **not** to **eat it? But isn't it written: "And they shall eat those things through which atonement is attained"** (Exodus 29:33), which **teaches that the priests eat** portions of the offering **and** by their doing so **the owners** who brought the offering **attain atonement?**[H] Clearly, then, the eating of the offerings is not volitional.

אֶלָּא: רָצָה – הוּא אוֹכְלָהּ, רָצָה – כֹּהֵן אַחֵר אוֹכְלָהּ, תַּלְמוּד לוֹמַר ״מַצּוֹת תֵּאָכֵל בְּמָקוֹם קָדוֹשׁ״ – מִצְוָה.

Rather, the *baraita* should be understood as saying: One might have thought that if **he wishes, he may eat it, and if he wishes, another priest may eat it;** therefore, **the verse states: "It shall be eaten unleavened in a sacred place"** (Leviticus 6:9), to teach that it is **a mitzva** for the priest who prepares the offering to eat it himself. This explanation of the first clause of the *baraita* is entirely consistent with Rava's explanation of the latter clause concerning the mitzvot of levirate marriage. In his opinion, both clauses demonstrate that there is a mitzva to perform an action in a case where one might have thought there was none.

אֶלָּא לְרַב יִצְחָק בַּר אַבְדִּימִי, דְּאָמַר אַבָּא שָׁאוּל הִיא – הָכָא מַאי תְּרֵי גַּוְונֵי אִיכָּא?

However, according to Rav Yitzḥak bar Avdimi, who said that the *baraita* **is** in accordance with the opinion of **Abba Shaul** and explained the *baraita* accordingly as teaching the correct manner in which the mitzva is to be performed, **here,** in the first clause concerning the meal-offering, **what two manners** of eating **are there**[N] of which one would be prohibited?

וְכִי תֵּימָא: רָצָה – לְתֵאָבוֹן אוֹכְלָהּ, רָצָה – אֲכִילָה גַּסָּה אוֹכְלָהּ, אֲכִילָה גַּסָּה מִי שְׁמָהּ אֲכִילָה? וְהָאָמַר רֵישׁ לָקִישׁ: הָאוֹכֵל אֲכִילָה גַּסָּה בְּיוֹם הַכִּפּוּרִים – פָּטוּר מִ״לֹא תְעֻנֶּה״!

And if you would say that the *baraita* might refer to two types of eating and is saying: One might have thought that if **he wishes he may eat it with an appetite, and if he wishes he may eat it** though an act of **excessive eating,** forcing himself to eat despite already being fully satiated; perforce this is not correct, as does **excessive eating have the** legal **status of** an act of **eating? Didn't Reish Lakish say: One who eats** through an act of **excessive eating on Yom Kippur**[NH] **is exempt from** the punishment of *karet* indicated in the verse: "For whatever soul it be that **shall not be afflicted** in that same day shall be cut off from his people" (Leviticus 23:29)? From this it is apparent that excessive eating does not have the legal status of an act of eating.

NOTES

What two manners are there – מַאי תְּרֵי גַּוְונֵי אִיכָּא: One could suggest that according to the opinion that in general the fulfillment of mitzvot is achieved only when one has intention to fulfill them, there is a very simple way of explaining the clause concerning the meal-offering: If it is eaten with intention to fulfill the mitzva, then it is permitted; otherwise it would be prohibited due to the general prohibition against benefiting from consecrated items. The *Keren Ora* suggests that the Gemara did not raise this option because even if in general one requires intention for the fulfillment of mitzvot, this might not apply to the consumption of sacred foods. The reason for this would be that their consumption by the priesthood is referred to as being given "for anointment" (Numbers 18:8), which the Gemara in *Zevaḥim* interprets elsewhere as meaning that it is to be eaten in grandeur, as kings eat. As such, it is possible that when eating it the priests are not required to focus on the fact that doing so is a mitzva but instead may eat it for their own purposes; provided they eat it with appetite, they fulfill what is required of them. Another resolution can be offered based on the opinion of *Tosafot* and Ran in tractate *Pesaḥim*. They explain that mitzvot that require one to eat never require specific intent to fulfill the mitzva, since the benefit of eating perforce defines the act as one of intention.

One who eats through an act of excessive eating on Yom Kippur – הָאוֹכֵל אֲכִילָה גַּסָּה בְּיוֹם הַכִּפּוּרִים: From the statement of Reish Lakish alone it would appear that the reason for the exemption is because the prohibition against eating on Yom Kippur is expressed by the Torah as one of affliction, which suggests that only acts that alleviate one's affliction are prohibited. Therefore, excessive eating, which causes one discomfort, should not be prohibited. This is the interpretation of Rabbi Avraham min HaHar. Accordingly, although excessive eating might be considered an unusual act of eating, it certainly has the legal status of an act of eating, and therefore one who eats forbidden foods in such a manner would be liable for doing so. The Meiri disagrees and claims that Reish Lakish's teaching is not unique to Yom Kippur; rather, it is a principle that an excessive act of eating does not have the legal status of an act of eating. Therefore, it applies to all cases in which an act of eating is necessary. This is also the opinion of the *Maggid Mishne* and the Ran. Accordingly, even if one were to eat forbidden foods through an act of excessive eating, one would be exempt.

Tosafot note that the Gemara states elsewhere that one who eats the Paschal lamb through an act of excessive eating does fulfill one's obligation, even though doing so is not the proper way to fulfill the mitzva. This would appear to imply, contrary to the Gemara here, that an act of excessive eating does have the legal status of an act of eating. To resolve this difficulty, *Tosafot* differentiate between two levels of excessiveness. The Gemara here discusses the case of one who has eaten to the point at which eating anything else would be repulsive to him. At that point, any further eating does not have the legal status of an act of eating; one in that state would not fulfill his obligation to eat the Paschal lamb. The Gemara that states that one does fulfill one's obligation of eating the Paschal lamb concerns an earlier stage, where one has already eaten to satiation, but further eating is still not repulsive. Eating in this manner, while inappropriate for the Paschal lamb, is certainly considered an act of eating.

The Ramban suggests a different distinction. The Gemara concerning the Paschal lamb does not actually discuss a case of excessive eating at all; rather, it concerns the motivation for eating the offering and discusses the case of one who, although he has still not achieved satiation, eats the Paschal lamb as part of an attempt to gorge himself. This is apparent from the precise formulation of the Gemara there, which states that he ate the Paschal lamb: For the stage of gorging. The Ramban offers an additional resolution that since the mitzva of the Paschal lamb is primarily fulfilled through its sacrifice and not through its consumption, the requirement to eat does not demand the same strict standards for an act of eating that apply elsewhere, and therefore even an act of excessive eating is sufficient. A similar approach is also suggested by *Tosafot Yeshanim*.

HALAKHA

The priests eat and the owners attain atonement – הַכֹּהֲנִים אוֹכְלִים וּבְעָלִים מִתְכַּפְּרִין: There is a positive mitzva for the priests to eat the meat of sin-offerings and guilt-offerings, and through their doing so the owners of those offerings attain atonement. Similarly, the consumption of other offerings by the priests is also a positive mitzva (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 10:1).

Excessive eating on Yom Kippur – אֲכִילָה גַּסָּה בְּיוֹם הַכִּפּוּרִים: If one eats excessively on Yom Kippur, e.g., if one continues to eat in addition to that which he ate prior to the onset of Yom Kippur to the point that he is repulsed by his food, he is exempt. Some rule that he would still be liable for eating sweet foods, since one continues to have an appetite for such foods even after one is fully satiated (Rema, citing *Kol Bo*). However, even for such foods, if one reached a point where he found even them to be repulsive, he would be exempt (*Bah*; Rambam *Sefer Zemanim*, *Hilkhot Shevitat Asor* 2:7; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 612:6).

אֶלָּא: רָצָה – מַצָּה אוֹכְלָה, רָצָה – חָמֵץ אוֹכְלָה,

The Gemara therefore suggests a different interpretation of the *baraita* that is consistent with Rav Yitzḥak's opinion: **Rather,** say the *baraita* is referring to two different manners in which the meal-offering was prepared: If **he wishes he may eat it unleavened,** and if **he wishes he may eat it leavened.**

וְהָכְתִיב ״לֹא תֵאָפֶה חָמֵץ חֶלְקָם״, וְאָמַר רֵישׁ לָקִישׁ: וַאֲפִילּוּ חֶלְקָם לֹא תֵאָפֶה חָמֵץ! אֶלָּא: רָצָה – מַצָּה אוֹכְלָה, רָצָה – חָלוּט אוֹכְלָה.

The Gemara interjects that the logic of this last statement seems implausible: Could it be that if he wishes, the offering could be leavened? **But isn't it written: "Their portion shall not be baked leavened"** (Leviticus 6:10),[H] **and Reish Lakish said** that both the handful brought on the altar **and even the** priest's **portion shall not be baked leavened? Rather,** the *baraita* should be understood as saying: One might have thought that if **he wishes he may eat it unleavened,** and if **he wishes he may eat it** even if it was prepared by being **boiled.**[H] Therefore, the verse taught that one must eat it unleavened. Understood in this way, this clause of the *baraita* is also consistent with Rav Yitzḥak's opinion.

הַאי חָלוּט הֵיכִי דָּמֵי? אִי מַצָּה הִיא – הָא מַצָּה הִיא, וְאִי לָא מַצָּה הִיא – ״מַצּוֹת״ אָמַר רַחֲמָנָא!

The Gemara asks: With regard to **this** possibility of eating the meal-offering **boiled, what are the circumstances,** i.e., how is it classified? **If it is** considered to be **unleavened** because it is presumed that the flour never managed to rise before it was cooked, **then it is unleavened** and there is no reason to prohibit its use; **and if it is not** considered to be **unleavened** because it is presumed that the flour managed to rise before it was cooked, then it is certainly disqualified from use because **the Merciful One states** that the offering must be **"unleavened"** (Leviticus 10:12).[N] How, then, could one ever have questioned whether it is permitted to eat the meal-offering if it was boiled?

לָא, לְעוֹלָם אֵימָא לָךְ מַצָּה הִיא, וּלְהָכִי תְּנָא בֵּיהּ קְרָא – לְעַכֵּב.

The Gemara explains: **No; actually, I** could **say to you** that the boiled meal-offering **is** considered to be **unleavened, and** nevertheless it is disqualified because it is **for this** very reason that **the verse repeated** the requirement that it be unleavened, in order **to invalidate** a meal-offering that was boiled.

אֶלָּא חָלוּט מַצָּה הִיא דְּקָאָמְרִינַן, לְמַאי הִלְכְתָא? לוֹמַר שֶׁאָדָם יוֹצֵא בָּהּ יְדֵי חוֹבָתוֹ בְּפֶסַח, אַף עַל פִּי דְּחָלְטֵיהּ מֵעִיקָּרָא, כֵּיוָן דַּהֲדַר אָפֵייהּ בְּתַנּוּר – ״לֶחֶם עוֹנִי״ קָרֵינָא בֵּיהּ, וְאָדָם יוֹצֵא בָּהּ יְדֵי חוֹבָתוֹ בְּפֶסַח.

The Gemara asks: **But** if boiled flour is invalid as a meal offering, then with regard to this statement **that we said** that **boiled** flour **is unleavened, for what *halakha*** is it relevant? The Gemara answers: It is **to say that a person fulfills his obligation with it on Passover.** This is because **even though he initially boiled it, since he subsequently baked it in an oven, it is called "bread of affliction"** (Deuteronomy 16:3),[N] **and** therefore **a person fulfills his obligation with it on Passover.**

מתני׳ הַחוֹלֵץ לְיִבְמְתּוֹ – הֲרֵי הוּא כְּאֶחָד מִן הָאַחִין לְנַחֲלָה, וְאִם יֵשׁ שָׁם אָב – נְכָסִים שֶׁל אָב. הַכּוֹנֵס אֶת יְבִמְתּוֹ זָכָה בְּנִכְסִים שֶׁל אָחִיו. רַבִּי יְהוּדָה אוֹמֵר: בֵּין כָּךְ וּבֵין כָּךְ, אִם יֵשׁ שָׁם אָב – נְכָסִים שֶׁל אָב.

MISHNA **One who performs *ḥalitza* with his *yevama* is like** any **one of the** other **brothers with respect to** the **inheritance**[H] of the deceased brother's estate, i.e., each of the brothers takes an equal share of the inheritance. **And if there is a father** of the deceased, who is still alive, **the property** of the deceased **belongs to the father. One who consummates** levirate marriage with **his *yevama***[H] thereby **acquires his** deceased **brother's property** solely for himself. **Rabbi Yehuda says: In either** case, whether he consummated the levirate marriage or performed *ḥalitza*, **if there is a father** who is still alive, **the property belongs to the father.**

גמ׳ פְּשִׁיטָא! סָלְקָא דַּעְתָּךְ אָמִינָא: חֲלִיצָה בִּמְקוֹם יִבּוּם קַיְימָא, וְנִשְׁקוֹל כּוּלְּהוּ נְכָסִי, קָא מַשְׁמַע לָן.

GEMARA The Gemara asks with regard to the opening clause of the mishna: The fact that one who performs *ḥalitza* does not gain any special rights to the inheritance of the deceased brother **is obvious;** why did the mishna teach it? The Gemara answers: **It could enter your mind to say** that the ***ḥalitza* takes the place of the levirate marriage and** therefore the brother who performs *ḥalitza* **should take all the property** in the same way as one who consummates the levirate marriage. Therefore, the mishna **teaches us** that this is not the case.

HALAKHA

Their portion shall not be baked leavened – לֹא תֵאָפֶה חָמֵץ חֶלְקָם: Although the priests are permitted to eat the remainders of the meal-offerings together with other foods prepared in any manner, it is nevertheless prohibited to eat them leavened. If the remainders of the meal-offerings became leavened, the priests responsible for doing so would transgress a negative mitzva and receive lashes. This is in accordance with the opinion of Reish Lakish (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 12:14).

Boiled unleavened bread – מַצָּה חָלוּטָה: Flour scalded in boiling water and then baked is regarded as unleavened, and consequently one could fulfill one's obligation to eat *matza* on Passover by eating it. However, nowadays, no one knows how to scald the flour with enough speed and care to ensure it does not rise and become leavened. Therefore, flour boiled in water is considered to be leavened and is forbidden (*Tur*, citing the *ge'onim*; Rambam *Sefer Zemanim*, *Hilkhot Ḥametz UMatza* 6:6; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 454:3).

The status of one who performs *ḥalitza* is like any one of the brothers with respect to the inheritance – הַחוֹלֵץ דִּינוֹ כְּאֶחָד הָאַחִים לְנַחֲלָה: One who performs *ḥalitza* with his *yevama* is like any one of the other brothers with respect to the inheritance of the deceased brother's estate. Each of the brothers takes an equal share of the inheritance. If the father is still alive, then he alone inherits from his son. The Rema notes that even if the *yavam* wishes to consummate the levirate marriage but the *yevama* refuses him, he still does not attain any rights to the deceased brother's estate. In some communities the custom has developed that the one who performs *ḥalitza* receives half of the brother's estate (*Shulḥan Arukh*, *Even HaEzer* 163:2).

One who consummates levirate marriage with his *yevama* – הַכּוֹנֵס אֶת יְבִמְתּוֹ: One who consummates levirate marriage with his *yevama* thereby acquires his deceased brother's property and any property that the brother was already due to inherit at the time of his death. However, he does not gain the rights to inherit the property that his brother would have inherited, were he still alive, if it only becomes available after his brother's death. This is in accordance with the opinion of the Rabbis (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 3:7; *Shulḥan Arukh*, *Even HaEzer* 163:1).

NOTES

The Merciful One states "unleavened" – מַצּוֹת אָמַר רַחֲמָנָא: Rashi claims the Gemara is citing the verse: "And eat it unleavened beside the altar" (Leviticus 10:12), which, although it concerns only one specific type of meal-offering, is understood to be true for all meal-offerings (see *Tosafot*). Other commentaries suggest that the Gemara is not citing a verse but is referring to the *halakha* that is established from the verse previously cited by the Gemara: "Their portion shall not be baked with leaven" (Leviticus 6:10), which teaches the requirement that all meal-offerings must be unleavened (*Tosafot Yeshanim*). The Rashba questions why, according to Rashi's understanding, there is a need for a verse to teach the requirement that the meal-offering be unleavened, given that there is already another verse prohibiting one from baking a leavened meal-offering. He explains that the additional verse is required to emphasize that it is not sufficient if the meal-offering is not leavened; rather, it must be baked such that it is clearly unleavened.

Bread of affliction – לֶחֶם עוֹנִי: Some commentaries explain that by describing the *matza* that one is required to eat on Passover as bread of affliction, the Torah indicates that it should be of an inferior quality, similar to the bread eaten by the poor. When *matza* is boiled its texture is enhanced, and it is no longer similar to the bread eaten by the poor (Razah and Ra'avad; see Rashi on *Pesaḥim* 36b). Others explain that dough boiled in water cannot be classified as bread (Rabbeinu Yehonatan of Lunel on *Pesaḥim* 36b). However, if it is baked again in an oven its original texture is restored, and in that case it may be used for the mitzva.

אִי הָכִי ״הַרֵי הוּא כְּאֶחָד מִן הָאַחִים״? אֵינוֹ אֶלָּא כְּאֶחָד מִן הָאַחִים מִבָּעֵי לֵיהּ!

The Gemara asks: **If so,** that the mishna's point is to teach that by performing *ḥalitza* one is not afforded any additional rights to the inheritance, why is the mishna formulated as: **He is like** any **one of the** other **brothers,** placing the emphasis on what he gains? **It should have** instead taught: **He is** still **only like one of the** other **brothers,** which would emphasize the mishna's point that by performing *ḥalitza* he does not gain any additional rights.

אֶלָּא, סָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וְאָפְסְדָה מִיבּוּם לְקְנֵסֵיהּ, קָא מַשְׁמַע לָן.

Rather, the mishna needs to teach the opening clause in this manner because **it could enter your mind to say** that **since** by performing *ḥalitza* with his *yevama* **he caused her to forfeit** the possibility of consummating the **levirate marriage,**[N] **he should be penalized** and should forfeit any entitlement to his brother's property. Therefore the mishna **teaches us** that this is not so.

״אִם יֵשׁ שָׁם אָב״. דְּאָמַר מָר: אָב קוֹדֵם לְכָל יוֹצְאֵי יֶרְכּוֹ.

§ The mishna states: **If there is a father** of the deceased, who is still alive, the property of the deceased belongs to the father. The Gemara explains: **As the Master said** with regard to the laws of inheritance (*Bava Batra* 115a): **A father** of the deceased **takes precedence over all** the father's **descendants.**[H] Therefore, since the father is still alive, the brothers do not inherit at all.

״הַכּוֹנֵס אֶת יְבִמְתּוֹ״ וכו׳. מַאי טַעֲמָא? ״יָקוּם עַל שֵׁם אָחִיו״ אָמַר רַחֲמָנָא, וַהֲרֵי קָם.

The mishna states: **One who consummates** levirate marriage with his *yevama* thereby acquires his deceased brother's property. The Gemara asks: **What is the reason** for this? **The Merciful One states** in the Torah: **"He shall succeed in the name of his** dead **brother"** (Deuteronomy 25:6), **and he has succeeded** him by marrying his wife; consequently, he succeeds him by acquiring his property as well.

״רַבִּי יְהוּדָה אוֹמֵר״ וכו׳. אָמַר עוּלָּא: הֲלָכָה כְּרַבִּי יְהוּדָה. וְכֵן אָמַר רַבִּי יִצְחָק נַפָּחָא: הֲלָכָה כְּרַבִּי יְהוּדָה.

§ The mishna continues by citing an opposing opinion. **Rabbi Yehuda says:** In either case, whether he consummated levirate marriage or performed *ḥalitza*, if there is a father who is still alive, the property belongs to the father. The Gemara cites a ruling on this dispute: **Ulla said:** The ***halakha* is in accordance with** the opinion of **Rabbi Yehuda. And similarly, Rabbi Yitzḥak Nappaḥa said: The *halakha* is in accordance with** the opinion of **Rabbi Yehuda.**

וַאֲמַר עוּלָּא וְאִיתֵימָא רַבִּי יִצְחָק נַפָּחָא: מַאי טַעֲמָא דְּרַבִּי יְהוּדָה – דִּכְתִיב ״וְהָיָה הַבְּכוֹר אֲשֶׁר תֵּלֵד״, כִּבְכוֹר: מַה בְּכוֹר אֵין לוֹ בְּחַיֵּי הָאָב – אַף הַאי נַמִי אֵין לוֹ בְּחַיֵּי הָאָב.

And Ulla said, and some say that it was **Rabbi Yitzḥak Nappaḥa** who said: **What is the reason** for the opinion **of Rabbi Yehuda? As it is written: "And it shall be that the firstborn that she bears** shall succeed in the name of his dead brother" (Deuteronomy 25:6). The term "firstborn" is understood to be a reference to the *yavam*. By referring to him in this way the Torah indicates that his rights to his brother's estate are **like** those of **a firstborn** child's rights to his father's estate: **Just as a firstborn has no** rights to any of his father's estate **during the lifetime of the father,** and he may take his double portion only upon the father's death, **so too, this** *yavam* **as well has no** rights to any of his brother's estate **during the lifetime of the father.**

אִי מַה בְּכוֹר נוֹטֵל פִּי שְׁנַיִם לְאַחַר מִיתַת הָאָב – אַף הַאי נוֹטֵל פִּי שְׁנַיִם לְאַחַר מִיתַת הָאָב!

The Gemara asks: **If** there is truly a comparison between the *yavam* who consummated the levirate marriage and a firstborn, then one should also say that **just as the firstborn takes a double portion** of his father's estate **after the death of the father, so too, this** *yavam* **should** become entitled to **take a double portion** of the father's estate **after the father's death,** i.e., the portion due to him as a son, and that portion that would have been awarded to his brother. However, this is not the case; if the *yavam* is not actually the father's firstborn then he receives only an equal portion of the inheritance together with the other brothers.

מִידֵּי ״יָקוּם עַל שֵׁם אָבִיו״ כְּתִיב? ״יָקוּם עַל שֵׁם אָחִיו״ כְּתִיב, וְלֹא ״עַל שֵׁם אָבִיו״!

The Gemara explains: **Is it written** in the Torah: **He shall succeed in the name of his father?** No, **it is written: "He shall succeed in the name of his dead brother,"** which indicates that he succeeds his brother **but not in the name of his father,**[N] i.e., the Torah never granted him any special entitlement to his father's estate, and so he should not receive a double portion of it.

NOTES

Since he caused her to forfeit the possibility of levirate marriage – הוֹאִיל וְאָפְסְדָה מִיבּוּם: Some commentaries question why one who performs *ḥalitza* should be penalized. They note that *ḥalitza* is performed only after it is clarified that none of the brothers are willing to consummate the levirate marriage. If so, the one who ultimately performs *ḥalitza* is not preventing her from consummating the levirate marriage, as that possibility had already been ruled out. They explain that the case here must be one in which a younger brother performed *ḥalitza* before his older brothers had been given the opportunity to consummate the levirate marriage. As such, his *ḥalitza* actually precluded the possibility of her consummating the levirate marriage with the brothers he preempted, and therefore there is reason to assume that he should be penalized (see *Arukh LaNer* and *Yosef Lekaḥ*).

It is written: He shall succeed in the name of his dead brother, but not in the name of his father – יָקוּם עַל שֵׁם אָחִיו כְּתִיב וְלֹא עַל שֵׁם אָבִיו: The underlying principle indicated by this inference is that despite the fact that he consummated the levirate marriage, the *yavam* does not become entitled to the portion of his father's estate that would have been awarded to his deceased brother were he still alive. Therefore, according to Rabbi Yehuda, if the father is still alive at the time of the brother's death then the father takes full ownership of his estate, and when the father subsequently dies, the *yavam* who consummated the levirate marriage has no more claim to the estate than any of the other brothers. Many commentaries assume that this principle is similarly true according to the Rabbis. They explain that the Rabbis dispute Rabbi Yehuda's opinion only in their claim that even if the father is still alive when the brother dies, the *yavam* inherits the brother's estate at that time. However, even the Rabbis agree that when the father subsequently dies, the *yavam* does not become entitled to the portion of his father's estate that would have been awarded to his deceased brother (Rambam; Ramban). Other commentaries claim that the Rabbis do in fact dispute this principle and that according to them, when a *yavam* consummates the levirate marriage he becomes entitled not only to the estate of his deceased brother as it exists at that time, but also to his brother's inheritance rights, which will became germane only at a later date. Therefore, when the father subsequently dies, the *yavam* does receive both the portion that is due to him as a son, and the portion that would have been awarded to his brother (see *Yam shel Shlomo*).

HALAKHA

The father of the deceased take precedence over all the father's descendants – הָאָב קוֹדֵם לְכָל יוֹצְאֵי חַלָּצָיו: If one dies without descendants, then his father is entitled to his inheritance. If the father is not alive, the inheritance passes on to the father's descendants, e.g., the deceased's brothers; if they are not alive, the inheritance passes on to their descendants (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 1:2; *Shulḥan Arukh*, *Ḥoshen Mishpat* 276:1).

אֵימָא: הֵיכָא דְּלֵיכָא אָב דִּלְשְׁקוֹל נַחֲלָה – תִּתְקַיֵּים מִצְוַת יִבּוּם, הֵיכָא דְּאִיכָּא אָב, [דְּלָא] שָׁקֵיל נַחֲלָה – לֹא תִּתְקַיֵּים מִצְוַת יִבּוּם!

The Gemara asks: Since Rabbi Yehuda holds that the *halakha* that the *yavam* inherits from his brother, which is stated in the verses describing levirate marriage, applies only when the father is no longer alive, perhaps the other *halakhot* in those verses also apply only when the father is no longer alive, and accordingly one should **say: When there is no father** who is still alive, which means **that** the *yavam* **takes the inheritance,** only then **should the mitzva of levirate marriage apply,** but **when there is a father** who is still alive, which means **that** the *yavam* **does not take the inheritance,** in that case **the mitzva of levirate marriage should not apply.**

מִידֵּי יִבּוּם בְּנַחֲלָה תָּלֶה רַחֲמָנָא? יַבּוּמֵי מְיַבְּמֵי, וְאִי אִיכָּא נַחֲלָה – שְׁקוֹלֵי, וְאִי לָא – לָא שָׁקֵיל.

The Gemara rejects the possibility of saying this: **Does the Merciful One make** the mitzva of **levirate marriage dependent upon inheritance?**[N] Certainly not; rather, in all cases the *yavam* **should consummate the levirate marriage, and** then **if there is an inheritance** to which he is entitled, **he takes** it, **and if not, he does not take** it.

יָתִיב רַבִּי חֲנִינָא קָרָא קַמֵּיהּ דְּרַבִּי יַנַּאי, וְיָתִיב וְקָאָמַר: הֲלָכָה כְּרַבִּי יְהוּדָה. אָמַר לֵיהּ: פּוֹק קְרִי קָרְיָיךְ לְבָרָא, אֵין הֲלָכָה כְּרַבִּי יְהוּדָה.

Rabbi Ḥanina Kara, the Bible expert,[P] **was sitting before Rabbi Yannai, and he was sitting and saying:** The ***halakha* is in accordance with** the opinion of **Rabbi Yehuda.** Rabbi Yannai **said to him: Leave** the study hall **and recite your verses outside,** as you are incorrect in your ruling; in fact, the ***halakha* is not in accordance with** the opinion of **Rabbi Yehuda.**

תָּנֵי תַּנָּא קַמֵּיהּ דְּרַב נַחְמָן: אֵין הֲלָכָה כְּרַבִּי יְהוּדָה. אָמַר לֵיהּ: אֶלָּא כְּמַאן, כְּרַבָּנַן? פְּשִׁיטָא, יָחִיד וְרַבִּים הֲלָכָה כְּרַבִּים!

In another incident, **a *tanna***[N] who would recite *baraitot* in the study hall **taught** a *baraita* **before Rav Naḥman:** The ***halakha* is not in accordance with** the opinion of **Rabbi Yehuda. Rav Naḥman said to him: But** then it follows that **in accordance with whose** opinion is the *halakha*? It is the opinion of **the Rabbis.** The Gemara asks: But this fact **is obvious,** as in a dispute between **one** individual Sage **and many**[N] other Sages, the ***halakha*** is always decided in accordance with the opinion of **the many.**

אָמַר לֵיהּ: אִסְמְיֵיהּ?! אָמַר לֵיהּ: לָא, אַתְּ ״הֲלָכָה״ אַתְנֵייךְ, וּמוֹקְשָׁה הוּא דְּאַקְשֵׁי לָךְ, וְאַפְכְתְּ, וּלְמַאי דְּאַפְכְתְּ – שַׁפִּיר אַפְכְתְּ.

The *tanna* **said to him:** Are you saying that this statement in the *baraita* is unnecessary and so **I should remove that** ruling from the *baraita* when I recite it in the future? Rav Naḥman **said to him: No,** do not remove it, as although the statement is unnecessary, it is correct. Rav Naḥman explained further: It must be that originally the *baraita* that **you were taught** stated: The ***halakha*** is in accordance with the opinion of Rabbi Yehuda, and **that** ruling **was difficult for you** because you knew that the *halakha* is always decided in accordance with many, **and** so **you reversed** the statement of the *baraita* to say, as you presently recited it, that the *halakha* is not in accordance with the opinion of Rabbi Yehuda. **And** with regard to the manner in **which you reversed it, you reversed it well,** and therefore you should leave it in its current form.

מתני׳ הַחוֹלֵץ לִיבִמְתּוֹ – הוּא אָסוּר בְּקְרוֹבוֹתֶיהָ, וְהִיא אֲסוּרָה בְּקְרוֹבָיו.

MISHNA In the case of **one who performs *ḥalitza* with his *yevama,*** by rabbinic decree it is as though she had been married to him and then he divorced her. Consequently, **he is forbidden** to engage in relations **with her relatives**[H] **and she is forbidden** to engage in relations **with his relatives.**

NOTES

Does the Merciful One make levirate marriage dependent upon inheritance – מִידֵּי יִבּוּם בְּנַחֲלָה תָּלֶה רַחֲמָנָא: The Gemara elsewhere (see 17b) does appear to link the mitzva of levirate marriage with the ability to inherit the deceased brother's property. However, in truth, there is a clear distinction between the two discussions. The Gemara that links the two concerns the question of which fraternal relationships qualify for the mitzva to apply and establishes that only brothers who can inherit from one another are obligated in the mitzva of levirate marriage toward each other's wives. The Gemara here that states that the mitzva is not dependent on whether the *yavam* can inherit the deceased brother's property is discussing a case where the *yavam* has the appropriate fraternal relationship, but in the present circumstances he will not actually inherit from the deceased brother because the father is still alive. In summary, the relationship which creates the possibility of inheritance must exist in order for the mitzva to apply, but there is no need for the *yavam* to actually inherit from his brother (*Tosefot HaRosh*; *Tosafot Yeshanim*).

***Tanna* – תַּנָּא:** The *tanna* referred to here is not a Sage from the tannaitic period. Rather, the term refers to those who memorized large numbers of *mishnayot* and *baraitot* to be able to quote them for the Sages who were engaged in analysis. Occasionally, the Sage had to emend the versions of these sources that had become corrupted or that represented minority opinions that had been rejected.

It is obvious, as in a dispute between one and many, etc. – פְּשִׁיטָא, יָחִיד וְרַבִּים וכו׳: The early commentaries point out that apparently it is not so obvious that the *halakha* should be decided in accordance with the opinion of the Rabbis because the Gemara itself cites many Sages who in fact ruled in accordance with the opinion of Rabbi Yehuda, and many more rulings to this effect are cited in the Jerusalem Talmud. They explain that what truly troubled Rav Naḥman was not the actual ruling in accordance with the opinion of the Rabbis but the roundabout formulation of the *baraita*: If the *halakha* is indeed in accordance with the opinion of the Rabbis, why didn't it simply say so explicitly, since the reason to rule in accordance with their opinion is not because of some issue with Rabbi Yehuda's opinion but simply because they represent the majority (Rashba; Ritva).

PERSONALITIES

Rabbi Ḥanina Kara, the Bible expert – רַבִּי חֲנִינָא קָרָא: A second-generation *amora* in Eretz Yisrael, Rabbi Ḥanina was a disciple of Rabbi Ḥanina bar Ḥama, Rabbi Ḥanina the Great, and Rabbi Yannai. Apparently, Rabbi Ḥanina not only taught young children but was also a Bible expert, which is why he was called *Kara*, meaning: The reader. He is mentioned in the Talmud and the midrash in discussions with his two teachers, both on matters relating to his work and on other halakhic matters.

HALAKHA

One who performs *ḥalitza* with his *yevama* is forbidden to engage in relations with her relatives – הַחוֹלֵץ לִיבִמְתּוֹ אָסוּר בְּקְרוֹבוֹתֶיהָ: One who performs *ḥalitza* with his *yevama* is forbidden to her relatives, i.e., her mother, her mother's mother, etc., since by rabbinic decree it is considered as though she was actually married to him and then he divorced her. Similarly, she is forbidden to his relatives (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 1:13; *Shulḥan Arukh*, *Even HaEzer* 162:3).

HALAKHA

He is permitted to a relative of a rival wife of his *ḥalutza* – מוּתָּר בִּקְרוֹבַת צָרַת חֲלוּצָתוֹ: It is permitted to marry a sister or any other relatives of a rival wife of one's *ḥalutza* (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 1:13; *Shulḥan Arukh*, *Even HaEzer* 162:4).

He is forbidden to engage in relations with a rival wife of a relative of his *ḥalutza* – אָסוּר בְּצָרַת קְרוֹבַת חֲלוּצָתוֹ: If one performed *ḥalitza* with his *yevama*, and her sister or other relative was married to another brother, who also died, such that the relative and her rival wife happened before him for levirate marriage, then just as the relative of the *ḥalutza* is forbidden to him, so too, her rival wife is forbidden to him, and they must perform *ḥalitza* but may not consummate the levirate marriage. This is in accordance with the ruling of the Rambam and most of the commentaries (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 6:20; *Shulḥan Arukh*, *Even HaEzer* 162:5, 174:3).

הוּא אָסוּר בְּאִמָּהּ, וּבְאֵם אִמָּהּ, וּבְאֵם אָבִיהָ, וּבְבִתָּהּ, וּבְבַת בִּתָּהּ, וּבְבַת בְּנָהּ, וּבַאֲחוֹתָהּ בִּזְמַן שֶׁהִיא קַיֶּימֶת, וְהָאַחִין מוּתָּרִין.

Accordingly, **he is forbidden** to engage in relations **with her mother,**[N] **and with her mother's mother, and with her father's mother, and with her daughter, and with her daughter's daughter, and with her son's daughter, and with her sister while** his *yevama* **is** still **alive.** However, **the** other **brothers** who did not perform *ḥalitza* **are permitted** to her relatives.

וְהִיא אֲסוּרָה בְּאָבִיו, וּבַאֲבִי אָבִיו, וּבִבְנוֹ, וּבְבֶן בְּנוֹ, בְּאָחִיו, וּבְבֶן אָחִיו.

And she is forbidden to engage in relations **with his father,**[N] **and with his father's father, and with his son, and with his son's son, and with his brother, and with his brother's son.**

מוּתָּר אָדָם בִּקְרוֹבַת צָרַת חֲלוּצָתוֹ, וְאָסוּר בְּצָרַת קְרוֹבַת חֲלוּצָתוֹ.

The mishna states an additional principle: **A man is permitted** to engage in relations **with a relative of a rival wife of his *ḥalutza*,**[H] i.e., his *yevama* with whom he performed *ḥalitza*. Since he did not perform *ḥalitza* with her, she is not regarded as though she had actually been married to him. However, **he is forbidden** to engage in relations **with a rival wife of a relative of his *ḥalutza*,**[HN] i.e., in addition to being forbidden to the relatives of his *ḥalutza*, he is also forbidden to their rival wives.

גמ׳ אִיבַּעְיָא לְהוּ: גָּזְרוּ שְׁנִיּוֹת בַּחֲלוּצָה אוֹ לָא?

GEMARA **A dilemma was raised before** the Sages: In addition to the Torah prohibition against engaging in relations with one's wife's close relatives, the Sages decreed that it is also prohibited to engage in relations with one's wife's secondary relatives, i.e., those who are less closely related and so are permitted by Torah law. Since the Sages decreed that a *ḥalutza* is to be regarded as though she had actually been married to the one who performed *ḥalitza*, such that her close relatives are forbidden to him, did **they** also **decree** that the prohibition of **secondary** forbidden **relationships** should also apply **in** the case of **a *ḥalutza*, or not?**

NOTES

He is forbidden to engage in relations with her mother, etc. – הוּא אָסוּר בְּאִמָּהּ וכו׳: The prohibition against engaging in relations with the relatives of one's wife continues to remain in force even should the couple divorce. By Torah law this prohibition applies only in a case of a true marriage. However, by rabbinic law the prohibition is also applied to a *yavam* and *yevama* by virtue of the levirate bond between them, which, in certain respects, is akin to a marriage. It is explained in the Jerusalem Talmud that although the levirate bond is sufficient to generate a prohibition while the bond exists, nevertheless, unlike a true marriage, that prohibition does not continue once the bond is dissolved. Therefore, if the *yevama* dies, the prohibition ends immediately and the relatives of the *yevama* are again permitted to all of the brothers; this is also true in a case in which one of the brothers performs *ḥalitza*, since *ḥalitza* dissolves the levirate bond. However, in that case, the Sages decreed that with respect to the brother who actually performed *ḥalitza*, the prohibition continues. This is due to the fact that *ḥalitza* is viewed as equivalent to a divorce, and therefore the Sages decreed that with respect to the brother who actually performed *ḥalitza* the prohibition continues as though he had actually been married to the *yevama* and then divorced her.

And she is forbidden to engage in relations with his father, etc. – וְהִיא אֲסוּרָה בְּאָבִיו וכו׳: The commentaries note that some of the relatives listed in the mishna are forbidden irrespective of the fact that the *yavam* performed *ḥalitza*. For example, the *yevama* is forbidden to the father of the one who performed *ḥalitza* by virtue of the fact that he is also the father of her deceased husband, and therefore she is forbidden to him as his daughter-in-law. Therefore, while conceding that in fact it was not necessary to list all of the relatives in the mishna, the commentaries explain that for the sake of completeness the mishna chose to list them all (*Gilyon Maharsha*, citing Responsa of Rabbi Shmuel Abuhav).

He is forbidden to engage in relations with a rival wife of a relative of his *ḥalutza* – אָסוּר בְּצָרַת קְרוֹבַת חֲלוּצָתוֹ: Rashi describes the case very simply: If the *ḥalutza* had a relative, e.g., a sister, and that relative was married to a man who had another wife, then that wife would also be forbidden. However, the Ramban, the Rashba, and many others question Rashi's explanation (see *Tosafot* on 41a): If Rashi is correct, it emerges that the *halakha* is stricter with regard to the relatives of a *ḥalutza*, who are forbidden by rabbinic decree, than with the relatives who are forbidden by Torah law, since the *halakha* permits one to engage in relations with the rival wives of relatives forbidden by Torah law. Therefore, many of the early commentaries (see the *Halakhot Gedolot*, Rambam, and Rid) explain that the mishna's prohibition applies only in a case in which both the relative and her rival wife are also bound by a levirate bond to the same brother. This could occur if a brother performed *ḥalitza* with his *yavama* and then his brother married a female relative of the first brother's *ḥalutza* and an additional wife, and then he died. The relative and her rival wife would then be bound by a levirate bond to the first brother. Since it is prohibited for the first brother to consummate the levirate marriage with the relative, since she is the relative of his *ḥalutza*, it is also prohibited for him to consummate the levirate marriage with her rival wife.

The *Yam shel Shlomo* defends Rashi's opinion and notes that it would appear that both the Rif and Rabbeinu Ḥananel also understood this in the same manner. He explains that it is true that according to this opinion a unique stringency exists in the case of a *ḥalutza* but suggests that this is the meaning of the Gemara's question at the end of this *amud*: What is different about this woman, the relative of the rival wife, who is permitted, and what is different about that woman, the rival wife of a relative, who is forbidden? The Gemara explains there that this stringency is necessary because since the case is very complex, people might not appreciate all of the nuances of the case and draw incorrect conclusions from it. To prevent any misunderstanding, the Sages decreed that the rival wife should be forbidden as well, similar to the standard case of a levirate bond with a forbidden relative and a rival wife (see *Arukh LaNer*).

בָּעֲרָוָה דְּאוֹרַיְיתָא גָּזְרוּ בְּהוּ רַבָּנַן שְׁנִיּוֹת, בְּחַלּוּצָה לָא גָּזְרוּ רַבָּנַן שְׁנִיּוֹת, אוֹ דִּלְמָא לָא שְׁנָא?

The Gemara presents the sides of the dilemma: Did **the Sages decree** that the prohibition of **secondary** forbidden **relationships** applies only **in** a case where there is a relative with whom **relations** are **forbidden by Torah** law, but **in** the case of a ***ḥalutza,*** whose relatives are forbidden only by rabbinic decree, **they did not decree** that there should be a prohibition of **secondary** forbidden **relationships? Or perhaps** the case of a ***ḥalutza* is no different,**[H] and since the basis of the rabbinic prohibition applying to her relatives is that it is considered as though she had actually been married to her *yavam*, the prohibition should extend to her secondary relatives as well?

תָּא שְׁמַע: ״הוּא אָסוּר בְּאִמָּהּ וּבְאֵם אִמָּהּ״, וְאִילּוּ ״אֵם אֵם אִמָּהּ״ – לָא קָתָנֵי.

The Gemara suggests: **Come** and **hear** a proof from the mishna: A *yavam* **is prohibited** from engaging in relations **with** the **mother of** his *ḥalutza* **and with her mother's mother. However,** the mishna **does not teach** that it is prohibited to engage in relations with **her mother's mother's mother,** which is one of the secondary relationships. This would suggest that the prohibition of secondary relationships does not apply in this case.

דִּלְמָא הַיְינוּ טַעֲמָא דְּלָא תָּנֵי – מִשּׁוּם דְּקָבָעֵי לְמֵיתְנֵי סֵיפָא ״וְהָאַחִין מוּתָּרִין״, וְאִי תָּנָא ״אֵם אֵם אִמָּהּ״ הֲוָה אָמֵינָא: הָאַחִין מוּתָּרִין דַּוְקָא בְּאֵם אֵם אִמָּהּ, אֲבָל בְּאֵם אִמָּהּ וּבְאִמָּהּ לָא.

The Gemara rejects the proof: **Perhaps this is the reason that** the mishna **does not teach** that case, **because it needs to teach in the latter clause:** However, **the** other **brothers** who did not perform *ḥalitza* **are permitted** to her relatives. **And if it** had **taught** the prohibition of **her mother's mother's mother** in the first clause, **I would** mistakenly **say** that **the brothers are permitted specifically to her mother's mother's mother, but not to her mother's mother.** Therefore, no proof can be adduced from that case of the mishna.

וְלֵיתְנֵי ״אֵם אֵם אִמָּהּ״ וְלֵיתְנֵי ״הָאַחִין מוּתָּרִין בְּכוּלָּן״! קַשְׁיָא.

The Gemara objects: **But** if he is forbidden to the great-grandmother, then **let it teach: Her mother's mother's mother** in the first clause, **and** then **let it teach: The brothers are permitted to all of them,** in the latter clause. This would avoid the concern stated above. The fact that the mishna did not do so would suggest that he is not forbidden to the great-grandmother, or any other secondary relatives. The Gemara concludes: Indeed, this is **difficult,** but still inconclusive.

תָּא שְׁמַע: הִיא אֲסוּרָה בְּאָבִיו וּבַאֲבִי אָבִיו. קָתָנֵי מֵיהָא אֲבִי אָבִיו, מַאי לָאו – מִשּׁוּם חוֹלֵץ, דְּהָוְיָא לָהּ כַּלַּת בְּנוֹ!

The Gemara suggests: **Come** and **hear** another proof from the mishna: **She is prohibited** from engaging in relations **with his father, and with his father's father.** The Gemara explains the proof: **In any case,** the mishna **teaches** that she is forbidden to **his father's father. What, is it not** that she is forbidden to him **due to** the rabbinic decree that it is considered as though she had actually been married to **the one who performed *ḥalitza*** with her, and therefore she is forbidden to the grandfather because **she is considered to be** the grandfather's **son's daughter-in-law,** i.e., the wife of one of the grandfather's grandsons, which is a secondary relationship? If so, the mishna explicitly demonstrates that the prohibition of secondary relationships also applies in the case of a *ḥalutza*.

לָא, מִשּׁוּם מִיתְנָא, דְּהָוְיָא לָהּ כַּלַּת בְּנוֹ.

The Gemara rejects the proof: **No,** she is forbidden to his grandfather **due to** her previous marriage with **the deceased,** whose relatives are forbidden to her by Torah law, and it is due to that relationship **that she is considered** the grandfather's **son's daughter-in-law.** Therefore, no proof can be adduced from that case of the mishna.

תָּא שְׁמַע: וּבֶן בְּנוֹ. מַאי לָאו – מִשּׁוּם חוֹלֵץ, דְּהָוְיָא לָהּ (מִשּׁוּם) אֵשֶׁת אֲבִי אָבִיו!

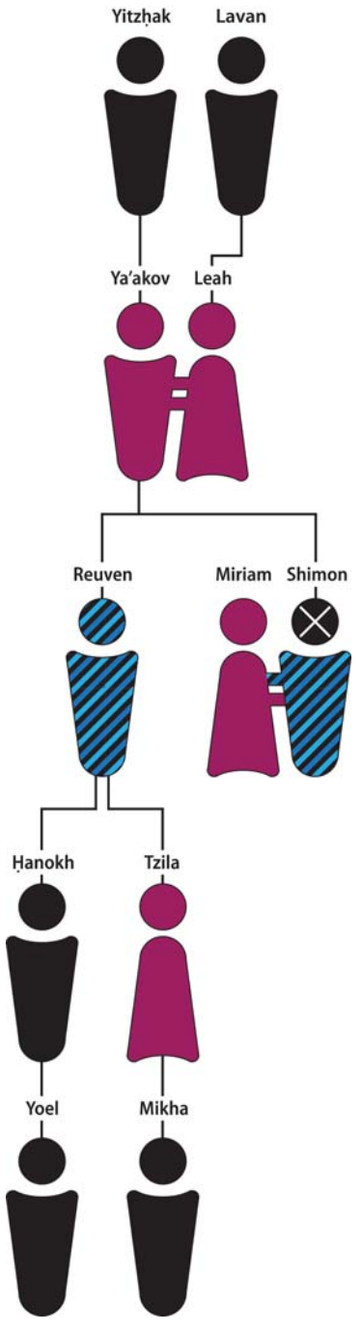
The Gemara suggests: **Come** and **hear** another proof from the mishna: **And** she is prohibited from engaging in relations **with his son's son.** The Gemara explains the proof: **What, is it not** that she is forbidden to him **due to** the rabbinic decree that it is considered as though she had actually been married to **the one who performed *ḥalitza*** with her, and **she is** therefore forbidden to his grandson because **she is considered to be the wife** of that grandson's **father's father,** which is a secondary relationship? If so, the mishna explicitly demonstrates that the prohibition of secondary relationships also applies in the case of a *ḥalutza*.

HALAKHA

שְׁנִיּוֹת – בְּחַלּוּצָה Secondary forbidden relationships of a *ḥalutza*: Just as the Sages prohibited relations with secondary relatives in the case of relatives who are forbidden by Torah law, they also prohibited relations with secondary relatives in the case of a *ḥalutza*. This is in accordance with the conclusion of the Gemara (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 1:12; *Shulḥan Arukh*, *Even HaEzer* 162:3).

BACKGROUND

She is forbidden to his son's son – אֲסוּרָה בִּבֶּן בְּנוֹ: For example, Reuven and Shimon are the sons of Ya'akov and Leah. Shimon married Miriam and died childless, so that Miriam happened before Reuven for levirate marriage. Reuven performed *ḥalitza* with Miriam. Accordingly, Miriam is forbidden to Reuven's relatives as follows: She is forbidden to Reuven's paternal grandfather, Yitzḥak, since she is the daughter-in-law of his son, and she is forbidden to Reuven's maternal grandfather, Lavan, since she is the daughter-in-law of his daughter. She is also forbidden to Yoel and Mikha, the sons of Reuven's son and daughter, respectively. The reason she is forbidden to Yoel is both because it is considered as though she had actually been married to Reuven and therefore she is considered to be the wife of Yoel's paternal grandfather, and also because she was married to Shimon and therefore she was the wife of Yoel's paternal grandfather's brother. She is forbidden to Mikha due to the fact that it is considered as though she had actually been married to Reuven and therefore she is considered to be the wife of Mikha's maternal grandfather, which is a secondary forbidden relationship. However she would not be forbidden due to the fact that she was married to Shimon, because that renders her the wife of the brother of Mikha's maternal grandfather, which is a permitted relationship.



לָא, מְשׁוּם מִיתְנָא, וְהָוְיָא לָהּ אֵשֶׁת אֲחִי אֲבִי אָבִיו.

The Gemara rejects the proof: **No,** she is forbidden to his grandson **due to** her previous marriage with **the deceased,** whose relatives are forbidden to her by Torah law, and it is due to that relationship that **she is considered to be the wife of a brother of** that grandson's **father's father,** which is also a forbidden secondary relationship. Therefore, no proof can be adduced from that case of the mishna.

הָא אֲמֵימַר מַכְשַׁר בְּאֵשֶׁת אֲחִי אֲבִי אָבִיו!

The Gemara asks: **But Ameimar rules permissible** the marriage of a man **to the wife of a brother of** that man's **father's father.** Accordingly, the prohibition in the mishna cannot be due to that relationship.

אֲמֵימַר מוֹקֵי לָהּ בִּבַר בְּרָא דְּסָבָא.

The Gemara explains: **Ameimar** would **establish** the mishna's case of: His son's son, as referring to engaging in relations **with a son of a son of the grandfather.** The mishna states that she is forbidden to his father, to his father's father, to his son, and to his son's son. The Gemara assumed that antecedent of the pronoun: His, in the phrase: To his son and to his son's son, is the one who performed *ḥalitza*. As such, the mishna teaches that she is forbidden to the son and grandson of the one who performed *ḥalitza* with her, which are secondary relationships. Ameimar, however, would claim the antecedent of this pronoun is the father's father, which immediately precedes it in the mishna. As such, the mishna is teaching that she is forbidden to the grandfather of the one who performed *ḥalitza* with her, to that grandfather's sons, i.e., the brothers of the deceased, and to the grandfather's sons' sons, i.e., the nephews of the deceased. The *yevama* is forbidden to these relatives by Torah law. Therefore, no proof can be derived from that case of the mishna.

אִי הָכִי, הַיְינוּ אָחִיו וּבֶן אָחִיו! תָּנָא אָחִיו מִן הָאָב, וְקָתָנֵי אָחִיו מִן הָאֵם

The Gemara challenges this understanding of: His son and his son's son: But **if so, these** relatives **are** none other than **his brother and the son of his brother,** who are already explicitly mentioned in the mishna. The Gemara explains: This is not a case of unnecessary repetition because the mishna first **teaches** that she is forbidden to **his paternal** half **brother and** then **teaches** that she is forbidden to **his maternal** half **brother** as well.

תָּא שְׁמַע, דְּתָנֵי רַבִּי חִיָּיא: אַרְבַּע מִדִּבְרֵי תוֹרָה, וְאַרְבַּע מִדִּבְרֵי סוֹפְרִים. אָב וּבְנוֹ, אָחִיו וּבֶן אָחִיו – מִדִּבְרֵי תוֹרָה, אֲבִי אָבִיו וַאֲבִי אִמּוֹ, בֶּן בְּנוֹ, וּבֶן בִּתּוֹ – מִדִּבְרֵי סוֹפְרִים.

The Gemara suggests: **Come** and **hear** a proof from a *baraita* **that Rabbi Ḥiyya taught:** Of the relatives who are forbidden to a *ḥalutza*, **four** are forbidden **by Torah law and four by rabbinic law,** as follows: **The father** of the deceased husband, **and his son,**[N] **his brother, and his brother's son** are forbidden **by Torah law; his father's father, and his mother's father, his son's son,**[B] **and his daughter's son** are forbidden **by rabbinic law.**

קָתָנֵי מִיהָא אֲבִי אָבִיו, מַאי לָאו מְשׁוּם חוֹלֵץ, וְהָוְיָא לָהּ כַּלַּת בְּנוֹ!

In any case, the *baraita* **teaches** that she is forbidden to **his father's father. What, is it not** that she is forbidden to him **due to** the rabbinic decree that it is considered as though she had actually been married to **the one who performed *ḥalitza*** with her, and therefore she is forbidden to the grandfather because **she is considered to be** the grandfather's **son's daughter-in-law,** which is a secondary forbidden relationship? This would prove that the prohibition of secondary relationships applies in the case of a *ḥalutza*.

NOTES

The father and his son, etc. – אָב וּבְנוֹ וכו': Most commentaries explain that the phrase: The father and his son, in the *baraita* is referring to the father and son of the one who performed *ḥalitza*. The difficulty with this understanding is that the *baraita* continues to mention the prohibition of the brother of the one who performed *ḥalitza* and the brother's son, even though both the son of the one who performed *ḥalitza* and the son of his brother are forbidden to the *ḥalutza* for the identical reason that they are the sons of her deceased husband's brother. The commentaries concede this point and explain that the mishna wished to organize those forbidden to the *ḥalutza* by their relationship to the one who performed *ḥalitza*. The Maharam MiRotenburg suggests an explanation that avoids this difficulty. He interprets the reference: His son, not as a reference to the son of the one who performed *ḥalitza* but to the son of the father of the one who performed *ḥalitza*, who is mentioned immediately before. As such, it refers to the paternal half brother of the one who performed *ḥalitza*. He then proceeds to explain that when the *baraita* continues to refer to the brother of the one who performed *ḥalitza*, the reference is to his maternal half brother (*Tosefot HaRosh*).

לָא, מְשׁוּם מִיתְנָא, דְּהָוְיָא לָהּ כַּלַּת בְּנוֹ.

The Gemara rejects the proof: **No,** she is forbidden **due to** her previous marriage with **the deceased,** whose relatives are forbidden to her by Torah law, and it is due to that relationship that **she is considered** the grandfather's **son's daughter-in-law.** Therefore, no proof can be adduced from that case of the *baraita*.

תָּא שְׁמַע: אֲבִי אִמּוֹ – מַאי לָאו מְשׁוּם חוֹלֵץ, דְּהָוְיָא לָהּ כַּלַּת בִּתּוֹ!

The Gemara proceeds to consider whether proof may be adduced from each of the other secondary relationships listed in the *baraita*: **Come** and **hear** a proof from that which the *baraita* teaches: She is forbidden to **his mother's father.** The Gemara explains the proof: **What, is it not** that she is forbidden to him **due to** the rabbinic decree that it is considered as though she had actually been married to **the one who performed *ḥalitza*** with her, and therefore she is forbidden to the grandfather because **she is considered to be** the grandfather's **daughter's daughter-in-law,** which is a secondary relationship? This would prove that the prohibition of secondary relationships applies in the case of a *ḥalutza*.

לָא, מְשׁוּם מִיתְנָא, דְּהָוְיָא לָהּ כַּלַּת בִּתּוֹ.

The Gemara rejects the proof: **No,** she is forbidden **due to** her previous marriage with **the deceased,** whose relatives are forbidden to her by Torah law, and it is due to that relationship that **she is considered** the grandfather's **daughter's daughter-in-law.** Therefore, no proof can be adduced from that case of the *baraita*.

תָּא שְׁמַע: וּבֶן בְּנוֹ, מַאי לָאו מְשׁוּם חוֹלֵץ, דְּהָוְיָא לָהּ אֵשֶׁת אֲבִי אָבִיו!

Come and **hear** a proof from that which the *baraita* teaches: **And** she is forbidden to **his son's son.** The Gemara explains the proof: **What, is it not** that she is forbidden to him **due to** the rabbinic decree that it is considered as though she had actually been married to **the one who performed *ḥalitza*** with her, and so she is forbidden to his grandson because **she is considered to be the wife** of that grandson's **father's father,** which is a secondary relationship? If so, the *baraita* explicitly demonstrates that the prohibition of secondary relationships applies in the case of a *ḥalutza*.

לָא, מְשׁוּם מִיתְנָא, וְהָוְיָא לָהּ אֵשֶׁת אֲחִי אֲבִי אָבִיו.

The Gemara rejects the proof: **No,** she is forbidden to his grandson **due to** her previous marriage with **the deceased,** whose relatives are forbidden to her by Torah law, and due to that relationship **she is considered to be the wife of a brother of** that grandson's **father's father,** which is also a forbidden secondary relationship. Therefore, no proof can be adduced from that case of the *baraita*.

וְהָא אֲמֵימַר מַכְשִׁיר בְּאֵשֶׁת אֲחִי אֲבִי אָבִיו! אֲמֵימַר מוֹקִים לָהּ מְשׁוּם חוֹלֵץ, וְקָסָבַר גָּזְרוּ שְׁנִיּוֹת בַּחֲלוּצָה.

The Gemara asks: **But didn't Ameimar rule permissible** the marriage of a man **with the wife of a brother of his father's father?** Accordingly, the prohibition in the mishna cannot be due to that relationship. The Gemara concedes: **Ameimar** would **establish** the mishna's case of: His son's son, **as** being **due to** the rabbinic decree that it is considered as though she had actually been married to **the one who performed *ḥalitza*** with her, **and** as such it is evident that **he holds** that the Sages **decreed** that the prohibition of **secondary** forbidden **relationships** should apply **in** the case of **a *ḥalutza*.**

תָּא שְׁמַע: וּבֶן בִּתּוֹ, מַאי לָאו מְשׁוּם חוֹלֵץ, דְּהָוְיָא לָהּ אֵשֶׁת אֲבִי אִמּוֹ!

The Gemara continues to seek proof for those who disagree with Ameimar: **Come** and **hear** a proof from that which the *baraita* teaches: **And** she is forbidden to **his daughter's son.** The Gemara explains the proof: **What, is it not** that she is forbidden to him **due to** the rabbinic decree that it is considered as though she had actually been married to the **one who performed *ḥalitza*** with her, and so **she is** forbidden to his grandson because **she is considered to be the wife** of that grandson's **mother's father,** which is a secondary relationship? If so, the *baraita* explicitly demonstrates that the prohibition of secondary relationships applies in the case of a *ḥalutza*.

לָא, מְשׁוּם מִיתְנָא דְּהָוְיָא לָהּ אֵשֶׁת אֲחִי אֲבִי אִמּוֹ. וְהָא גַּבֵּי שְׁנִיּוֹת דְּעֶרְוָה לָא גָּזְרוּ!

The Gemara rejects the proof: **No,** she is forbidden to his grandson **due to** her previous marriage with **the deceased,** whose relatives are forbidden to her by Torah law, and due to that relationship **she is considered to be the wife of a brother of** the grandson's **mother's father.** The Gemara challenges this: **But** the Sages did **not decree** that such a person is included **among** those relatives who are forbidden as **secondary** forbidden **relationships.**

PERSONALITIES

Rav Tovi bar Kisna – רַב טוֹבִי בַּר קִיסְנָא: A second-generation *amora* who lived in Babylonia, Rav Tovi was a disciple of Shmuel, and most of his statements cite his teacher as their source. He is also known as Rav Tavi bar Kisna (*Eiruvin* 104b) and Rav Tavyomi bar Kisna (*Menaḥot* 70a).

אֶלָּא לָאו מִשּׁוּם חוֹלֵץ, וּשְׁמַע מִינָּה: גָּזְרוּ שְׁנֵיּוֹת בַּחֲלוּצָה, שְׁמַע מִינָּה.

Rather, is it not, as the Gemara initially assumed, that she is forbidden to him **due to** the rabbinic decree that it is considered as though she had actually been married to **the one who performed *ḥalitza*** with her, **and** therefore must one not **conclude from** this case that the Sages **decreed** that the prohibition of **secondary** forbidden **relationships** should apply **in** the case of **a *ḥalutza*?** The Gemara confirms: One should indeed **conclude from it** that this is so.

״מוּתָּר אָדָם״ וכו׳. אָמַר רַב טוֹבִי בַּר קִיסְנָא אָמַר שְׁמוּאֵל: הַבָּא עַל צָרַת חֲלוּצָה – הַוָּלָד מַמְזֵר. מַאי טַעְמָא – בְּאִיסּוּרָהּ קַיְימָא.

§ The mishna states: **A man is permitted** to engage in relations with a relative of a rival wife of his *ḥalutza*; however, he is prohibited from engaging in relations with a rival wife of a relative of his *ḥalutza*. The Gemara cites a ruling: **Rav Tovi bar Kisna**[P] **said** that **Shmuel said:** With regard to **one who engages in intercourse with a rival wife of** his ***ḥalutza*, the offspring** of that union **is a *mamzer*. What is the reason** for this ruling? It is that **she remains in her** original **prohibition.**

Normally, it is prohibited to engage in relations with one's brother's wife. However, when there is a mitzva to consummate levirate marriage, that prohibition does not apply, due to the levirate bond between the *yavam* and *yevama*. Although following *ḥalitza* the levirate bond is dissolved, the woman's status as a *ḥalutza* means that only the lesser prohibition against marrying a *ḥalutza* applies to her, and she does not return to her original forbidden status. Shmuel claims that the rival wives of the *ḥalutza* are not considered to be represented in her act of *ḥalitza*; consequently, they are not afforded a status similar to that of the *ḥalutza* herself. Therefore, he assumes that following *ḥalitza* the rival wives once again become subject to the original prohibition against marrying a brother's wife. Since that prohibition entails *karet*, any offspring born from such a union is a *mamzer*.

אָמַר רַב יוֹסֵף: אַף אֲנַן נַמִי תָּנֵינָא: מוּתָּר אָדָם בִּקְרוֹבַת צָרַת חֲלוּצָתוֹ. אִי אָמְרַתְּ בִּשְׁלָמָא צָרָה אַבְּרָאי – מִשּׁוּם הָכִי מוּתָּר בַּאֲחוֹתָהּ.

Rav Yosef said: We, too, learned this though an inference from the mishna: **A man is permitted** to engage in relations **with a relative of a rival wife of his *ḥalutza*.** Rav Yosef explains the inference: **Granted, if you say** that **a rival wife is outside,** i.e., she is not represented in the *ḥalitza* of the *ḥalutza* and so she is not afforded a status similar to that of the *ḥalutza* herself, then it is **due to that** reason that **he is permitted** to engage in relations **with her sister** and other relatives, because since they are not the relatives of his *ḥalutza*, there is no reason for them to be forbidden.

אֶלָּא אִי אָמְרַתְּ צָרָה כַּחֲלוּצָה דָּמְיָא – אַמַּאי מוּתָּר?

However, if you say that **a rival wife is** afforded a status **similar to** that of **the *ḥalutza*** herself, **why is he permitted** to her relatives? Rather, from the fact that the relatives of the rival wives are permitted, it is apparent that the rival wives are not represented in the *ḥalitza*. As such, it follows that they should return to their original forbidden status of a brother's wives, as Shmuel claims.

לֵימָא תִּיהֲוֵי תְּיוּבְתָּא דְּרַבִּי יוֹחָנָן, דְּאָמַר: בֵּין הוּא בֵּין אַחִין אֵין חַיָּבִין לֹא עַל הַחֲלוּצָה כָּרֵת, וְלֹא עַל צָרָתָהּ כָּרֵת!

The Gemara suggests: **Shall we say,** then, that this mishna **is a conclusive refutation of** the opinion of **Rabbi Yoḥanan?**[N] **As** Rabbi Yoḥanan **said: Neither he** who performed the *ḥalitza* **nor his brothers are liable to** receive ***karet*;** they are **neither** liable to receive ***karet* on account of** engaging in relations with **the *ḥalutza*, nor** are they liable to receive ***karet* on account of** engaging in relations with **her rival wife.**

NOTES

Shall we say that this is a conclusive refutation of the opinion of Rabbi Yoḥanan – לֵימָא תִּיהֲוֵי תְּיוּבְתָּא דְּרַבִּי יוֹחָנָן: An objection to Rabbi Yoḥanan's opinion could be raised on different grounds: According to his opinion a rival wife is considered as though she herself had performed *ḥalitza*, since the *ḥalutza* is considered to have represented her in the act of *ḥalitza*, and furthermore, all of the brothers are considered as though they had themselves performed the *ḥalitza* since they were all represented by the brother who actually performed the act of *ḥalitza*. In that case, why aren't all of the brothers forbidden to the relatives of all of the rival wives? The commentaries explain that clearly the suggested explanation for the prohibition with regard to the rival wives of the relatives of the *ḥalutza*, i.e., that the relatives accompany her to court, does not exist when it comes to the brothers, who do not accompany each other to court (see Ritva). Moreover, since the prohibition is only rabbinic in nature, the Sages were not so stringent as to render the relative of a rival wife like the *ḥalutza* herself (*Tosafot*; Meiri).

אָמַר לָךְ רַבִּי יוֹחָנָן: וְתִסְבְּרָא אֲחוֹת חֲלוּצָה דְּאוֹרַיְיתָא? וְהָאָמַר רֵישׁ לָקִישׁ: כָּאן שָׁנָה רַבִּי: אֲחוֹת גְּרוּשָׁה – מִדִּבְרֵי תּוֹרָה, אֲחוֹת חֲלוּצָה – מִדִּבְרֵי סוֹפְרִים.

The Gemara responds: **Rabbi Yoḥanan** could have **said to you: But** how can **you understand** it that way? Why do you assume that if the rival wives are considered to be represented in the *ḥalitza* that perforce means that their relatives should be forbidden to the *yavam*? Is **a sister of** one's ***ḥalutza*** forbidden **by Torah** law**? Didn't Reish Lakish say** with regard to another mishna (41a): **Here, Rabbi** Yehuda HaNasi **taught:** Engaging in relations with **a sister of** one's **divorcée** is forbidden **by Torah law,** whereas engaging with **a sister of** one's ***ḥalutza* is** forbidden **by rabbinic law.** Since the prohibition with regard to the relatives of one's *ḥalutza* is rabbinic, it is reasonable to assume that it was applied to only the wife who actually performed *ḥalitza* and not extended to her rival wives, even if they are considered to be represented in her *ḥalitza* to the extent that they do not return to their original forbidden status.

מַאי שְׁנָא הַאי, וּמַאי שְׁנָא הַאי?

§ The Gemara questions the distinction indicated by the mishna: **What is different** about **this** woman, the relative of a rival wife of one's *ḥalutza*, that she is permitted, **and what is different** about **that** woman, the rival wife of a relative of one's *ḥalutza*, that she is forbidden?

Perek **IV**
Daf **41** Amud **a**

הַךְ דְּאָזְלָא בַּהֲדָהּ לְבֵי דִּינָא – גָּזְרוּ בְּהוּ רַבָּנַן, הַאי דְּלָא אָזְלָא בַּהֲדָהּ לְבֵי דִּינָא – לָא גָּזְרוּ בְּהוּ רַבָּנַן.

The Gemara explains: With regard to **that** woman, the relative of the *ḥalutza*, **who** often **goes together with** the *ḥalutza*[N] **to court,** since she is present in the court during the *ḥalitza*, people might mistakenly assume that it was she who actually performed *ḥalitza*. Were the *yavam* permitted to marry her rival wife, people might incorrectly conclude that it is permitted to marry the rival wife of one's *ḥalutza*. To preclude this possibility, **the Sages decreed with regard to her** that her rival wife should be forbidden. However, with regard to **this** woman, the rival wife of the *ḥalutza*, **who does not go together with** the *ḥalutza* **to court,** since she is never present in the court during the *ḥalitza*, there is no concern that people will mistake her for the *ḥalutza* herself. Consequently, **the Sages did not** see any reason to **decree with regard to her** that her relatives should be forbidden.

מתני׳ הַחוֹלֵץ לְיִבְמְתּוֹ, וְנָשָׂא אָחִיו אֶת אֲחוֹתָהּ, וָמֵת – חוֹלֶצֶת וְלֹא מִתְיַבֶּמֶת. וְכֵן הַמְגָרֵשׁ אֶת אִשְׁתּוֹ, וְנָשָׂא אָחִיו אֶת אֲחוֹתָהּ וָמֵת – הֲרֵי זוֹ פְּטוּרָה.

MISHNA In the case of a *yavam* **who performed *ḥalitza* with his *yevama* and** then **his brother married her sister**[H] **and died,** the sister **performs *ḥalitza*** with the *yavam*, **but she may not enter into levirate marriage** with him, since as a sister of his *ḥalutza* she is forbidden to him. **And similarly,** in the case of **one who divorced his wife and his brother married her sister and died,**[H] **then that** woman **is exempt** both from *ḥalitza* and from consummating levirate marriage, since as the sister of his former wife she is forbidden to him.

HALAKHA

One who performed *ḥalitza* with his *yevama* and then his brother married her sister – הַחוֹלֵץ לְיִבְמְתּוֹ וְנָשָׂא אָחִיו אֶת אֲחוֹתָהּ: If a *yavam* performed *ḥalitza* with his *yevama* and then his brother married her sister or one of her other relatives, and then the brother died, the sister or other relative happens for levirate marriage before the *yavam* who originally performed the *ḥalitza*. However, as a relative of his *ḥalutza*, she is forbidden to him. Therefore, she performs *ḥalitza* but may not consummate the levirate marriage. Similarly, her rival wife performs *ḥalitza* but may not enter into levirate marriage (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 6:20; *Shulḥan Arukh*, *Even HaEzer* 174:3).

The sister of his divorcée – אֲחוֹת גְּרוּשָׁתוֹ: If one divorces his wife and then her sister falls before him for levirate marriage, she is exempt from both *ḥalitza* and from levirate marriage because, as long as his former wife is alive, her sister is prohibited by Torah law from engaging in relations with him (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 6:9; *Shulḥan Arukh*, *Even HaEzer* 173:1).

NOTES

That woman who goes together with the *ḥalutza* – הַךְ דְּאָזְלָא בַּהֲדָהּ: The version of the Gemara cited here has: That woman who goes together with her. Based on this version, Rashi, Rabbeinu Ḥananel, and the Rif explain that: Goes with her, is referring to people that accompany the *ḥalutza* to court. Based on this, they explain that since the relative of the *ḥalutza* accompanies her to court, some people might mistakenly think that it was the relative who performed *ḥalitza*. Therefore, it is necessary to render the rival wife of the relative of the *ḥalutza* forbidden, just as the rival wife of the *ḥalutza* herself is forbidden. However, since the rival wife never accompanies the *ḥalutza*, there is no concern that people might mistakenly think she performed the *ḥalitza*, and so there is no need to render her relatives forbidden.

Tosafot and other early commentaries challenge this explanation; *Yam shel Shlomo* suggests a defense of Rashi's opinion. *Tosafot* themselves suggest that a different version of the Gemara is preferable, which states: That woman who goes with him, where him refers to the *yavam* who performed the *ḥalitza*. Accordingly, the Gemara's distinction is simply between the *ḥalutza*, who actually underwent the *ḥalitza*, and her rival wives, who did not. The Sages expanded the prohibition only to the relatives of the former. The Ramban writes that this version is to be preferred but he questions the authenticity of this version of the text.

Based on the present version of the Gemara, the Maharam MiRotenburg suggests a third interpretation. He understands that the Gemara is referring to a point in time after the *ḥalitza* has already been performed, when the relatives of the *ḥalutza* go to court to inquire as to their status. At that point, the relatives of the *ḥalutza* are instructed that they may not marry the *yavam*. The Gemara states that since the relatives are accompanied by their rival wives, and there is a possibility that people will confuse them, the Sages also rendered the rivals wives of the relatives forbidden (*Tosefot HaRosh*).