

אלמא אחות אשתו בין מן האב
בין מן האם אסורות. מנלן? וליף
מאחותו, מה אחרות – בין מן האב
בין מן האם, אף כאן בין מן האב
בין מן האם.

ולילף מדודתו, מה דודתו – מן האב
ולא מן האם, אף כאן – מן האב
ולא מן האם! מסתברא, מאחרותו
היה ליה למילף, שכן קרובי עצמו
מקרובי עצמו.

אדרבה, מדודתו היה ליה למילף
שכן דבר על ידי קדושין מדבר שעל
ידי קדושין אלא: מאשת אח ילפינן,
דשכן דבר על ידי קדושין, וקרובי
עצמו.

ואשת אח גופה מנא לן? דתנא:
”ערוות אשת אחיך לא תגלה” בין
מן האב בין מן האם.

אתה אומר בין מן האב בין מן
האם, או אינו אלא מן האב ולא
מן האם? ודין הוא: חייב כאן, וחייב
באחרותו, מה אחרותו – בין מן האב
בין מן האם, אף כאן – בין מן האב
בין מן האם.

או בלך לדרך זו: חייב כאן וחייב
בדודתו, מה דודתו – מן האב ולא
מן האם, אף כאן – מן האב ולא מן
האם?

נראה למי דומה; דמין קרובי עצמו
מקרובי עצמו, ואל תוכיח דודתו
שקרובי האב, או בלך לדרך זו: דמין
דבר שעל ידי קדושין מדבר שעל ידי
קדושין, ואל תוכיח אחרותו שאיסור
הבא מאלו?

Apparently, this mishna indicates that **his wife’s sister,^{NH} whether from the father, i.e., a paternal sister, or from the mother, i.e., a maternal sister, is forbidden. From where do we derive this halakha** that the prohibition applies even to his wife’s maternal sister? The Gemara responds: **It is derived from the prohibition proscribing his sister. Just as his sister is forbidden whether she is his sister from his father or from his mother, so too here, a wife’s sister is forbidden whether from the father or from the mother.**

The Gemara challenges the validity of this source: **And let it be derived from the halakha with regard to his aunt: Just as the prohibition with regard to his aunt applies only to the wife of his father’s brother from his father but not from his mother, i.e., the wife of his father’s paternal brother but not the wife of his father’s maternal brother, so too here, the prohibition with regard to his wife’s sister should apply only to her sister from her father but not to her sister from her mother.** The Gemara answers: **It is reasonable that he should derive the halakha in this case from the case of his sister, as the tanna thereby derives the halakha of one’s own relatives from another case of his own relatives, whereas his aunt is forbidden as his father’s relative.**

The Gemara counters: **On the contrary, he should derive the halakha in this instance from the case of his aunt, as he thereby derives the halakha in a matter prohibited through betrothal from another matter prohibited through betrothal.** The Gemara concludes: **Rather, the halakha of a wife’s sister is derived from that of a brother’s wife,^{NH} as they are both something forbidden by means of betrothal and they are his own relatives.**

The Gemara asks: **And in the case of a brother’s wife itself, from where do we derive that the prohibition applies to the wife of both a paternal and a maternal brother? As it is taught in a baraita: “You shall not uncover the nakedness of your brother’s wife” (Leviticus 18:16),** which indicates: **Whether from the father or from the mother.**

The baraita elaborates: **Do you say the prohibition applies whether she is the wife of one’s brother from his father or from his mother, i.e., whether she is the wife of one’s paternal brother or maternal brother? Or perhaps it is only the wife of one’s brother from his father and not from his mother? It may be inferred logically from the fact that the Torah rendered him liable here and rendered him liable with regard to his sister: just as with regard to his sister he is liable to receive punishment whether she is his sister from his father or from his mother, so too here, he is liable to receive punishment whether she is the wife of his brother from his father or from his mother.**

Or perhaps go this way and compare this case to the case of an aunt. The Torah rendered him liable here and rendered him liable with regard to his aunt, i.e., the wife of his father’s brother: **Just as with regard to his aunt, he is liable to receive punishment only for the wife of his father’s brother from his father and not for the wife of his father’s brother from his mother, so too here, he is liable to receive punishment only for the wife of his brother from his father and not from his mother.**

The Gemara analyzes these two possibilities: **Let us see to which case it is more similar. We should derive the halakha with regard to his own relatives, i.e., his brother’s wife, from another case of his own relatives, i.e., his sister, and the halakha with regard to his aunt cannot be used to prove otherwise, as she is his father’s relative. Or perhaps go this way: We should derive the halakha of a matter prohibited through betrothal, i.e., a brother’s wife, from another matter prohibited through betrothal, i.e., his father’s brother’s wife, and the halakha with regard to his sister cannot be used to prove otherwise, as it is a prohibition that comes on its own.**

NOTES

אלמא אחות אשתו וכו' – Apparently, his wife’s sister, etc. The proof that his wife’s maternal sister is forbidden is from the ruling that the third woman is permitted to him. The implication is that she is permitted only because the marriage of the second woman was void. However, if that marriage had been valid, the woman would be forbidden because she is the maternal sister of the second woman (Rashi; see *Tosefot HaRosh*).

The halakha of a wife’s sister is derived from that of a brother’s wife – מאשת אח ילפינן – The Ramban, who perhaps had a slightly different version of the text, explains as follows: The definition of brotherhood can be derived from the case of a brother’s wife, as it is clear from the verses that the relationship is the same whether they are paternal or maternal brothers (see *Tosafot*). By extension, a maternal sister is also considered a sister. Furthermore, although one cannot administer corporal punishment for prohibitions derived from logical analysis, in this case the prohibition itself is written explicitly in the Torah, and it is the definition of the term sister that is derived on the basis of the comparison to a brother’s wife.

HALAKHA

The prohibition proscribing a wife’s sister – איסור אחרות – אשתו: The sister of one’s wife is forbidden to him as long as his wife is alive. This applies both to paternal and maternal sisters, including those born out of wedlock (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:9; *Shulhan Arukh, Even HaEzer* 15:26).

A brother’s wife – אשת אח – The wife of one’s brother is forbidden to him. This applies to both paternal and maternal brothers, including brothers born out of wedlock (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:2; *Shulhan Arukh, Even HaEzer* 15:22).

תלמוד לומר "ערוות אחיך היא" בין מן
האב בין מן האם.

Since it is impossible to prove which *halakha* should serve as the model for the case of a brother's wife, the verse states a second time in the same verse: "It is your brother's nakedness" (Leviticus 18:16), in order to emphasize that she is forbidden whether she is the wife of his brother from his father or from his mother.

ואימא: אידי ואידי באשת אח מן האב,
חדא - דיש לה בנים בחיי בעלה, וחדא -
דאין לה בנים בחיי בעלה. אין לה בנים
בחיי בעלה - מדרב הונא נפקא!

The Gemara challenges this interpretation of the extra phrase in the verse: Say that both this first part of the verse and that latter part refer to the wife of a brother from the father, i.e., the wife of one's paternal brother. As for the repetition, one part of the verse renders prohibited a woman who has children, who is prohibited from marrying her husband's brother during her husband's lifetime even after they are divorced, and the other one renders prohibited a woman who does not have children, who is also prohibited from marrying her husband's brother during her husband's lifetime, even after she is divorced. The Gemara responds: The prohibition proscribing a woman who does not have children for the duration of her husband's lifetime is derived from the statement of Rav Huna (54b), and it requires no further source.

ואימא: אידי ואידי באשת אח מן האב,
חדא - דיש לה בנים בחיי בעלה, וחדא -
דיש לה בנים לאחר מיתת בעלה!

The Gemara presents another challenge: Say that both this first part of the verse and that latter part refer to the wife of a brother from the father, i.e., the wife of one's paternal brother. As for the repetition, one part of the verse renders a woman who has children prohibited from marrying her husband's brother for the duration of her husband's lifetime, even after she is divorced, and the other one renders prohibited a woman who has children and indicates that it is prohibited for her to marry her husband's brother even after her husband's death.

יש לה בנים לאחר מיתת בעלה לא
צריכא קרא, מדאמר רחמנא שאין לה
בנים מותרת - הא יש לה בנים אסורה.

The Gemara responds: The *halakha* that it is prohibited for a woman who has children to marry her husband's brother even after her husband's death does not require a verse. From the fact that the Merciful One says that one who has no children is permitted to marry the brother after her husband's death, it can be inferred that if she has children, it is prohibited for her to marry her husband's brother.

ודלמא: אין לה בנים - אסורה לעלמא
ושריא ליבם. יש לה בנים - שריא לעלמא
ושריא ליבם! אי נמי: אין לה בנים - מצודה,
יש לה בנים - רשות.

The Gemara raises another challenge: But perhaps if she does not have children it is prohibited for her to marry everyone else and permitted for her to marry her *yavam*, as specified by the Torah. However, if she does have children it is permitted for her to marry everyone and it is permitted for her to marry her *yavam* as well. Alternatively, perhaps if she does not have children it is a *mitzva* for her husband's brother to marry her, and if she does have children it is optional. Consequently, the extra phrase in the verse should be necessary in order to indicate that the prohibition against marriage applies in all of these cases.

אי נמי: אין לה בנים - אין, יש לה בנים -
לא, ולאו הבא מכלל עשה - עשה!

Alternatively, if she does not have children, yes, she is permitted to her husband's brother, and if she does have children, no, she is not permitted to him, but the punishment of *karet* does not apply to this prohibition. This is because the source of the prohibition is the *mitzva* for them to marry after the husband's death, and a prohibition that stems from a positive *mitzva* has the status of a positive *mitzva*, but nothing more. Consequently, the extra phrase in the verse should be necessary in order to indicate that the punishment of *karet* is still applicable.

כתב קרא אחרונא: "ערוות אחי גלה".

The Gemara responds: The Torah wrote a different verse to teach that the prohibition against marrying one's brother's wife is in full force, including the punishment of *karet*, in these cases: "He has uncovered his brother's nakedness; they shall be childless" (Leviticus 20:21). Therefore, the extra phrase mentioned in the *baraita* can indicate that the prohibition against marrying one's brother's wife applies both to the wife of a paternal brother and to the wife of a maternal brother.

She shall remain after her husband's death as she is during his life – **היא בהיותה תהא**: The mitzva of levirate marriage applies only to the wife of one's paternal brother. The wife of a maternal brother remains forbidden forever (Rambam *Sefer Kedusha, Hilkhot Yibbum* 2:2; *Shulhan Arukh, Even HaEzer* 157:1).

ואימא אשת אח מן האם באשת אח מן האב: מה אשת אח מן האב – לאחר מיתת בעלה שריא, אף אשת אח מן האם – לאחר מיתת בעלה שריא! אמר קרא "היא" בהיותה תהא.

The Gemara suggests: Say that the *halakha* of the wife of a brother from one's mother should be just like that of the wife of a brother from his father: Just as the wife of a brother from one's father is permitted, i.e., one can marry her, after her husband's death, so too, the wife of a brother from his mother should be permitted after her husband's death. The Gemara responds: The verse states: "She is your brother's nakedness," thereby emphasizing that she shall remain after her husband's death as she is during his life.⁴

אחותו דכתב בה כרת למה לי?

§ The Gemara above stated that all of the instances of forbidden intercourse are compared to one another. Therefore, since there is already a verse that states: "For whoever shall do any of these abominations, the souls that do them shall be cut off from among their people" (Leviticus 18:29), the Gemara asks: Why do I need the phrase written with regard to one's sister that states that intercourse is punishable by *karet*?

לכדרכי יוחנן. דאמר רבי יוחנן: שאם עשאן כולם בהעלם אחת – חייב על כל אחת ואחת.

The Gemara answers that it is necessary for that which Rabbi Yoḥanan said, as Rabbi Yoḥanan said that if he performed all of them, i.e., he violated every prohibition against engaging in forbidden intercourse in a single lapse of awareness, he is liable to receive punishment for each and every one. One might have thought that there is one prohibition against engaging in forbidden intercourse, and many different ways to violate the prohibition. Therefore, if one violated the prohibition in different ways during one lapse of awareness, one is liable to bring only one sin-offering. This verse therefore indicates that each act of intercourse with a relative with whom intercourse is forbidden is a violation of an independent prohibition.

ולרבי יצחק, דאמר: כל חייבי כריתות – בכלל היו, ולמה יצתה כרת באחותו – לדונו בכרת ולא במלקות, לחלק מנלן?

The Gemara asks: And according to Rabbi Yitzḥak, who said that all forbidden relations for which one is liable to receive *karet* were included in the verse: "The souls that do them shall be cut off from among their people," why was the punishment of *karet* with regard to one's sister singled out? In order to sentence him to *karet* and not to flogging. Although he has violated a prohibition, which generally carries a punishment of flogging, he is not flogged due to the fact that he is liable to receive the more severe punishment of *karet*. Since he has used the verse to teach this *halakha*, from where do we know to divide the prohibitions against engaging in forbidden intercourse and consider each an independent prohibition?

נפקא ליה: מ'ואל אשה בנדת טומאתה' לחייב על כל אשה ואשה.

The Gemara answers: He derives it from the verse "And you shall not approach a woman to uncover her nakedness as long as she is impure by her uncleanness" (Leviticus 18:19), which serves to render him liable to receive punishment for each and every woman.

דודתו דכתב בה רחמנא "עריצים יהיו" למה לי? לכדרכי רב. דרבה רמי: בתיב "עריצים יהיו" וכתביב "עריצים ימתו"! הא ביצד? יש לו בנים – קוברן, אין לו בנים – הולך עריץ.

The Gemara poses another question: Why do I need the phrase that the Merciful One writes with regard to one's aunt,⁵ which states: They shall be childless?⁶ The death of one's children is included in the punishment of *karet*, and it has already been established that all of the forbidden intercourse is punishable by *karet*. The Gemara answers that it is necessary for that which Rabba said, as Rabba raised a contradiction: It is written with regard to one who had intercourse with his brother's wife: "They shall be childless" (Leviticus 20:22), and it also states with regard to one who had intercourse with his aunt: "They shall die childless" (Leviticus 20:21). How so? If he already has children, he will eventually bury them; if he does not have children, he will go childless.

NOTES

The phrase the Merciful One writes with regard to one's aunt, etc. – דודתו דכתב בה רחמנא וכו'. Many commentaries have noted that the phrase "They shall be childless" (Leviticus 20:21) does not appear in the context of an aunt, but rather in the context of a brother's wife. In the context of an aunt, the Torah states: "They shall die childless" (Leviticus 20:20). In fact,

there were medieval commentaries whose texts of the Gemara stated: Why do I need the phrase the Merciful One writes with regard to one's aunt that states: "They shall die childless."

עריצים – Why do I need the phrase... They shall be childless – יהיו למה לי? The commentaries note that this supports Rashi's

opinion that being childless is included in the punishment of *karet*, whereas it is difficult to explain this according to the opinion of the Riva, who maintains that being childless is a special punishment in addition to *karet*, which simply consists of the offender's life being cut short (see *Tosafot* on 2a and *Yam shel Shlomo*).

NOTES

A designated maidservant – שפחה חרופה: Rashi explains that a designated maidservant is a Canaanite maidservant betrothed to a Hebrew servant. A Hebrew servant is permitted to marry such a woman, but she is forbidden to all other Jews.

HALAKHA

The initial stage of intercourse with regard to those liable for violating prohibitions and positive mitzvot – העראה בחיבי: The initial stage of intercourse is considered sexual intercourse with regard to all forbidden relations, including those prohibited due to both negative and positive mitzvot. The one exception is the case of a designated maidservant (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 1:10).

ואיצטרויך למכתב "עירי ימתי" וואי צטרויך למכתב "עירי ימתי". דאי כתב רחמנא "עירי ימתי" הוה אמינא: עד חטאיה, אבל מחטאיה ואלך – לא, כתב רחמנא "עירי ימתי". ואי כתב רחמנא "עירי ימתי" הוה אמינא: מחטאיה ואלך, אבל מעיקרא – לא, צריכא.

The Gemara comments: **And it is necessary to state: They shall be childless, and it is also necessary to state: They shall die childless.** As, if the Merciful One had written only: **They shall be childless, I would have said that only those children he had before his sin will die, but those born to him from the time of his sin and on, no, they will not die.** The Torah therefore states: **They shall die childless**, indicating that even if he has children afterward they will die and he will remain childless. **And similarly, if the Merciful One had written only: They shall die childless, I would have said that this is referring to children born from the time of his sin and on, but those born from the beginning, before he sinned, no, they will not die.** It is therefore necessary to mention both expressions.

העראה בחיבי לאוין מנלן?

S The Gemara above (54a–54b) derived that the initial stage of intercourse is considered an act of sexual intercourse with regard to prohibitions that are punishable by capital punishment or *karet*. The Gemara asks: **From where do we derive that the initial stage of intercourse is considered an act of sexual intercourse with regard to those liable to receive punishment for violating ordinary Torah prohibitions?**

מדגלי רחמנא "שכבת זרע" גבי שפחה חרופה – מכלל דחיבי לאוין בהעראה.

The Gemara answers: **From the fact that the Merciful One reveals with regard to a designated maidservantⁿ that the prohibition has been violated only through an act of cohabitation with seed, i.e., a complete act of sexual intercourse, in the verse "And whoever lies with a woman in cohabitation with seed, and she is a bondmaid designated to a man" (Leviticus 19:20), by inference, those liable to receive punishment for violating ordinary prohibitions are liable even through the initial stage of intercourse.**

אדרבה, מדגלי רחמנא העראה בחיבי כריתות – מכלל דחיבי לאוין בגמר ביאה! אמר רב אשי: אם כן לשתוק קרא משפחה חרופה.

The Gemara responds: **On the contrary, from the fact that the Merciful One reveals that the initial stage of intercourse is considered sexual intercourse with regard to forbidden relationships for which one is liable to receive *karet*, then, by inference, those liable for violating ordinary prohibitions are liable only through the completion of the act of sexual intercourse and not merely for the initial stage of intercourse.** Rav Ashi said: **If so, let the verse remain silent in the case of a designated maidservant, and it would be assumed that one is liable to receive punishment only for completing the act of sexual intercourse.** The fact that the Torah specified that in this case one is liable to receive punishment only for completing the act of sexual intercourse indicates that with regard to other ordinary prohibitions one is liable even for the initial stage of intercourse.

העראה בחיבי לאוין דכהונה מנלן? אתיא "קיהה" "קיהה".

The Gemara asks: **From where do we derive that the initial stage of intercourse is considered an act of sexual intercourse with regard to those liable to receive punishment for violating prohibitions specific to the priesthood?** Since these prohibitions are unique in that they apply only to priests, their parameters cannot be derived from prohibitions that apply to the entire population. The Gemara answers: **It is derived from a verbal analogy between the words taking and taking.** This verb appears in prohibitions punishable by *karet*, e.g., "And if a man shall take his sister" (Leviticus 20:17), and in prohibitions of the priesthood, where it states: "They shall not take a woman that is a harlot" (Leviticus 21:7).

דחיבי עשה מנלן?

The Gemara asks further: **From where do we derive that the initial stage of intercourse is considered an act of sexual intercourse with regard to those liable to receive punishment for violating a positive mitzva,^h e.g., one who has intercourse with an Egyptian or Edomite convert?** The verse states: "The children that are born to them of the third generation may enter into the assembly of the Lord" (Deuteronomy 23:9). It is therefore a positive mitzva that only the grandchildren of these converts may have intercourse with a Jew.

אֲתֵיא בִיאָה "בִיאָה".

It is derived from a verbal analogy between the terms **entering** and **entering**. The verse states in the context of a prohibition: "A *mamzer* shall not enter into the assembly of the Lord" (Deuteronomy 23:3), and in the context of a prohibition derived from a positive mitzva: "The children that are born to them of the third generation may enter into the assembly of the Lord" (Deuteronomy 23:9). Consequently, these types of prohibitions are equated.

בְּמָה לְשׁוּק מְנַלֵּן? אִי לְמֵאן דְּאָמַר
לְאוּ - לְאוּ, אִי לְמֵאן דְּאָמַר עֵשָׂה -
עֵשָׂה.

The Gemara poses another question: **From where do we derive that the initial stage of intercourse is considered sexual intercourse with regard to the prohibition against a *yevama* having intercourse with a man from the general public?** The Gemara answers that there is no need for an independent source in this case: **If you are asking according to the one who said that this is an ordinary prohibition, it is a prohibition like any other. If you are asking according to the one who said that this is a positive mitzva,ⁿ it is a positive mitzva like any other.**

אֵלָא יְבָמָה לִיְבָם מְנַלֵּן? אֲתֵיא
"בִיאָה" "בִיאָה".

Rather, the question is as follows: **From where do we derive that a *yevama* is acquired by her *yavam* via the initial stage of intercourse?** The Gemara answers: **It is derived from a verbal analogy between the words *entering* and *entering*.** This verb is used with regard to ordinary Torah prohibitions, as mentioned above, and also with regard to levirate marriage, in the verse "Her brother-in-law will have intercourse with her" (Deuteronomy 25:5).

אִשָּׁה לְבַעֲלָהּ מְנַלֵּן? אֲתֵיא "קִיחָה"
"קִיחָה".

The Gemara asks further: **From where do we derive that a woman is betrothed to her husband through the initial stage of intercourse?**ⁿ The Gemara answers: **It is derived from a verbal analogy between the words *taking* and *taking*.** With regard to betrothal, the verse states: "When a man takes a wife and marries her" (Deuteronomy 24:1). This verb is also used with regard to forbidden intercourse, as in the verse: "And if a man shall take his sister" (Leviticus 20:17).

אָמַר רַבָּא: לְמָה לִי דְכַתְּבַר רַחֲמֵנָא
"שְׂכַבְתָּ זָרַע" בְּשִׁפְחָה חֲרוּפָה,
"שְׂכַבְתָּ זָרַע" בְּאִשְׁתֵּי אִישׁ, "שְׂכַבְתָּ
זָרַע" בְּסוֹטָה.

§ Rava said: Now that it has been established that the initial stage of intercourse is considered an act of sexual intercourse, **why do I need the expression "cohabitation with seed" (Leviticus 19:20) that the Merciful One writes with regard to a designated maidservant; the expression "cohabitation with seed" (Leviticus 18:20) written with regard to a married woman; and the expression "cohabitation with seed" (Numbers 5:13) written with regard to a *sota*?^b**

דְּשִׁפְחָה חֲרוּפָה - בְּדָאֲמֵר. דְּאִשְׁתֵּי
אִישׁ - פְּרִט לְמִשְׁמֵשׁ מֵת.

The Gemara explains that the expression is necessary with regard to a **designated maidservant as we said above (55a)**, because it indicates that one is liable to receive punishment only for a complete act of intercourse with a designated maidservant^h but not for the initial stage of intercourse. With regard to a **married woman**, the word **seed excludes one who has intercourse with a dead organ,^h i.e., one that is not erect, as this cannot lead to childbirth.**

הִנְיָחָא לְמֵאן דְּאָמַר מִשְׁמֵשׁ מֵת
בְּעֵרְוֹת פְּטוּר, אֵלָא לְמֵאן דְּאָמַר
חַיִּיב - מֵאִי אִיכָא לְמִימְרָא? אֵלָא
פְּרִט לְמִשְׁמֵשׁ מֵת. דְּסָלְקָא דְעֵתְךָ
אָמֵינָא: [הַזֵּאִיל] לְאַחַר מִיתָה נִמְי
אִיקְרִי שְׂאָרוֹ, אִימָא לִיחַיִּיב עָלָה
בְּאִשְׁתֵּי אִישׁ - קָא מִשְׁמַע לֵן.

The Gemara questions this resolution: **This works out well according to the one who said that one who has intercourse while his organ is dead with those with whom relations are forbidden, is exempt, as this is not considered an act of intercourse. However, according to the one who said that he is liable, what is there to say? Rather, according to this opinion, the verse excludes one who has intercourse with a dead woman.^h As it might enter your mind to say: Since after death she is also called her husband's kin, say that one who had intercourse with her should be liable to receive punishment for committing adultery with a married woman. It therefore teaches us that intercourse with a dead woman is not considered intercourse at all.**

NOTES

If you are asking according to the one who said that this is a positive mitzva, etc. – **אִי לְמֵאן דְּאָמַר עֵשָׂה וכו' – Tosafot** omit this sentence, as they maintain that everyone agrees that a *yevama* who has intercourse with another man has transgressed a prohibition. Rabbeinu Hananel and most medieval commentaries concur. See the Ramban for an attempt to explain Rashi's opinion, which maintains this sentence.

From where do we derive that a woman is betrothed to her husband through the initial stage of intercourse – **אִשָּׁה לְבַעֲלָהּ מְנַלֵּן**: The commentaries point out an apparent contradiction between this passage and the Gemara in tractate *Kiddushin* (10a), which states that in the case of betrothal via intercourse, since the man is focused on the completion of the act, betrothal takes effect only at completion and not after the initial stage of intercourse (see Rif and *Tosafot*).

BACKGROUND

Sota – **סוֹטָה**: The Torah describes the procedure governing such a woman (Numbers 5:11–31). First, her husband warns her in the presence of witnesses against being alone together with a specific man about whom he is suspicious. If she disobeys this warning and is observed alone with that man, even though there is no concrete evidence that she actually committed adultery, she and her husband may no longer live together as man and wife until she has undergone the following ordeal to determine whether she has committed adultery. The woman, accompanied by her husband and two Torah scholars, is taken to the Temple in Jerusalem and forced by the priests to stand in a public place while holding the special meal-offering that she is required to bring. There she is again questioned about her behavior. If she continues to protest her fidelity and takes an oath to that effect, a scroll is brought and the curses of the *sota* mentioned in the Torah passage cited above are written on it. The scroll is submerged in a clay vessel filled with water taken from the Temple basin and some earth from the Temple floor, and the scroll's writing is dissolved in the water. She is then forced to drink that water. If she has committed adultery, in the words of the Torah, "her belly shall swell and her thigh shall fall away" (Numbers 5:27), until ultimately she dies from the water's curse. If she is innocent, the water will bring her blessing and she is permitted to resume normal marital relations with her husband.

HALAKHA

Intercourse with a designated maidservant – בִיאָה בְּשִׁפְחָה: The unique *halakha* of a designated maidservant is that one is liable to receive punishment only for a complete act of intercourse and only if it is performed in a typical manner (Rambam *Sefer Kedusha, Hilkhhot Issurei Bia* 3:15; *Tur, Even HaEzer* 20).

One who has intercourse with a dead organ – מִשְׁמֵשׁ מֵת: If one engages in a prohibited act of intercourse without an erection, but rather with a completely limp organ that he inserts manually, he is not liable to receive *karet* or lashes and he is certainly exempt from capital punishment. However, in accordance with the opinion of Rava in tractate *Shevuot* (18a), he is flogged by rabbinic decree (Rambam *Sefer Kedusha, Hilkhhot Issurei Bia* 1:11; *Tur, Even HaEzer* 20).

One who has intercourse with a dead woman – מִשְׁמֵשׁ מֵתָה: One who has intercourse with the corpse of a woman with whom relations are forbidden is exempt (Rambam *Sefer Kedusha, Hilkhhot Issurei Bia* 1:12; *Tur, Even HaEzer* 20).

BACKGROUND

The initial stage of intercourse – העראָה: The definition of the term intercourse is problematic in virtually all legal systems. One of the missing features in this discussion with regard to the initial stage of intercourse, discussed by later halakhic commentaries, is the exact definition of the female sexual organ. Regardless, it seems that the halakhic conclusion concerning the first stage of sexual contact is, to a great extent, a minimal degree of penetration of the penis into the vagina.

NOTES

A kiss, i.e., external contact of the sexual organs – נשיקה: It is noted in the Jerusalem Talmud that even according to Shmuel the contact must include a slight insertion of the organ.

דְּסוּטָה לְמָה לִי? לְכַדְתֵּנָא: "שְׁכַבְתָּ זֶרַע" פֶּרֶט לְדַבֵּר אַחֵר. מֵאֵי דְבַר אַחֵר? אָמַר רַב שִׁשְׁתִּי: פֶּרֶט לְשִׁקְיָנָא לָהּ שְׁלֵא בְּדַרְבָּה. אָמַר לִיָּה רַבָּא: "מִשְׁכָּבֵי אִשָּׁה" בְּתוֹב!

The Gemara addresses the third case: **Why do I need the expression cohabitation with seed in the context of a sota?** It is needed for that which is taught in a *baraita*, that the expression a cohabitation with seed excludes something else. The Gemara asks: **What is this something else?** Rav Sheshet said: **It excludes a case where the husband was jealous with regard to her** and warned her not to seclude herself and have atypical, i.e., anal, sexual intercourse with another man. Rava objected to this explanation and said to him: **It is written: "The cohabitations of a woman"** (Leviticus 18:22), indicating that there are two types of intercourse with a woman, and the same *halakha* applies to both.

אֵלָּא אָמַר רַבָּא: פֶּרֶט לְשִׁקְיָנָא לָהּ דְּרַךְ אַבְרַיִם. אָמַר לִיָּה אַבְיִי: פְּרִיעוּתָא אֶסַר רַחֲמֵנָא?

Rather, Rava said: **It excludes a situation where the husband was jealous with regard to her** and warned her not to seclude herself with another man and engage in intimate contact by way of other limbs. The verse indicates that the wife does not become prohibited to her husband if she secludes herself with the man after this warning. Abaye said to him: **Does the Merciful One prohibit a woman to her husband due merely to licentious behavior without sexual intercourse?** Since this behavior would not render a woman prohibited to her husband, it is obvious that a warning that explicitly mentions this behavior is insufficient to cause the woman to become a *sota* if she then secludes herself with the man.

אֵלָּא אָמַר אַבְיִי: פֶּרֶט לְשִׁקְיָנָא לָהּ בְּנִשְׁיָקָה. הִנֵּחָה לְמֵאֵן דְּאָמַר דְּעֵרָאָה זֶה הַכְּנַסְתָּ עֵטְרָה, אֵלָּא לְמֵאֵן דְּאָמַר זֶה נְשִׁיקָה – מֵאֵי אֵיבָא לְמִימְרֵי?

Rather, Abaye said: **It excludes a case where he was jealous with regard to her** and warned her not to seclude herself with another man and kiss, i.e., have external contact of the sexual organs. The Gemara asks: **This works out well according to the one who said that the definition of the initial stage of intercourse is the insertion of the corona;** therefore, mere external contact is not considered sexual intercourse. **However, according to the one who said that the definition of the initial stage of intercourse is a kiss, what is there to say?**

אֵלָּא, לְעוֹלָם לְשִׁקְיָנָא לָהּ דְּרַךְ אַבְרַיִם, וְאֵינְטְרִיךְ: סְלִקָא דְּעֵתְךָ אֲמִינָא: בְּקַפְיָא דְּבַעַל תְּלָה רַחֲמֵנָא, וְהָא קָא קְפִיד, קָא מְשַׁמְעֵ לֵן.

Rather, the expression: **Something else, in the baraita, is actually referring to a case where the husband was jealous with regard to her** and warned her not to seclude herself with another man and engage in intimate contact by way of other limbs. **And it is necessary to state that the woman does not become prohibited to her husband as a sota in this case, as it might enter your mind to say that the Merciful One made this halakha dependent on the husband's objection,** as it is his decision to warn his wife, and since he objects to contact of this nature, she becomes a *sota* if she secludes herself after this warning. The Torah therefore teaches us that this is not considered a warning.

אָמַר שְׁמוּאֵל: הִעֲרָאָה זֶה נְשִׁיקָה, מְשַׁל לְאָדָם שְׁמוּנִיחַ אֲצַבְעוֹ עַל פִּי – אֵי אֲפָשָׁר שְׁלֵא יִדְחֹק הַבָּשָׂר.

§ The Gemara returns to the precise definition of the initial stage of intercourse. Shmuel said: **The definition of the initial stage of intercourse³ is a kiss, i.e., external contact of the sexual organs.⁴** Shmuel explains: **This is comparable to a person who places his finger on his mouth; it is impossible that he not press the flesh of his lips.** Similarly, when there is contact of the sexual organs, there will certainly be at least a small amount of penetration, and this is considered an act of sexual intercourse.

כִּי אָתָּא רַבָּה בַּר בַּר חַנָּה אָמַר רַבִּי יוֹחָנָן: גָּמַר בִּיאָה בְּשִׁפְחָה חֲרוּפָה – זֶה הַכְּנַסְתָּ עֵטְרָה. מִתּוֹב רַב שִׁשְׁתִּי: "שְׁכַבְתָּ זֶרַע" אֵינֻ חַיִּיב אֵלָּא עַל בִּיאַת הַמִּירוּק. מֵאֵי לָאוּ – מִירוּק גִּיד? לֵא, מִירוּק עֵטְרָה.

When Rabba bar bar Hana came from Eretz Yisrael, he said that Rabbi Yohanan said: **The completion of intercourse stated with regard to a designated maidservant is the insertion of the corona, and no more.** Rav Sheshet raised an objection based upon the following *baraita*: The phrase **cohabitation with seed** indicates that **one is liable to receive punishment only for a complete act of sexual intercourse.** **What, does this not refer to the complete insertion of the member?** The Gemara responds: **No,** it is possible that it is referring to the **complete insertion of the corona.**

When Rav Dimi came – **כִּי אָתָּא רַב דִּימִי** – Rav Dimi was one of the Sages who would often travel from Eretz Yisrael to Babylonia, primarily to transmit the Torah of Eretz Yisrael to the Torah centers of the Diaspora, although occasionally he traveled on business as well. Consequently, many questions, particularly those concerning the Torah of Eretz Yisrael, remained unresolved until the messenger from Zion, Rav Dimi, would arrive and elucidate the *halakha*, the novel expression, or the unique circumstances pertaining to a particular statement that required clarification.

HALAKHA

What is the initial stage of intercourse – **מִהָּיָא הָעֲרָאָה** – The initial stage of intercourse is the insertion of the corona. Anything less than this is called mere external contact, for which one is exempt. The *halakha* is in accordance with the opinion of Ravin and Rav Shmuel bar Yehuda in the name of Rabbi Yoḥanan (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 1:10; *Shulḥan Arukh*, *Even HaEzer* 20:1, and in the comment of Rema; see *Beit Shmuel*).

HALAKHA

What does it mean that he has acquired his *yevama* – **מֵאִי קָנָה**: If a priest performed a deficient act of intercourse with his *yevama*, meaning that he did not intend to thereby perform levirate marriage, and she had merely been betrothed to the deceased brother, she may not partake of *teruma* and they are not considered fully married. Some say that the same applies if he intended to perform levirate marriage, but performed only the initial stage of intercourse. However, if she had been not only betrothed but also married to the deceased brother, even a deficient act of intercourse effects levirate marriage, and she may partake of *teruma*, as she had in the past. The *halakha* is in accordance with the opinion of Rav as presented in the second interpretation of the dispute between Rav and Shmuel (Rambam *Sefer Zera'im*, *Hilkhot Terumat* 8:6; *Shulḥan Arukh*, *Even HaEzer* 166:9).

כִּי אָתָּא רַב דִּימִי אָמַר רַבִּי יוֹחָנָן: הָעֲרָאָה – זו הַכְּנַסַּת עֲטָרָה. אָמַר לֵיהּ: וְהָא רַבָּה בַּר בַּר חָנָה לֹא אָמַר דְּכִי? אָמַר לֵהּ: אוֹ אִיהוּ שְׁקֵרָאֵי אוֹ אֲנָא שְׁקֵרִי.

When Rav Dimi came^b from Eretz Yisrael he said that Rabbi Yoḥanan said: The definition of the initial stage of intercourse is the insertion of the corona. They said to him: But Rabba bar bar Ḥana did not say so, as he taught that Rabbi Yoḥanan said that the insertion of the corona constitutes a complete act of sexual intercourse and is not considered merely the initial stage of intercourse. He said to them: Either he lied or I am lying. There is clearly a contradiction, and one of us cited Rabbi Yoḥanan's opinion incorrectly.

כִּי אָתָּא רַבִּין אָמַר רַבִּי יוֹחָנָן: הָעֲרָאָה זו הַכְּנַסַּת עֲטָרָה. אֲדִרְבָּה בַּר בַּר חָנָה – וְדָאֵי פְּלִיגֵי אֲדִשְׁמוּאֵל מִי לִימָא פְּלִיגֵי!

When Ravin came from Eretz Yisrael he said that Rabbi Yoḥanan said: The definition of the initial stage of intercourse is the insertion of the corona. The Gemara comments: He certainly disagrees with Rabba bar bar Ḥana, who cited Rabbi Yoḥanan as stating that insertion of the corona constitutes a complete act of sexual intercourse. Shall we say that he also disagrees with Shmuel, who defined the initial stage of intercourse as external contact of the sexual organs?

לֹא, מִנְשִׁיקָהּ וְעַד הַכְּנַסַּת עֲטָרָה – הָעֲרָאָה קָרִי לָהּ.

The Gemara responds: No; it is possible that there is no dispute between them, and Ravin said that Rabbi Yoḥanan calls the entire process from a kiss until the insertion of the corona the initial stage of intercourse, while anything beyond that point is a complete act of sexual intercourse.

כִּי אָתָּא רַב שְׁמוּאֵל בַּר יְהוּדָה אָמַר רַבִּי יוֹחָנָן הָעֲרָאָה – זו הַכְּנַסַּת עֲטָרָה, גָּמַר בֵּיאָה – גָּמַר בֵּיאָה מִמֶּשׁ.

When Rav Shmuel bar Yehuda came from Eretz Yisrael he reported that Rabbi Yoḥanan said: The definition of the initial stage of intercourse is the insertion of the corona,^h whereas a complete act of sexual intercourse is literally a complete act of sexual intercourse, i.e., insertion of the male organ beyond the corona.

Perek VI

Daf 56 Amud a

מִכַּאֲן וְאִילָךְ אֵינוֹ אֶלָּא נְשִׁיקָהּ, וּפְטוּר עָלֶיהָ. וּפְלִיגֵי אֲדִשְׁמוּאֵל.

From this point forward, insertion of anything less than the corona is only considered a kiss, for which he is exempt. And this statement disagrees with that of Shmuel, who maintains that one is liable to receive punishment for external contact of the sexual organs.

“אֶחָד הַמְעַרָה וְאֶחָד הַגּוֹמֵר קָנָה.” מֵאִי קָנָה? רַב אָמַר: קָנָה לְכָל. וּשְׁמוּאֵל אָמַר: לֹא קָנָה אֶלָּא לְדִבְרִים הָאֲמוּרִים בַּפְּרָשָׁה: לִירֵשׁ בְּנִכְסֵי אָחִיו, וּלְפֻטְרָה מִן הַיְיָבוּם.

It was taught in the mishna that both one who merely engages in the initial stage of intercourse and one who completes the act of intercourse have thereby acquired the *yevama*. The Gemara asks: What does it mean that he has acquired his *yevama*?^{nh} Rav said: He has acquired her for everything. In other words, she is considered his wife in all regards. Therefore, if he is a priest, she may partake of *teruma*. And Shmuel said he has only acquired her with regard to the matters stated in the chapter of levirate marriage, i.e., to inherit his brother's property and to exempt her from levirate marriage if he then dies and leaves behind children from another wife.

NOTES

What does it mean that he has acquired his *yevama* – **מֵאִי קָנָה**: The commentaries disagree over the meaning of this passage. According to *Tosafot*, the Ramban, and the Rashba, the discussion concerns a case in which his intercourse was deficient because he did not intend thereby to perform levirate marriage. However, if he intended to perform levirate marriage and engaged only in the initial stage of intercourse, all agree that they are fully married, as this is considered a complete act of intercourse.

Conversely, the Rif apparently understood that the discussion also applies to anyone who performs only the initial stage of intercourse. The Rambam explicitly endorses this opinion as well.

According to this opinion, when the Gemara mentions unwitting and intentional intercourse, it is merely citing examples, but does not mean to exclude the case of one who performs only the initial stage of intercourse (Rabbi Avraham min HaHar). The *Arukh LaNer* claims that the Rif is consistent with his opinion above (see NOTES to 55b) that the initial stage of intercourse consummates a marriage only if the woman had previously been betrothed to the man. Consequently, the *amora'im* here dispute whether the levirate bond is sufficiently strong to allow the levirate marriage to be consummated via the initial stage of intercourse.