

HALAKHA

A grown woman and a woman whose hymen was torn accidentally, etc. – **בוגרת ומוכת עץ וכו'**: A High Priest may not marry a grown woman or a woman whose hymen was torn accidentally. Still, if he married one of these women, he is not forced to divorce her (Rambam *Sefer Kedusha, Hilkhoh Issurei Bia* 17:13–15).

“אם נשא – נשוי”. אמר רב הונא אמר רב: ומוציא בגט. ואלא הא דקתני: “אם נשא – נשוי!” אמר רב אחא בר יעקב: לומר

The Gemara analyzes this *baraita*. It states that if he married the woman that he himself raped or seduced, he is married. Rav Huna said that Rav said: And he must divorce her with a bill of divorce. The Gemara asks: But consider that which the *baraita* teaches: If he married her, he is married. Since it is obvious that the marriage is technically valid, it must be saying that they are permitted to remain married. Rav Aḥa bar Ya’akov said: No, it means to say

שאין משלם קנס במפותה.

that he does not pay the fine of a seduced woman.^N One who seduced a woman and does not wish to marry her must pay a fine (see Exodus 22:14–15). Since in this case he did marry her, he is not liable to pay the fine even though he is required to divorce her.

אזל רב גביה מבי כתייל, אמרה לשמעתיא קמיה דרב אשי. אמר ליה: והא רב ורבי יוחנן דאמרי תרווייהו: בוגרת ומוכת עץ – לא ישא, ואם נשא – נשוי.

The Gemara relates that when Rav Geviha went from Bei Ketil he stated this *halakha* before Rav Ashi, who said to him: Isn’t it Rav and Rabbi Yoḥanan who both say: A High Priest may not marry a grown woman and a woman whose hymen was torn accidentally,^H but if he married one of them he is married?^N

אלמא: סופה להיות בוגרת תחתיו, סופה להיות מוכת עץ תחתיו, הכא נמי – סופה להיות בעולה תחתיו! קשיא.

Apparently, the reason for this *halakha* is that since she will eventually be a grown woman under him, i.e., while married to him, and she will eventually be a woman whose hymen was torn under him, as she will not remain a virgin, they are permitted to remain married after the fact. Here too, in the case of a High Priest who married a woman he raped or seduced, since she will eventually be a non-virgin^N under him, the *baraita* should be understood as stating that they may remain married. The Gemara concludes: Indeed, this is difficult for Rav Huna.

“אנוסת חבירו ומפותת חבירו – לא ישא, ואם נשא, רבי אליעזר בן יעקב אומר: הולד חלל, וחכמים אומרים: הולד כשר”. אמר רב הונא אמר רב: הלכה כרבי אליעזר בן יעקב. וכן אמר רב גידל אמר רב: הלכה כרבי אליעזר בן יעקב.

The *baraita* cited above taught: With regard to a woman who was raped by another man and a woman seduced by another man, the High Priest may not marry her. And if he married her, Rabbi Eliezer ben Ya’akov says that the child born from this union is a *halal*, and the Rabbis say the lineage of the offspring is unflawed. Rav Huna said that Rav said: The *halakha* is in accordance with the opinion of Rabbi Eliezer ben Ya’akov. And, so too, Rav Giddel said that Rav said: The *halakha* is in accordance with the opinion of Rabbi Eliezer ben Ya’akov.

NOTES

That he does not pay the fine of a seduced woman – שאין משלם קנס במפותה: *Tosafot* ask: Since he is obligated to divorce her he must in any case pay her marriage contract. If so, what difference does it make whether he pays the sum as a fine or for the marriage contract? *Tosafot* offer several answers, one of which is that the Gemara is addressing Torah law, whereas the requirement that he divorce her and pay her marriage contract is by rabbinic law.

that a High Priest may not marry a woman whose hymen was accidentally torn.

A grown woman and a woman whose hymen was torn accidentally, but if he married one of them he is married – בוגרת ומוכת עץ... ואם נשא, נשוי: The Rashba asks what the source is for this ruling, as the mishna indicates simply that it is prohibited for a priest to be married to one of these women. He answers that Rav and Rabbi Yoḥanan rely on the *baraita* that states that a woman who had intercourse with an animal remains fit to marry a High Priest. This indicates that the definition of a virgin is one who has not had intercourse with a man. Consequently, a grown woman and a woman whose hymen was torn accidentally are also considered virgins.

Rav Huna explained the phrase: If he married one of them he is married, to mean that he is exempt from the fine but must divorce his wife. However, that interpretation is not applicable to the ruling of Rav and Rabbi Yoḥanan, as it does not address a case of rape or seduction, and therefore there is no fine involved. Consequently, the statement must be understood to mean that it is permitted for them to remain married (Rivan).

It should also be noted that there is an alternate version of the mishna which is cited in the Jerusalem Talmud. According to that version, there are *tanna'im* who disagree with the ruling

סופה להיות בעולה, etc. – סופה להיות בעולה וכו': According to this reasoning, why should there be a distinction between a woman that he himself raped or seduced and a woman who was raped or seduced by another man? The argument that she would eventually have become a non-virgin while married to him is equally relevant to both cases. The Ritva answers that there is a difference between the cases due to the greater level of disgrace when the woman has been raped or seduced by another man. He adds that perhaps the reason that some halakhic authorities ruled in accordance with the statement of Rav Huna, despite Rav Ashi’s question, is because they hold that there is disgrace even in the case of a woman that the priest himself raped or seduced.

Measures a *kav*, but is clean – קב ונקי: This statement appears in several places in the Talmud. The commentaries discuss whether this principle is applied in every instance or if certain distinctions should be specified. Should one apply this principle only in the case of a mishna, or can it be applied to a *baraita* as well? Is Rabbi Eliezer ben Ya'akov's opinion accepted only in disputes with a single authority, or even when it is contrary to the majority opinion? The consensus is that the opinion of Rabbi Eliezer ben Ya'akov is accepted in all instances, even in a *baraita* and even contrary to the majority opinion, except where the Gemara explicitly rules otherwise. There is an ancient tradition that statements ascribed to Rabbi Eliezer ben Ya'akov are mentioned in 102 places, the numerical value of the word *kav*, and that his opinion is accepted in all of these cases. Consequently, the Sages have an aphorism that his teaching measures a *kav*, a common unit of measurement, but is clean (see *Yad Malakhi; Seder HaDorot*).

There is a *halal* from a relationship for which the man and woman are liable for violating a positive mitzva – יוש חלל מחייבי עשה: Since there appears to be only one relationship included in this category, i.e., a High Priest who marries a non-virgin, why does the Gemara use the plural form: Those? One answer is that the woman herself becomes a *halala* and her children also become *halalim*. Furthermore, this ruling may impact other cases as well. If a woman has relations with a second-generation Egyptian convert, which constitutes the violation of a positive mitzva, she becomes a *zona*. If she then marries a priest, their children are *halalim*, based upon the violation of that original positive mitzva (*Arukh LaNer*).

But you do not cause your offspring to be a *halal* by having a child with a menstruating woman – ואי אתה עושה חלל מנדה: The Rambam and Rashba point out that everyone agrees that the child of a menstruating woman is not a *halal*, as only prohibitions specific to priests cause this status. They explain that the question here is merely related to the source of this *halakha*, as Rabbi Eliezer ben Ya'akov derives it from the word "these," while the Rabbis have a different source for the *halakha* (see *Tosafot*).

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But you do not cause a *halal* by having a child with a menstruating woman – ואי אתה עושה חלל מנדה: One who has intercourse with a menstruating woman does not thereby cause her to become a *zona*. A child conceived by this act is not considered a *halal* (*Rambam Sefer Kedusha, Hilkhoh Issurei Bia 19:6; Shulhan Arukh, Even HaEzer 6:8*).

איכא דאמרי, אמר רב הונא אמר רב: מאי טעמא דרבי אליעזר בן יעקב – סבר לה דרבי אליעזר.

Some say a different version of this statement. Rav Huna said that Rav said: What is the reason of Rabbi Eliezer ben Ya'akov? He holds in accordance with the opinion of Rabbi Elazar, that an unmarried man who has intercourse with an unmarried woman has thereby caused her to become a *zona*. Consequently, since the other man had intercourse with this woman outside of the context of marriage, she is a *zona*.

ומי סבר לה פותיה? והא קיימא לן: משנת רבי אליעזר בן יעקב קב ונקי, ואילו בהא אמר רב עמרם אמר רב: אין הלכה ברבי אליעזר! קשיא.

The Gemara asks: Does he really hold in accordance with the opinion of Rabbi Elazar? Don't we maintain that the teaching of Rabbi Eliezer ben Ya'akov measures a *kav* but is clean,ⁿ i.e., not many of his rulings have been recorded, but those that have been recorded are considered authoritative, and the *halakha* is always in accordance with his opinion? However, with regard to this ruling of Rabbi Elazar, Rav Amram said that Rav said that the *halakha* is not in accordance with Rabbi Elazar. The Gemara comments: This is indeed difficult.

רב אשי אמר: ביש חלל מחייבי עשה קמפליגי רבי אליעזר בן יעקב סבר: יש חלל מחייבי עשה, ורבנן סברי: אין חלל מחייבי עשה.

Rav Ashi said: This is not the reason for the dispute. Rather, they disagree with regard to whether there is a *halal* from a relationship for which the man and woman are liable for transgressing a positive mitzva. The marriage of a High Priest to a non-virgin is a violation of the mitzva that a High Priest marry a virgin, but it is not expressed in the Torah as a prohibition against a High Priest marrying a non-virgin. Rabbi Eliezer ben Ya'akov holds that there is a *halal* from a relationship for which the man and woman are liable for violating a positive mitzva,ⁿ and the Rabbis hold that there is no *halal* from a relationship for which the man and woman are liable for violating a positive mitzva.

מאי טעמא דרבי אליעזר בן יעקב – דכתיב "אלמנה וגרושה וחללה זונה את אלה לא יקח כי אם בתולה" וגו', וכתיב "ולא יחלל זרעו בעמיו" אכולהו.

What is the reason of Rabbi Eliezer ben Ya'akov? As it is written: "A widow, or one divorced, or a *halala*, or a *zona*, these shall he not take; but a virgin of his own people shall he take for a wife" (Leviticus 21:14), and it states subsequently: "And he shall not profane his seed among his people" (Leviticus 21:15). Rabbi Eliezer ben Ya'akov maintains that this profanation is referring to all of them, i.e., he profanes his seed by marrying any woman unfit for him, including a non-virgin.

ורבנן "אלה" הפסיק הענין. ורבי אליעזר בן יעקב – אמר "אלה" למעוטי נדה.

And what do the Sages hold? The word "these" concluded discussion of that matter. Consequently, only the prohibitions listed before the phrase "these shall he not take" result in the offspring being a *halal*. And Rabbi Eliezer ben Ya'akov said: The word "these" comes to exclude a menstruating woman. If a priest has relations with a menstruating woman, the offspring is not a *halal*, as this is not a prohibition specific to priests.

במאן אזלא הא דתנא: מ"אלה" אתה עושה חלל, ואי אתה עושה חלל מנדה, במאן – דרבי אליעזר בן יעקב. ורבי אליעזר בן יעקב, נכתביה ל"אלה" לבסוף! קשיא.

The Gemara asks: In accordance with whose opinion is that which is taught in the following *baraita*: From the prohibitions preceding the phrase "these shall he not take" you cause your offspring to be a *halal*, but you do not cause your offspring to be a *halal* by having a child with a menstruating woman.^{NH} In accordance with whose opinion is it? It is in accordance with the opinion of Rabbi Eliezer ben Ya'akov. The Gemara asks: And according to Rabbi Eliezer ben Ya'akov, let the verse write the word *these* at the end, after stating that a High Priest must marry a virgin, in order to make it clear that if he marries a non-virgin their child is a *halal*. The Gemara responds: Indeed, this is difficult.

תנו רבנן: אחותו ארוסה, רבי מאיר ורבי יהודה אומרים: מטמא לה, רבי יוסי ורבי שמעון אומרים: אין מטמא לה. אגוסה ומפותה – דברי הכל אין מטמא לה, ומובת עץ – אין מטמא לה, דברי רבי שמעון. שהיה רבי שמעון אומר: ראוייה לכהן גדול מטמא לה, שאין ראוייה לכהן גדול – אין מטמא לה.

S The Sages taught: With regard to a priest's betrothed sister, Rabbi Meir and Rabbi Yehuda say: He must become impure for her upon her death. Rabbi Yosei and Rabbi Shimon say: He may not become impure for her. With regard to his sister who has been raped or seduced, all agree that he may not become impure for her upon her death. With regard to his sister whose hymen was torn accidentally, he may not become impure for her; this is the statement of Rabbi Shimon, as Rabbi Shimon would say the following principle: If his sister was fit for a High Priest, he must become impure for her, but if she was not fit for a High Priest, he may not become impure for her.

Who is near, this is to include a betrothed sister – הקרובה לרבות הארוסה: Both the *tanna'im* who hold that a priest must become impure for his sister even if she was betrothed, and those who hold that he may not, agree that the phrase: Who has had no man, would naturally be understood to mean that a priest becomes impure only for a sister who was never even betrothed. The dispute is whether there is another part of the verse that specifically includes any woman who had been betrothed, because she remains near to her brother. It should be noted that there are Sages cited in the Jerusalem Talmud who held that a sister is presumed to remain a part of one's family unit until proven otherwise, whereas a betrothed woman is presumed not to be included in her husband's family unit until proven otherwise.

To include a betrothed woman who was then divorced – לרבות ארוסה שנתגרשה: The commentaries disagree about the status of a woman who was married but had not yet had intercourse with her husband: Is her status comparable to that of a betrothed woman with regard to whether her brother becomes impure for her if he is a priest, or is her status comparable to that of a fully married woman? The Ramban rules that she has the status of a betrothed woman and that consequently, Rabbi Meir and Rabbi Yehuda hold that her brother must become impure for her. He explains further that if she is divorced without having intercourse, even Rabbi Yosei and Rabbi Shimon would agree that her brother must become impure. The Rashba holds that as long as she is married, all would agree that her brother does not become impure for her. However, if she is divorced without having intercourse, her brother must become impure for her (see Ritva and *Arukh LaNer*).

HALAKHA

A woman whose hymen was torn accidentally and a grown woman – בגורת ומוכת עץ: A priest becomes impure for his sister who never had intercourse with a man, whether she was a minor or an adult. Similarly, he becomes impure for his sister if her hymen was accidentally torn. The *halakha* is not in accordance with Rabbi Shimon, as his is a lone opinion opposed by the majority (Rambam *Sefer Shofetim, Hilkhot Evel* 2:10–11; *Shulhan Arukh, Yoreh De'a* 373:4).

Raped or seduced – אנוסה ומפותה: If the sister of a priest was raped or seduced, he does not become impure for her upon her death (Rambam *Sefer Shofetim, Hilkhot Evel* 2:10–11; *Shulhan Arukh, Yoreh De'a* 373:4).

Betrothed sister – אחות ארוסה: A priest may not become impure for his betrothed sister, even if she was betrothed to a priest. If she was betrothed and then divorced, he does become impure for her. The *halakha* is in accordance with the opinion of Rabbi Yosei and Rabbi Shimon, as the *halakha* generally follows the opinions of Rabbi Yosei over those of a colleague (Rambam *Sefer Shofetim, Hilkhot Evel* 2:10–11; *Shulhan Arukh, Yoreh De'a* 373:4).

ובגורת מטמא לה – דברי כל אדם.

מאי טעמא דרבי מאיר ורבי יהודה?
דרדשי הכי: "ולאחותו הבתולה" פרט
לאנוסה ומפותה.

יכול שאני מוציא אף מוכת עץ –
תלמוד לומר "אשר לא היתה לאיש",
מי שהייתה על ידי איש, יצאה זו שאין
הייתה על ידי איש. "הקרובה" לרבות
הארוסה. "אליו" לרבות הבוגרת.

הא למה לי קרא? והאמר רבי מאיר:
"בתולה" אפילו מקצת בתולה משמע!
איצטריך, סלקא דעתך אמינא: גילף
"בתולה" "בתולה" מהתם, מה להלן
נערה – אף כאן נמי נערה, קא משמע
לן.

ורבי יוסי ורבי שמעון, מאי טעמייהו?
דרדשי הכי: "ולאחותו הבתולה" פרט
לאנוסה ומפותה ומוכת עץ, "אשר לא
היתה" פרט לארוסה, "הקרובה" לרבות
ארוסה שנתגרשה, "אליו" לרבות את
הבוגרת. "הקרובה" לרבות ארוסה
שנתגרשה?

And if his sister was a grown woman, he must become impure for her according to everyone. Even those who hold that a High Priest may not marry a grown woman because her hymen is no longer whole agree that with regard to a priest becoming impure, she is considered a virgin and he must therefore become impure for her upon her death.

The Gemara analyzes this *baraita*: **What is the reason of Rabbi Meir and Rabbi Yehuda? They expound the verse as follows:** "And for his virgin sister, who is near to him, who has had no man, for her must he defile himself" (Leviticus 21:3). "And for his virgin sister" excludes one who has been raped or seduced, as they are not virgins.

One might have thought that I should exclude even a woman whose hymen was torn accidentally via a foreign object. The verse therefore states: "Who has had no man," to include only one whose becoming a non-virgin was caused by a man, i.e., through intercourse. This case of a woman whose becoming a non-virgin was not caused by a man but rather by an object is thereby excluded from the category of a non-virgin, and her brother does become impure for her. "Who is near"; this is to include a betrothed sister.^N "To him"; this is to include a grown woman.^H

The Gemara asks: **Why do I need a verse to include a grown woman? Didn't Rabbi Meir say that the word "virgin" indicates even a woman who is partly a virgin, i.e., a grown woman, whose hymen is partially intact?** Consequently, when the verse states that the priest becomes impure for his virgin sister, a grown woman is included. The Gemara answers: The derivation from the verse is necessary, as it might enter your mind to say that we should derive a verbal analogy from the word "virgin" in this context and the word "virgin" from there, the context of a High Priest: In the analogy, just as there the virgin referred to is a young woman and not a grown woman, so too here she must be a young woman. The verse therefore teaches us that a priest becomes impure for his sister even if she is a grown woman.

And Rabbi Yosei and Rabbi Shimon, what is their reason? They expound as follows: "And for his virgin sister" excludes a woman who was raped or seduced^H and a woman whose hymen was torn accidentally, who is also not considered a virgin. "Who has had no man" excludes a betrothed sister,^H although she is not yet fully married. "Who is near"; this is to include a betrothed woman who was then divorced,^N as she is once again near to her brother. "To him"; this is to include a grown woman. The Gemara asks: Can the term "who is near" come to include a betrothed woman who was divorced?

Perek VI

Daf 60 Amud b

והא אמר רבי שמעון: ראוייה לכהן
גדול – מטמא לה, שאין ראוייה לכהן
גדול – אין מטמא לה! שאני התם דרבי
רחמנא "קרובה".

Didn't Rabbi Shimon say: If she was fit for a High Priest, her brother must become impure for her, and if she was not fit for a High Priest, her brother may not become impure for her? A divorced woman is not fit for a High Priest even if she had been only betrothed before her divorce. The Gemara answers: **It is different there, as the Merciful One includes her by the term: Who is near, which includes any sister who is close to him, even if she is unfit for a High Priest.**

And what did you see – **יִקַּח רְאִיתָ**: Since the verses are not conclusive, it would seem logical that one who was betrothed and divorced is more distant from her brother and the rest of her father's household than a woman whose hymen was torn accidentally (Ritva).

Female convert – גִּיּוּרָת: The primary discussion of a female convert's eligibility to marry a priest is in the final chapter of tractate *Kiddushin*. Some commentaries maintain that female converts are forbidden to priests because they have the status of a *zona*, as implied later in the Gemara here. This appears to be the opinion of Rashi and the Rambam.

Others commentaries question this explanation: If the definition of a *zona* is one who has had forbidden intercourse, how can any *tanna* disagree with Rabbi Shimon and hold that one who converted when she was less than three years old is prohibited from marrying a priest? Even if someone would have had intercourse with her before she converted, intercourse with a girl less than three years old is not halakhically recognized as intercourse. Furthermore, even if she converted as an adult it is not clear that she would still be considered a *zona* afterward, as one who converts is considered to be starting a new life.

Consequently, these commentaries explain that the prohibition is based upon a command of the prophet Ezekiel: "Neither shall they take for their wives a widow... but they shall take virgins of the seed of the house of Israel" (Ezekiel 44:22), as explained in tractate *Kiddushin* (78a).

The dispute among the *tanna'im* is over which type of convert is included in this verse. According to this opinion, despite the fact that this mitzva does not appear in the Torah, it is not a mere injunction of a prophet. Rather, the prophet only indicated that a Torah law was in existence (Ra'avad; Rashba). The Ritva combines these opinions and explains that the verse in Ezekiel indicates that the category of *zona* includes not only one who has engaged in forbidden relations but also anyone who is not from the seed of the house of Israel (see *Tosafot Yam shel Shlomo* and *Beit Shmuel*). Later commentaries attempt to prove from here that the prohibition for a priest to marry a convert is from Torah law, even if she converted when she was less than three years old.

A female convert less than... is permitted to the priesthood – גִּיּוּרָת פְּחוּתָה... בְּשִׁירָה לְכַהֲנָה: The fact that this is cited here, in the context of a discussion of whom the High Priest may marry, indicates that according to Rabbi Shimon, this convert is permitted to marry even a High Priest. The Gemara's proof from the story of Pinehas is consistent with this conclusion, as he was the priest anointed for war, and this priest has the same *halakhot* as a High Priest with regard to the prohibition against marrying a non-virgin (*Keren Ora*).

אי הכי מוכת עץ נמי [רבי]! "קרובה" אחת ולא שתים. ומה ראייתך? הא אתעביד בה מעשה, הא לא אתעביד בה מעשה.

The Gemara asks: **If so, a woman whose hymen was torn accidentally should also be included.** The Gemara responds that the term: Who is **near**, which is written in the singular, includes only **one** additional case **and not two**. The Gemara asks: **And what did you see^N** to render forbidden a woman whose hymen was accidentally torn and permit a divorcée who had previously been only betrothed, and not the opposite? The Gemara answers: **In this case of the women whose hymen was torn, an action has been performed on her body, whereas in that case of the divorcée, no action has been performed on her body.**

ורבי יוסי מדשבקיה לבר זוגיה – מכלל דבמוכת עץ רבי מאיר סבירא ליה, מנא ליה? מ"לא היתה לאיש".

The *baraita* cites Rabbi Yosei and Rabbi Shimon as holding that a priest may not become impure for his sister who was betrothed and then divorced, and it cites only Rabbi Shimon as holding that he may not become impure for his sister who was a grown woman. Based on this, the Gemara asks: **From the fact that Rabbi Yosei left his partner, Rabbi Shimon, it may be inferred that with regard to a woman whose hymen was torn accidentally he holds in accordance with the opinion of Rabbi Meir, that a priest does become impure. From where does he derive this halakha?** The Gemara explains that he derives it from the phrase: "Who has had no man," as a woman whose hymen was torn accidentally has not been with a man.

והא אפיקתיה! חד מ"לא היתה" וחד מ"לאיש".

The Gemara asks: **Haven't you already derived the halakha of a betrothed woman from that phrase?** The Gemara answers: Rabbi Yosei learns **one halakha from the phrase "has had no,"** which indicates that she has not even been betrothed, **and he derives one halakha from the term "man,"** which indicates that only a woman who was with a man is no longer considered a virgin with regard to this *halakha*, but not one whose hymen was torn accidentally.

"אליו" לרבות הבוגרת. והא אמר רבי שמעון: "בתולה" בתולה שלימה משמע! טעמא דידיה נמי התם מהכא, דדריש הכי: מד"אליו" לרבות הבוגרת, מכלל ד"בתולה" בתולה שלימה משמע.

It was stated previously that according to Rabbi Shimon, the term "to him," comes to include a grown woman. The Gemara asks: **Didn't Rabbi Shimon say with regard to a High Priest that the term virgin indicates a complete virgin, which does not include a grown woman?** The Gemara answers: **His reason there is also derived from here, as he expounds as follows: From the fact that the expression "to him" is needed to include a grown woman, it may be inferred that the term virgin by itself indicates a complete virgin.**

תנאי רבי שמעון בן יוחי אומר: גיורת פחותה מבת שלש שנים ויום אחד בשירה לכהונה, שנאמר וכל השף בנשים אשר לא ידעו משכב זכר החיו לכס" והרי פנחס עמהם.

§ The Gemara cites another ruling of Rabbi Shimon ben Yoḥai, also related to the discussion of defining who is considered a virgin. **It is taught in a baraita that Rabbi Shimon ben Yoḥai says: A female convert^N who converted when she was less than three years and one day old^H is permitted to marry into the priesthood,^N as it is stated: "But all the women children that have not known man by lying with him, keep alive for yourselves" (Numbers 31:18).** This verse indicates that these women were fit for all of the warriors, and since Pinehas the priest was with them (see Numbers 31:6), it is clear that young converts are permitted to priests.

ורבנן: לעבדים ולשפחות. אי הכי – בת שלש שנים ויום אחד נמי!

The Gemara asks: **And how do the Rabbis, who disagree with Rabbi Shimon, interpret this verse?** The Gemara responds: They understand the phrase "keep alive for yourselves" to mean that they could keep them as slaves and as maidservants, but they could not necessarily marry them. The Gemara asks: **If so, if the source for Rabbi Shimon's ruling is this verse, a girl who converted at the age of three years and one day old should also be permitted to a priest, as long as she has never had intercourse, as stated by the verse.**

HALAKHA

גיורת – גיורת – A female convert less than three years and one day old – *halakha* does not follow the opinion of Rabbi Shimon ben Yoḥai. If he married her, he is forced to divorce her (Rambam *Sefer Kedusha, Hilkhoh Issurei Bia* 18:3; *Shulhan Arukh, Even HaEzer* 6:8).

LANGUAGE

Hidrokan – הדרוקן: From the Greek ὑδρωπικός, *hydropikos*, meaning one who suffers from ascites.

BACKGROUND

Hidrokan – הדרוקן: The illness *hidrokan*, identified as ascites, has several causes, the most common being a dysfunction of the liver or the heart. Its symptoms are caused by a large accumulation of water under the skin, which causes significant swelling. Due to this accretion of water, and, occasionally, due to the effects of the illness itself, the faces of individuals suffering from this disease turn a pale yellow.

בְּדַרְבַּב הוֹנָא. דְּרַב הוֹנָא רְמִי: כְּתִיב "כָּל אִשָּׁה יִדְעַת אִישׁ לְמִשְׁכַּב זָכָר הָרוּגוּ". הָא אִינְהּ יוֹדַעַת – קַיִימוּ, מִכְּלָל דְּהַטָּף בֵּין יָדְעוּ בֵּין לֹא יָדְעוּ – קַיִימוּ, וְכַתִּיב "וְכָל הַטָּף בְּנָשִׁים אֲשֶׁר לֹא יָדְעוּ מִשְׁכַּב זָכָר הָחַיּוּ לָכֶם", הָא יָדְעִי – הָרוּגוּ.

הוּי אומר: בראויה ליבעל הכתוב מדבר.

תנא נמי הכי: "וכל אשה יודעת איש" בראויה ליבעל הכתוב מדבר. אתה אומר בראויה ליבעל, או אינו אלא נבעלה ממש? בשהוא אומר "וכל הטף בנשים אשר לא ידעו משכב זכר" הוי אומר בראויה ליבעל הכתוב מדבר.

מנא ידעי? אמר רב הונא בר בינא אמר רבי שמעון חסידא: העבירום לפני הציץ, כל שפניה מוריקות – בידוע שהיא ראויה ליבעל, כל שאין פניה מוריקות – בידוע שאינה ראויה ליבעל. אמר רב נחמן: סימן לעבירה הדרוקן.

כיוצא בדבר אתה אומר: "וימצאו מיושבי יבש גלעד ארבע מאות נערה בתולה אשר לא ידעו איש למשכב זכר". מנא ידעי? אמר רב פהנא: הושיבום על פי חבית של יין, בעולה – ריחה נודף, בתולה – אין ריחה נודף.

ונעבריהו לפני ציץ! אמר רב פהנא בריה דרב נתן: "לרצון להם" כתיב, לרצון ולא לפורענות. אי הכי במדין נמי! אמר רב אשי: "להם" כתיב, להם לרצון ולא לפורענות, ולגוים – אפילו לפורענות.

אמר רבי יעקב בר אידי אמר רבי יהושע בן לוי: הלכה כרבי שמעון בן יוחאי. אמר ליה רבי זירא לרבי יעקב בר אידי: בפירוש שמיע לך, או מכללא שמיע לך?

The Gemara replies: His reasoning is as stated by Rav Huna, as Rav Huna raised a contradiction: It is written in one verse: "Kill every woman that has known man by lying with him" (Numbers 31:17), which indicates that a woman who has not known a man in this way you may keep alive. This proves by inference that the female children, who are not classified as women, you may keep alive regardless of whether they knew a man or they did not know a man. And it is written in a different verse: "But all the women children that have not known man by lying with him, keep alive for yourselves" (Numbers 31:18), which indicates that if they have known men, you must kill them. This is an apparent contradiction.

Rav Huna explains: You must say that the verse is speaking of a woman who is fit for intercourse. The verse does not mean to distinguish between women who have actually engaged in sexual intercourse and those who have not. Rather, it distinguishes between a girl over the age of three, with whom an act of intercourse is recognized as such, and a girl below the age of three.

This is also taught in a *baraita*: "Every woman that has known man"; the verse is speaking of a woman who is fit for intercourse. The *baraita* proceeds to discuss this *halakha*: Do you say it is referring to one who is fit for intercourse, or perhaps it is referring only to one who has actually had intercourse? When the verse states: "But all the women children that have not known man by lying with him, keep alive for yourselves," which indicates that grown women must be killed even if they have not had intercourse with a man, you must say that the verse is speaking of a woman who is fit for intercourse.

The Gemara asks a practical question with regard to the events described by the Torah: From where did they know whether a particular girl was already three years old and fit for intercourse? Rav Huna bar Bizna said that Rabbi Shimon Hasida said: They passed them before the frontplate of the High Priest. Any girl whose face miraculously turned sallow, it was known that she was fit for intercourse, and any girl whose face did not turn sallow, it was thereby known that she was not fit for intercourse. Similarly, Rav Nahman said: A sign of transgression in the area of sexual morality is the disease *hidrokan*,¹⁸ which causes one's face to turn sallow.

Similarly, you can say with regard to the verse: "And they found among the inhabitants of Jabesh-gilead four hundred young virgins that had not known man by lying with him" (Judges 21:12). From where did they know that they were virgins? Rav Kahana said: They sat them on the opening of a barrel of wine. If she was a non-virgin, her breath would smell like wine; if she was a virgin, her breath did not smell like wine.

The Gemara suggests: They should have passed them before the frontplate, as described previously with regard to the daughters of Midian. Rav Kahana, son of Rav Natan, said: The verse states with regard to the frontplate: "And it shall be upon Aaron's forehead... that they may be accepted before the Lord" (Exodus 28:38), which indicates that the frontplate is worn for acceptance but not for calamity. The Gemara raises a difficulty: If so, the frontplate should also not have been used with regard to the women of Midian. Rav Ashi said: The word "they" is written in the verse, indicating that for them, the Jewish people, the frontplate is for acceptance but not for calamity; but for gentiles it can be used even for calamity.

Rabbi Ya'akov bar Idi said that Rabbi Yehoshua ben Levi said: The *halakha* is in accordance with the opinion of Rabbi Shimon ben Yoḥai. Rabbi Zeira said to Rabbi Ya'akov bar Idi: Did you hear Rabbi Yehoshua ben Levi say this explicitly or did you learn it by inference?

מאי מכללא? דאמר רבי יהושע בן לוי: עיר אחת היתה בארץ ישראל שקרא עליה ערער, ושגר רבי את רבי רומנוס ובדקה, ומצא בה בת גיורת פחותה מבית שלש שנים ויום אחד – והכשירה רבי לכהונה. אמר ליה: בפירוש שמיע לך.

The Gemara asks: **What inference** was Rabbi Zeira hinting at? The Gemara explains: **As Rabbi Yehoshua ben Levi said: There was a certain city in Eretz Yisrael where they contested the lineage^N of a particular family. And Rabbi Yehuda HaNasi sent Rabbi Romanus, and he examined the family's lineage and found that it included the daughter of a convert who had converted when she was less than three years and one day old, and she had married a priest. And Rabbi Yehuda HaNasi permitted her to the priesthood.** This indicates that Rabbi Yehoshua ben Levi ruled in accordance with Rabbi Shimon. Rabbi Ya'akov bar Idi said to him: **I heard explicitly** that Rabbi Yehoshua ben Levi ruled in this manner.

ואי מכללא מאי? דלמא שאני התם, הואיל ואנסוב – אנסוב. דהא רב ורבי יוחנן דאמרי תרוניהו: בוגרת ומופת עץ – לא ישא, ואם נשא – נשוי.

The Gemara asks: **And if** Rabbi Yehoshua ben Levi's opinion had been derived by inference, what of it? The Gemara answers: **Perhaps it was different there, because since she had already married a priest, she could remain married after the fact, but it would not be permitted for her to marry a priest *ab initio*, as it is Rav and Rabbi Yohanan who both say: A High Priest may not marry a grown woman and a woman whose hymen was torn accidentally, but if he married one of them he is married and not required to divorce her.**

הכי השתא?! בשלמא התם – סופה להיות בוגרת תחתיו, סופה להיות בעולה תחתיו. הכא – סופה להיות זונה תחתיו!

The Gemara refutes this claim: **How can these cases be compared? Granted, there, in the case of a grown woman, it is reasonable for her to be permitted after the fact, as a young woman will eventually be a grown woman under him, i.e., while married to him, and she will eventually be a non-virgin under him.** However, here, in the case of a convert, **will she eventually be a zona under him?** If she is forbidden to a priest *ab initio* it is because she has the status of a *zona*, in which case she should be prohibited after the fact as well. Consequently, it can be proven from the incident cited previously that Rabbi Yehoshua ben Levi rules in accordance with the opinion of Rabbi Shimon.

רב ספרא מתני לה מכללא, וקשיא ליה, ומשיני ליה הכי.

The Gemara comments: **Rav Safra taught this *halakha* after deriving Rabbi Yehoshua ben Levi's ruling by inference, although he had never heard this ruling explicitly. And the question mentioned above was difficult for him, and he resolved it in this same manner.**

ההוא כהנא דאנסוב גיורת פחותה מבית שלש שנים ויום אחד. אמר ליה רב נחמן בר יצחק: מאי האי? אמר ליה: דאמר רבי יעקב בר אידי אמר רבי יהושע בן לוי: הלכה ברבי שמעון בן יוחאי. אמר ליה: ויל אפיק, ואי לא – מפיקנא לך רבי יעקב בר אידי מאונך.

The Gemara relates another incident related to this *halakha*: **A certain priest married a convert, who had converted when she was less than three years and one day old. Rav Nahman bar Yitzhak said to him: What is this? Why are you violating the *halakha*? He said to him: It is permitted for me to marry her, as Rabbi Ya'akov bar Idi said that Rabbi Yehoshua ben Levi said that the *halakha* is in accordance with the opinion of Rabbi Shimon ben Yohai. He said to him: Go remove her, i.e., divorce her. And if not, I will remove Rabbi Ya'akov bar Idi from your ear [*me'unekh*]^N for you.** In other words, I will take the necessary action to ensure that you obey and divorce her, so that you can no longer follow Rabbi Ya'akov bar Idi's opinion.

תניא וכן היה רבי שמעון בן יוחאי אומר

§ It is taught in a *baraita*: **And similarly, Rabbi Shimon ben Yohai would say:^N**

NOTES

שקרא עליה ערער – Where they contested the lineage, etc. – The Gemara indicates that a priest from that town married a woman who had converted when she was less than three years old. The Jerusalem Talmud offers an alternative account, in which the ruling follows the opinion of the Rabbis as well as that of Rabbi Shimon. According to that account, it was a regular Israelite who married the convert, and Rabbi Yehuda HaNasi permitted their descendants to marry priests.

explain that he meant he would punish him until he removed the words of Rabbi Ya'akov bar Idi, so that his ears would no longer listen to him. Others maintain that he claimed he would make him forget Rabbi Ya'akov bar Idi until he would no longer mention his name (*Arukh*).

From your ear [*me'unekh*] – מאונך: *Unekh* comes from the word *una*, a shortened form of *udna*, meaning ear. Some

וכן – And similarly, Rabbi Shimon ben Yohai would say, etc. – היתה רבי שמעון בן יוחאי אומר וכו' – What is the connection between the following statement and the previous discussion? Rabbi Shimon must have taught many other *halakhot* that are not cited here. The Rivan explains that the *tanna* wanted to quote

another case in which Rabbi Shimon ruled more leniently than the Rabbis. It is suggested in the *Yam shel Shlomo* that this statement is cited here in order to emphasize that just as the *halakha* does not follow the opinion of Rabbi Shimon with regard to the previous discussion, it does not follow his opinion with regard to the upcoming discussion, although this is subject to a dispute between the early commentaries. The *Keren Ora* and the *Arukh LaNer* explain simply that these two *halakhot* are cited together because Rabbi Shimon derived both of them from verses with regard to the war against Midian.