The tent of a corpse – אֹהֶל אָדָם. The halakhos of the impurity imparted by a corpse, including the halakhos of a tent covering a corpse, are cited in great detail in tractate Oholot. The essential halakhos of the tent over a corpse are detailed in the Torah (Numbers, chapter 19). The Sages derived that any structure that has a cavity that is at least one cubic handbreadth in volume and contains a corpse or part of a corpse, e.g., its flesh, bones, or limbs, becomes a tent over a corpse. Not only do all articles subject to ritual impurity contained within it become ritually impure themselves, but they also become a primary source of ritual impurity, capable of imparting ritual impurity to people and objects.

The impurity of a corpse of gentiles – אֹהֶל אֵלֹקִים. Some commentaries maintain that the corpses of gentiles do not convey impurity via a tent, in accordance with the opinion of Rabbi Shimon ben Yoḥai. Others disagree (Tosafot: Rosh). It is proper for a priest to act stringently in this regard. The corpse of a gentile certainly conveys impurity to one who touches or carries it (Rambam Sefer Tahara, Hilkhot Tunnel Mat 1:13 and Sefer Shoftim, Hilkhot Evel 5:3; Shulchan Arukh, Yoreh De’ah 371:1).

The Gemara raises an objection based upon the verse with regard to captives taken during the war against Midian: “And the persons [nefesh adam] were sixteen thousand” (Numbers 31:40), which indicates that gentiles are also referred to as adam. The Gemara answers: They are given this title due to the need to distinguish the people taken captive from the animals that were taken as spoils of war.

The Gemara raises another difficulty based upon a verse with regard to the city of Nineveh: “Wherein are more than one hundred and twenty thousand men [adam] who cannot discern between their right hand and their left hand, and also much cattle” (Jonah 4:11). The Gemara answers: There, too, the gentiles are given this title due to the need to distinguish them from the animals mentioned in the verse.

The Gemara continues to question Rabbi Shimon’s ruling based upon a verse pertaining to the war against Midian: “Whoever has killed anyone, and whoever has touched any slain, purify yourselves” (Numbers 31:19). This indicates that gentile corpses convey ritual impurity. The Gemara answers: Perhaps a Jew was killed, and the concern was for impurity caused by his corpse. And the Rabbis reply that the verse attests: “Not one man of us is missing” (Numbers 31:49). No Jewish soldiers fell in battle, and therefore the concern for impurity must have been due to the corpses of gentiles. And Rabbi Shimon ben Yoḥai responds: The intent of that verse is that not one man of us is missing due to transgression, i.e., none of them sinned.

Ravina said that the explanation above is unnecessary: Granted, the verse excluded gentiles from rendering items impure through a tent, as it is written: “When a man [adam] dies in a tent” (Numbers 19:14); but did the verse exclude them from rendering items impure via touching and carrying? Since gentile corpses convey impurity in these ways, they could have rendered impure the Jews involved in the war with Midian, even according to Rabbi Shimon ben Yoḥai.

The graves of gentiles do not render items impure though a tent, as it is stated: “And you My sheep, the sheep of My pasture, are men [adam]” (Ezekiel 34:31), from which it is derived that you, the Jewish people, are called men [adam] but gentiles are not called men [adam]. Since the Torah introduces the halakha of ritual impurity of a tent with the words: “When a man [adam] dies in a tent” (Numbers 19:14), this halakha applies only to corpses of Jews but not those of gentiles.

You are called men [adam] – שְׁמֵךְ אָדָם אָדָם. Since the Torah was given to the Jewish people, it is assumed that whenever it refers to men [adam], it is referring to its primary audience, the Jewish people. If a wider meaning is intended the verse so specifies (see Maharatz Hevi).

The commentators analyze many instances where the Torah uses the term adam. Their conclusion is that the word adam is sometimes stated with regard to gentiles, but only when the verse must use this word, e.g., a verse that distinguishes between man and animal or between a commoner and a man of social standing.

Tosafot cite the opinion of Rabbeinu Meshullam that the Torah uses the term adam instead of referring directly to the Jewish people in the context of punishment or tragedy, while it refers directly to the Jewish people in more positive contexts. Rabbeinu Tam contends that the term: Man [adam], always refers to the Jewish people, whereas the term: Man [הָאָדָם], refers to the entire human race. Some commentaries note that the numerical value of: The men [הָאָדָם], is the same as the numerical value of the word impure [טמא]. See Rabbi Avraham min Haftar’s response to this exposition. Later commentators suggest other homiletic explanations of this idea (see Likkute Yosef).

Did the verse exclude them from rendering items impure via touching and carrying – מָנוּיָא אֵלֶּה אָדָם אָדָם. Ezekiel prophecies that in the future any place that contains the bones of the corpses of Gog and Magog will be marked off (Ezekiel 39:15), which seemingly indicates that gentile corpses also convey impurity through a tent. The Ramban offers two answers: First, it is always possible that any corpse found is that of a Jew. Moreover, purity will be so widespread in the future that any source of impurity will be marked, even if it does not convey impurity through a tent (see Meir).
If a priest betrothed a widow and was subsequently appointed to be High Priest, he may marry her. And there was an incident with Yehoshua ben Gamla, who betrothed Marta bat Baitos, a widow, and the king subsequently appointed him to be High Priest, and he nevertheless married her. Conversely, in the case of a widow waiting for her yavum who happened before a common priest, i.e., the priest was her yavum, and he was subsequently appointed to be High Priest, then even if he had already performed levirate betrothal with her, he may not marry her, because she is a widow.

The Sages taught: From where is it derived that if a priest betrothed a widow and was subsequently appointed to be High Priest, that he may marry her? The verse states: "Shall he take for a wife?" (Leviticus 21:14), an inclusive phrase that indicates that he may marry her in this situation despite the general prohibition for a High Priest to marry a widow. The Gemara asks: If so, a widow waiting for her yavum should also be permitted to a High Priest. The Gemara answers: The word "wife" indicates that this does not include a yevama, who was not initially his wife but his brother's.

The mishna related an incident with Yehoshua ben Gamla. The Gemara notes that the mishna states that the king appointed him, yes, but not that he was worthy of being appointed. Rav Yosef said: I see a conspiracy here, as this was clearly not a proper appointment by the priests and the Sanhedrin but rather a political appointment, as Rav Asi said: Marta bat Baitos brought a vessel of the size of a half-se'ah [tarkav] full of dinars to King Yannai until he appointed Yehoshua ben Gamla High Priest.

The Gemara comments: The mishna teaches this halakha categorically, indicating that it is no different if she is his brother's widow from betrothal, and it is no different if she is his widow from marriage.

The Gemara analyzes this halakha: Granted, she is forbidden to him if she was widowed from marriage, as, if he were to marry her, it would be a violation of both the positive mitzva that the High Priest marry a virgin and the prohibition for him to marry a widow. And a positive mitzva, i.e., levirate marriage, does not override a prohibition and a positive mitzva together. However, if she was a widow from betrothal and is therefore still a virgin, the positive mitzva of levirate marriage should come and override the prohibition for a High Priest to marry a widow.

NOTES

If a priest betrothed a widow, etc. – This policy does not extend to a case where a man betrothed a woman and then his testicles became crushed. The reason for the distinction is that the Torah expresses the prohibition to marry a man with crushed testes by stating that he "shall not take" a widow (Leviticus 21:14), which indicates that it is only the taking, i.e., the betrothal, that is prohibited (Yosef Lekhut).

Shall he take for a wife? – Since the word wife is entirely superfluous in this verse, the Sages derived that despite the requirement that the High Priest marry a virgin, there are instances where he may take even a woman who is not a virgin as a wife (Rivan).

The word wife indicates that this does not include a yevama – The Gemara does not employ the exposition cited earlier, that "wife" is written in singular and includes only one case but not two, because there is no legal difference between a woman waiting for her yavum and any other widow (Ritva).

I see a conspiracy here – In tractate Bava Batra 21a, the Gemara praises Yehoshua ben Gamla for strengthening the Torah observance among the Jewish people; how does that fit in with the account here? In Tosafot Yehoshin, it is suggested that the two passages are actually referring to two different individuals who had the same name. However, Tosafot on Bava Batra 21a and the Tosafot Halakhot explain that he was indeed great, but there were others who were more righteous and worthy of being appointed High Priest. Furthermore, he should not have accepted a royal appointment without the approval of the Sanhedrin. In the Jerusalem Talmud, it is stated that Yehoshua ben Gamla craftily spread a rumor that he had betrothed Marta bat Baitos. Once the rumor took hold, no one else would have agreed to marry her unless she obtained a bill of divorce from him. She therefore agreed to marry him and used her influence to have him appointed High Priest, as befitting her honor.
The Gemara answers: By Torah law, levirate marriage is permitted in this case. However, there is a rabbinic decree prohibiting their first act of intercourse due to their second act of intercourse. After they have engaged in intercourse once, they have fulfilled the mitzva of levirate marriage, and any subsequent act of intercourse would constitute a violation of the prohibition without the fulfillment of a mitzva.

**MISHNA** A common priest may not marry a sexually underdeveloped woman [aylonit], who is incapable of bearing children, unless he already has a wife and children. Rabbi Yehuda says: Even if he has a wife and children, he may not marry a sexually underdeveloped woman, as she is the zona about whom it is stated in the Torah that a priest may not marry her. Intercourse with her is considered a licentious act because she is incapable of bearing children. And the Rabbis say: The only women in the category of zona, who are therefore forbidden to a priest, are a female convert, a freed maidservant, and any woman who engaged in licentious sexual intercourse with a man she is prohibited from marrying.

**GEMARA** The Exilarch said to Rav Huna: What is the reason for the halakha that a priest may not marry a sexually underdeveloped woman? It is because he is obligated to fulfill the mitzva to be fruitful and multiply. Is it only priests who were commanded to be fruitful and multiply, but Israelites were not commanded? Why does the mishna specify that a priest may not marry a sexually underdeveloped woman? Rav Huna said to him: This halakha does in fact apply even to Israelites, and the tanna mentions priests because he wants to teach it in a way that would parallel the latter clause of the mishna, which states that Rabbi Yehuda says: Even if he has a wife

**HALAKHA** There is a rabbinic decree prohibiting their first act of intercourse due to their second act of intercourse – הַלְּךַה יִשָּׂא לְרַבִּי מִלְּעֵבִּיה. If a yavam was forbidden to her yavam due to an ordinary Torah prohibition, i.e., one that does not carry with it a punishment of karet or the death penalty; due to a positive mitzva; or due to a rabbinic decree, they must perform halitza and not enter into levirate marriage.

Although the mitzva of levirate marriage should override the prohibition, the Sages prohibited the first act of intercourse due to the possibility that they would engage in a further act of intercourse, in which case they would violate the prohibition without fulfilling the mitzva. If they entered into levirate marriage nevertheless, they are considered fully married, and the woman’s rival wives are exempt from halitza. However, the yavam is required to divorce her (Rambam Sefer Nashim, Hilkhot Ishut 6:10).

He may not marry a sexually underdeveloped woman [aylonit] – הַלְּךַה יִשָּׂא לְרַבִּי מִלְּעֵבִּיה. A man may not marry a sexually underdeveloped woman or any other woman incapable of bearing children, unless he has already fulfilled the mitzva of procreation or unless he has another wife who can bear children (Rambam Sefer Nashim, Hilkhot Ishut 15:7; Shulhan Arukh, Even HaEzer 1:8).

Who is considered a zona – הַלְּךַה יִשָּׂא לְרַבִּי מִלְּעֵבִּיה. A woman who had intercourse with a man she is prohibited from marrying, a gentile, or a slave is classified as a zona and is forbidden to a priest. However, if she was prohibited from marrying only a priest but permitted to marry other Jewish men, and she had intercourse with a priest, she is not classified as a zona. The category of zona also includes a female convert and a freed maidservant (Rambam Sefer Kedusha, Hilkhot Issurei Bi’ah 18:2; Shulhan Arukh, Even HaEzer 6:8).
Rav Huna said: What is the reason for the opinion of Rabbi Yehuda? As it is written: "And they shall eat, and not have intercourse with his wife, and shall not increase" (Hosea 4:10). He expounds the verse as follows: Any intercourse that does not have the possibility to increase the population because the woman is incapable of having children, is nothing other than licentious sexual intercourse.

It is taught in a baraita that Rabbi Eliezer says: A priest may not marry a minor. Rav Hisda said to Rabba: Go and investigate this halakha, as in the evening Rav Huna will ask you the reason for Rabbi Eliezer’s ruling. He went and investigated it, and arrived at the following conclusion: Rabbi Eliezer holds in accordance with the opinion of Rabbi Meir, and he also holds in accordance with the opinion of Rabbi Yehuda.

Rabba explains: He holds in accordance with the opinion of Rabbi Meir, who says that one must be concerned for the minority. Rabbi Meir does not allow one to assume that an unknown case is similar to the majority of cases. Consequently, one must take into account the possibility that a minor will turn out to be sexually underdeveloped, although this will not be true of most individuals. And he also holds in accordance with the opinion of Rabbi Yehuda, who said that a sexually underdeveloped woman is a zona and therefore forbidden to a priest.

The Gemara challenges Rabba’s explanation: And does Rabbi Eliezer hold in accordance with the opinion of Rabbi Meir? Isn’t it taught in a baraita: A boy minor and a girl minor may not perform halitza or levirate marriage; this is the statement of Rabbi Meir. The Rabbis said to Rabbi Meir: You spoke well when you said that they may not perform halitza, as the term “man” is written in the passage of halitza (Deuteronomy 25:7–10), which limits the halakha to an adult male, and we compare a woman to a man and therefore limit halitza to an adult woman. However, what is the reason that they may not perform levirate marriage?

And we compare a woman to a man – Rashi explains that the reason a minor girl may not perform halitza is because the actions of a minor have no legal standing. Later commentators question the need for Rashi to mention this. Since this has been derived from a verse, why further explanation be necessary? It seems that according to the opinion of Rashi, this halakha is derived from the verse only according to Rabbi Meir. However, the Rabbis, who hold that a minor may perform levirate marriage, do not exclude minors based upon the verse, and therefore they must have another reason to exclude them from halitza (see Arukh La’ehen).
Who is considered a zona – נדה מכה: This dispute between the tanna'im relates to the meaning of this term with regard to the prohibition for a priest to marry a zona and with regard to the prohibition against sacrificing as an offering an animal used as payment for a zona. The word zona appears many times in the Bible, usually in reference to a prostitute. However, since these verses do not refer to halakhic topics, they cannot serve as proof of the halakhic meaning of the term, as it is possible that the term is borrowed from its precise legal meaning and used in other contexts. Therefore, it was necessary to clarify the precise legal definition of this term.

As the name zona implies – מכה מיכה: The commentaries explain that according to Rabbi Eliezer a zona is a married woman who committed adultery. The Meiri states that the word is understood as in the verse: “And they shall east after foreign gods” (Deuteronomy 31:16). In other words, she stays from her husband to another man.

Even if her husband went to make her drink, etc. – ויהי טבח כהן ומעיט: Her status as a zona would be significant only if her husband died and she then wanted to marry a priest. However, even if she did not engage in intercourse with her husband once she became a zona, if he died before she drank the waters, she no longer drinks the waters and therefore has no way to prove her innocence. Consequently, she would be forbidden to a priest in any event, due to the possibility that she is a zona because she committed adultery. Rabbi Akiva Eiger explains that intercourse between the husband and wife on her way to drink the waters is still significant, as it would cause the woman to be a definite zona, not merely an uncertain one. Consequently, if a priest marries her he is liable by Torah law to receive lashes.

Without reason [mekhalei lev] – מכת לוכס: According to the versions of the Gemara text recorded by the ge'amim and many of the early commentaries, this expression should read mitbel lev, i.e., something said without understanding or knowledge. The version of the text printed in the Vilna edition of the Talmud, which was also Rashba’s version, is difficult to understand, but is interpreted in the same manner, in accordance with one of the connotations of the root k-l-a.

Is this Rabbi Eliezer’s opinion and not that of the Rabbis – אם רבי אליעזר או רבי יהודה: The Rashba asks how Rava can be certain that the Rabbi Eliezer would agree with Rabbi Eliezer. Perhaps, according to the Rashis, if the High Priest marries her he is not required to divorce her, in accordance with the reasoning mentioned earlier in the Gemara, that she would have become a non-virgin while married to him anyway. Rabbi Eliezer, on the other hand, holds that he would have to divorce her. The Rashba answers that since all agree that the High Priest may not marry her ab initio, the ruling prohibiting their marriage would not have been stated in the name of Rabbi Eliezer alone.

Rav Meir said to them: A boy minor may not perform levirate marriage lest he be found to be a eunuch, i.e., one who is incapable of fathering children for his late brother. Similarly, a girl minor may not perform levirate marriage lest she be found to be sexually underdeveloped when she grows up. In either case, the mitzva of levirate marriage does not apply, and they turn out to have encountered a forbidden relative. And it was taught in a different baraita: A girl minor enters into levirate marriage but does not perform halitza; this is the statement of Rabbi Eliezer. This proves that Rabbi Eliezer disagrees with Rabbi Meir and is not concerned that a girl may turn out to be sexually underdeveloped.

The Gemara continues to challenge Rabbi Shla’s explanation of Rabbi Eliezer’s ruling. And does Rabbi Eliezer hold in accordance with the opinion of Rabbi Yehuda? Wasn’t it taught in a baraita: The zona forbidden to a priest is as the name zona implies, i.e., a married woman who committed adultery; this is the statement of Rabbi Eliezer. Rabbi Akiva says: A zona is a woman, even an unmarried woman, who is available to all, i.e., she has intercourse with whoever is interested. Rabbi Matya ben Harash says: Even if her husband went to make her drink the bitter waters after she disregarded his warning not to seduce herself with a certain man, and he had intercourse with her on the way, he has thereby caused her to become a zona because she was forbidden to him at the time, despite the fact that she is his wife.

Rabbi Yehuda says: A zona is a sexually underdeveloped woman. And the Rabbis say: The term zona applies only to a female convert, a freed maidservant, and one who engaged in licentious sexual intercourse. Rabbi Elazar says: Even in the case of an unmarried man who had intercourse with an unmarried woman not for the purpose of marriage, he has thereby caused her to become a zona. This baraita proves that Rabbi Eliezer does not agree with Rabbi Yehuda.

Rather, Rav Adda bar Ahava said that Rabbi Eliezer’s ruling that a priest may not marry a minor must be explained differently: Here we are dealing with a High Priest, and the problem is as follows: When can he acquire her as his wife? Only when she is grown up. However, if they had started living together as husband and wife when she was a minor, then when she is grown up and the marriage can legally take effect, she is already a non-virgin, and a High Priest is commanded to marry a virgin.

Rava said: This explanation is without reason. If her father betrothed her to her husband, her husband acquired her from that time, as betrothal that a father carries out on his daughter’s behalf when she is a minor is effective by Torah law. And if the minor betrothed herself, is this Rabbi Eliezer’s opinion and not that of the Rabbis? The Rabbis would certainly agree that a High Priest may not marry a minor under these circumstances.

Rather, Rava said: Actually, Rabbi Eliezer’s ruling includes a common priest, and the reason he cannot marry a minor is that we are concerned lest she be seduced by another man, due to her tender age and naiveté, while married to him. The Gemara asks: If so, the same concern should apply to an Israelite also. The Gemara answers: The seduction of a minor is considered rape, and a rape victim remains permitted to her husband in a case where she is married to an Israelite, but not if she is married to a priest.

Notes

An unmarried man who had intercourse with an unmarried woman – כולם ק Rotterdam: If an unmarried man had intercourse with an unmarried woman not for the purpose of marriage, she does not thereby become a zona, even if she has made herself available to all for licentious purposes. The halakha is in accordance with the opinion of the Rabbis, that only the following women have the status of a zona: A female convert, a freed maidservant, and a woman who has had intercourse with a man she is not permitted to marry (Rambam Sefer Kedusha, Hilkhot Issurei Bi‘ah 18:2).
A man may not neglect the mitzva to be fruitful and multiply unless he has already children.\(^{9}\) Beit Shammai say: \(^{10}\) One fulfills this mitzva with two males, and Beit Hillel say: A male and a female,\(^{11}\) as it is stated: “Male and female He created them” (Genesis 1:27).

\(^{9}\) Unless he has children – Tosafot ask: why is it necessary to state this point if it was already made clear in the previous mishna? The Arukh HaShulchan contends that the precise formulation of this mishna adds a new element to what was stated earlier. The previous mishna said that one may not marry a sexually undeveloped woman unless he has a wife and children. In this mishna, it states that one may not neglect the mitzva to procreate unless he has children. This emphasizes that unless one already has children, it is not sufficient to be married; one must actively try to have children.

Beit Shammai say, etc. – The commentaries dispute whether Beit Shammai and Beit Hillel insist on these combinations of children. Many early commentators cite Rashi as holding that Beit Shammai agree that one fulfills the mitzva if he has a son and daughter, and merely add that one can also fulfill the mitzva by fathering two sons. Conversely, some hold that it is Beit Hillel who are lenient and hold that one fulfills the mitzva with a son and daughter or with two sons (Rid, Tosafot Had Maimonide). This latter view is stated explicitly in the Jerusalem Talmud. However, most commentators assume that according to Beit Hillel one must father a son and a daughter in order to fulfill the mitzva, and according to Beit Shammai one must father two sons.

It is prohibited to remain without a wife – On a basic level, the reason for this is so that one will not fall prey to sinful thoughts (Nimuke Yosef). Alternatively, the verse indicates that mankind is complete only through marriage (see Maharsha).