If he divorced her she is permitted to marry another man—לְאַחֵר she has not had children at this point he too must divorce her or marry an additional wife (Rambam Sefer Nasiḥtah, Hilkhot Ishur 15:14; Shulhan Arukh, Even Haʻzer 154:10).

A wife who did not give birth—אִשָּׁה who did not give birth—לְהִבָּנוֹת lets the sperm of a particular man and prevent pregnancy, or the together. Certain antibodies in the woman might destroy the fetus before it has a chance to develop. This teases that the Divine Presence does not rest upon less than two thousands and two ten-thousands of the Jewish people, as the terms thousands and ten-thousands are both in the plural. Consequently, if there were two thousands and two ten-thousands of the Jewish people, less one, and this man did not engage in the mitzva to be fruitful and multiply, is he not found to have caused the Divine Presence to be depart from the Jewish people?

Abba Hanan said in the name of Rabbi Eliezer: A man who does not engage in procreation is liable to death, as it is stated with regard to the sons of Aaron: “And Nadav and Avihu died...and they had no children” (Numbers 3:4). This indicates that if they would have had children they would not have died. Others say: He causes the Divine Presence to depart from the Jewish people, as it is stated: “To be a God to you and to your seed after you” (Genesis 17:7). When your seed is after you, i.e., when you have children, the Divine Presence rests upon the Jewish people, but if your seed is not after you, upon whom can the Divine Presence rest? Upon wood and stones?

**MISHNA** If a man married a woman and stayed with her for ten years and she did not give birth, he is no longer permitted to neglect the mitzva to be fruitful and multiply. Consequently, he must either divorce her and marry someone else, or take another wife while still married to her. If he divorced her she is permitted to marry another man, as it is not necessarily on her account that she and her first husband did not have children, and the second husband is permitted to stay with her for ten years. And if she had a miscarriage, he counts the ten years from the time of the miscarriage.

**GEMARA** The Sages taught: If a man married a woman and stayed with her for ten years and she did not give birth, he should divorce her and pay her marriage contract, because perhaps he did not merit to be built, i.e., to have children, from her. It is not certain that their failure to have children is due to her, as it is possible that they are not a suitable match for bearing children.

**NOTES**

**Two thousands and two ten-thousands** —אֲלָפִים Two thousands and ten-thousands —אֲלָפִים The Maharsha notes that the verse states: “The chariots of God are ten-thousands, thousands” (Psalms 68:18), and the Jewish people are worthy of serving as a chariot for the Divine Presence by this same number. Similarly, there were twenty-two thousand Levites in the wilderness who did not participate in the sin of the Golden Calf, and in whose merit the Divine Presence rested upon the Jewish people.

**Liable to death** —מִיתָה This is similar to the statement cited earlier that one who is not occupied with the mitzva to be fruitful and multiply is considered a bloodshedder, and is therefore liable to death (see Yeru 'Yidokov).

**Married a woman...and she did not give birth** —אִשָּׁה...לְהִבָּנוֹת The commentators debate whether this means that she has not given birth to any children at all, or perhaps, as explained in the Jerusalem Talmud, it even includes a case where she had a child and the child died, and then she did not have another child for ten years. A third possibility is that this applies even to a woman who had only one child, even if that child lived, and ten years have passed since then (see Ramban and Rashba). The Nimmukei Yosef summarizes these opinions.

Perhaps he did not merit to be built —לְהִבָּנוֹת Perhaps even if he had children from a former wife, and therefore it is clear that he is capable of having children, perhaps his present wife is also capable of having children but the two simply did not merit to have children together (Ritva). The commentators note that this consideration is strong enough to serve as the basis for a monetary claim, and he cannot withhold the payment of her marriage contract by claiming that there is at least a doubt as to whether she is fertile (Gyanevo HaShul.)
Although there is no explicit proof for the matter that one must take another wife if he has not had children after ten years of marriage, there is an allusion to the matter, as the verse states: “And Sarah, Abram’s wife, took Hagar… after Abram had dwelled ten years in the land of Canaan, and gave her to Abram her husband to be his wife” (Genesis 16:3). Incidentally, this verse also comes to teach you that the years spent dwelling outside of Eretz Yisrael do not count as part of his tally. Consequently, if he was sick during this period or she was sick, or if one of the two of them was imprisoned in jail, it does not count as part of his tally.

Rava said to Rav Nahman: Let us derive from Isaac that one may wait a longer period of time, as it is written: “And Isaac was forty years old when he took Rebekah… to be his wife” (Genesis 26:20), and it is written with regard to the birth of Jacob and Esau: “And Isaac was sixty years old when she bore them” (Genesis 25:26). This indicates that one may wait twenty years. Rav Nahman said to him: Isaac knew that he was infertile, and therefore there was no reason for him to marry another woman, as Rebekah was not the cause of their infertility.

The Gemara responds: If so, Abraham also should not have married another woman, as he was also infertile. Rather, the tanna requires that verse that states when Jacob and Esau were born for that which Rabbi Hyya bar Abba taught. This is because Rabbi Hyya bar Abba said that Rabbi Yoḥanan said: Why were Ishmael’s years counted in the Torah, as they do not appear to be relevant to its narrative? In order to determine through them the years of Jacob, i.e., Jacob’s age at the time that various events took place, as explained in tractate Megilla (17a). The verse concerning Jacob’s birth was not meant to allude to a halakha about remaining married before having children, but to make it possible to determine Jacob’s age by relating it to the age of Ishmael.

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HALAKHA

If he was sick, etc. – Rav Nahman. The ten years that one may remain married before divorcing his wife if she has not borne him children do not include periods of time when one of them was sick, even if they engaged in intercourse during this period, or time when they were imprisoned, or when one of them was out of the country, as mentioned in the Jerusalem Talmud (Rambam Sefer Nashim, Hilkhot Ishut, Shulhan Arukh, Even HaEzer 54:11).
Rabbi Yitzhak said: Isaac our father was infertile, as it is stated: “And Isaac entreated the Lord concerning [lenokha] his wife” because she was barren” (Genesis 25:21). It is not stated that he entreated the Lord for [al] his wife, but lenokha, which can mean opposite, against, or corresponding to; this teaches that they were both infertile. The Gemara asks: If so, why does the verse continue: “And the Lord let Himself be entreated of him”? The verse should say: And the Lord let Himself be entreated of them. The Gemara answers that their prayers were answered due to Isaac, because the prayer of a righteous individual who is the son of a righteous individual is not similar to the prayer of a righteous individual who is the son of a wicked individual, and Rebekah’s father was the wicked Laban.

Rabbi Yitzhak said: For what reason were our forefathers initially infertile? Because the Holy One, Blessed be He, desires the prayers of the righteous, and He therefore wanted them to pray for children. Similarly, Rabbi Yitzhak said: Why are the prayers of the righteous compared to a pitchfork (eter), as in the verse: “And He let Himself be entreated [vaye’ater]”? This indicates that just as this pitchfork turns over produce from one place to another, so the prayer of the righteous turns over the attributes of the Holy One, Blessed be He, from the attribute of rage to the attribute of mercy. Rabbi Ami said: Abraham and Sarah were originally tumtumin, people whose sexual organs are concealed and not functional, as it is stated: “Look to the rock

**NOTES**

Concerning lenokha his wife – Rashi explains that the term lenokha indicates that Isaac and Rebekah stood opposite each other and prayed. The Maharsha states that lenokha can mean corresponding to. Consequently, just as Rebekah required this prayer, so did Isaac, as his status was similar to hers.

Because the prayer...is not similar, etc. – Abraham and Sarah were originally tumtumin – 

The Meiri writes that this informs us of the power of prayer, which can change even one's physical nature.

**BACKGROUND**

Pitchfork (eter) – ר赭: Rashi explains here that etar means a shovel, but Tosafot (Sukka 14a) prove from various sources that an etar is a pitchfork used to dig the earth or turn over produce in the process of winnowing, which is the way Rashi explains the word in tractate Sukke (14a).

Tumtum – תומות: A tumtum is one whose external sexual organs are concealed or otherwise indeterminate, and it is therefore unclear whether this person is male or female. In certain cases, the gender of the tumtum is later established, which is described in the language of the halakha as: A tumtum who was torn, revealing his or her gender, at which point this person is considered a full-fledged member of that gender.
Rav Nahman said that Rabba bar Avuh said: Our mother Sarah was initially a sexually underdeveloped woman [aylonit], as it is stated: “And Sarah was barren; she had no child” (Genesis 11:30). The superfluous words: “She had no child,” indicate that she did not have even a place, i.e., a womb, for a child.

Rav Yehuda, son of Rav Shmuel bar Sheliat, said in the name of Rav: They taught that he waits ten years only with regard to the people who lived in former generations, whose years were numerous, i.e., they lived longer. However, with regard to the people who live in later generations, whose years are few, he waits only two and half years⁸ before divorcing her, corresponding to the time period of three pregnancies.⁸ Ravba said in the name of Rav Nahman: He waits three years, corresponding to the three remembrances of barren women by God, as the Master said: On Rosh HaShana Sarah, Rachel, and Hannah were remembered, i.e., God gave them children. Since God determines on Rosh HaShana whether barren women will conceive that year, one may remain married until three such opportunities have passed.

However, Rabba himself said: These principles are not accepted as halakha. Why not? Now consider, who established the content of the mishna? Rabbi Yehuda HaNasi. Yet, in the days of King David, many years before the time of Rabbi Yehuda HaNasi, the years of an average lifespan were already diminished, as it is written: “The days of our years” are seventy years, and if with strength eighty years” (Psalms 90:10). Consequently, if Rabbi Yehuda HaNasi included in the mishna the statement that one remains married for ten years, that must apply even nowadays.

The Gemara asks about the language of the baraita. And what about this expression: Perhaps he did not merit to be built from her; perhaps it was she who did not merit⁹ to build a family. The Gemara answers: She, since she is not commanded to be fruitful and multiply, is not punished. Their worthiness therefore depends on him, not her.

**NOTES**

Two and a half years – Since the duration of three pregnancies is twenty-seven months, why does Rav say that one remains married for two and a half years, which is thirty months? One suggestion is that the thirty months include one month for the woman to become ritually pure and permitted to her husband between each of the three time periods corresponding to a pregnancy (Rabbi Avraham min HaHar). Alternatively, Rav was not particular about the exact duration, and allowed extra time (Rabbi Yehuda al-Madari).

The days of our years – Tosafot note that even though this psalm is entitled “A prayer of Moses,” it was in fact composed by David. The phrase “A prayer of Moses” means a prayer for Moses (Yerakot in Ein Yisak). Perhaps it was the woman who did not merit, etc. – נאמר משועינא א的商品יא א商品房 א商品房 א商品房 – א商品房 א商品房 א商品房. Rabbi explains that the point of this question is that therefore she should not be entitled to the payment of her marriage contract (see Ral). Rabbi Avraham min HaHar explains similarly that since she is not obligated to have children, their inability to have children is considered a punishment for the husband, not the wife. Consequently, although it is not known whether she is fertile, she nevertheless receives payment for her marriage contract.

However, some commentators (Ramban; Rashba; Tosfor (Had Mekamale)) question the connection between not being obligated to have children and receiving payment of the marriage contract. The Ramban suggests that the Gemara’s initial statement that he did not merit to have children through her is meant to explain that since they are not presumed to necessarily be infertile, he must divorce her in order to marry someone else. The Gemara’s question here is simply linguistic; it asks why this statement was phrased from the perspective of the husband rather than the wife (see Rashba).
A second husband yes, but a third one no — this is the principle that applies also to the sons of one father. If a woman had been married twice for ten years each without bearing a child by either husband, she may not marry a third time. If she does, her husband must divorce her unless she has another husband or has already fulfilled the mitzvah to be fruitful and multiply. If he divorces her, he is required to pay her marriage contract only if he was aware of her background before he married her, in which case he must pay it even if he does not have another wife and has not fulfilled the mitzvah to be fruitful and multiply (Rambam, Sefer Nisim, Hilkhos Ishut 15:14; Shulhan Arukh, Even HaZer 154:17; Beit Shmuel).

Circumcised her first son and he died, etc. — הלכה עליה רבי יוחנן: If a woman circumcised her first son and he died as a result of the circumcision, she is regarded as having circumcised him. However, if she did not bloody his foreskin, then she is regarded as not having circumcised him. She also is regarded as not having circumcised her second son and he too died (on the grounds that her husband too was required to divorce her in the first case and the same is true in the second case). This applies regardless of whether the sons shared the same father.

The same principle applies also to the sons of one father from different mothers. Some authorities disagree, but the halakho is in accordance with the lenient opinion in cases of potential danger (Rambam, Sefer Nisim; Hilkhos Mila 118; Shulhan Arukh, Yoreh De’ah 263:2 and in the comment of Rema).

Sisters establish a presumption — אִיﬠֲקוּר אָמָן לֹא מִפִּרְקֵיהּ. The Gemara answers: Mellah the mitzva to be fruitful and multiply (Brochos 43a).

The Gemara similarly relates that Rav Giddel became impotent from Rav Huna’s discourse, Rav Helbo became impotent from Rav Huna’s discourse, and Rav Sheshet became impotent from Rav Huna’s discourse. The Gemara relates that Rav Aha bar Ya’akov was afflicted by susskinta, a disease caused by holding back from urinating. They suspended him from the cedar column that supported the study hall, and a substance that was as green as a palm leaf emerged from him, and he was healed. Rav Aha bar Ya’akov said: We were sixty elders present at the time, and they all became impotent from Rav Huna’s discourse, aside from me, as I fulfilled with regard to myself the verse: “Wisdom preserves the life of him who has it” (Ecclesiastes 7:12). I used the above cure to avoid becoming impotent.

It was taught in the mishna that if a man divorced his wife after ten years without children, he is permitted to marry a second man, who may remain married to her for ten years. The Gemara comments: A second husband, yes, but a third one, no. Once she has been married to two men without children for ten years each, it is presumed that she is unable to have children.

The Gemara comments: Who is the tama of the mishna? It is Rabbi Yehuda HaNasi, who holds that a legal presumption (hazaka) is established after two occurrences. As it is taught in a baraita: If a woman circumcised her first son and he died as a result of the circumcision, and she circumcised her second son and he also died, she should not circumcise her third son, as the deaths of the first two produce a presumption that this woman’s sons die as a result of circumcision. This is the statement of Rabbi Yehuda HaNasi. Rabban Shimon ben Gamliel says: She should circumcise her third son, as there is not considered to be a legal presumption that her sons die from circumcision, but she should not circumcise her fourth son if her first three sons died from circumcision.

The Gemara asks: Isn’t the reverse taught in a baraita, that Rabbi Yehuda HaNasi holds that the woman’s third son must be circumcised and Rabban Shimon ben Gamliel holds that he is not circumcised? Which of them was composed later and is therefore presumed to be more reliable?

The Gemara suggests: Come and hear, as Rabbi Hiyya bar Abba said that Rabbi Yehanan said: An incident occurred involving four sisters in Tzippori, that the first sister circumcised her son and he died, and the second sister circumcised her son and he died, and the third one circumcised her son and he too died. The fourth sister came before Rabban Shimon ben Gamliel, who said to her: Do not circumcise him. This indicates that according to Rabban Shimon ben Gamliel a presumption is established only after three occurrences.

The Gemara refutes this proof: Perhaps if the third sister had come before him he would also have said to her the same ruling. The Gemara asks: If so, what is the purpose of Rabbi Hiyya bar Abba’s testimony? Why would he have related this incident if it does not teach us anything? The Gemara answers: Perhaps he comes to teach us that sisters establish a presumption in a case like this even though the children who died were not from the same mother.

BACKGROUND

The first sister circumcised her son and he died, etc. — הלכה עליה רבי יוחנן: Apparently, this is referring to a hereditary disease that prevents the blood from clotting, e.g., hemophilia. It is transmitted through the female, who carries the offending gene, although it affects primarily males. In this case it is certain that sisters establish a presumption, as they are all likely to pass on the disease.

The Gemara challenges the mishna’s statement that if one did not have children after ten years he should marry a different woman. Is that so? Didn’t the Sages say to Rabbi Abba bar Zavda: Marry a woman and have children, and he said to them: If I had merited, I would already have children from my first wife? This indicates that there is no obligation to remarry if one did not have children with his first wife. The Gemara answers: There, Rabbi Abba bar Zavda was merely putting the Rabbis off with an excuse, as the real reason why he would not marry was because Rabbi Abba bar Zavda became impotent from Rav Huna’s discourse. Rav Huna’s students would hold back from relieving themselves until his lengthy sermons were finished, which caused them to become sterile.
A man should not marry a woman from a family of epileptics.

This is one of the earliest mentions in the history of medicine of the recognition that certain hereditary diseases are transmitted through a carrier. Consequently, although the woman displays no signs of the disease, the very occurrence of the hereditary disease in the family raises the possibility that she could pass it on to her children.

Contemporary medicine knows of numerous such diseases, of which epilepsy is a prime example.

Her spring is the cause – כה שותה מ‹י. It is possible for bodily fluids to transmit infectious diseases. This applies especially to sexually transmitted illnesses, but it is true of other infectious diseases as well. It is also possible for a woman to carry a disease that does not threaten her but is deadly for a man.

Rava said: Now that you have said that sisters establish a presumption, a man should not marry a woman from a family of epileptics or from a family of lepers, as these diseases might be hereditary. The Gemara adds: And this applies only if it was established three times, i.e., three members of the family are afflicted with the disease.

The Gemara asks: Which halakhic conclusion was about this matter? Is a presumption established after two occurrences or only after three? When Rav Yitzḥak bar Yosef came from Ereẓ Yisrael, he said: An incident occurred before Rabbi Yohanan in the synagogue of the town of Maon on a Yom Kippur that occurred on Shabbat. The first sister had circumscribed her son and he died; the second sister circumscribed her son and he also died. The third sister came before him, and he said to her: Go and circumscribe your son, as a presumption is not established after only two occurrences.

Abaye said to Rav Yitzḥak: See to it that your report is accurate, as you are permitting an action that would otherwise constitute a prohibition and a danger. If the third child should not be circumcised, doing so would be a prohibited labor and would endanger the life of the child.

The Gemara comments: Abaye relied on this report and went and married Huma, the daughter of Isi, son of Rav Yitzḥak, son of Rav Yehuda. Huma had previously married Rahava of Pumbedita, and he died, and then she married Rav Yitzḥak, son of Rabba bar bar Ḥana, and he died; and he, Abaye, married her nevertheless, without concern that she had been established to be a woman whose husbands died; and he died as well while married to her.

Rava said: Is there anyone who performs an action like this and endangers himself by marrying such a woman? Wasn’t it he, Abaye, who said that Avin is reliable but Yitzḥak the Red, i.e., Rav Yitzḥak bar Yosef, is not reliable? He proceeds to explain the difference between them: Avin returns to Ereẓ Yisrael and hears whether the Sages there rescind their previous rulings, whereas Yitzḥak the Red does not return to Ereẓ Yisrael and never finds out if the Sages there rescind their rulings. And furthermore, say that they disagree with regard to whether a presumption is established by two or by three deaths due to circumcision, but do they necessarily agree with regard to marriage?

The Gemara responds: Yes, and it is taught in a baraita: If a woman was married to her first husband and he died, to a second one and he also died, she may not get married to a third husband. This is the statement of Rabbi Yehuda HaNasi. Ravbash Shimon ben Gamliel says: She may get married to a third husband, but if he also dies, she may not get married to a fourth husband.

The Gemara asks: Granted with regard to circumcision a presumption of death due to circumcision can be established because there are families whose blood is thin and does not clot well, and there are families whose blood clots. However, in the case of marriage, what is the reason for concern that a subsequent husband will die? Rav Mordekhai said to Rav Ashi: Avimi of Hagronya said in the name of Rav Huna as follows: Her spring is the cause. In other words, the woman has some sort of condition that causes those who have intercourse with her to die. And Rav Ashi said that her constellation is the cause of her husbands’ deaths.
Yehuda HaNasi due to the court's responsibility to protect One who was set pattern unless it is uprooted, which occurs if she does not prove that a presumption has been established. Since he can’t prove that the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, he is awarded the extra payment of circumcision, the third is not circumcised. In the case of lash- ing, the owner is liable to pay only half the value of damage that it established a set pattern of menstrual bleeding for herself, so that it can be assumed that she will start bleeding at a particular time, until she has established it three times. Similarly, she is not purified from her set pattern until it is uprooted from her three times, i.e., until she did not experience menstrual bleeding at the expected time according to her pattern on three occasions. And the case of a forewarned ox is as we learned in a mishna (Bava Kamma 33b): An ox does not become forewarned until witnesses testify that it has gored three times. Consequently, in the cases of set patterns and a forewarned ox, a legal presumption is created only after three occurrences, in accordance with the opinion of Rabban Shimon ben Gamliel.

The Gemara asks: What is the practical difference between them? The Gemara answers: There is a difference between them in a case where a man betrothed her and died before the wedding; alternatively, in a case where he fell off a palm tree and died. If the concern is due to intercourse, then in these cases the husband’s death cannot be attributed to his wife. Conversely, if the concern is due to her bad fortune, the husband’s death can be attributed to his wife even in these cases.

Rav Yosef, son of Rava, said to Rava: I inquired of Rav Yosef whether the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi, and he said to me: Yes. I subsequently asked him if the halakha is in accordance with the opinion of Rabban Shimon ben Gamliel, and he said to me: Yes. Was he mocking me by issuing contradictory rulings?

Rava said to him: No, there are unattributed mishnayot in accordance with each opinion, and he resolved for you that the halakha is in accordance with each opinion in particular cases. With regard to marriage and lashings the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi that two occurrences are sufficient for a presumption. Concerning set patterns of menstrual bleeding and a forewarned ox, the halakha is in accordance with the opinion of Rabban Shimon ben Gamliel that a presumption is established after three occurrences.

The Gemara identifies the aforementioned halakhot. Marriage is referring to that which we said with regard to a woman whose husbands have died. The case of lashings is as we learned in a mishna (Nidda 63b): One who was flogged for transgressing a Torah law, and repeated the same transgression was flogged again, if he then repeats the sin a third time, the court places him in a narrow, vaulted chamber and they feed him barley until his stomach bursts. Once he has sinned and been flogged twice he has established a presumption of wickedness, and when he sins again he is caused to die so that he will not continue to sin. The case of set patterns of menstrual bleeding is as we learned in a mishna (Nidda 63b): A woman does not...