אָמַר רָבָא אָמַר רַב נַחְמָן: הֲלָכָה כְּרַב יְהוּדָה. אָמַר לֵיהּ רָבָא לְרַב נַחְמָן: וְהָתַנְיָא כְּוָותֵיהּ דְּרַבִּי אַמִּי? אַף עַל גַּב דְּתַנְיָא כְּוָותֵיהּ דְּרַבִּי אַמִּי, מִסְתַּבְּרָא טַעֲמָא דְּרַב יְהוּדָה, מִשּׁוּם שֶׁבַח בֵּית אָבִיהָ.

Rava said that **Rav Naḥman said: The *halakha* is in accordance with** the opinion of **Rav Yehuda. Rava said to Rav Naḥman: But isn't it taught** in a *baraita* **in accordance with** the opinion of **Rabbi Ami?** He replied: **Although it is taught in accordance with** the opinion of **Rabbi Ami, Rav Yehuda's rationale,** that the wife may take the objects in question **because** they are **assets of her paternal family** and their complete removal from her domain would hurt the family's prestige, **is** more **reasonable.**

הַהִיא אִיתְּתָא דְּעַיְּילָה לֵיהּ לְגַבְרָא אִיצְטְלָא דְּמֵילְתָא בִּכְתוּבָּתָהּ, שְׁקַלְתֵּיהּ יַתְמֵי וּפָרְסוּהָ אַמִּיתְנָא.

The Gemara relates an incident: **A certain woman brought into** her marriage to her **husband a robe** [*itztela*][L] **of fine wool** [*meileta*],[L] which was deemed guaranteed property **by her marriage contract.** Her husband subsequently **died,** and **the orphans took** that robe **and spread it over the corpse** as a shroud.[N] The woman demanded that the robe be returned to her.

אֲמַר רָבָא: קַנְיֵהּ מִיתְנָא. אֲמַר לֵיהּ נַאנַאי, בְּרֵיהּ דְּרַב יוֹסֵף, בְּרֵיהּ דְּרָבָא, לְרַב כָּהֲנָא: וְהָאֲמַר רָבָא אֲמַר רַב נַחְמָן: הֲלָכָה כְּרַב יְהוּדָה! אֲמַר לֵיהּ: מִי לָא מוֹדֶה רַב יְהוּדָה דִּמְחוּסַּר גּוּבְיֵינָא? וְכֵיוָן דִּמְחוּסַּר גּוּבְיֵינָא – בִּרְשׁוּתֵיהּ קָאֵי.

Rava said: The dead has acquired it,[NH] as deriving benefit from anything consecrated for the dead is prohibited. **Nanai, son of Rav Yosef, son of Rava, said to Rav Kahana: But didn't Rava say** that **Rav Naḥman said** that **the *halakha* is in accordance with** the opinion of **Rav Yehuda?** Accordingly, the woman's robe must be returned. **He said to him: Doesn't Rav Yehuda admit that** the robe **has not yet been collected? And since it has not yet been collected, it remains in his possession,** and his inheritors can render its use as a burial shroud prohibited.

רָבָא לְטַעֲמֵיהּ, דְּאָמַר רָבָא: הֶקְדֵּשׁ, חָמֵץ,

The Gemara adds that in this regard **Rava** conforms **to his** standard line of **reasoning, as Rava said: Consecration** of property, the prohibition against benefiting from **leavened bread** on Passover,[N]

HALAKHA

Guaranteed property that was consecrated to the Temple or used for the dead – נִכְסֵי צֹאן בַּרְזֶל שֶׁהוּקְדְּשׁוּ אוֹ נִתְּנוּ לְמֵת: If a dead man's inheritors consecrate his widow's guaranteed property or place an object of that property on the corpse, rendering it prohibited to derive benefit from the property or item, the woman's lien is released and she receives only its value (*Shulḥan Arukh*, *Even HaEzer* 88:5).

LANGUAGE

Robe [*itztela*] – אִיצְטְלָא: From the Greek στολή, *stolè*, meaning garment or robe.

Fine wool [*meileta*] – מֵילְתָא: Some assert that this means fine wool, named after the city Μίλητος, Milètos, where it was manufactured (Rabbi Ovadya MiBartenura). Others explain that the source of the word is the Greek μηλωτή, *mēlotē*, meaning wool.

NOTES

And spread it over the corpse as a shroud – וּפָרְסוּהָ אַמִּיתְנָא: The Gemara relates that at first taking the dead out for burial was more difficult for the relatives than the actual death, because it was customary to bury the dead in expensive shrouds, which the poor could not afford (*Moed Katan* 27b). The problem grew to the point that relatives would sometimes abandon the corpse. This lasted until Rabban Gamliel left instructions that he be taken out for burial in simple linen garments, waiving his honor. Afterward, the entire Jewish people adopted this practice and had themselves taken out for burial in linen garments.

The dead has acquired it – קַנְיֵהּ מִיתְנָא: It is prohibited to derive benefit from a human corpse or from any object that serves its burial. Therefore, it is prohibited to use any object designated for a corpse or its burial that has been used to that end, e.g., a robe spread over the corpse as a shroud. However, one cannot render prohibited an object that belongs to someone else, even by using it for a human corpse.

Consecration of property, the prohibition against benefiting from leavened bread on Passover, etc. – הֶקְדֵּשׁ, חָמֵץ וכו': The Meiri explains that the *halakha* that these cannot release the property from a lien applies not only to items consecrated for the Temple, but to items consecrated for a corpse as well. The Ritva maintains that this *halakha* is a principle that applies to all items from which it is prohibited to derive benefit. In his opinion, consecrated property, leavened bread, and manumission (see 67a) are merely examples.

Perek **VII**
Daf **67** Amud **a**

וְשִׁחְרוּר – מַפְקִיעִין מִידֵי שִׁעְבּוּד.

and the **manumission** of a slave[N] **release** the property **from a lien.** If someone placed an asset under a lien for his debt and subsequently consecrated it; or if the asset under lien is leavened bread and the festival of Passover arrived; or if the asset is a slave and he freed him, the lien is released, and the creditor must claim his debt from the debtor's other property. In the case of the robe as well, because it was placed over the corpse, it was consecrated for the dead. Consequently, it is prohibited to derive benefit from it. Therefore, it is released to the woman from under the lien.

אָמַר רַב יְהוּדָה: הִכְנִיסָה לוֹ שְׁנֵי כֵלִים בְּאֶלֶף זוּז, וְשָׁבְחוּ וְעָמְדוּ עַל שְׁנֵי אֲלָפִים – אֶחָד נוֹטֵלְתּוֹ בִּכְתוּבָּתָהּ, וְאֶחָד נוֹתֶנֶת דָּמִים וְנוֹטֵלְתּוֹ, מִפְּנֵי שֶׁבַח בֵּית אָבִיהָ.

Rav Yehuda said: If the wife **brought** with her **into** the marriage **two belongings**[NH] of guaranteed investment worth **one thousand dinars, and they appreciated** until **they stood at two thousand, one** of them **she collects as** payment of **her marriage contract,** as it is now worth her dowry of one thousand dinars. **And** as for the other **one, she pays its monetary** value **and takes it** from her husband **because** it is **an asset of her paternal family.**

HALAKHA

If the wife brought with her into the marriage two belongings, etc. – הִכְנִיסָה לוֹ שְׁנֵי כֵלִים וכו': If the wife brought with her into her marriage two belongings or two maidservants of guaranteed investment, and they were appraised at one thousand dinars, and over the course of the marriage their value increased to two thousand dinars, upon her divorce she takes one of them for her one thousand dinars. If she wishes, she has the right to receive the other at its price at the time of her divorce, in accordance with Rav Yehuda's ruling (Rambam *Sefer Nashim*, *Hilkhot Ishut* 22:26; *Shulḥan Arukh*, *Even HaEzer* 88:3).

NOTES

And the manumission of a slave – וְשִׁחְרוּר: The Ramban points out that according to this ruling, the *baraita* cited by the Gemara in support of Rabbi Ami's opinion does not in fact lend his opinion any support. The *halakha* that slaves of guaranteed investment go free at the loss of a tooth or an eye by the husband can be explained by the fact that the wife's possession of them is nullified through their manumission, and therefore it cannot prove that the slaves belong to the husband.

If the wife brought with her into the marriage two belongings, etc. – הִכְנִיסָה לוֹ שְׁנֵי כֵלִים וכו': A controversy between Babylonian *amora'im* is cited in the Jerusalem Talmud with regard to this issue. However, the conclusion is the same as in this Gemara.

מַאי קָא מַשְׁמַע לָן, שֶׁבַּח בֵּית אָבִיהָ דִּידָהּ הָווֹ – הָא אָמְרָה רַב יְהוּדָה חֲדָא זִימְנָא! מַהוּ דְּתֵימָא: הָנֵי מִילֵּי – הֵיכָא דְּמָטְיָא לְמִשְׁקָל בִּכְתוּבָּתָהּ, אֲבָל מֵיתַן דָּמֵי וּמִישְׁקַל לָא – קָא מַשְׁמַע לָן.

The Gemara asks: **What is he teaching us?** Is it that **assets of her paternal family are hers? Rav Yehuda** already **said this once,** in his previous statement. The Gemara answers: The latter statement was necessary as well, **lest you say** that **this applies** only **where she comes to collect her marriage contract,** which is rightfully hers, **but to give money and take** assets that are worth beyond what her husband owes her, you might say that she may **not** do so, although the property in question is an asset of her paternal family. Rav Yehuda therefore **teaches us** that she may take all of the assets of her paternal family and pay for what they are worth beyond her husband's debt to her.

מתני׳ בַּת יִשְׂרָאֵל שֶׁנִּיסֵּת לְכֹהֵן וָמֵת, וְהִנִּיחָהּ מְעוּבֶּרֶת, לֹא יֹאכְלוּ עֲבָדֶיהָ בִּתְרוּמָה, מִפְּנֵי חֶלְקוֹ שֶׁל עוּבָּר. שֶׁהָעוּבָּר פּוֹסֵל, וְאֵינוֹ מַאֲכִיל, דִּבְרֵי רַבִּי יוֹסֵי.

MISHNA With regard to **an Israelite woman who married a priest and he died and left her pregnant, her slaves** of guaranteed investment **may not partake of** *teruma*[N] during her pregnancy, **due to the share of the fetus,** as an inheritor of his father, in the ownership of the slaves. In the opposite case, **where** the Israelite husband of a priest's daughter died and left her pregnant, **the fetus disqualifies** her from partaking of *teruma*. However, in the current case, the fetus **does not enable** its mother or the slaves **to partake**[N] of *teruma*,[H] despite the fact that it is the child of a priest. This is **the statement of Rabbi Yosei.**

אָמְרוּ לוֹ: מֵאַחַר שֶׁהֵעַדְתָּ לָנוּ עַל בַּת יִשְׂרָאֵל לְכֹהֵן – אַף בַּת כֹּהֵן לְכֹהֵן וָמֵת, וְהִנִּיחָהּ מְעוּבֶּרֶת – לֹא יֹאכְלוּ עֲבָדֶיהָ בִּתְרוּמָה, מִפְּנֵי חֶלְקוֹ שֶׁל עוּבָּר.

The Rabbis **said to him: Since you testified before us about** the case of **an Israelite woman** who was married **to a priest,** in the case of **the daughter of a priest** who was married **to a priest and he died and left her pregnant, her slaves should not partake of *teruma* either, due to the fetus's share.** The same *halakha* should apply whether the woman is an Israelite or the daughter of a priest.

גמ׳ אִיבַּעְיָא לְהוּ: טַעְמָא דְּרַבִּי יוֹסֵי מִשּׁוּם דְּקָסָבַר עוּבָּר בִּמְעֵי זָרָה זָר הוּא, אוֹ דִלְמָא: יָלוּד – מַאֲכִיל, שֶׁאֵינוֹ יָלוּד – אֵינוֹ מַאֲכִיל?

GEMARA **A dilemma was raised before** the scholars: Is **the reason for** the ruling of **Rabbi Yosei because he holds that a fetus in the womb of a non-priest is a non-priest,** as it is considered part of its mother's body and it becomes a priest only upon birth, and therefore the slaves in which it owns a share will be allowed to eat *teruma* only at that stage? **Or,** is Rabbi Yosei **perhaps** of the opinion that only **one who was born enables** others **to partake** of *teruma*, whereas **one who is not** yet **born does not enable** others **to partake,** although it is considered a priest?

לְמַאי נָפְקָא מִינָּה – לְעוּבָּר בִּמְעֵי כֹּהֶנֶת, מַאי? אֲמַר רַבָּה: הַיְינוּ טַעְמָא דְּרַבִּי יוֹסֵי: דְּקָסָבַר עוּבָּר בִּמְעֵי זָרָה – זָר הוּא. רַב יוֹסֵף אָמַר: יָלוּד – מַאֲכִיל, שֶׁאֵין יָלוּד – אֵינוֹ מַאֲכִיל.

What is the **practical difference** between the two possible reasons? It is the case of **a fetus in the womb of the priestess,** the daughter of a priest. If Rabbi Yosei's rationale is that the fetus in the womb of a non-priest is a non-priest, that is not the case here, and therefore the slaves should partake of *teruma*. **What** is the *halakha* in this case? **Rabba said** that **this is Rabbi Yosei's reasoning: He holds** that **a fetus in the womb of a non-priest is a non-priest. Rav Yosef said:** His rationale is that only **one who was born enables** others **to partake** of *teruma*, whereas **one who is not** yet **born does not enable** others **to partake.**[N]

מֵיתִיבִי, אָמְרוּ לוֹ לְרַבִּי יוֹסֵי: מֵאַחַר שֶׁהֵעַדְתָּ לָנוּ עַל בַּת יִשְׂרָאֵל לְכֹהֵן – בַּת כֹּהֵן לְכֹהֵן מַהוּ? אָמַר לָהֶם: זוֹ שָׁמַעְתִּי, וְזוֹ לֹא שָׁמַעְתִּי.

The Gemara **raises an objection** to Rav Yosef's opinion from a *baraita* that continues the last clause of the mishna: The Rabbis **said to Rabbi Yosei: Since you testified before us about** the case of **an Israelite woman** married **to a priest,** in the case of **the daughter of a priest** married **to a priest, what is** the *halakha*? **He said to them:** With regard to the former case, **I heard** from my teachers that the slaves do not partake of *teruma*, **but** with regard to **this** one, **I did not hear** such a thing.[N]

אִי אָמְרַתְּ בִּשְׁלָמָא עוּבָּר בִּמְעֵי זָרָה זָר הוּא – הַיְינוּ דְּקָאָמַר לְהוּ: ״זוֹ שָׁמַעְתִּי, וְזוֹ לֹא שָׁמַעְתִּי״. אֶלָּא, אִי אָמְרַתְּ יָלוּד – מַאֲכִיל, שֶׁאֵין יָלוּד – אֵין מַאֲכִיל, מַאי ״זוֹ שָׁמַעְתִּי וְזוֹ לֹא שָׁמַעְתִּי״ אִיהִי הִיא! קַשְׁיָא.

Granted, if you say that Rabbi Yosei's reasoning is that **a fetus in the womb of a non-priest is a non-priest, this is** the reason **that he said to them: This** case **I heard but this** case **I did not hear.** There is a logical distinction between the two cases, as in the latter case the fetus is not in the womb of a non-priest. **However, if you say** that his rationale is that only **one who was born enables** others **to partake** of *teruma*, whereas **one who is not** yet **born does not enable** others **to partake, what** does he mean by saying: **This** case **I heard but this** case **I did not hear? It is the same** case with regard to this principle. The Gemara concludes: This is **a difficult** objection.

NOTES

Her slaves may not partake of *teruma* – לֹא יֹאכְלוּ עֲבָדֶיהָ בִּתְרוּמָה: An emendation to the text is suggested in the Jerusalem Talmud, so that it reads: His slaves may not partake of *teruma*. This is because the slaves under discussion must be slaves of guaranteed investment, which belonged to the husband, and therefore belong to the fetus after his death. On the other hand, slaves of usufruct property, who belong to the woman, partake of *teruma* if she does, i.e., in a case where the woman has other children from the husband besides the fetus. A different opinion cited there suggests that according to Rabbi Yosei, the woman does not partake of *teruma* even if they had other children, due to her pregnancy, and neither do her slaves of usufruct property. Therefore, the emendation is unnecessary.

Where the Israelite husband died the fetus disqualifies her from partaking, however in the current case the fetus does not enable them to partake – שֶׁהָעוּבָּר פּוֹסֵל וְאֵינוֹ מַאֲכִיל: Rashi explains that a fetus disqualifies its mother in the opposite case, i.e., the daughter of a priest married to an Israelite man, but does not enable her to partake of *teruma* in the case of the mishna. *Tosafot*, however, explain that in the case mentioned in the mishna, the fetus disqualifies the slaves of guaranteed investment from partaking of *teruma* but does not enable its mother or her slaves of usufruct property to partake. This explanation is supported by the fact that the principle that a fetus can disqualify its mother but cannot enable her to partake is stated in the next mishna (67b), so its mention in both *mishnayot* is superfluous unless here it carries a slightly different meaning.

Only one who was born enables others to partake of *teruma*, whereas one who is not yet born does not enable others to partake – יָלוּד מַאֲכִיל, שֶׁאֵין יָלוּד אֵינוֹ מַאֲכִיל: This principle is derived by the Gemara (*Nidda* 44b) from the verse "And such as are born in his house, they may eat [*yokhlu*] of his bread" (Leviticus 22:11). One who was not born may not, so to speak, feed [*ya'akhilu*] others either (Rashi).

The former case I heard, but with regard to this one I did not hear such a thing – זוֹ שָׁמַעְתִּי וְזוֹ לֹא שָׁמַעְתִּי: According to Rashi, Rabbi Yosei means that he heard from his teachers that in this case the slaves do partake of *teruma*. However, the Ritva raises several problems with this explanation and prefers a simpler understanding of Rabbi Yosei's statement: He did not hear what the *halakha* is in the latter case, and therefore he has nothing to say on the matter.

HALAKHA

A fetus does not enable others to partake of *teruma* – עוּבָּר אֵינוֹ מַאֲכִיל: If an Israelite woman married a priest, and he subsequently died and left her pregnant, her slaves may not partake of *teruma*, as only one who was born enables others to partake of *teruma*, but a fetus does not. Conversely, a fetus does not disqualify its mother from partaking of *teruma*. Therefore, if the fetus is categorized as a priest disqualified due to flawed lineage [*ḥalal*], and it has non-*ḥalal* brothers, the mother partakes of *teruma* until it is born. This ruling apparently follows the Rabbis' opinion (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 8:4; *Tur*, *Yoreh De'a* 331).

אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: זוֹ דִּבְרֵי רַבִּי יוֹסֵי, אֲבָל חֲכָמִים אוֹמְרִים: יֵשׁ לוֹ בָּנִים – אוֹכְלִים מְשׁוּם בָּנִים, אֵין לוֹ בָּנִים – אוֹכְלִים מְשׁוּם אַחִים. אֵין לוֹ אַחִים – אוֹכְלִים מְשׁוּם מִשְׁפָּחָה כּוּלָּהּ.

Rav Yehuda said that **Shmuel said: This is the statement of Rabbi Yosei. However, the Rabbis say** that if the dead husband **has children,** the slaves **partake** of *teruma* **due to** the **children,** as they inherit the slaves. If **he does not have children, they partake** of *teruma* **due to** his **brothers,** who inherit his property. If **he does not have brothers** either, **they partake due to** the **entire family,** which inherits his property. The fetus does not disqualify them, as it does not yet own its share of the inheritance.

"זוֹ" וְלָא סְבִירָא לֵיהּ?! הָא אָמַר לֵיהּ שְׁמוּאֵל לְרַב חָנָא בַּגְדָתָאָה: פּוֹק אַיְיתֵי לִי בֵּי עֲשָׂרָה, דְּאֵימָא לָךְ בְּאַנְפֵּיהּוּ: הַמְזַכֶּה לְעוּבָּר – קָנָה! אֶלָּא: "זוֹ" וְסִבְירָא לֵיהּ. מַאי קָא מַשְׁמַע לָן, דִּפְלִיגִי רַבָּנַן עֲלֵיהּ דְּרַבִּי יוֹסֵי.

The Gemara asks: By saying that **this** is only Rabbi Yosei's stance, Shmuel seemingly indicates that **he** himself **does not maintain** that opinion. However, **Shmuel said to Rav Ḥana of Baghdad:**[P] **Go and bring me an assembly of ten** men[N] **and I will say to you before them** a *halakha* that I seek to disseminate: **One who transfers ownership** of an object **to a fetus,** the fetus **acquires** it.[N] Consequently, according to Shmuel, a fetus can own property, which is the premise of Rabbi Yosei's stance that a fetus shares the inheritance even before he is born. The Gemara answers: **Rather,** although Shmuel said that **this** is only Rabbi Yosei's stance, **he holds** likewise. **What is** Shmuel **teaching us** by saying so? He is teaching us **that the Rabbis disagree with Rabbi Yosei.**

וּמִי פְּלִיגִי? מְתִיב רַבִּי זַכַּאי: זוֹ עֵדוּת הֵעִיד רַבִּי יוֹסֵי מִפִּי שְׁמַעְיָה וְאַבְטַלְיוֹן, וְהוֹדוּ לוֹ. אֲמַר רַב אַשִׁי: מִי קָתָנֵי "וְקִבְּלוּ"? "וְהוֹדוּ לוֹ" קָתָנֵי, דְּמִסְתַּבְּרִי טַעְמֵיהּ.

The Gemara asks: **But do they** really **disagree? Rabbi Zakkai raised an objection** to this statement from a *baraita*: **This** was **a testimony** that **Rabbi Yosei testified** that he heard **from the mouths of Shemaya and Avtalyon, and** the Rabbis **acknowledged** his testimony. Apparently, they accepted his opinion. **Rav Ashi said: Does** that *baraita* **state: And** the Rabbis **accepted** his testimony?[N] **It states: And they acknowledged** his testimony, which indicates **that his opinion is reasonable.** However, they did not accept his ruling.

תָּנוּ רַבָּנַן: הִנִּיחַ בָּנִים – אֵלּוּ וְאֵלּוּ אוֹכְלִים. הִנִּיחָהּ מְעוּבֶּרֶת – אֵלּוּ וְאֵלּוּ אֵין אוֹכְלִים. הִנִּיחַ בָּנִים וְהִנִּיחָהּ מְעוּבֶּרֶת, עַבְדֵי מְלוֹג אוֹכְלִים, כִּדְרָכָהּ שֶׁהִיא אוֹכֶלֶת. עַבְדֵי צֹאן בָּרְזֶל לֹא יֹאכְלוּ, מִפְּנֵי חֶלְקוֹ שֶׁל עוּבָּר, שֶׁהָעוּבָּר פּוֹסֵל וְאֵינוֹ מַאֲכִיל, דִּבְרֵי רַבִּי יוֹסֵי.

The Sages taught in a *baraita*: If the priest who was married to an Israelite woman and died **left children,**[H] both the slaves of usufruct property **and** the slaves of guaranteed investment **may partake** of *teruma*. The slaves of guaranteed investment are owned by the children, who are priests, and the slaves of usufruct property are owned by the woman, who partakes of *teruma* due to her children. If **he left** his wife **pregnant** and did not leave children, both **these** slaves **and those** slaves **may not partake** of *teruma*. If **he left children and left her pregnant,**[H] the **slaves of usufruct** property who belong to her **partake** of *teruma* **just as she partakes** due to her children. However, the **slaves of guaranteed investment,** who are inherited by the children, **may not partake, due to the fetus's share,** as it too inherits them, **as a fetus can disqualify** one from partaking of *teruma* **but it cannot not enable** one **to partake.** This is **the statement of Rabbi Yosei.**

רַבִּי יִשְׁמָעֵאל בְּרַבִּי יוֹסֵי אוֹמֵר מִשּׁוּם אָבִיו: הַבַּת – מַאֲכֶלֶת, הַבֵּן – אֵינוֹ מַאֲכִיל. רַבִּי שִׁמְעוֹן בֶּן יוֹחַי אוֹמֵר: זְכָרִים – יֹאכְלוּ, כּוּלָּן נְקֵבוֹת – לֹא יֹאכְלוּ, שֶׁמָּא יִמָּצֵא עוּבָּר זָכָר, וְאֵין לְבָנוֹת בִּמְקוֹם הַבֵּן כְּלוּם.

Rabbi Yishmael, son of Rabbi Yosei, says in the name of his father: If the priest left behind **a daughter,** she **enables** the slaves **to partake** of *teruma*; however, **a son does not enable** them **to partake. Rabbi Shimon ben Yoḥai says:** If among the priest's children there are **males,** the slaves **partake** of *teruma*. But if they are **all females, they do not partake, lest the fetus be found** to be **a male, and daughters do not** receive **any** of the inheritance **where** there is **a son.** The male fetus would be the sole inheritor, and it does not enable slaves to partake of *teruma*.

מַאי אִירְיָא שֶׁמָּא יִמָּצֵא עוּבָּר זָכָר? תִּיפּוֹק לֵיהּ דִּנְקֵבָה נַמִּי פָּסְלָה! חָדָא וְעוֹד קָאָמַר; חָדָא – דִּנְקֵבָה נַמִּי פָּסְלָה, וְעוֹד: שֶׁמָּא יִמָּצֵא עוּבָּר זָכָר, וְאֵין לְבָנוֹת בִּמְקוֹם הַבֵּן כְּלוּם.

The Gemara asks: **Why** does Rabbi Shimon ben Yoḥai **specifically** explain that if the children are females, the slaves may not partake of *teruma*, **lest the fetus be found** to be **a male? Derive** the ruling that the slaves do not partake of *teruma* from the *halakha* **that a female** fetus **also disqualifies** its slaves from partaking of *teruma*. Since the priest has only daughters, they inherit from him, and the female fetus receives a share in the inheritance too. The Gemara answers: Rabbi Shimon ben Yoḥai **stated one** reason **and another. One** reason is **that a female also disqualifies** its slaves from partaking of *teruma*, **and another** reason is **lest the fetus be found** to be **a male, and daughters have no** share in the inheritance **at all in a place** where there is **a son.**

PERSONALITIES

Rav Ḥana of Baghdad [*Bagdata'a*] – רַב חָנָה בַּגְדָתָאָה: Rav Ḥana of Baghdad was a second-generation Babylonian *amora*. He was Shmuel's preeminent disciple and transmitted several *halakhot* in his teacher's name. He was also a colleague of Rav Yehuda, another disciple of Shmuel.

Rav Ḥana was apparently from the city of Baghdad, called in those days Bagdat, which was on the border of the Jewish settlement in Babylonia, and a small city at the time.

NOTES

Bring me an assembly of ten men – אַיְיתֵי לִי בֵּי עֲשָׂרָה: Although it is a legal principle that anything said in the presence of three is considered publicized, making a statement in front of a gathering of ten constitutes a special declaration before a bona fide assembly, which serves to emphasize the importance of the announcement.

One who transfers ownership of an object to a fetus, it acquires it – הַמְזַכֶּה לְעוּבָּר קָנָה: The Gemara in several places reaches the conclusion that a fetus cannot acquire or own anything. The early commentaries discuss the apparent contradiction between that ruling and the *halakha* that one may grant property to his child while the latter is still a fetus. One opinion is that a parent's grant carries more weight than an ordinary acquisition or inheritance, due to the emotional closeness of a parent to his child. The Ramban, on the other hand, claims that the *halakha* that a parent may grant property to a fetus is not Torah law but a rabbinical ordinance that applies only to someone on his deathbed, as it is designed to calm the mind of such an individual.

Does that *baraita* state: And the Rabbis accepted his testimony, etc. – מִי קָתָנֵי וְקִבְּלוּ וכו': If the Rabbis acknowledged Rabbi Yosei's testimony, why didn't they accept his ruling? The Ritva explains that while the Rabbis conceded that Rabbi Yosei's opinion is both reasonable and an accepted tradition, they had their own conflicting tradition, which they were unwilling to disregard in favor of his. Others explain that although they accepted his opinion, the wording indicates that they had initially disagreed with him (Rabbi Avraham min HaHar). Another explanation is that while they acknowledged Rabbi Yosei's tradition, they interpreted it differently than he did (*Tosafot*).

HALAKHA

If the priest who died left children – הִנִּיחַ בָּנִים: If a priest married an Israelite woman and subsequently died, and she has descendants from him and is not pregnant, she and her slaves, both slaves of usufruct property and of slaves of guaranteed investment, partake of *teruma* (*Tur*, *Yoreh De'a* 331).

If he left children and left her pregnant – הִנִּיחַ בָּנִים וְהִנִּיחָהּ מְעוּבֶּרֶת: The Rambam rules that if a priest married an Israelite woman and died, leaving her pregnant, if she has other children from him she and her slaves of usufruct property may partake of *teruma*. However, her slaves of guaranteed investment may not, due to the fetus's share in their ownership. Alternatively, the Rosh follows Rabbi Shimon's ruling that if they had sons, both types of slaves may partake of *teruma*. However, if they had only daughters, the slaves of guaranteed investment may not partake of *teruma* due to the fetus's share. The *Tur* concurs with this ruling (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 8:4; *Yoreh De'a* 331).

זְכָרִים יֹאכְלוּ. וְהָאִיכָּא עוּבָּר! קָסָבַר

The Gemara asks with regard to the first clause of Rabbi Shimon's statement, that if among the priest's children there are **males,** the slaves **may partake** of *teruma*: **But** even though sons inherit from their father, **isn't there a fetus** to be accounted for, as perhaps he too is a male, and therefore has a share in the inheritance? The Gemara answers: Rabbi Shimon **holds**

Perek **VII**
Daf **67** Amud **b**

HALAKHA

Minor orphans who came to court to divide up their father's property, etc. – יְתוֹמִים שֶׁבָּאוּ לַחֲלוֹק בִּנְכְסֵי אֲבִיהֶם וכו': With regard to sons, some of whom are adults and others of whom are minors, whose father dies and who want to divide up their father's property so that the adults can receive their share, the court appoints a steward for the minors, who selects for them a suitable share. The minors cannot object, even when they come of age, as the division was performed under the auspices of the court. This ruling follows Rav Naḥman's own opinion. However, the Ritva rules in accordance with Shmuel (*Shakh*; Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 10:4; *Shulḥan Arukh*, *Ḥoshen Mishpat* 289:1).

LANGUAGE

Steward [*apotropos*] – אַפּוֹטְרוֹפּוֹס: From the Greek ἐπίτροπος, *epitropos*, meaning one with the power of attorney, a trustee. It generally refers to anyone who has the right to run the properties or affairs of another.

אֵין חוֹשְׁשִׁין לְמִיעוּטָא. וְאִיבָּעֵית אֵימָא: לְעוֹלָם קָסָבַר חוֹשְׁשִׁין לְמִיעוּטָא, דְּעָבְדִינַן לֵיהּ תַּקָּנְתָּא כְּרַב נַחְמָן אָמַר שְׁמוּאֵל.

that **we are not concerned about the minority**[N] of cases. Only a minority of fetuses are male inheritors, as roughly half are female, and some are stillborn. Therefore, the majority of fetuses will not become male children. **And if you wish, say** that **actually he holds** that **we are concerned about the minority.** However, **we make an arrangement for** the slaves, **in accordance with** what **Rav Naḥman** said that **Shmuel said.**

דְּאָמַר רַב נַחְמָן אָמַר שְׁמוּאֵל: יְתוֹמִים שֶׁבָּאוּ לַחֲלוֹק בִּנְכְסֵי אֲבִיהֶם, בֵּית דִּין מַעֲמִידִין לָהֶם אַפּוֹטְרוֹפּוֹס וּבוֹרֵר לָהֶם חֵלֶק יָפֶה. הִגְדִּילוּ – יְכוֹלִין לִמְחוֹת. וְרַב נַחְמָן דִּידֵיהּ אָמַר: הִגְדִּילוּ – אֵין יְכוֹלִין לִמְחוֹת. דְּאִם כֵּן – מַה כֹּחַ בֵּית דִּין יָפֶה?

This is **as Rav Naḥman said** that **Shmuel said:** With regard to minor **orphans who came to** court to **divide up their father's property,**[H] the **court appoints for** each of **them a steward** [***apotropos***],[LN] **and he selects for them a fine share.** When the orphans **have grown up, they may object** to the manner in which the property was divided and redistribute it. **And Rav Naḥman himself said** that when **they have grown up they may not object, as, if** they may object, **what good is the power of the court?** Here too, an appointed steward selects a share of the inheritance on behalf of the fetus, and this share does not include any of the slaves. Therefore, the slaves may partake of *teruma*. However, if all of the children are females, this arrangement is impossible because if the fetus is a son all the property belongs to him.

לֵימָא, דְּרַב נַחְמָן תַּנָּאֵי הִיא! לָא, דְּכוּלֵּי עָלְמָא אִית לְהוּ דְּרַב נַחְמָן, וְהָכָא בְּחוֹשְׁשִׁין לְמִיעוּטָא קָמִיפַּלְגִי.

Based on the use of Rav Naḥman's ruling to explain Rabbi Shimon's opinion, the Gemara suggests: **Let us say** that **Rav Naḥman's** opinion **is** corresponding to one side of a dispute between ***tanna'im,*** as the Rabbis disagree with Rabbi Shimon. The Gemara rejects this suggestion: **No;** it is possible **that everyone** in the dispute **accepts Rav Naḥman's** ruling, **and here they disagree** only **with regard to** whether **we are concerned about the minority,** as previously suggested, in a case where the arrangement was not made.

רַבִּי יִשְׁמָעֵאל בְּרַבִּי יוֹסֵי אוֹמֵר מִשּׁוּם אָבִיו: הַבַּת – מַאֲכִיל, הַבֵּן – אֵינוֹ מַאֲכִיל. מַאי שְׁנָא בֵּן דְּלָא מַאֲכִיל – מִשּׁוּם חֶלְקוֹ שֶׁל עוּבָּר, בַּת נַמִי לֹא תַּאֲכִיל – מִפְּנֵי חֶלְקוֹ שֶׁל עוּבָּר!

It was taught in the previous clause of the *baraita* that **Rabbi Yishmael, son of Rabbi Yosei, says in the name of his father:** If the priest left behind **a daughter,** she **enables** the slaves **to partake** of *teruma*; however, **a son does not enable** them **to partake** of it. The Gemara asks: **What is different** about **a son, who does not enable** them **to partake, due to the fetus's share,** as it owns a share of the property if it is a male? **A daughter should not enable** them **to partake either, due to** the **fetus's share.**

NOTES

We are not concerned about the minority – אֵין חוֹשְׁשִׁין לְמִיעוּטָא: With regard to Rabbi Yosei's opinion toward less probable possibilities, the early commentaries raise a contradiction between the Gemara here, which indicates that Rabbi Yosei is not concerned about the minority of cases, and other statements of his that indicate that he does take such possibilities into account.

Some commentaries claim that what is indicated here should be seen as a local ruling and not a principle (Meiri). Others differentiate between uncertainties with regard to the present reality, as is the case here, and uncertainties with regard to the future (see Ramban; *Tosefot HaRosh*). A third opinion distinguishes between ritual and monetary matters, as the former field often demands stringency, whereas with regard to monetary matters there is no such thing as stringency, since a stringent ruling for one party is a lenient one for the other.

The court appoints for them a steward – בֵּית דִּין מַעֲמִידִין לָהֶם אַפּוֹטְרוֹפּוֹס: According to Rashi, the court appoints a private steward for each orphan to select his share. The Ritva argues that there is no need to divide up the property between the minor orphans at this stage. Rather, a steward is appointed only if there are both minor and adult orphans, and the adults demand to receive their share. In that case, the court appoints one steward for all the minors. He selects a fine share for all of them, and when they come of age they can divide it up among themselves.

There is also a dispute as to whether a steward has the authority to select property according to its monetary value, or whether he may participate only in the distribution of identical items. The Gemara here apparently supports the opinion that lends him the authority to select property according to its monetary value, as the steward here selects land for the fetus in exchange for slaves. Those who hold otherwise explain that a steward should prefer land for the orphan that he is representing, as the value of slaves is likely to depreciate over time. Therefore, this is an exchange that he may perform (*Nimmukei Yosef*).

אָמַר אַבַּיֵי: הָכָא בִּנְכָסִים מוּעָטִים עָסְקִינַן, וּכְגוֹן דְּאִיכָּא בֵּן בַּהֲדֵי בַּת,

Abaye said: Here we are dealing with a case of an inheritance of **insufficient property** that is enough only to sustain the daughters until they come of age. With regard to this case, the Sages instituted that the daughters receive their sustenance while the sons get nothing.[NH] This is **also** a case **where there is** a surviving **son together with** the **daughter.**

מַה נַּפְשָׁךְ: אִי הַאי דְּמִעַבְּרָא בֵּן הוּא – לָא עָדִיף מֵהַאי דְּקָאֵי, אִי בַּת הִיא – אַמַּאי אָכְלָה, בְּתַקַּנְתָּא דְּרַבָּנַן – כַּמָּה דְּלָא נָפַק לַאֲוִיר הָעוֹלָם לָא תַּקִּינוּ רַבָּנַן.

Therefore, **no matter what,** the slaves do not partake of *teruma*. **If this** fetus, **with which she is pregnant, is a son, it is no better than this** son **who** already **exists.**[N] Just as the existing son does not inherit the insufficient property, the same applies to the male fetus. **If it is a daughter,** it does not yet receive a share of the inheritance. This can be explained: **Why does** the daughter **partake** of the inheritance? It is **by** virtue of **a rabbinic ordinance.** Therefore, **as long as** the fetus **has not emerged into the atmosphere of the world, the Sages did not establish** that it should receive the inheritance. Consequently, the slaves partake of *teruma* by virtue of the existing daughter, as only she inherits them.

בְּמַאי אוֹקֵימְתָּא – בִּנְכָסִים מוּעָטִים, אֵימָא סֵיפָא: שֶׁמָּא יִמָּצֵא הָעוּבָּר זָכָר, וְאֵין לְבָנוֹת בְּמָקוֹם בֵּן כְּלוּם, אַדְרַבָּה, נְכָסִים מוּעָטִים דְּבָנוֹת נִינְהוּ! סֵיפָא אַתַּאן לִנְכָסִים מְרוּבִּין.

The Gemara asks: **In what** manner **did you establish** the *baraita*? You established it as referring **to insufficient property.** However, **say the latter clause** of the *baraita*: **Lest the fetus be found** to be **a male, and daughters do not** receive **any** of the inheritance **where** there is **a son.** Yet according to Abaye's explanation, **on the contrary,** the **insufficient property is the daughters',** whether or not there are any sons. The Gemara answers: In **the latter clause we have come to** a different case, in which there is **sufficient property.**

וּנְכָסִים מוּעָטִים דְּבָנוֹת נִינְהוּ? וְהָאָמַר רַבִּי אַסִי אָמַר רַבִּי יוֹחָנָן: יְתוֹמִין שֶׁקָּדְמוּ וּמָכְרוּ בִּנְכָסִים מוּעָטִים, מַה שֶּׁמָּכְרוּ מָכְרוּ!

The Gemara raises another objection to Abaye's explanation: Does an inheritance of **insufficient property** belong **to the daughters? Didn't Rabbi Asi say** that **Rabbi Yoḥanan said:** If the male **orphans proceeded to sell** the **insufficient property,**[H] although by rabbinic ordinance it is designated for the daughters' sustenance, **what they sold was sold.** Apparently, the Sages did not expropriate the properties from the male inheritors, but merely designated them for the daughters' sustenance. How, then, can the sons' ownership be disregarded with regard to the slaves' partaking of *teruma*?

וְאֶלָּא מַאי בַּת דְּקָתָנֵי – אֵם – אִי הָכִי, הֵיינוּ רַבִּי יוֹסֵי! כּוּלָּהּ רַבִּי יִשְׁמָעֵאל בְּרַבִּי יוֹסֵי קָתָנֵי לָהּ.

Rather, what is the meaning of the word **daughter** in the context of the ruling **that is taught** by Rabbi Yishmael? It means female and is referring to the **mother** of the fetus. She enables her slaves of usufruct property to partake of *teruma*, as her husband's heirs have no share in them, whereas the son does not enable the slaves guaranteed investment to partake, due to the fetus's share. The Gemara asks: **If so, this is** the same as **Rabbi Yosei's** statement in the first clause. What was added by Rabbi Yishmael? The Gemara answers: Indeed, the **entire** *baraita* **is taught by Rabbi Yishmael, son of Rabbi Yosei.** There are not conflicting versions of Rabbi Yosei's opinion. Rather, Rabbi Yishmael is clarifying that he is the author of that *baraita*.

מתני' הָעוּבָּר, וְהַיָּבָם, וְהָאֵירוּסִין, וְהַחֵרֵשׁ, וּבֶן תֵּשַׁע שָׁנִים וְיוֹם אֶחָד – פּוֹסְלִין וְלֹא מַאֲכִילִין.

MISHNA With regard to **the fetus**[H] of a divorcée or a widow whose husband left her pregnant; **and a man whose married brother died childless** [*yavam*];[H] **and betrothal; and** a married **deaf-mute;**[N] **and a nine-year-and-one-day-old** boy[B] who engaged in intercourse with a woman; if any of these men are Israelites and the woman is the daughter of a priest, they **disqualify** her from partaking of *teruma*. **But** if she is an Israelite and they are priests, they **do not enable**[N] her **to partake** of *teruma*.

NOTES

The distribution of an inheritance – חֲלוּקַת יְרוּשָׁה: According to Torah law, if a man passes away, leaving sons and daughters, only the males inherit from him. Daughters inherit from him only if there are no sons. However, the Sages instituted as one of the stipulations of a marriage contract that the daughters of the married couple receive their sustenance from their father's property until they come of age or marry. As a marriage contract is essentially a promissory note, this stipulation places a lien on the inheritance. Consequently, the daughters' right to the property takes precedence over the sons', to the extent that if the property is meager and is sufficient only for the daughters' sustenance, the sons get nothing, not even their own sustenance. Nevertheless, since the sons are the inheritors, if they unlawfully sell the property, the sale is valid.

It is no better than this son who already exists – לָא עָדִיף מֵהַאי דְּקָאֵי: The Rashba asks how it is possible that a rabbinical ordinance overrules the Torah law that the slaves do not partake of *teruma*. He leaves this difficulty unresolved. In the Jerusalem Talmud, it is answered that according to Rabbi Yosei, by Torah law there is no obligation to separate *teruma* and tithes after the destruction of the First Temple; rather, the obligation is by rabbinic law.

Deaf-mute [*ḥeresh*] – חֵרֵשׁ: When the unmodified term *ḥeresh* is employed, the reference is to one who can neither hear nor speak. In earlier times, these deaf-mutes were considered uneducable and were often placed in the same category as imbeciles and minors, who are exempt from all of the mitzvot in the Torah. In contemporary times, great strides have been made in the education of the deaf. Consequently, many rabbinic commentaries rule that those who can communicate intelligently are considered obligated in mitzvot like any Jew.

Disqualify but do not enable to partake – פּוֹסְלִין וְלֹא מַאֲכִילִין: Rabbi Shimon is cited in the Jerusalem Talmud as claiming that this principle is unjust, as any sexual relationship that disqualifies the daughter of priest from partaking of *teruma* should enable the wife of a priest to partake of *teruma*, and vice versa.

HALAKHA

An inheritance of insufficient property goes to the daughters – נְכָסִים מוּעָטִים לַבָּנוֹת: If a person died and left property, his daughters receive their sustenance from the estate until they come of age, and the rest is divided up among the sons. If the inheritance is sufficient only for the daughters' sustenance, they receive their sustenance from the property until they come of age or get betrothed, even if the sons are forced to beg for their livelihood (Rambam *Sefer Nashim*, *Hilkhot Ishut* 19:19; *Shulḥan Arukh*, *Even HaEzer* 112:14).

If the male orphans proceeded to sell the insufficient property, etc. – יְתוֹמִין שֶׁקָּדְמוּ וּמָכְרוּ בִּנְכָסִים מוּעָטִים וכו': If the father left only a meager inheritance and the sons proceeded to sell it, their sale is valid (Rambam *Sefer Nashim*, *Hilkhot Ishut* 19:17; *Shulḥan Arukh*, *Even HaEzer* 112:14).

A fetus disqualifies but does not enable to partake – עוּבָּר פּוֹסֵל וְאֵינוֹ מַאֲכִיל: An Israelite woman who is pregnant from a priest may not eat *teruma* due to the fetus, and the daughter of a priest who is pregnant from an Israelite does not partake of *teruma* either, even if she has no other child from him (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 8:2).

The fetus and a…*yavam*, etc. – הָעוּבָּר וְהַיָּבָם וכו': With regard to a fetus, a *yavam*, betrothal, a married deaf-mute, and a nine-year-and-one-day-old boy who engaged in intercourse with a woman, if any of these are Israelites and the woman is the daughter of a priest, they disqualify her from partaking of *teruma*. If they are priests and she is an Israelite, they do not enable her to partake of *teruma* (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 8:1).

BACKGROUND

A nine-year-and-one-day-old boy – בֶּן תֵּשַׁע שָׁנִים וְיוֹם אֶחָד: Although most boys do not experience a significant bodily change at the age of nine, the development of the testicles begins to accelerate at around this time, with the attending increase in the capacity for intercourse. Though it roughly corresponds to the average age of this development, this specification, like other specific ages the Sages established for different levels of maturity, is somewhat arbitrary.

סָפֵק שֶׁהוּא בֶּן תֵּשַׁע שָׁנִים וְיוֹם אֶחָד וְכוּ' – סָפֵק שֶׁאֵינוֹ, סָפֵק הֲבִיא שְׁתֵּי שְׂעָרוֹת וְסָפֵק שֶׁלֹּא הֵבִיא.

Likewise, in the case of a boy with regard to whom there is **uncertainty** as to **whether he is nine years and one day old**[NH] and **uncertainty** whether **he is not,** who engaged in intercourse with a woman; and in the case of a boy who betrothed a woman, with regard to whom there is **uncertainty** as to **whether he has grown two** pubic **hairs** and is considered an adult **and uncertainty whether he has not grown,** they too can disqualify the woman from partaking of *teruma* and cannot enable her to partake, as in the previous cases.

נָפַל הַבַּיִת עָלָיו וְעַל בַּת אָחִיו וְאֵין יָדוּעַ אֵי זֶה מֵת רִאשׁוֹן – צָרָתָהּ חוֹלָצֶת וְלֹא מִתְייַבֶּמֶת.

If **the house fell**[N] **upon** a man **and upon his brother's daughter,**[H] to whom he was married, **and it is unknown which** of them **died first, her rival wife performs *ḥalitza* and does not enter into levirate marriage.** Entering into levirate marriage is not possible, as, if the wife died after her husband, the surviving wife would be rendered the rival wife of a forbidden relative, since the *yavam* is the father of the wife who died. This status prevents the creation of a levirate bond between him and the surviving wife as well. On the other hand, *ḥalitza* is necessary in case the wife died before her husband, thereby allowing the creation of a levirate bond between her rival wife and her father, the *yavam*.

גמ' "הָעוֹבֶרֶת". אִי בַּת כֹּהֵן לְיִשְׂרָאֵל הִיא פָּסֵיל לָהּ, "כִּנְעוּרֶיהָ" – פְּרָט לִמְעוּבֶּרֶת. אִי בַּת יִשְׂרָאֵל לְכֹהֵן הִיא לֹא מַאֲכִיל לָהּ, יָלוֹד מַאֲכִיל, שֶׁאֵינוֹ יָלוֹד אֵינוֹ מַאֲכִיל.

GEMARA It is taught in the mishna that **the fetus** disqualifies its mother from partaking of *teruma* and does not enable her to do so. The Gemara explains: **If she is the daughter of a priest** married **to an Israelite,** and her husband died and left her pregnant, the fetus **disqualifies her** from partaking of *teruma*, as it is stated: "But if a priest's daughter be a widow, or divorced, and have no child, and is returned to her father's house, as in her youth, she may eat of her father's bread" (Leviticus 22:13). The phrase **"as in her youth" excludes a pregnant woman,** whose body has changed from her youth. **If** she **is an Israelite woman** married **to a priest,** the fetus **does not enable her to partake,** as **one who was born enables** others **to partake** of *teruma*, whereas **one who is not** yet **born does not enable** others **to partake.**

"הַיָּבָם". אִי בַּת כֹּהֵן לְיִשְׂרָאֵל הִיא פָּסֵיל לָהּ, "וְשָׁבָה אֶל בֵּית אָבִיהָ" פְּרָט לְשׁוֹמֶרֶת יָבָם, אִי בַּת יִשְׂרָאֵל לְכֹהֵן הִיא לֹא מַאֲכִיל לָהּ, "קִנְיַן כַּסְפּוֹ" אָמַר רַחֲמָנָא, וְהָא קִנְיַן דְּאָחִיו הוּא.

It is taught in the mishna that the same principle applies to **a *yavam.*** The Gemara explains: **If she is the daughter of a priest** who has a levirate bond **to an Israelite, he disqualifies her,** as it is stated in the verse cited above: **"And is returned to her father's house,"** which **excludes a widow waiting for her *yavam,*** who has not returned to her father's house, as a levirate bond was created with her *yavam*. **If she is an Israelite woman** with a levirate bond **to a priest, he does not enable her to partake** of *teruma*, as **the Merciful One states** in the Torah: **"The purchase of his money,** he may eat of it" (Leviticus 22:11), **and this** woman **is his brother's acquisition.**[N] The bond with her *yavam* ensued from his late brother's marriage to her, not through any action of his own.[H]

"וְהָאֵירוּסִין". אִי בַּת כֹּהֵן לְיִשְׂרָאֵל הִיא, פָּסֵיל לָהּ,

The mishna teaches that the same principle **also** applies to **betrothal.** The Gemara explains: **If she is the daughter of a priest** betrothed **to an Israelite, he disqualifies her,**

NOTES

There is uncertainty as to whether he is nine years and one day old, etc. – סָפֵק שֶׁהוּא בֶּן תֵּשַׁע שָׁנִים וְיוֹם אֶחָד וְכוּ': The commentaries point out that this cannot be referring to a case where it is currently uncertain whether or not the boy is nine years old, as in such a case the court would have had to follow his presumptive physical status, i.e., that of a minor under the age of nine. Rather, the reference is apparently to a case where he is currently at least nine years old, and the court must determine in retrospect what his age was at the time of the incident. Since he no longer has the presumptive status of a minor under the age of nine, his status at the time of the incident is deemed uncertain (see Maharshal, Rabbi Ovadya MiBartenura, and *Tosefot Yom Tov*).

If the house fell, etc. – נָפַל הַבַּיִת וְכוּ': This clause appears unrelated to the rest of the mishna. One suggestion is that since the mishna includes cases of uncertainty in which the ruling is stringent, it adds this similar case as well (Rid; Rabbi Avraham min HaHar). In the Jerusalem Talmud, it is explained that the previous case of uncertainty, i.e., a boy whose adulthood is in doubt, is taught with regard to both the matter discussed in the first clause of the mishna, i.e., the partaking of *teruma*, and the rival wife's issue of her levirate bond, which is discussed in the latter clause. If there is uncertainty as to whether the first wife was betrothed before or after the husband reached adulthood, then after the husband's death the rival wife performs *ḥalitza* and does not enter into levirate marriage. Therefore, the mishna cites this clause as well.

And this woman is his brother's acquisition – וְהָא קִנְיַן דְּאָחִיו הוּא: The early commentaries disagree whether the *halakha* that the *yevama* of a priest may not partake of *teruma* is Torah law (*Tosafot Yeshanim*) or rabbinic law (*Tosafot*, citing Rabbeinu Tam). According to the latter opinion, the verse that is cited is not a proper derivation from the Torah, but rather a support of the rabbinic law.

HALAKHA

Uncertainty as to whether he is nine years and one day old, etc. – סָפֵק שֶׁהוּא בֶּן תֵּשַׁע שָׁנִים וְיוֹם אֶחָד וְכוּ': In the case of a boy with regard to whom there is uncertainty as to whether or not he is nine years old who engaged in intercourse with a woman, and similarly in the case of one who married a woman and with regard to whom there is uncertainty as to whether or not he has grown two pubic hairs, they disqualify the woman from partaking of *teruma* and cannot enable her to partake of it (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 8:11).

If a house fell upon a man and upon his brother's daughter – נָפַל הַבַּיִת עָלָיו וְעַל בַּת אָחִיו: If a man had two wives, one who was related to the *yavam* and the other who was not, and the man and the wife related to the *yavam* both died and it is unknown which of them died first, the rival wife performs *ḥalitza* and not levirate marriage (*Shulḥan Arukh*, *Even HaEzer* 173:8).

A *yavam* disqualifies and does not enable to partake of *teruma* – יָבָם פּוֹסֵל וְאֵינוֹ מַאֲכִיל: An Israelite widow waiting for her *yavam*, who is a priest, does not partake of *teruma*, despite their bond. The daughter of a priest waiting for an Israelite *yavam* does not partake of *teruma* either, due to their bond (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 8:5).