And the Gibeonites said to him: It is not a matter of mercy, and I shall ask for mercy on his behalf, and for these seven men who came back by the Ark, but their sentence was changed due to the fact that they were of the Jewish people. When David saw the cruelty of the Gibeonites, he decreed that they may never enter into the congregation of Israel.

The Gemara continues with its understanding of the incident: “And the king took the two sons of Rizpak, daughter of Aham, whom she bore unto Saul, Armoni and Mephibosheth, and the five sons of Michal, daughter of Saul, whom she bore to Adriel the son of Barzillai the Meholathite” (11 Samuel 21:8). The Gemara asks: What is different about these sons that David chose them from among all the descendants of Saul? Rav Huna said: He passed all of Saul’s descendants before the Ark of the Covenant. Whoever was held back by the Ark, so that he could not move on, was condemned to death; whoever was not held back by the Ark was set apart for life.

Rav Hana bar Ketina raised an objection: The verse states: “And the king had pity on Mephibosheth, son of Jonathan, son of Saul, because of the Lord’s oath that was between them, between David and Jonathan, son of Saul” (11 Samuel 21:7). If the seven men were condemned by the Ark, how did the king’s pity affect their sentence? The Gemara answers: It means that he did not pass Mephibosheth before the Ark at all, so that he would not be in danger of being held back at all.

The Gemara questions this behavior: May favoritism be shown in this matter? Once the decision was placed in the hand of Heaven, how could David have intervened in matters of life and death and not pass Mephibosheth before the Ark? Rather, what happened was that David passed Mephibosheth before the Ark and the Ark held him back, but David immediately asked for mercy on his behalf, and the Ark released him. The Gemara asks: But the difficulty still remains: May favoritism be shown in this matter? Once the Ark condemned Mephibosheth to death, how could David have intervened so that another would have to die in his place? Rather, David asked for mercy on his behalf, that the Ark should not hold him back and performed no other action.
Immediately, they joined the Jewish people. The court has the authority to temporarily uproot a positive or negative mitzva in order to restore the public to the proper observance of religion or prevent the masses from erring in some matter (Rambam parhesya). Although the Sages said that converts were not accepted in the days of David and Solomon, this refers exclusively to conversion in authorized courts, whereas these gentiles were converted in the presence of ordinary people (Rashba).

Immediately…they joined the Jewish people – מְכַלְקֵצַכֵו: Although the Sages said that converts were not accepted in the days of David and Solomon, this refers exclusively to conversion in authorized courts, whereas these gentiles were converted in the presence of ordinary people (Rambam Sefer Shoftim, Hilkhot Mannim 2:4).

It is better that one letter be uprooted – מֹקְשַׁט שֵׁם. Certain early authorities (Ritva) and later authorities attempt to explain that this refers literally to a single letter, but their interpretations are somewhat far-fetched. Nearly all commentaries conclude that this does not mean one letter but an entire verse.

And the name of Heaven be sanctified – מֵהָכָא: The court has the authority to temporarily uproot a positive or negative mitzva in order to restore the public to the proper observance of religion or prevent the masses from erring in some matter (Rambam parhesya). Although the Sages said that converts were not accepted in the days of David and Solomon, this refers exclusively to conversion in authorized courts, whereas these gentiles were converted in the presence of ordinary people (Rashba).

The Gemara raises a difficulty with regard to the story as related by the Bible: But isn’t it written: “The fathers shall not be put to death for the children; neither shall the children be put to death for the fathers” (Deuteronomy 24:16)? As Saul’s sons had not sinned, why were they put to death? Rabbi Hiyya bar Abba said that Rabbi Yoḥanan said: It is better that one letter and one mitzva be uprooted” from the Torah in this manner and thereby the name of Heaven not be desecrated in public [parhesya] (1). The killing of the Gibeonites by the Jewish people constituted a desecration of God’s name. In order to repair the damage, David acquiesced to the Gibeonites’ demands, even though they contradicted Torah law.

The Gemara continues with its analysis of the incident. The verse states: “And Rizpah, daughter of Aiah, took sackcloth and spread it for her upon the rock, from the beginning of harvest until water was poured upon them from heaven; and she allowed neither the birds of the air to rest on them by day, nor the beasts of the field by night” (1 Samuel 21:16). The Gemara raises a difficulty: How could they have left Saul’s executed sons unburied all that time? Isn’t it written: “His body shall not remain all night upon the tree; but you shall surely bury him the same day” (Deuteronomy 21:23)?

Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yehotzadak: It is better that one letter be uprooted from the Torah and thereby the name of Heaven be sanctified (in public. How so? As the gentle passersby would say: What is the nature of these people who have been left hanging here for so long? They were told that these are sons of kings. And what did they do to deserve such a fate? They had laid their hands upon and caused harm to calculating converts who had converted for personal gain and were never permitted to enter into the congregation. Those passersby said: There is no nation as worthy of cleaving to it as this one. If the sons of kings who harmed converts are treated in this manner, all the more so would the sons of ordinary people [hedyotot] be. And if calculating converts are related to this in this way, all the more so would this apply to members of the Jewish people themselves.

Immediately, one hundred and fifty thousand converts joined the Jewish people,” as it is stated: “And Solomon had seventy thousand that bore burdens and eighty thousand that were hewers in the mountains” (1 Kings 5:29), all of whom were converts. The Gemara asks: But perhaps these carriers and hewers were Jews? The Gemara answers: This cannot enter your mind, as it is written: “But of the children of Israel Solomon made no slaves” (1 Kings 9:22).

The Gemara raises another difficulty: But from where may it be inferred that these men were slaves? Perhaps they were merely workers employed [dogzar] in the ranks of public service, in which case they could have been born Jews and not converts. Rather, the matter is derived from here: “And Solomon counted all the converted men that were in Eretz Yisrael… and they were found to be one hundred and fifty thousand and he made seventy thousand of them to bear burdens, and eighty thousand to be hewers in the mountains” (1 Kings 2:16–17). It is apparent from here that these carriers and hewers were in fact converts. These large numbers of converts had been influenced by the sanctification of God’s name in the wake of the punishment meted out to the descendants of Saul.

Public (parhesya) – פַּרְחְשָׂה: From the Greek παράθεσις, paráthesis, meaning a matter stated openly and without restraint. In mishnaic Hebrew, it describes an act performed in the open with no attempt made to conceal it.

Ordinary people (hedyotot) – חֵדְיוֹת: From the Greek ἕδιγοτες, ordinated. Both in Greek and in the language of the Sages the term carries a variety of associated meanings. Here it is used in its fundamental sense, denoting an ordinary citizen with no official appointment.

Employed (dogzar) – דֹגָזַר: The correct reading of this word, which is preserved in medieval records, is Ḥagzar. The term comes from the Middle Persian ḡīzar, meaning day, and the agent gār, giving the approximate literal meaning: Day laborer.
Talmud, the subject under discussion is clearly their eligibility for marriage. They sought to permit the Gibeonites to enter into the congregation; it was Joshua who permanently barred males and females from doing so. However, his decree applied only during the time when the Temple was standing. King David extended the decree to apply even to the period when the Temple was not standing (Rambam, Sefer Ketu‘a, Hilkhot Issurei Bio 12:22–23).

As the Gemara returns to the main issue under discussion. As for the Gibeonites, was it David who issued a decree against them so that they may not enter the congregation? Wasn’t it Moses who issued a decree against them, as it is written: “From the hewer of your wood to the drawer of your water” (Deuteronomy 21:6), which indicates that there was a distinct class of wood hewers and water drawers already in the time of Moses. This class must have been composed of insincere converts who constituted a separate group unto themselves, apart from the rest of the Jewish people. The Gemara answers: Moses issued a decree only with regard to that generation that they must remain separate, whereas David decreed for all generations.

The Gemara raises another difficulty: But still, it was Joshua who issued a decree against the Gibeonites, as it is written: “And Joshua made them that day hewers of wood and drawers of water, for the congregation and for the altar of the Lord” (Joshua 9:17). The Gemara answers: Joshua issued a decree for the period when the Temple is standing, as indicated by the phrase “for the altar of the Lord,” whereas David issued a decree even for the period when the Temple is not standing.

It is related that in the days of Rabbi Yehuda HaNasi the Sages sought to permit the Gibeonites and treat them like Jews in all regards, thereby allowing them to enter into the congregation. Rabbi Yehuda HaNasi said to them: Even if we permit our share and say that the court nullifies the Jewish people’s right to enslave the Gibeonites, and so they should be treated like emancipated slaves, who can permit the altar’s share? Do they not belong to the Temple and the altar as well?

The Gemara comments: And Rabbi Yehuda HaNasi disagrees with the teaching of Rabbi Hiyya bar Abba. As Rabbi Hiyya bar Abba said that Rabbi Yohanan said: The share in the enslavement of the Gibeonites that belongs to the congregation of Israel is forbidden forever and can never be permitted. However, with regard to the share belonging to the altar, when the Temple is standing it is forbidden, but when the Temple is not standing it is permitted.

**NOTES**

They sought to permit the Gibeonites and to the congregation is either a sign of their prohibition, according to the opinion that they are forbidden by Torah law, or a way of accentuating their different status, according to the opinion that they are forbidden by rabbinic law. Although they are not full-fledged slaves, as all agree that they are not bodily enslaved, their subjugation rendered them quasi slaves. Due to this, it was suggested that Rabbi Yehuda HaNasi’s court, or Rabbi Eilezer’s court according to the Jerusalem Talmud, could seek to permit a matter that had been prohibited by a greater court, which is ordinarily impossible. They could do this because they wished to release the Gibeonites from their subjugation, based on the principle that property declared ownerless by the court is ownerless. This procedure would automatically have rendered it permitted for the Gibeonites to enter into the congregation (see the Ramban, Rosh, and Rashba).
A eunuch caused by man performs halitza – שולא לא חלות
A eunuch caused by natural causes does not perform halitza – שולא לא חלות
A eunuch caused by man performs halitza with his yeveama – שולא לא חלות
A eunuch caused by natural causes does not perform halitza with his yeveama – שולא לא חלות
A sexually underdeveloped woman who is incapable of bearing children is a symbol of masculinity, so to speak, as she is incapable of giving birth.
Rabbi Ami said: With what are we dealing here? We are dealing with a case where the eunuch’s brother had married a convert, and Rabbi Akiva holds in accordance with the opinion of Rabbi Yosei, who said that the congregation of converts is not called a congregation of the Lord. Consequently, it is permitted even for those for whom it is prohibited to enter into the congregation, e.g., a eunuch, to marry converts.

The Gemara raises a difficulty: If so, the eunuch should also be able to perform levirate marriage with the convert. The Gemara answers: Yes, it is indeed so, but since Rabbi Yehoshua said that a eunuch performs halitza with his yeumah, Rabbi Akiva as well said that he performs halitza with her, while in fact he may enter into levirate marriage with her if he so chooses.

Rabbi Ami asked: If so, should the eunuch perform levirate marriage with his convert wife? The Gemara adds: The language of the mishna is also precise in this regard, as it teaches: Rabbi Yehoshua ben Beteya testified about a man named ben Megusat, who lived in Jerusalem and was a eunuch caused by man, that his brothers entered into levirate marriage with his wife, to fulfill the statement of Rabbi Akiva. This indicates that according to Rabbi Akiva, not only halitza but even levirate marriage is permitted. The Gemara concludes: Learn from this that this is the correct understanding of the mishna.

Rabba raised an objection from the following baraita: A man with crushed testicles, and one whose penis has been severed, and a eunuch caused by man, and an elderly man who is no longer capable of fathering children, may either perform halitza or enter into levirate marriage. The baraita clarifies the matter: How so? If these men died and they had wives and they also had brothers, and the brothers proceeded to perform levirate betrothal with their wives, or gave them a bill of divorce, or performed halitza with them, what they did is done, i.e., it is a valid act. And if the brothers had intercourse with the wives, they acquired them in levirate marriage, like any other yeumah.

If the brothers of these sexually impaired men died, and the sexually impaired men proceeded to perform levirate betrothal with their brothers’ wives, or gave them a bill of divorce, or performed halitza with them, what they did is done, i.e., it is a valid act. And if they had intercourse with their brothers’ wives they acquired them in levirate marriage, but they are prohibited from maintaining them” as their wives because it is stated: “A man with crushed testicles or a severed penis shall not enter into the congregation of the Lord” (Deuteronomy 23:2). Apparently, we are dealing with a case where the eunuch’s brother had married a woman who is in the congregation of the Lord, i.e., a Jew from birth who is governed by this prohibition, and not a convert.

Rather, Rabba said that the case here is one where one’s brother died and his yeumah happened before him for levirate marriage, and he was injured only afterward. Since the mitzva of levirate marriage had initially applied to him, he performs halitza with her.

Abaye said to him: If so, let the prohibition applying to a man with crushed testicles come and override the positive mitzva of levirate marriage. Didn’t we learn in a mishna (109a) as follows: With regard to a case of two brothers who were married to two sisters, one of whom was a minor married off by her brothers in a marriage valid only by rabbinic decree, and the brother who was married to the adult sister passed away, Rabban Gamliel says: If the minor sister refuses her husband, declaring that she does not desire the marriage, she has refused him. Since the marriage is valid only by rabbinic decree, the girl may terminate it before she reaches the age of twelve by declaring that she does not wish to remain in the marriage, and no bill of divorce is required. In such a case the marriage is nullified retroactively, and so her former husband, the yeumah, may perform levirate marriage with her sister.
The mishna continues: But if she does not refuse him, the minor must wait and her husband must not have relations with her until she reaches adulthood and their marriage is valid by Torah law, since in the meantime she is forbidden to him as the sister of a woman awaiting levirate marriage with him. At that point, when the minor reaches adulthood, this one, the adult sister, goes out free from the yavam without levirate marriage or halitza as his wife’s sister. Apparently, the prohibition with regard to a wife’s sister comes and overrides the mitzva of levirate marriage that had previously been in effect. Here too, then, let the prohibition applying to a man with crushed testicles come and override the positive mitzva of levirate marriage.

Rather, Rav Yosef said: This *tanna* of our mishna is the *tanna* of the school of Rabbi Akiva, who said that only the child born of a union between those who are *liable* for violating prohibitions involving incestuous relationships is a *mamzer*, but the child born of a union between people who are *liable* for violating ordinary prohibitions is *not* a *mamzer*. The prohibition applying to a man with crushed testicles falls into the latter category, and therefore his marriage is valid and he may perform *halitza*.

The Gemara asks: Why does the mitzva of levirate marriage apply at all to a eunuch? Read here the verse with regard to levirate marriage: “To establish a name for his brother in Israel” (Deuteronomy 25:7), and this one is no longer capable of this, even if previously he had an hour of fitness when he was fertile earlier in his life.

Rava said: If it is so that anyone who cannot presently father children is exempt from levirate marriage even if he had previously been capable of doing so, there is no instance of a woman who is fit for the *yavam*, as even if her husband died of natural causes it is impossible that he did not become like a eunuch by natural causes an hour before his death. He had certainly lost his fertility before dying, and therefore he has the status of a eunuch, which means that the mitzva of levirate marriage should not apply in his case at all. Rather, it must be that a man who had previously been capable of fathering children is considered fit for the purposes of levirate marriage.

The Gemara comments: According to the opinion of Rabbi Eliezer in the mishna that a eunuch caused by man does not perform *halitza* and his marriage is invalid even though he had an hour of fitness when he was fertile, Rava’s answer, his proof from the fact that all men on their deathbeds lack sexual capacity, is undoubtedly a refutation.

The Gemara answers: Rabbi Eliezer maintains that a man who is about to die cannot be compared to a eunuch, as there, he can no longer father children due to the general weakness that begins to take over his body as death approaches, which prevents him from engaging in relations with a woman, but his basic ability to father children remains unimpaired.

The Gemara raises a practical question: What are the circumstances of a eunuch by natural causes?28 Rav Yitzḥak bar Yosef said that Rabbi Yoḥanan said: Anyone...