

And is forbidden to the *yavam* – **יְאִסְרָהּ לְיָבָם**: Rashi explains that in this context the *yavam* is the woman's betrothed, who is now considered a brother-in-law. Others maintain that the *yavam* is the betrothed's brother, and the dispute is whether this woman can return to the second man if it later became known that the betrothed man indeed died, or whether the fact that he was obligated to divorce her during the betrothed man's lifetime and she was forbidden to him means that he must divorce her even after the betrothed man's death (Rabbeinu Hananel; see Ritva).

## HALAKHA

A betrothed woman who entered into levirate marriage by mistake – **אִרוּסָה שְׁנִיתִיבְמָה בְּטָעוּת**: If a man betrothed a woman and traveled overseas, and his brother, thinking he was dead, consummated levirate marriage with her, then when the betrothed man subsequently returns she requires a bill of divorce from her husband, the brother of the betrothed man, and she is forbidden to her betrothed. This ruling follows Rav Huna's explanation of the dispute in accordance with the opinion of Rav, as the *halakha* follows him rather than Shmuel in cases involving prohibitions (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 10:8; *Shulḥan Arukh*, *Even HaEzer* 159:4).

## HALAKHA

A widow waiting for her *yavam* who engaged in licentious sexual relations – **שׁוֹמֵרֵת יָבָם שְׁוִינְתָהּ**: If a woman awaiting levirate marriage had sexual relations with another man, she is permitted to the *yavam*, as the Gemara in tractate *Sota* (18b) does not rule in accordance with the opinion of Rav Hamnuna (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaHalitza* 2:20; *Shulḥan Arukh*, *Even HaEzer* 159:3).

דָּרַב אָמַר: הֲרֵי הִיא כְּאִשְׁתּוֹ אִישׁ, וְאִסְרָהּ לְיָבָם, וְשִׁמּוּאֵל אָמַר: אֵינָהּ כְּאִשְׁתּוֹ אִישׁ, וְשָׂרְיָא לֵיהּ.

As Rav said that she is like a married woman who married another man based on testimony that her husband was dead and is therefore forbidden to the *yavam*,<sup>NH</sup> i.e., to her first husband, who is called the *yavam* after his brother married her. And Shmuel said that she is not like a married woman, and is permitted to him. This apparently contradicts Rav Yehuda's ruling in the name of Shmuel that the *halakha* is in accordance with the opinion of Rabbi Yosei, as here too people might mistakenly think that the original betrothal included an unfulfilled condition and she should therefore be forbidden to him as the wife of his brother.

אָמַר לֵיהּ אַבְיִי: וּמִמָּאֵי דְכִי אָמַר שְׁמוּאֵל הֲלִכְהָ כְּרַבִּי יוֹסֵי אֲדַרְבֵּי יִצְחָק נִפְחָא קְאָמַר? דְּלִמָּא אֲדַרְבֵּי אַמֵּי קְאָמַר? וְאֵי נִמְי אֲדַרְבֵּי יִצְחָק נִפְחָא, מִמָּאֵי דְאֶפְסֵל,

Abaye said to Rav Yosef: And from where do you know that when Shmuel said that the *halakha* is in accordance with the opinion of Rabbi Yosei, he was speaking of the explanation of Rabbi Yitzḥak Nappaḥa with regard to Rabbi Yosei's opinion? Perhaps he was speaking of the explanation of Rabbi Ami, that Rabbi Yosei is referring to the difference between one who married by permission of the court and one who did so based on the testimony of witnesses. And even if one accepts the claim that Shmuel's ruling endorses the interpretation of Rabbi Yitzḥak Nappaḥa, from where do you know that he was referring to the clause: **One who disqualifies?**

## Perek X

## Daf 96 Amud a

וְדִלְמָא אַיִנוּ פּוֹסְלִי? אֵי נִמְי: מִמָּאֵי דְאִיתָא לְדָרַב הוּנָא, דְּלִמָּא לִיתָא דָּרַב הוּנָא כְּלָל, וּבְדָרַב הַמְּנוּנָא קְמִיפְלָגִי. דְּאָמַר רַב הַמְּנוּנָא: שׁוֹמֵרֵת יָבָם שְׁוִינְתָהּ אִסְרָהּ לְיָבָמָה.

But perhaps Shmuel's ruling in accordance with the opinion of Rabbi Yosei is referring to the ruling that he does not disqualify his brother-in-law's wife to his brother-in-law, in a case where his wife and brother-in-law left. Alternatively, the contradiction can be resolved in the following manner: **From where** do we know that there is a reason to accept the explanation of Rav Huna with regard to the dispute between Rav and Shmuel? Perhaps there is no cause to agree with Rav Huna at all, and it can be explained that Rav and Shmuel disagree with regard to the statement of Rav Hamnuna. As Rav Hamnuna said: A widow waiting for her *yavam* who engaged in licentious sexual relations<sup>H</sup> is forbidden to her *yavam*.

דָּרַב אָמַר: הֲרֵי הִיא כְּאִשְׁתּוֹ אִישׁ וּמִיפְסָלָא בְּזוּנוֹת, וְשִׁמּוּאֵל אָמַר: אֵינָהּ כְּאִשְׁתּוֹ אִישׁ וְלֹא מִיפְסָלָא בְּזוּנוֹת, וְאֵי נִמְי בְּקִדּוּשֵׁין תּוֹפְסִין בִּיבְמָה קְמִיפְלָגִי, דָּרַב אָמַר: הֲרֵי הִיא כְּאִשְׁתּוֹ אִישׁ וְלֹא תּוֹפְסִין בְּהָ קִדּוּשֵׁין, וְשִׁמּוּאֵל אָמַר: אֵינָהּ כְּאִשְׁתּוֹ אִישׁ וְתּוֹפְסִין בְּהָ קִדּוּשֵׁין –

According to this interpretation, the dispute is as follows: As Rav said, she is like a married woman and she is therefore disqualified by licentious sexual relations. And Shmuel said that she is not like a married woman and is not disqualified by licentious sexual relations. And alternatively, one can explain that Rav and Shmuel disagree with regard to the issue of whether betrothal takes effect with a *yevama*: As Rav said, she is like a married woman with regard to all men other than her *yavam*, and therefore betrothal performed by anyone else does not take effect with her. And Shmuel said that she is not like a married woman, and this means that betrothal does take effect with her.

וְהָא אֶפְלִיגוּ בְּהָ חֲדָא וְיִמְנָא! חֲדָא מְכַלְל דְּחִבְרָתָהּ אֵיתִמַר.

The Gemara asks with regard to this last answer: How can the dispute be explained in this manner? But Rav and Shmuel already disagreed over this once. The Sages would certainly not record the same dispute twice. The Gemara answers: It is possible that they did not in fact disagree twice with regard to the same case. Rather, one ruling was stated by inference from the other. In other words, their dispute was recorded in two different ways, the second time by inference from their original dispute.

NOTES

Permitted to the first and to the third and to the fifth – מותר בראשונה ובשלישית ובחמישית – The early authorities point out that the mishna did not need to list five women to establish the principle of this *halakha*, as it would have been sufficiently clear had it mentioned only three. However, the *tanna* wanted to teach us that even in a situation involving many women, which might cause confusion due to their large number and their complicated family relationships, the same basic principle applies (Meiri; see *Tosafot* on 54b).

מתני' אמרו לו: "מתה אשתך", ונשא אחותה מאביה; "מתה", ונשא אחותה מאמה; "מתה", ונשא אחותה מאמה; ונמצאו כולן קיימות – מותר בראשונה ובשלישית ובחמישית ופטרות צרותיהן,

**MISHNA** Witnesses said to a husband: Your wife is dead, and he married her paternal sister,<sup>B</sup> and witnesses subsequently told him that his second wife was dead and he married her maternal sister; afterward witnesses said that this one too was dead and he married her paternal sister; finally they told him that she was dead and he married the last woman's maternal sister, and then they were all discovered to be alive. In this case he is permitted to his first wife, and to the third and to the fifth.<sup>N</sup> Since these women are not sisters, his betrothal to them is effective. Consequently, if he died and one of them entered into levirate marriage, they exempt their rival wives.

ואסור בשנייה וברביעית, ואין ביאת אחת מהן פוטרת צרתה.

But he is forbidden to the second and fourth wife, each of whom is the sister of his original wife. Therefore, if he passed away and the *yavam* had relations with one of them, his relations with any one of them does not exempt her rival wife, as she was forbidden to his brother, which means there was no mitzva of levirate marriage here at all.

ואם בא על השנייה לאחר מיתת הראשונה – מותר בשנייה וברביעית ופטרות צרותיהן, ואסור בשלישית ובחמישית, ואין ביאת אחת מהן פוטרת צרתה.

And if he had relations with the second woman in the aforementioned list after the death of the first, i.e., the first one indeed died but the other rumors were all false, in that case he is permitted to the second and the fourth, who are his lawful wives, and they exempt their rival wives, and he is forbidden to the third and the fifth, the sisters of the women married to him, and the sexual relations of the brother with any one of them does not exempt her rival wife.

בן תשע שנים ויום אחד – הוא פוסל על ידי אחיו, והאחין פוסלין על ידו. אלא הוא פוסל תחלה, והאחין פוסלין תחלה וסוף.

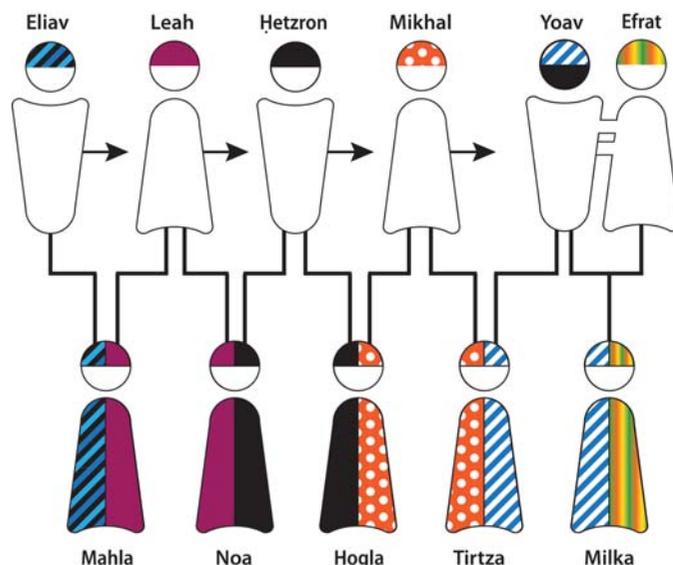
The mishna addresses a different issue: If a boy aged nine years and one day had relations with his *yevama* he thereby disqualifies his brothers from levirate marriage, despite the fact that as a minor he has not acquired the *yevama* through this act of intercourse, and the brothers likewise disqualify the woman from him if they have intercourse with the *yevama*. However, there is a difference between them, as he disqualifies them only if he engaged in relations with her first, and the brothers disqualify him whether they had relations first or last.

כיצד? בן תשע שנים ויום אחד שבא על יבמתו – פסל על ידי אחיו. באו עליה אחיו, ועשו בה מאמר, נתנו גט, או חלצו – פוסלין על ידו.

The mishna explains: How so? A boy aged nine years and one day who had relations with his *yevama* has disqualified his brothers, as they are no longer eligible to marry her. If his brothers had relations with her, or performed levirate betrothal with her, or gave her a bill of divorce, or performed *halitza* with her, they permanently disqualify him from engaging in relations with her.

BACKGROUND

He married her...sister, etc. – נשא אחותה וכו' – Eliav married Leah, who gave birth to Mahla. Eliav subsequently died and Leah married Hetzron and gave birth to Noa. Hetzron proceeded to marry Mikhal, who bore Høgla. Hetzron died and Mikhal married Yoav and had a child called Tirtza. Yoav married Efrat who named her daughter Milka. Consequently, there are four sets of half sisters, e.g., Mahla and Noa, or Noa and Høgla, while the others, e.g., Mahla and Høgla, or Noa and Tirtza, are not sisters from either side.



גמ' אטו כולהו לאו לאחר מיתת ראשונה  
מינהו? אמר רב ששית: לאחר מיתת ראשונה  
ודאי.

**GEMARA** The mishna states: And if he had relations with the second after the death of the first. The Gemara asks: **Is that to say that all of them**, all the other cases in the mishna, **are not dealing with a situation after the death of the first woman?** The entire case starts with the report: Your wife is dead. **Rav Sheshet said: After the definite death of the first one.** In other words, the mishna means that this did not follow a mere rumor that she was dead, but it was positively established that she had actually died.

"בן תשע שנים" וכו'. בן תשע שנים ויום  
אחד, תחלה פסיל, בסוף לא פסיל? והתני  
רב זביד בר רב אשעיא: העושה מאמר  
ביבמתו ואחר כך בא אחיו, שהוא בן תשע  
שנים ויום אחד, עליה - פסלה!

**S** The mishna teaches that a boy **aged nine years and one day** who had relations with his *yevama* has disqualified her from his brothers. Throughout this discussion, whenever the Gemara refers to a nine-year-old boy, it is understood that he is actually nine years and one day old. The Gemara asks: **Does a boy aged nine years and one day disqualify her to the brothers only if he had relations with her first**, but if he had relations **last he does not disqualify them?** **But didn't Rav Zevid bar Rav Oshaya teach: One who performs levirate betrothal with his yevama, and afterward his brother, who is nine years and one day old, had relations with her, he has disqualified her.** This indicates that the intercourse of a nine-year-old disqualifies his brother even if it occurred after that of his brother.

אמרי: ביאה פסיל אפילו בסוף, מאמר -  
תחלה פסיל, בסוף לא פסיל. וביאה אפילו  
בסוף פסיל? והא קתני: אלא שהוא פוסל  
תחלה, והן תחלה וסוף, מיצד? בן תשע שנים  
ויום אחד שבא על יבמתו וכו'!

**They say in response:** The **intercourse** of a nine-year-old **disqualifies** his brothers **even** if it happens **last**; however, in the case of a boy who merely performed **levirate betrothal** with her, if he did so **first he disqualifies** his brothers, whereas if he was **last, he does not disqualify** his brothers. The Gemara asks: **And do the sexual relations of a nine-year-old disqualify his brothers even when performed last?** **But isn't it taught in the mishna: However, he disqualifies them only if was first, and the brothers disqualify him whether they were first or last. How so?** A boy **aged nine years and one day who had relations with his yevama** has disqualified his brothers. The example the mishna uses for a boy who disqualifies his brothers first is an act of intercourse.

חסורי מיחסרא והכי קתני: בן תשע שנים  
ויום אחד, הוא פוסל תחלה, והן פוסלין  
תחלה וסוף. במה דברים אמורים - במאמר,  
אבל ביאה פוסלת אפילו בסוף. מיצד: בן  
תשע שנים ויום אחד הבא על יבמתו פסל  
על ידי אחיו.

The Gemara answers: The mishna is **incomplete and this is what it is teaching:** With regard to a boy **aged nine years and one day, he disqualifies his brothers first, and they disqualify him first and last. In what case is this statement said?** This is said **with regard to levirate betrothal**, i.e., if they performed levirate betrothal with her. **However, if the minor had relations with her, he disqualifies them even if he did so last. How so?** If a boy **aged nine years and one day had relations with his yevama** after his brother performed levirate betrothal with her, he **has disqualified his brothers.**

ומי אית ליה מאמר כלל על ידי אחיו?  
והתנאי: בן תשע שנים ויום אחד הוא פוסל  
בדבר אחד והאחין פוסלין על ידו בארבעה  
דברים. הוא פוסל על ידי אחיו בביאה,  
והאחין פוסלין על ידו בביאה, במאמר,  
בגט, בחליצה!

The Gemara asks: **And does a nine-year-old boy have the ability to perform levirate betrothal at all** that would have any effect **with regard to the eligibility of his brothers in levirate marriage?** **But isn't it taught in a baraita:** With regard to a boy **aged nine years and one day, he disqualifies the yevama to his brothers in one way, and the brothers disqualify him in four ways.** How so? **He disqualifies the brothers by relations**, i.e., the *yevama* is forbidden to the other brothers if she has sexual relations with him, **and the brothers disqualify him by relations, by levirate betrothal, by a bill of divorce, and by halitza.** The *tanna* does not mention the levirate betrothal of a minor at all.

ביאה דפסלה בין בתחלה בין בסוף -  
פסיקא ליה, מאמר דבתחילה פסיל, בסוף  
לא פסיל - לא פסיקא ליה.

The Gemara rejects this claim: No proof can be derived from that source, as with regard to the **sexual relations** of a minor, **which disqualifies his brothers whether it came first or last**, the *tanna* can teach a **definite ruling**, i.e., he can state this *halakha* in an unambiguous and unqualified manner. Conversely, with regard to the **levirate betrothal** of a minor, **which if it occurred first disqualifies his brothers but if it happened last, after one of the brothers performed levirate marriage with her, it does not disqualify them**, the *tanna* cannot teach it in a **definite and unqualified manner**, but would have to elaborate and explain the precise circumstances. Therefore he omitted this case entirely.

אֵיתָמַר נָמִי, אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: יֵשׁ לוֹ גֵּט. וְכֵן אָמַר רַב תַּחְלִיפָא בַר אֲבִימִי: יֵשׁ לוֹ מֵאֲמֵר. תֵּנָא נָמִי הָכִי: יֵשׁ לוֹ גֵּט וְיֵשׁ לוֹ מֵאֲמֵר, דְּבַרֵּי רַבִּי מֵאִיר.

§ It was also stated by other *amora'im*: Rav Yehuda said that Shmuel said: A minor boy has the ability to give a bill of divorce in the case of a *yevama*, i.e., if he gave her a bill of divorce he has disqualified her to his brothers. And similarly Rav Tahalifa bar Avimi said: He has the ability to perform levirate betrothal.<sup>N</sup> The Gemara comments: This is also taught in a *baraita*: A minor has the ability to give a bill of divorce and he has the ability to perform levirate betrothal; this is the statement of Rabbi Meir.

וְסָבַר רַבִּי מֵאִיר יֵשׁ לוֹ גֵּט? וְהֵתְנָא: עָשׂוּ בֵּימֵי בֶן תִּשְׁעֵי כְּמֵאֲמֵר בְּגָדוּל. רַבִּי מֵאִיר אָמַר: עָשׂוּ חֲלִיצַת בֶּן תִּשְׁעֵי כְּגֵט בְּגָדוּל. וְאִם אֵיתָא – לִיתֵינִי כְּגֵיטוֹ? אָמַר רַב הוּנָא בְּרִיהַ דְּרַב יְהוֹשֻׁעַ: אֵיתָא לֵיהּ וְזוּטָר.

The Gemara asks: And does Rabbi Meir hold that a minor boy has the ability to give a bill of divorce? But isn't it taught in a *baraita*: They established the sexual relations of a nine-year-old like a levirate betrothal<sup>N</sup> performed by an adult. Rabbi Meir says: They established the *halitza* of a nine-year-old like a bill of divorce of an adult. The Gemara explains the difficulty: And if it is so, let Rabbi Meir teach: They established the *halitza* of a nine-year-old like his own bill of divorce,<sup>N</sup> as he too can give a *yevama* a bill of divorce. Rav Huna, son of Rav Yehoshua, said: He does have the ability to give a bill of divorce, but it is less powerful than the bill of divorce of an adult *yavam*, as explained by Rav Huna below.

לְרַבֵּן גַּמְלִיאֵל דְּאָמַר אֵין גֵּט אַחַר גֵּט – הֵי מִיָּלִי בְּגָדוּל אַחַר גְּדוּל וְקָטָן אַחַר קָטָן, אֲבָל גְּדוּל אַחַר קָטָן – מִהֵינִי.

Rav Huna, son of Rav Yehoshua, elaborates: According to the opinion of Rabban Gamliel, who said that there is no bill of divorce after a bill of divorce for a *yevama*, i.e., if one of the brothers gave her a bill of divorce, no bill of divorce given later by a different brother is of any significance, this applies only when the bill of divorce was given by an adult after an adult, or by a minor after a minor. However, if an adult gave a bill of divorce after a minor, the bill of divorce of the adult is effective and disqualifies the *yevama*, as the bill of divorce of a minor is of less importance.

לְרַבֵּן דְּאָמַרֵי יֵשׁ גֵּט אַחַר גֵּט – הֵי מִיָּלִי בְּגָדוּל אַחַר גְּדוּל, אוֹ בְּקָטָן אַחַר קָטָן, אֲבָל קָטָן אַחַר גְּדוּל – לֹא מִהֵינִי.

According to the opinion of the Rabbis, who say that there is a bill of divorce after a bill of divorce, this applies only to the case of an adult after an adult, or to a minor after a minor. However, they too agree that the bill of divorce of a minor after an adult is not effective, as a minor's bill of divorce is certainly weaker than that of an adult. For this reason Rabbi Meir said that they established the *halitza* of a nine-year-old like a bill of divorce of an adult, to emphasize that a subsequent bill of divorce of a minor is of no account.

#### NOTES

*Halitza* and a bill of divorce by a minor – תְּלִיצָה וְגֵט בְּקָטָן: The opinions of Shmuel and Rav Tahalifa can be explained in two ways. Most commentaries maintain that their statements apply only to the opinion of Rabbi Meir, whereas the Rabbis claim that a minor may neither perform *halitza*, nor perform levirate betrothal, nor give a bill of divorce. In contrast, others claim that even the Rabbis, who dispute Rabbi Meir's opinion, concede that a minor may perform *halitza*, levirate betrothal, or give a bill of divorce. However, they maintain that these actions are not as powerful as his sexual relations, as they disqualify the brothers only if they are performed first (Rabbeinu Yeruham). It has also been noted that the Rambam, who states in his Commentary to the Mishna that a minor can both perform *halitza* and give a bill of divorce, apparently later retracted this ruling in the *Mishne Torah*, in favor of the opinion of the Rabbis.

They established the sexual relations of a nine-year-old like a levirate betrothal – עָשׂוּ בֵּימֵי בֶן תִּשְׁעֵי כְּמֵאֲמֵר: Rashi here, followed by most commentaries, maintains that by Torah law the sexual relations of a minor does not acquire the woman. Yet as his intercourse is significant with regard to prohibitions, since if she is an adult she is liable to be punished on his account and is also barred from marrying into the priesthood, the Sages were stringent with regard to the intercourse of a minor with a *yevama* and ruled that it is like a levirate betrothal. Conversely,

the Ramban understands in the opposite manner. He cites support for his opinion from Rashi on tractate *Kiddushin* 19a, who claims that the relations of a nine-year-old with his *yevama* is a fully valid acquisition by Torah law, but the Sages decreed that it should be considered merely like levirate betrothal. His reasoning is that although a minor cannot marry a woman by means of sexual relations, this is because he is not legally competent. In the case of a *yevama*, by contrast, as her acquisition does not require legal competence, any intercourse, including that with a nine-year-old, serves to acquire the *yevama*.

Let him teach, like his own bill of divorce – לִיתֵינִי כְּגֵיטוֹ: The Ritva is puzzled by the wording of the Gemara here, as the entire *halakha* that a bill of divorce can be given to a *yevama* is apparently merely a decree due to *halitza*. How, then, can *halitza* be dependent on a bill of divorce? He suggests two answers. First, the language is indeed imprecise, as the main idea is that a minor's bill of divorce and *halitza* are equivalent. Alternatively, his bill of divorce is in fact preferable to his *halitza*. The reasoning behind this claim is that as he writes a valid bill of divorce he has performed a more important action than *halitza*, which cannot cancel a regular marriage. Other commentaries add that this bill of divorce must have been written by the minor himself, as he does not have the legal capacity to appoint a scribe as his agent to do so on his behalf (Meiri).

**מתני'** בן תשע שנים ויום אחד שבא על יבמתו, ואחר כך בא עליה אחיו שהוא בן תשע שנים ויום אחד – פוסל על ידו. רבי שמעון אומר: לא פוסל. בן תשע שנים ויום אחד שבא על יבמתו, ואחר כך בא על צרתה – פוסל על ידי עצמו. רבי שמעון אומר: לא פוסל.

**גמ'** תניא, אמר להם רבי שמעון לחכמים: אם ביאה ראשונה ביאה – ביאה שנייה אינה ביאה, ואם ביאה ראשונה אינה ביאה – ביאה שנייה נמי אינה ביאה.

מתניתין דלא כבן עזאי, דתניא, בן עזאי אומר: יש מאמר אחר מאמר בשני יבמין ויבמה אחת.

ואין מאמר אחר מאמר בשתי יבמות ויבם אחד.

**מתני'** בן תשע שנים ויום אחד שבא על יבמתו, ומת – חולצת ולא מתייבמת. נשא אשה, ומת – הרי זו פטורה. בן תשע שנים ויום אחד שבא על יבמתו, ומשהגדיל נשא אשה אחרת, ומת, אם לא ידע את הראשונה משהגדיל – הראשונה חולצת ולא מתייבמת, והשנייה, או חולצת או מתייבמת.

רבי שמעון אומר: מייבם לאי זו שירצה, וחולץ לשנייה. אחד שהוא בן תשע שנים ויום אחד, ואחד שהוא בן עשרים שלא הביא שתי שערות.

**MISHNA** If a boy aged nine years and one day had sexual relations with his *yevama*,<sup>11</sup> and afterward his brother, who is also nine years and one day old, had relations with her, the second brother disqualifies her to the first one. Rabbi Shimon says he does not disqualify her. If a minor aged nine years and one day had relations with his *yevama*, and afterward that same boy had relations with her rival wife, he thereby disqualifies her to himself, and both women are now forbidden to him. Rabbi Shimon says he does not disqualify her.

**GEMARA** It is taught in a *baraita* that Rabbi Shimon said to the Rabbis: If the first sexual act of a nine-year-old is considered a proper act of sexual relations, then the second act is not an act of consequence, just as the intercourse of one adult *yavam* after that of another adult *yavam* is of no effect. And if you say that the first sexual act is not considered a sexual act, the second act of himself or his brother is also not a sexual act. However, the Rabbis maintain that as the intercourse of a nine-year-old is like a levirate betrothal, one sexual act can take effect after another.

The Gemara comments that according to this explanation, the mishna is not in accordance with the opinion of ben Azzai. As it is taught in a *baraita* that ben Azzai says: There is levirate betrothal after levirate betrothal in a case of two *yevamin* and one *yevama*. In other words, if they both performed levirate betrothal with her, their actions are effective and she is forbidden to them both. The reason is that she has ties to each of the two men, which means that each levirate betrothal is effective in forbidding the other man.

But there is no levirate betrothal after a levirate betrothal in a case of two *yevamot* and one *yavam*, as the *yavam* did not have a full-fledged levirate bond with both of them. Therefore, if he performs a levirate betrothal with one of them, he has completed the bond. In contrast, the conclusion of the mishna is that the sexual relations of a nine-year-old with two *yevamot* is effective, and as the intercourse of a boy of this age is considered like a levirate betrothal the *tanna* of the mishna evidently maintains that there is levirate betrothal after levirate betrothal even in a case of one *yavam*.

**MISHNA** If a boy aged nine years and one day had relations with his *yevama* and died,<sup>12</sup> that *yevama* performs *halitza* and may not enter into levirate marriage. If the minor married a woman<sup>13</sup> in a regular manner and died,<sup>14</sup> she is exempt from levirate marriage and *halitza*, as by Torah law a minor cannot marry. If a boy aged nine years and one day had relations with his *yevama*, and after he matured he married a different woman<sup>15</sup> and then died childless, if he did not carnally know the first woman after he matured, but only when he was a minor, the first one performs *halitza* and may not enter into levirate marriage, as she is in essence a *yevama* who had relations with a minor, and the second woman either performs *halitza* or enters into levirate marriage, as she is his full-fledged wife.

Rabbi Shimon says: The brother consummates levirate marriage with whichever woman he chooses,<sup>16</sup> and performs *halitza* with the second one. The mishna comments: This is the *halakha* both for a boy who is nine years and one day old, and also for one who is twenty years old who has not developed two pubic hairs. He has the status of a nine-year-old boy in this regard, as his intercourse is not considered a proper act of intercourse.

HALAKHA

Nine-year-old minors who had intercourse with the *yevama* – בן תשע שבא על היבמה – If a boy aged nine years and one day had relations with his *yevama* and afterward had intercourse with her rival wife, or if his brother, also nine years and one day old, had relations with that *yevama*, she is disqualified from levirate marriage with the first brother (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 5:20; *Shulhan Arukh, Even HaEzer* 170:16).

If a boy aged nine years...had relations with his *yevama* and died – בן תשע...שבא על יבמתו ומת – If a nine-year-old boy had relations with his *yevama* and died, she must perform *halitza* and may not enter into levirate marriage, as she is tied by the bond of two *yevamin* (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:30; *Shulhan Arukh, Even HaEzer* 174:6).

If he married a woman and died – נשא אשה ומת – The betrothal of a boy aged nine years and one day is of no account. Even if he had relations with the woman before he died, she is exempt from both *halitza* and levirate marriage (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:8; *Shulhan Arukh, Even HaEzer* 167:1).

A nine-year-old who had relations with his *yevama* and married another – בן תשע שבא על יבמתו ונשא – אחרת: In the case of a boy aged nine years and one day who had relations with his *yevama* and matured and married another woman, if he did not engage in intercourse with his *yevama* after he reached the age of maturity, both of his wives perform *halitza* but may not enter into levirate marriage. The *halakha* is not in accordance with the mishna here, but follows the earlier mishna on *daf* 31b, which states that the Sages decreed that a woman who has the bond of two deceased brothers may not perform levirate marriage, due to her rival wife. Consequently, they both require *halitza* (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 6:8; *Shulhan Arukh, Even HaEzer* 167:2).

NOTES

**קטן שנשא אשה –** Some commentaries state that although the Sages did not institute marriage for an underage boy, as the reasons they did so for a girl do not apply to him, his act is not a transgression and can sometimes even be a mitzva (*Tosafot*). Some claim that in a case of this kind the father can betroth the woman on behalf of his son, and this marriage is valid, as the son is the beneficiary of his father's action.

**He consummates levirate marriage with whichever he chooses – מייבם לאי זו שירצה:** In Rabbi Shimon's opinion the bond of two *yevamin* cannot be created by the levirate betrothal or sexual relations of a minor boy, as he maintains that these are uncertain cases and the Sages do not apply their decrees to situations of this kind (*Tosefot Yam Tov*; see *Yam shel Shlomo*).

**They certainly did** – עשו ועשו: This is an expression of emphasis and confirmation. Some commentaries explain that not only did the Sages establish the inter-course of a minor to be like levirate betrothal with regard to the disqualification of a *yevama*, they also did so for the other *halakhot* of levirate betrothal, such as a widow of two deceased husbands (Ritva).

**This is a dispute between *tanna'im*** – תנאי היא: Some commentaries explain that this dispute is derived from the question of whether the *halakha* that the wife of two deceased husbands cannot enter into levirate marriage applies by Torah law, as maintained by one opinion in the Gemara, or whether it is a decree of the Sages. Consequently, the dispute between *tanna'im* is whether the Sages can enact a decree due to this prohibition, or if this would constitute a decree issued to prevent violation of another decree (*Tosefot HaRosh*; Ritva, citing *Tosafot*). The Ritva maintains that the issue is whether this situation is common enough for the Sages to enact another decree on account of it, or whether it is an unusual case to which the Sages did not apply their decree.

## HALAKHA

**They certainly did** – עשו ועשו: The sexual act of a boy aged nine years and one day is like the levirate betrothal of an adult in all regards, both concerning the disqualification of the *yevama* from marriage to others as well as the fact that it prevents her rival wife from performing levirate marriage. The *halakha* is in accordance with the opinions of Shmuel and Rabbi Yohanan, as the *halakha* follows Rabbi Yohanan in his disputes with Rav (*Shulhan Arukh, Even HaEzer* 167:1).

גמ' אמר רבא: הא דאמור רבנן זיקת שני יבמין מיחלץ חלצה יבומי לא מיבמה, לא תימא היכא דאיכא צרה, דאיכא למגור משום צרה,

דהא הכא ליכא צרה – מיחלץ חלצה יבומי לא מיבמה.

”נשא אשה ומת” בו. תנינא להא דתנו רבנן: שוטה וקטן שנשא ומתו – נשותיהן פטורות מן החליצה ומן הייבום.

”בן תשע” וכו’ ”משה גדול” וכו’. ועשו ביאת בן תשע במאמר בגדול, ותדחה צרה מיבום! אמר רב: לא עשו ביאת בן תשע במאמר בגדול, ושמואל אמר: עשו ועשו. וכן אמר רבי יוחנן עשו ועשו.

ועשו? תנאי היא, הך תנא דארבעה אחין גור משום צרה,

ואשמעינן בגדול והוא הדין בקטן, והאי דאמר גדול משום דבגדול קאי,

והאי תנא דהכא סבירא ליה עשו, ולא גזר משום צרה, ואשמעינן בקטן והוא הדין בגדול. והאי דקאמר בקטן – דבקטן קאי.

**GEMARA** If a brother performed levirate betrothal with a *yevama* and died, she has a levirate bond in relation to the remaining brothers from two deceased brothers. Rava said: With regard to that which the Rabbis said, that when the bond of two *yevamin* exists, she performs *halitza* and she does not enter into levirate marriage, you should not say that this applies only when there is a rival wife, as there is reason to decree due to a rival wife. The suggestion is that as the rival wife can enter into levirate marriage by Torah law, if the woman who performed levirate betrothal with the second brother was also permitted to enter into levirate marriage, people might mistakenly permit levirate marriage to two rival wives from the same family.

The proof that this is not the case is that here, in the first clause of the mishna, there is no rival wife, as it is referring to one woman, which means that this *yevama* who had relations with the nine-year-old is tied by the bonds of both her first husband and the underage *yavam*, whose intercourse is like levirate betrothal, and even so she performs *halitza* but she does not enter into levirate marriage.

§ The mishna teaches that if a nine-year-old boy married a woman and died, she is exempt from levirate marriage and *halitza*. The Gemara comments: We already learned this, as the Sages taught in a *baraita*: With regard to an imbecile and a minor who married women and died, their wives are exempt from *halitza* and from levirate marriage, as the marriage of a minor or an imbecile is of no account.

§ The mishna further teaches the case of a nine-year-old boy who had relations with his *yevama* and after he matured married another woman. The Gemara asks: And let the Sages at least establish the sexual relations of a nine-year-old to be like the levirate betrothal of an adult, and it would therefore override the requirement of the rival wife to enter into levirate marriage, in accordance with the *halakha* of the rival wife of a woman who has the bond of two *yevamin*. Rav said: They did not establish the intercourse of a nine-year-old to be like the levirate betrothal of an adult in all regards, and Shmuel said: They certainly did.<sup>NH</sup> And similarly, Rabbi Yohanan said: They certainly did.

If so, the question remains: And let them establish the sexual relations of a nine-year-old to be considered like levirate betrothal. Why is he able to perform levirate marriage with her rival wife? The Gemara answers: This is a dispute between *tanna'im*.<sup>N</sup> This *tanna* who discusses the case of four brothers, one of whom died, followed by the brother who performed levirate betrothal with the *yevama* (31b), he maintains that the *yevama* and her rival wife may not perform levirate marriage with one of the surviving brothers. The reason is that he maintains that the Sages decreed that a woman who has the bond of two deceased brothers may not perform levirate marriage due to a rival wife. They must both perform *halitza* so that people will not say that two *yevamot* from one family can perform levirate marriage.

And that *tanna* taught us this *halakha* with regard to an adult brother who performed levirate marriage, and the same is true of a minor who had relations with her. And the reason that he stated the case of an adult in particular is because he was referring to an adult.

And conversely, this *tanna*, of the mishna here, holds that they established the sexual relations of a minor entirely like the levirate betrothal of an adult, and he maintains that the Sages did not decree that a woman who has the bond of two deceased brothers may not perform levirate marriage due to the case of a rival wife. And he taught us this *halakha* with regard to a minor, and the same is true of an adult. And the reason that he stated the case of a minor in particular is because he was referring to a minor.

Rabbi Yoḥanan was angry – איקפיד רבי יוחנן: One explanation is that Rabbi Yoḥanan was more particular in this regard than other Sages because he had no sons, and he wanted his memory at least to be preserved through his statements (*Ir Binyamin*).

I would be surprised, etc. – תמיהה אני וכו': Some commentaries explain the connection between this incident and the ensuing punishment, when the synagogue turned into a place of idol worship, in light of the statement of the Sages that whoever grows angry is like one who worships idols. Since the dispute between the scholars led to such rage, that place is clearly unworthy of serving as a study hall, as Torah should be studied in an atmosphere of peace and love (Maharsha).

Even colleagues – חברותא נמי: Some commentaries explain that Rabbi Yoḥanan was also annoyed at the attitude of these two students, who were implicitly reproving Rabbi Yoḥanan. It is inappropriate for disciples to take a stance of this kind against their rabbi (*Iyyun Ya'akov*).

Joshua, with regard to every matter that he said, etc. – על כל דבר שאמר יהושע וכו': Although there is a difference between the two cases, as Joshua could speak only in Moses's name, as the Jews had no other teacher at the time, it was nevertheless possible for people to assume that Joshua was stating his own ideas. This source therefore serves as proof that just as Joshua was not concerned about this error, so too Rabbi Elazar, who was Rabbi Yoḥanan's most prominent student, was presumably issuing only those rulings he learned from his rabbi (Maharsha).

## BACKGROUND

A bolt and a knob – נגר וגלוסטרא: Rashi and other commentaries explain that this refers to a bolt placed in the bottom of a door, which keeps the door closed when it is inserted into a hole in the threshold. Others claim that it is a bar inserted through rings that serves to hold two doors together (Rambam). With regard to the knob, some maintain that it is the thick part of the bolt that can also be used for pounding and is therefore a kind of vessel (Rashi; Meiri). Others explain that the end of the bolt has a special part shaped like a pomegranate or a square, which signifies that this bar is no longer a crossbeam but has been permanently changed into a vessel (Rambam). Still other commentaries claim that the knob is a kind of key, located on the thin end of the bolt (Rabbi Zerahya HaLevi).

## LANGUAGE

Knob [*gelustera*] – גלוסטרא: From the Greek κλειστρον, *kleistron*, or the Latin *claustrum*, meaning lock.

## HALAKHA

נגר שיש בראשו גלוסטרא – A bolt that has a knob at its end – A bolt for locking a door by insertion into the ground may not be used on Shabbat unless it was tied fast to the door. If it had a knob on its end, i.e., a thick attachment, it does not have to be tied fast. Rather, even if it was secured with any kind of rope, and even if it was placed on the ground, one may lock the door with it, as it has the status of a vessel (*Shulhan Arukh, Orach Hayyim* 313:1).

אז רבי אלעזר אמר לשמעתיא בי מדרשא, ולא אמרה משמיה דרבי יוחנן. שמע רבי יוחנן, איקפד. עול לגביה רבי אמי ורבי אסי, אמרו ליה: לא כך היה המעשה בבית הכנסת של טבריא בנגר שיש בראשו גלוסטרא.

§ Rabbi Elazar went and said this *halakha* in the study hall, but he did not state it in the name of Rabbi Yoḥanan. Instead, he issued the *halakha* without attribution. Rabbi Yoḥanan heard that Rabbi Elazar omitted mention of his name and became angry<sup>n</sup> with him. Rabbi Ami and Rabbi Asi visited Rabbi Yoḥanan, to placate him so that he would not be annoyed with his beloved disciple. They said to him: Wasn't there an incident in the synagogue of Tiberias involving a bolt that secures a door in place and that has a thick knob [*gelustera*]<sup>BL</sup> at its end?<sup>H</sup> The question was whether it may be moved on Shabbat as a vessel, or whether it is considered *muktze* as raw material.

שנחלקו בו רבי אלעזר ורבי יוסי עד שקרעו ספר תורה בחמתן. קרעו סלקא דעתך?! אלא אימא שנקרע ספר תורה בחמתן. והיה שם רבי יוסי בן קיסמא, אמר: תמיהה אני אם לא יהיה בית הכנסת זו עבודה זרה, וכן הוה.

הדר איקפד טפי, אמר: חברותא נמי!?

עול לגביה רבי יעקב בר אידי אמר ליה: ב'אשר צוה ה' את משה עבדו בן צוה משה את יהושע וכן עשה יהושע לא הסיר דבר מכל אשר צוה ה' את משה'. וכי על כל דבר שאמר יהושע היה אומר להם: כך אמר לי משה? אלא, יהושע יושב ודרש סתם והכל יודעין שתורתו של משה היא, אף רבי אלעזר תלמידך יושב ודרש סתם, והכל יודעין כי שלך היא.

אמר להם: מפני מה אי אתם יודעין לפימי כבן אידי חברינו? רבי יוחנן, מאי טעמא קפיד כולי האי? דאמר רב יהודה אמר רב: מאי דכתיב 'אגורה באהלך עולמים'. וכי אפשר לו לאדם לגור בשני עולמים? אלא אמר דוד לפני הקדוש ברוך הוא: רבנו של עולם, יהי רצון

And it was stated that Rabbi Elazar and Rabbi Yosei argued over this case until they became so upset with each other that they tore a Torah scroll in their anger. The Gemara interrupts this account to clarify exactly what happened: Tore? Can it enter your mind that such great Sages would intentionally tear a Torah scroll? Rather, you must say that a Torah scroll was torn through their anger. In the heat of their debate they pulled the scroll from one side to another until it tore. And Rabbi Yosei ben Kisma, who was there at the time, said: I would be surprised<sup>n</sup> if this synagogue does not become a place of idolatrous worship. This unfortunate event is a sign that this place is unsuitable for a synagogue. And indeed this eventually occurred.

Rabbi Ami and Rabbi Asi cited this *baraita* to hint to Rabbi Yoḥanan how careful one must be to avoid anger. However, Rabbi Yoḥanan grew even angrier, saying: You are even making us colleagues<sup>n</sup> now? Those two Sages were peers, whereas Rabbi Elazar is merely my student.

Rabbi Ya'akov bar Idi<sup>p</sup> visited Rabbi Yoḥanan and said to him: The verse states: "As God commanded His servant Moses, so did Moses command Joshua, and so did Joshua, he left nothing undone of all that the Lord commanded Moses" (Joshua 11:15). Now did Joshua, with regard to every matter that he said,<sup>n</sup> say to the Jews: Thus Moses said to me? Rather, Joshua would sit and teach Torah without attributing his statements, and everyone would know that it was from the Torah of Moses. So too, your disciple Rabbi Elazar sits and teaches without attribution, and everyone knows that his teaching is from your instruction. Hearing this, Rabbi Yoḥanan was appeased.

Later, after calming down, he said to Rabbi Ami and Rabbi Asi: Why don't you know how to appease me like our colleague ben Idi? The Gemara asks: And Rabbi Yoḥanan, what is the reason that he was so angry about this matter? The Gemara answers that this is as Rav Yehuda said that Rav said: What is the meaning of that which is written: "I will dwell in Your tent in worlds" (Psalms 61:5), literally, forever? And is it possible for a person to live in two worlds simultaneously? Rather, David said before the Holy One, Blessed be He: Master of the Universe, let it be Your will

## PERSONALITIES

Rabbi Ya'akov bar Idi – רבי יעקב בר אידי: Rabbi Ya'akov bar Idi, an *amora* from Eretz Yisrael, was one of the most prominent disciples of Rabbi Yoḥanan. It seems that Rabbi Ya'akov bar Idi studied Torah from some of the most important *amora'im* of the first generation of *amora'im* in Eretz Yisrael, such as Rabbi Yehoshua ben Levi and others. When he became Rabbi Yoḥanan's close disciple he was already a distinguished Torah scholar. Some say that he was even a disciple-colleague of Rabbi Yoḥanan.

After Rabbi Yoḥanan passed away, Rabbi Ya'akov bar Idi moved to the city of Tyre. As he was considered one of the great Sages of the generation, many of the Sages of the next generation, both in Eretz Yisrael and in Babylonia, particularly Rabbi Zeira, would go to Tyre to ask him questions. Certain sources from Eretz Yisrael mention that his two sons, Rabbi Abba and Rabbi Yosei, were among the Sages of the next generation.