

NOTES

His lips mouth – שפתותיו דובבות: It is difficult to understand this saying literally, as the body decomposes in the grave. Some commentaries cite the explanation of the *Zohar*, that each person has a spiritual shadow that parallels his body. It is the lips of this shadow, linked to the grave, that mouth the words (*Arukh LaNer*).

Sometimes they fall off – מננן דנתרי: According to the version of the text printed here, the concern is that a drastic change in the boy's physical state, an increase of fat or thinning out, might lead to a corresponding adjustment in his secondary sexual signs. Some commentaries offer an alternative reading: Sometimes they come due to thinness, etc. (*Tosafot on Bava Batra 155b*). According to this opinion, these unusual bodily states might be preventing proper maturation (*Yam shel Shlomo*).

LANGUAGE

Pile [komer] – כומר: This refers to a pile of grapes left for the first stage of fermentation, a kind of cooking. Similarly, this root is used in the sense of causing fruits to ripen by piling them or covering them with earth. It is related to the Hebrew root *k-m-r*, meaning heating, as in the verse: "His heart yearned [*nikhmeru*]" (Genesis 43:30), which refers to a warming of the heart through emotion (see Rashi's Commentary on the Torah).

HALAKHA

A eunuch and a sexually underdeveloped woman – סרים ואילונית: A man or woman who reached the age of maturity, which is twelve years and one day for a female and thirteen years and one day for a male, and failed to develop two pubic hairs, are considered minors until their twentieth year even if they show the signs of sexual underdevelopment. If they reach the age of twenty and show the signs of a eunuch or a sexually underdeveloped woman, they have the status of adults. This is the standard case of a eunuch or a sexually underdeveloped woman. If the male does not show the signs of a eunuch he remains a minor until he develops two pubic hairs or reaches the age of thirty-five and one day (*Rambam Sefer Nashim, Hilkhot Ishub 2:11; Shulhan Arukh, Even HaEzer 155:12–13*).

BACKGROUND

Due to fatness or thinness – מחמת בריאות וכהישותא: Delayed sexual development can be caused by thinness, i.e., general physical weakness, with normal development resuming as the boy's health improves. Being overweight could be a symptom of a more fundamental problem in sexual development, perhaps due to a hormonal deficiency that is causing both the excessive fat and the lack of hair.

שיאמרו דבר שמועה מפי בעולם הזה
דאמר רבי יוחנן משום רבי שמעון בן
יוחאי: כל תלמיד חכם שאומרים דבר
שמועה מפי בעולם הזה שפתותיו
דובבות בקבר. אמר רבי יצחק בן יעריא
ואיתימא שמעון גורא: מאי קראך –
”והיך בין הטוב הולך לדודי למישרים
דובב שפתי ישנים”.

כומר של ענבים, מה כומר של ענבים,
בין שמנחה אדם אצבעו עליו מיד דובב,
אף תלמידי חכמים, בין שאומרים דבר
שמועה מפייהם בעוה”ז שפתותיהם
דובבות בקבר.

”אחד בן תשע שנים” וכו'. ורמינהו:
בן עשרים שנה שלא הביא שתי
שערות – יביאו ראיה שהוא בן עשרים
והוא הסרים, לא חולץ ולא מייבם.

בת עשרים שנה שלא הביאה שתי
שערות – יביאו ראיה שהיא בת
עשרים, והיא האילונית, לא חולצת
ולא מתייבמת!

הא אתמר עלה: אמר רב שמואל בר
יצחק אמר רב: והוא שגולדו לו סימני
סרים. אמר רבא: דיקא נמי דקתני: והוא
הסרים, שמע מינה.

וכי לא נולדו לו סימני סרים עד כמה?
תני דבי רבי חייא: עד רוב שנותיו.

כי אתו לקמיה דרבא, אי בחוש – אמר
להו: זילו אבריהו, ואי בריא – אמר
להו: זילו אכחשוהו. דהני סימני, זמני
דנתרי מחמת בחישותא וזמני דנתרי
מחמת בריאותא.

that they will say a matter of *halakha* in my name in this world when I have passed on to another world. As Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yoḥai: With regard to any Torah scholar in whose name a matter of *halakha* is said in this world, his lips mouthⁿ the words in the grave, as though he is talking. Rabbi Yitzḥak ben Ze’ira said, and some say this was stated by Shimon the Nazirite: What is the verse from which it is derived? “And the roof of your mouth is like the best wine that glides down smoothly for my beloved, moving gently the lips of those who are asleep” (Song of Songs 7:10).

He explains: This is like a pile [*komer*]^l of grapes left to warm before they are pressed: Just as in the case of a pile of grapes, when a person places his finger on it, immediately it moves, as the wine bursts through and the whole pile shakes, so too with Torah scholars: When a teaching is said in their name in this world their lips mouth the words in the grave. For this reason Rabbi Yoḥanan wanted his Torah statements to be attributed to him, so that he would earn eternal life.

S The Gemara addresses the statement of the mishna that this is the *halakha* both for a boy who is nine years and one day old as well as a twenty-year old who has not developed two pubic hairs. In both cases, their sexual relations are not considered proper intercourse with regard to levirate marriage. And the Gemara raises a contradiction against this from the following source: With regard to a man twenty years old who has not developed two pubic hairs, they must bring proof that he is twenty years old, and he is established as a eunuch, who may neither perform *halitza* nor perform levirate marriage.

Likewise, in the case of a woman who is twenty years old and has not developed two pubic hairs, they must bring proof that she is twenty years old, and that she is a sexually underdeveloped woman, who may neither perform *halitza* nor enter into levirate marriage.^h This shows that the status of a nine-year-old male and a twenty-year old man without pubic hairs are not the same, as the intercourse of a nine-year-old is considered of some significance, whereas that of a eunuch is entirely disregarded, as he may not even perform *halitza*.

The Gemara answers: Wasn't it stated with regard to this *baraita* that Rav Shmuel bar Yitzḥak said that Rav said: And this *halakha* applies only if he developed other signs of a eunuch by the age of twenty. The mishna, by contrast, is referring to one who merely showed the signs of maturity at a late age. Rava said: The language of the *baraita* is also precise, as it teaches: And he is the eunuch. One can learn from here that this is referring to one who is definitely a eunuch.

The Gemara asks a question with regard to the *halakha* itself: And in a case where he does not develop the signs of a eunuch, until what age is he considered a minor? The school of Rabbi Ḥiyya taught: Until most of his years have passed, i.e., until he reaches the age of thirty-five, i.e., halfway to seventy, the standard length of a man's life.

On the same issue, the Gemara relates: When they would come before Rava to inquire about someone who had reached the age of maturity but had not yet developed the physical signs, if the person in question was thin, he would say to them: Go and fatten him up before we decide on his status. And if he was fat,^b he would say to them: Go and make him thin. As these signs, the pubic hairs of maturity, sometimes they fall offⁿ due to thinness and sometimes they fall off due to fatness. It is therefore possible that after his bodily shape is adjusted he will develop the signs of maturity and will not have the status of a eunuch.

הדרן עלך האשה רבה

מתני' נושאין על האנוסה ועל המפוטתה. האונס והמפוטתה על הנשואה – חייב. נושא אדם אנוסת אביו ומפוטת אביו, אנוסת בנו ומפוטת בנו. רבי יהודה אוסר באנוסת אביו ומפוטת אביו.

גמ' תנינא להא דתנו רבנן: אנס אשה – מותר לישא בתה. נשא אשה – אסור לישא בתה. ורמינהו: הנטען מן האשה – אסור באמה ובבתה ובאחותה! מדרבנן.

וכל היכא דאיכא איסורא מדרבנן תני "נושאין" לכתחלה? כי תני מתניתין לאחר מיתה.

מנא הני מילי? דתנו רבנן: בכלן נאמר שכיבה וכאן נאמר קיחה, לומר לך: דרך ליקוחין אסרה תורה.

MISHNA One may marry a relative, e.g., the sister or the mother, of the woman he raped^H and of the woman he seduced. However, one who rapes and one who seduces a relative of the woman who is married to him^H is liable to receive capital punishment or *karet* for engaging in prohibited sexual intercourse, depending on the particular family relationship. A man may marry a woman raped by his father,^H or a woman seduced by his father, or a woman raped by his son, or a woman seduced by his son. Rabbi Yehuda prohibits marriage in the case of a woman raped by his father or a woman seduced by his father.

GEMARA We learned in the mishna that which the Sages teach in a *baraita*: If a man raped a woman, he is permitted to marry her daughter. If he married a woman, it is prohibited for him to marry her daughter.^N However, the Gemara raises a contradiction from another *baraita*: One who is alleged to have engaged in intercourse with a particular woman^H is prohibited from marriage with her mother, and with her daughter, and with her sister. Apparently, as a consequence of non-marital intercourse, there is a prohibition against the man marrying the woman's relatives. The Gemara answers: This is merely prohibited by rabbinic decree,^N lest the man continue to engage in intercourse with this particular woman after marrying one of her relatives, thereby transgressing a Torah prohibition.

The Gemara asks: And anywhere that there is a rabbinic prohibition, does the mishna teach that one may marry the woman *ab initio*? Since the marriage is prohibited by rabbinic decree, the mishna should have taught that if he marries her, he is exempt from punishment. The Gemara answers: When we learned in the mishna that he may marry her *ab initio*, it was dealing with their marriage after the death^N of the woman that he raped or seduced. The rabbinic prohibition does not relate to this case, as concern with regard to forbidden relatives is not relevant there.

The Gemara asks: With regard to the mishna's ruling, from where are these matters derived? It is as the Sages taught: With regard to all other prohibited sexual relations, lying is stated, whereas here, with regard to a man's intercourse with his wife's relatives, taking is stated. This is to tell you that the Torah prohibited intercourse with these relatives only through taking, i.e., the man's acquisition of his wife through marriage. It did not prohibit intercourse with the relative of a woman with whom he engaged in nonmarital relations.

NOTES

Prohibited to marry her daughter – אסור לישא בתה – The commentaries point out that the wording here is misleading, as it indicates that it is prohibited for him only to marry her. In fact, any act of intercourse with her is prohibited.

In *Tosefot HaRosh* it is explained that although the wording of the mishna could have been: He is prohibited from raping the daughter, to correspond to the wording at the beginning of the mishna, that would have indicated that if one hadn't raped the mother, it would have been permitted for him to rape the daughter. Therefore, it is stated that it is prohibited for him to marry her.

He is prohibited from marriage with her mother and with her daughter and with her sister by rabbinic decree – אסור באמה ובבתה ובאחותה: The rationale behind this decree is explained by the commentaries: If one marries the relative of the woman with whom he engaged in intercourse, he will end up in frequent contact with the woman with whom he had nonmarital intercourse. Since they are already on familiar terms, they might be

tempted to engage in intercourse again, despite the fact that they are now forbidden relatives.

The scope of the decree is a source of disagreement between the authorities. Most maintain that all women forbidden to a man as relatives of his wife are also forbidden to him if they are the relatives of a woman with whom he is rumored to have engaged in intercourse. Others contend that the decree is limited to the woman's mother, daughter, and sister, who are mentioned in the *baraita* because it is common for these relatives to visit a woman frequently (Ritva).

When we learned in the mishna, it was dealing with their marriage after the death, etc. – כי תני מתניתין לאחר מיתה וכו': In the Jerusalem Talmud, the mishna is modified and reads: After a woman he raped or seduced, one may marry one of her relatives. It is explained in *Korban HaEda* that this wording indicates that one may marry one of the relatives only after the death of the woman that he raped or seduced. This accords with this Gemara's conclusion.

HALAKHA

One may marry a relative of the woman he raped, etc. – נושאין על האנוסה וכו': By Torah law, it is not prohibited for a man who had licentious intercourse with a woman to marry her relatives. The Sages, however, decreed that he may not marry a relative of hers as long as she is alive. The Rema notes that if he does marry one of her relatives during her lifetime, they are not obligated to get divorced (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:11; *Shulhan Arukh, Even HaEzer* 15:13).

One who rapes and one who seduces a relative of the woman who is married to him – האונס והמפוטתה: A man who engaged in intercourse with one of the immediate relatives of his wife is liable, whether he married the relative or acted licentiously (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:10).

A woman raped by his father, etc. – אנוסת אביו וכו': If a man raped or seduced a woman, she is permitted to his son, as only one's father's wife is forbidden to him. This ruling is in accordance with the Rabbis, who disagree with Rabbi Yehuda's opinion (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:13; *Shulhan Arukh, Even HaEzer* 15:5).

One who is alleged to have engaged in intercourse with a particular woman, etc. – דנטען מן האשה וכו': It is prohibited by rabbinic law for a man who engaged in licentious intercourse with a woman to marry her relatives until that woman dies. It is also prohibited for a man who was merely suspected of having intercourse with her to do so. However, if he does marry one of her relatives he is not obligated to divorce her (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 2:11; *Shulhan Arukh, Even HaEzer* 15:13).

אָמַר לִיהוָה רַב פָּפָא לְאַבְיָי: אֲלֵא מַעֲתָה גְבִי
אֲחוֹתוֹ דְּכְתִיב "אִישׁ אֲשֶׁר יִקַּח אֶת אֲחוֹתוֹ
בֵּת אָבִיו אוֹ בֵּת אִמּוֹ, הֲכִי נִמְי דְּרַךְ קִיחָה
הוּא דְאָסוּר, דְּרַךְ שְׂכִיבָה שְׂרִי?!

אָמַר לִיהוָה: לִיקוּחִין כְּתִיבִי בַּתּוֹרָה סְתָם,
הָרְאוּי לְקִיחָה – קִיחָה, הָרְאוּי לְשְׂכִיבָה –
שְׂכִיבָה.

רַבָּא אָמַר: אֲנִס אִשָּׁה – מוֹתֵר לִישָׂא בִּתְהָ,
מִהֲכָא: כְּתִיב "עֲרוֹת בֵּת בְּנִךְ אוֹ בֵּת בִּתְךָ
לֹא תִגְלֶה", הָא בֵּת בְּנָה דִּידָה וּבֵת בִּתְהָ
דִּידָה – גְּלִי.

וְכְתִיב "עֲרוֹת אִשָּׁה וּבִתָּה לֹא תִגְלֶה אֶת
בֵּת בְּנָה וְאֶת בֵּת בִּתְךָ לֹא תִקַּח", הָא
כִּי צִד? כָּאן בְּאוֹנְסִין כָּאן בְּנִשְׂוֹאִין.

אִיפוּךְ אָנָּא! עֲרוֹת "שְׂאֵר" כְּתִיב בְּהוּ,
בְּנִשְׂוֹאִין אִיכָא שְׂאֵר, בְּאוֹנְסִין לִיכָא שְׂאֵר.

"רַבִּי יְהוּדָה אוֹסֵר בְּאוֹנְסַת אָבִיו" וכו'.
אָמַר רַב גִּידֵל אָמַר רַב: מֵאֵי טַעְמָא דְרַבִּי
יְהוּדָה – דְּכְתִיב "לֹא יִקַּח אִישׁ אֶת אִשְׁתּוֹ
אָבִיו וְלֹא יִגְלֶה כְּנָף אָבִיו" – כְּנָף שְׂרָאָה
אָבִיו לֹא יִגְלֶה.

וּמִמָּאֵי דְּבְּאוֹנְסָה כְּתִיב – דְּכְתִיב מַעֲלוּיָהּ
דְּקָרָא "וְנָתַן הָאִישׁ הַשּׂוֹכֵב עִמָּה לְאָבִי
הַנְּעוּרָה חֲמִשִּׁים כֶּסֶף".

Rav Pappa said to Abaye: However, if that interpretation is so, then with regard to intercourse with one's sister, concerning whom it is written: "And if a man takes his sister, his father's daughter, or his mother's daughter" (Leviticus 20:17), you must also say that it is only intercourse through taking, i.e., marriage, that is prohibited. But intercourse through lying, i.e., without marriage, is permitted. How can this be?

Abaye said to Rav Pappa: When the term taking is stated in the Torah without specification, it is interpreted in accordance with the context. With regard to the context of a relationship that has potential for taking through marriage, this verb is interpreted as taking through marriage. In the context of a relationship that has potential only for lying, as their marriage would be invalid, taking the woman is understood to mean lying with her.

Rava said: The halakha that if a man raped a woman it is permitted for him to marry her daughter is derived from here.ⁿ It is stated: "The nakedness of your son's daughter, or of your daughter's daughter, even their nakedness... you may not uncover" (Leviticus 18:10). It may be inferred from here that the daughter of the woman's own son from a different relationship, and the daughter of her own daughter, may be uncovered, i.e., intercourse with them is not prohibited.

And it is also written: "You may not uncover the nakedness of a woman and her daughter; you may not take her son's daughter, or her daughter's daughter, to uncover her nakedness; they are near kinswoman, it is lewdness" (Leviticus 18:17). How so? How can the two verses be reconciled? Evidently, the former verse is stated with regard to rape. A man may marry the daughter or granddaughter of the woman he raped, provided they are not his own offspring. The latter verse is stated with regard to marriage. Marrying the relatives of one's wife is prohibited.

The Gemara asks: Perhaps I should reverse the resolution of the contradiction between the verses and state that the daughter or granddaughter of his rape victim is forbidden, whereas the relatives of his wife are permitted. The Gemara answers: With regard to those with whom intercourse is forbidden, the concept of kinship is stated (see Leviticus 18:13, 17). In marriage there is kinship, whereas in the case of rape there is no kinship. Therefore, the prohibition against intercourse with a woman and her daughter or granddaughter is clearly referring to the daughter and granddaughter of one's wife and not of the woman he raped.

It is taught in the mishna that Rabbi Yehuda prohibits marrying a woman raped by his father or a woman seduced by his father. Rav Giddel said that Rav said: What is the reasoning for the ruling of Rabbi Yehuda? It is as it is written: "A man may not take his father's wife, and may not uncover his father's skirt" (Deuteronomy 23:1), meaning that one may not uncover the skirt that his father has seen.

And from where is it apparent that this verse is written with regard to a woman raped by his father and not with regard to his father's wife? It is as it is written just before that verse, with regard to rape: "And the man who lay with her shall give the young woman's father fifty shekels of silver" (Deuteronomy 22:29).

NOTES

Rava said... is derived from here – רַבָּא אָמַר... מִהֲכָא: Apparently, Rava held that the Torah's use of the verb take is an unsatisfactory source for this halakha. It is explained in *Nimmukei Yosef* that if taking is understood as referring to marriage, it may be derived from the verse that the prohibition applies not only to a man's

intercourse with his wife's relative, but also to marriage between a man and the relative of a woman with whom he engaged in intercourse. Accordingly, he would be exempt from liability only if both relationships were nonmarital, which is not the halakha. Rava therefore suggested an alternative source.

ורבנן: אי הוה סמיך ליה – כדקאמרת, השתא דלא סמיך ליה – מיבעי ליה לכדרב ענן, דאמר רב ענן אמר שמואל: בשומרת יבם של אביו הפתוב מדבר, ומאי “כנף אביו” – כנף הראוי לאביו לא יגלה.

And how do the Rabbis, who disagree with Rabbi Yehuda, respond to this proof? If the prohibition stated had been juxtaposed with the verse dealing with rape, it would be as you said. However, now that it is not juxtaposed with it, as there is another prohibition in between, namely “a man may not take his father’s wife” (Deuteronomy 23:1), the prohibition of “he may not uncover his father’s skirt” is necessary to teach that which Rav Anan taught, as Rav Anan said that Shmuel said: The verse is speaking of a widow waiting for her brother-in-law, who is this man’s father, to perform levirate marriage. And what is the meaning of the phrase “his father’s skirt”? The skirt that is potentially his father’s, he may not uncover.

ותיפוק ליה משום דודתו! לעבור עליה בשני לאוין.

The Gemara questions this interpretation: Why does the Torah need to explicitly prohibit intercourse with the *yevama* of one’s father? Derive that intercourse is prohibited due to the fact that she is his aunt, as she is his father’s brother’s widow. The Gemara answers: The Torah purposely rendered this act a more serious offense. By specifying that it is prohibited for one to engage in sexual relations with his father’s *yevama*, one who engaged in intercourse with her has violated two prohibitions. The Torah specifically prohibited his father’s *yevama* in order to have one who engages in relations with her violate two prohibitions, the prohibition proscribing relations with his aunt and the prohibition proscribing relations with his father’s *yevama*, thereby rendering it a more serious offense.

ותיפוק ליה משום יבמה לשוק! לעבור עליה בשלישה לאוין. ואיבעית אימא לאחור מיתה.

The Gemara asks: But why not derive that one violates two prohibitions because there is also a prohibition against a *yevama* engaging in intercourse with a member of the public, i.e., someone other than her *yavam*. The Gemara answers: The Torah prohibited one’s father’s *yevama* so that one who engaged in intercourse with her will have violated three prohibitions: Intercourse with one’s aunt, with one’s *yevama*, and with one’s father’s *yevama*. And if you wish, say instead that the verse that prohibits his father’s *yevama* is referring to the period after the death of his father, who has no additional brothers, so there is no prohibition against the *yevama* engaging in intercourse with a member of the public.

Perek XI
Daf 97 Amud b

”אח מאב ולא מאם והוא בעלה דאם ואנא ברתה דאנתתיה” – אמר רמי בר חמא: דלא כרבי יהודה דמתניתין.

§ The opinion that a man may marry a woman raped or seduced by his father can lead to the existence of an unusual family relationship. A woman says: I have a half brother from my fatherⁿ and not from my mother, and my half brother is the husband of my mother, and I am the daughter of his wife. Rami bar Hama said: This state of affairs is not legitimate according to the opinion of Rabbi Yehuda in the mishna, who holds that a man may not marry a woman with whom his father engaged in intercourse, even if they were not married. However, according to the Rabbis, a woman whose father was not married to her mother can legitimately have a paternal half brother who is married to her mother.

NOTES

A half brother from my father, etc. – אח מאב וכי: Rashi explains that these were folk riddles. Other commentaries ponder why these riddles are cited by the Gemara, as they apparently do not teach anything. The Meiri maintains that the riddles serve to condemn and mock evildoers by demonstrating that forbidden intercourse can lead to aberrant consequences. According to this explanation, the fact that the Gemara also mentions two

strange situations that can come about in a permitted manner is incidental. Tosafot claim that the riddles constitute an answer to heretics. In *Hokhmat Shlomo* this is understood to mean that the Gemara cites these riddles to enable those who study it to solve riddles posed by heretics, thereby showing them that all fields of wisdom are included in the Torah.

NOTES

דְּלֵאֵי – [davla] Water drawers who draw water in buckets. דְּדָלוּ דְּוֹלָא: Why is the riddle addressed to water drawers? When shepherds would go to draw water for their flocks, they would challenge each other with difficult riddles. Alternatively, the riddle is addressed to scholars, and *davla* in this context means to weave, as scholars are figuratively called tractate weavers.

”אָח הוּא וּבָרִי הוּא, אַחְתִּיה אָנָּה דְּהֵאִי דְּדָרִינָא אַכְתְּפֵאִי” – מְשַׁבְּחַתְּ לָהּ בְּגוֹי הֶבְאָ עַל בִּתּוּ.

The Gemara cites another riddle about a bizarre family relationship. A woman says: **He is my brother and he is my son;^b I am the sister of this one, whom I carry on my shoulders.** What is the solution? **You find it in the case of a gentile who engaged in intercourse with his daughter,** and she bore him a son, who is therefore both her brother and her son. The Gemara is referring to a gentile because it does not wish to entertain the idea that a Jew would act in such a manner.

”שְׁלָמָא לָךְ בְּרִי בֵּת אַחְתֶּיךָ אָנָּה” – מְשַׁבְּחַתְּ לָהּ בְּגוֹי הֶבְאָ עַל בִּתּוּ.

The Gemara cites another riddle: **Peace upon you, my son;^b I am the daughter of your sister.** You find the solution in the case of a gentile who engaged in intercourse with the daughter of his daughter, who bore him a son. This son’s mother is related to him from her mother’s side as well, as she is his sister’s daughter.

”דְּלֵאֵי דְּדָלוּ דְּוֹלָא לִיפּוּל בְּכוּ סַתְרָא פִּתְרָא, דְּהֵאִי דְּדָרִינָא הוּא בֵּר, וְאָנָּה בֵּרַת אַחֻוּהָ” – מְשַׁבְּחַתְּ לָהּ בְּגוֹי הֶבְאָ עַל בֵּת בְּנוּ.

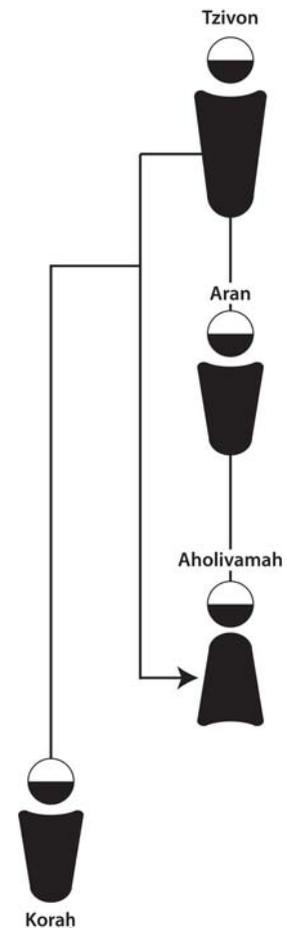
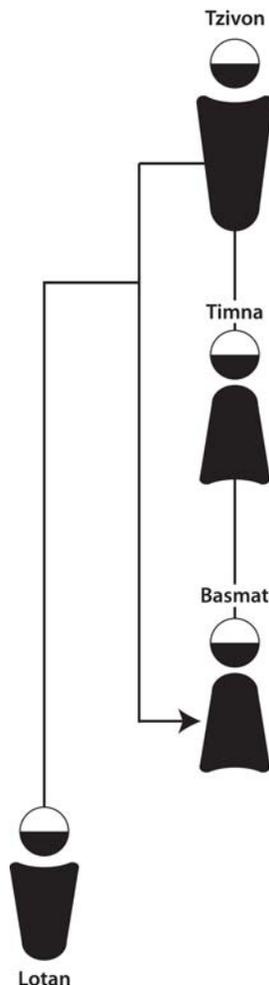
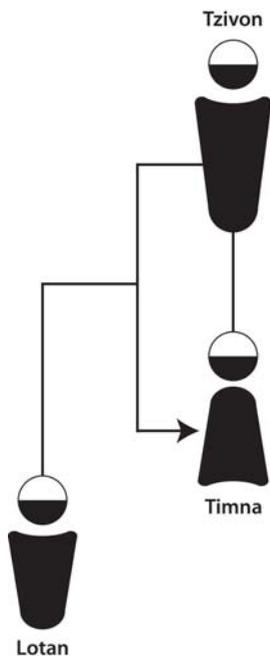
The Gemara cites another riddle: **Water drawers, who draw water in bucketsⁿ to irrigate fields, let this cryptic riddle fall among you: This boy whom I carry^b is my son, and I am the daughter of his brother.** You find the solution in the case of a gentile who engaged in intercourse with the daughter of his son, as their son is also her uncle.

BACKGROUND

He is my brother and he is my son – אָח הוּא וּבָרִי הוּא: Tzivon engaged in intercourse with his daughter Timna, who bore him Lotan. Timna can therefore say of Lotan: He is my brother, as he is the son of my father, Tzivon, and he is my son.

Peace upon you, my son, etc. – שְׁלָמָא לָךְ בְּרִי וְכוּ': Tzivon engaged in intercourse with Basmat, the daughter of his daughter Timna, and she bore him Lotan. Basmat can say to Lotan: Peace upon you, my son. I am your sister’s daughter. He is Tzivon’s son, Timna is his paternal half sister, and Basmat is her daughter.

This boy whom I carry, etc. – הֵאִי דְּדָרִינָא וְכוּ': Tzivon engaged in intercourse with Aholivamah, who is his son Aran’s daughter, and she bore him Korah. Aholivamah can therefore say that her son, Korah, whom she carries on her shoulders, is Aran’s half brother from his father Tzivon’s side, so Aholivamah is also Korah’s half brother’s daughter.



Woe [*baya*] – בַּיָּא: Some scholars assert that this is a form of *vai*, an expression of grief. Others maintain that it comes from the Greek βία, *bia*, bodily strength; βιάω, *biao*; or βιάζω, *biazo*, meaning to constrain or force. It refers to something that is done against one's will, or a perversion of justice.

”בַּיָּא בַּיָּא מֵאָח וְהוּא אָב, וְהוּא בֶּעַל וְהוּא בֶּרְ בֶּעַל, וְהוּא בֶּעַל דְּאִם וְאִנָּא בִּרְתָהּ דְּאִתְתִּיָּה וְלֹא יְהִיב פִּיתָא לְאָחוּהּ יִתְמֵי בְנֵי בִּרְתִּיהָ” – מְשַׁבְּחַת מְמֻנָה לְהַ בְּגוּי הִבָּא עַל אִמּוֹ, וְהוֹלִיד מְמֻנָה בֵּית, וְחֹזֵר וּבָא עַל אוֹתָהּ בֵּית, וְחֹזֵר זְמָן וּבָא עֲלֶיהָ וְהוֹלִיד מְמֻנָה בְּנִים.

The Gemara cites another riddle: **Woe, woe [*baya, baya*]^{LB} for my brother, who is my father, and who is my husband, and who is the son of my husband, and who is the husband of my mother, and I am the daughter of his wife; and he does not provide bread for his brothers, who are orphans, the sons of me, his daughter. You find the solution in the case of a gentile who engaged in intercourse with his mother, and she bore him a daughter. This daughter is both his sister and his daughter. And he engaged in intercourse with that daughter. And then the old man, his father, engaged in intercourse with her, and she bore him sons. This woman is therefore the wife of her father-brother, and he is also the son of her husband, the old man. Her father's brothers, i.e., the sons she had with the old man, are his daughter's sons.**

”אֲנָא וְאִתְ אָחִי, אֲנָא וְאִבּוּךְ אָחִי, אֲנָא וְאִמְךָ אָחִי” – מְשַׁבְּחַת לְהַ בְּגוּי הִבָּא עַל אִמּוֹ וְהוֹלִיד מְמֻנָה שְׁתֵּי בָנוֹת, וְחֹזֵר וּבָא עַל אַחַת מֵהֶן, וְהוֹלִיד מְמֻנָה בֶּן, וְקָרְיָא לֵיהָ אַחְתִּיהָ דְּאִמִּיא וְקָאמְרָה לֵיהָ הֲבֵי.

The Gemara cites another riddle: **You and I are siblings;^B your father and I are siblings; your mother and I are siblings. You find the solution in the case of a gentile who engaged in intercourse with his mother, and she bore him two daughters, and he then engaged in intercourse with one of them, and she bore him a son. And the sister of the son's mother calls him and says this statement to him, as she is his sister from his father's side and his father's sister from their mother's side, and she is his mother's sister from both sides.**

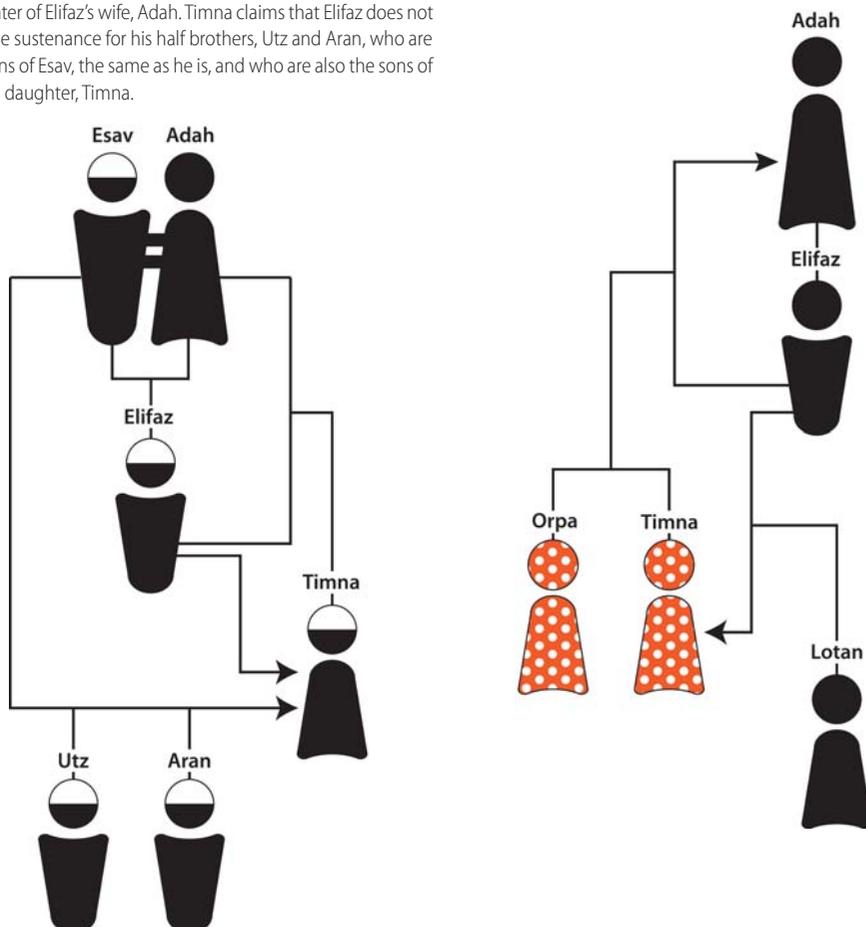
BACKGROUND

Woe, woe – בַּיָּא בַּיָּא: Elifaz engaged in intercourse with his mother, Adah, who bore him Timna. He subsequently engaged in intercourse with Timna. Esav, Elifaz's father, engaged in intercourse with Timna as well, and she bore him Utz and Aran.

Timna can therefore say of Elifaz that he is her brother, as Adah is the mother of them both. He is also the son of Timna's husband, as his father is Esav, who had engaged in intercourse with her. He is also her mother's husband, as he engaged in intercourse with Adah, Timna's mother. Timna is also the daughter of Elifaz's wife, Adah. Timna claims that Elifaz does not provide sustenance for his half brothers, Utz and Aran, who are the sons of Esav, the same as he is, and who are also the sons of Elifaz's daughter, Timna.

You and I are siblings, etc. – אֲנָא וְאִתְ אָחִי וְכוּ': Elifaz engaged in intercourse with his mother, Adah, and she bore him two daughters, Orpa and Timna. He subsequently engaged in intercourse with his daughter Timna, and she bore him Lotan.

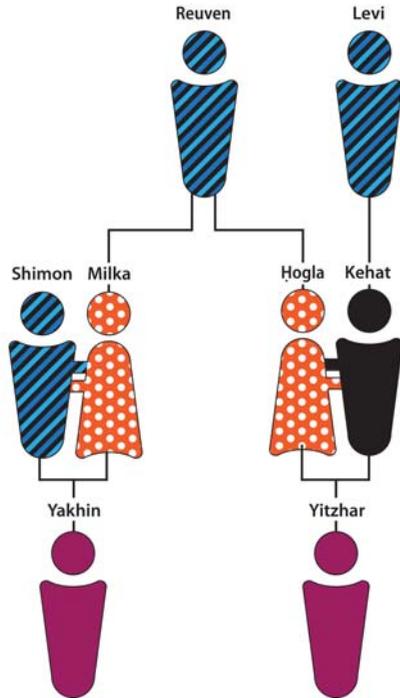
Orpa can therefore say to Lotan that they are siblings, as Elifaz is the father of them both. She may add that she and his father are half brothers, as Adah is the mother of both Elifaz and Orpa. Lotan's mother, Timna, and Orpa are sisters, as they are both the daughters of Elifaz.



BACKGROUND

Reuven who has two daughters – ראוּבֵן שְׁנֵי לוֹ שָׂתִי – Reuven, Shimon, and Levi are brothers. Reuven has two daughters, Milka and Høgla. Shimon married Milka, and she bore him Yakhin. Levi's son, Kehat, married his cousin, Høgla, and she bore him Yitzhar.

Yakhin can therefore say to Yitzhar: You and I are cousins, as our mothers, Høgla and Milka, are sisters. Your father Kehat and I are cousins, as our fathers, Shimon and Levi, are brothers. And your mother and I are cousins, as Høgla is my uncle Reuven's daughter.



HALAKHA

A female convert whose sons converted with her, etc. – הַגְּיוּרָת שְׁנֵתְגִיירוּ בְּנֵיהָ עִמָּהּ וְכוּ': Brothers who converted or were slaves before getting freed are not considered brothers. Even if one of them was not conceived in sanctity and was only born in sanctity, whereas the other was both conceived and born in sanctity, or even if they were twins and were both born in sanctity, they are not considered brothers. Only if they were both conceived and born in sanctity are they considered brothers (Rambam *Sefer Nashim, Hilkhot Yibbum* 1:8; *Shulhan Arukh, Even HaEzer* 157:3).

Forbidden relatives of converts – אִיסוּרֵי עֲרִיּוֹת בְּגֵרִים – A convert is prohibited by rabbinic decree from engaging in intercourse with a female convert who is his maternal relative. However, he is permitted to marry a paternal relative, even if it is known that they share a father, as in the case of twins. This ruling is in accordance with Rav Aha's opinion.

It is therefore permitted for a convert to marry the wife of his paternal half brother, and the wife of his father's brother, and his father's wife. The Rema prohibits intercourse with his father's wife. It is permitted for him to marry his paternal half sister and his daughter after their conversion. However, he may not marry his maternal sister, his mother's maternal sister, or the wife of his maternal half brother after their conversion (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 14:12–13; *Shulhan Arukh, Yoreh De'a* 269:1).

“אָנָּה וְאַתָּה בְּנֵי אָחִי, אָנָּה וְאַבְרָהָם בְּנֵי אָחִי, אָנָּה וְאַמְרָם בְּנֵי אָחִי” – הָאֵל בְּהִיתִירָא נְמִי מְשַׁכַּחַת לָהּ, בְּגוֹן רְאוּבֵן שְׁנֵי לוֹ שָׂתִי בְּנוֹת וְאַתָּא שְׁמַעוֹן וְנֹסֵב תְּדָא מִיַּמֵּיהּ, וְאַתָּא בְּר לְוִי וְנֹסֵב תְּדָא מִיַּמֵּיהּ, וְקָאָמַר לֵיהּ בְּרִיָּה דְשְׁמַעוֹן לְבָר בְּרִיָּה דְלְוִי.

מתני' הגיורת שנתגיירו בניה עמה – לא חולצין ולא מייבמין, אפלו הורתו של ראשון שלא בקדושה ולידתו בקדושה והשני הורתו ולידתו בקדושה, וכן שפחה שנתחררו בניה עמה.

גמ' בני יודן אמתא אשתהרו, שרא להו רב אחא בר יעקב למינסב נשי דהדדי. אמר ליה רבא: והא רב ששת אסר! אמר ליה: הוא אסר ואנא שרינא.

מן האב ולא מן האם – כולו עלמא לא פליגי דשרי. מן האם ולא מן האב – כולו עלמא לא פליגי דאסיר.

כי פליגי – מן האב ומן האם: מאן דשרי – בתר אבא שדינו, דהא “בני פלגיא” קרו להו. ורב ששת: קרו להו נמי “בני פלוגיטא”.

ואיכא דאמר: פליגי רב אחא בר יעקב אפילו באחין מן האם, ומאי טעמא – גר שנתגייר כקטן שגולד דמי.

The Gemara cites another riddle: You and I are cousins; your father and I are cousins; your mother and I are cousins. You find the solution to this riddle in a permitted manner as well. For example, Reuven, who has two daughters,⁸ and his brother Shimon came and married one of them, and the son of Levi, the third brother, came and married the other one of them. And the son of Shimon says this statement to the grandson of Levi. They are cousins from their mothers' sides, Shimon's son and Levi's son are cousins from their fathers' sides, and Shimon's son and the mother of Levi's grandson are cousins from their fathers' sides.

MISHNA With regard to a female convert whose sons converted with her,⁹ they do not perform *halitza* for each other's wives, and they do not perform *levirate marriage* with them, as their conversions are considered rebirth, and they are considered unrelated. This is so even if the conception of the first son was not in the sanctity of Israel, i.e., the mother had not yet converted when she conceived of him, but his birth was in the sanctity of Israel, as his mother had converted by the time she gave birth to him, whereas the second son was both conceived and born in sanctity. The first son is considered a convert, who is unrelated to his brother. And this *halakha* similarly applies to a maidservant whose sons were freed with her, as they too are not considered relatives.

GEMARA The sons of Yudan the maidservant were freed. Rav Aha bar Ya'akov allowed them to marry each other's wives after divorce. Rava said to him: Didn't Rav Sheshet prohibit marriage in that case? Rav Aha bar Ya'akov said to him: He prohibited it and I permit it. I disagree with his ruling.

The Gemara explains: If the two freed slaves or converts are half brothers from their father's side and not from their mother's side, everyone agrees that the marriage is permitted, as even a gentile and certainly a convert are considered unrelated to their father's family. If they are half brothers from their mother and not from their father, everyone agrees that it is prohibited.

When they disagree, it is a case where they are brothers both from their father and from their mother. The one who permits the marriage claims that we trace them after their father. Their paternal lineage is followed, since they are called the sons of so-and-so, their father. Since they are recognized by their paternal lineage, it is well known that they are considered unrelated, and there is no concern that people will infer that a man may marry his sister-in-law. And Rav Sheshet maintains that they are also called the sons of so-and-so, their mother. Therefore, this concern does exist, as it is not common knowledge that a convert is considered reborn and unrelated to his mother's family.

And some say a different version of this dispute: Rav Aha bar Ya'akov disagrees with Rav Sheshet, even with regard to maternal half brothers. And what is the reasoning behind this opinion? The legal status of a convert who just converted is like that of a child just born,¹⁰ and all his previous family relationships are disregarded, whether from his father's side or from his mother's side.¹¹

NOTES

The legal status of a convert who just converted is like that of a child just born – גר שנתגייר כקטן שגולד דמי – It is unanimously agreed that a convert is considered reborn, and all of his previous family relationships are disregarded by Torah law. However, the Sages prohibited a convert from engaging in intercourse with his most immediate relatives. The dispute here pertains to whether or not intercourse with his sister-in-law is included in the prohibition.

The commentaries cite two reasons for this decree. One is to prevent converts from concluding that their conversion was from a greater sanctity to a lesser sanctity, as relatives that were forbidden to them as gentiles are then permitted to them as Jews. The other reason is lest people conclude that intercourse with one's relatives is permitted to all.

תנן: הגיורת שנתגיירו בניה עמה לא חולצין ולא מייבמין. מאי טעמא. לאו משום דאסירי? לא, דאינה בתורת חליצה וייבום, ושריא לעלמא, ואינהו נמי שרו.

והא קתני "אפילו!" אי אמרת בשלמא אסירי, היינו דקתני "אפילו", דאף על גב דראשון הורתו שלא בקדושה ולידתו בקדושה, והשני הורתו ולידתו בקדושה, וכשתי אמהות דמו, אפילו הכי אסירי. אלא אי אמרת שרו, מאי "אפילו!"

דאף על גב דתרווייהו לידתן בקדושה, ואתי לאיחלופי בישראל – אפילו הכי שרי.

איבא דאמרי: הכי נמי מסתברא דשרו, דקתני "אפילו", אי אמרת בשלמא שרו – היינו דקתני "אפילו", דאף על גב דתרווייהו לידתן בקדושה, דאתי לאיחלופי בישראל, אפילו הכי שרו. אלא אי אמרת אסירי – מאי "אפילו"?

דאף על גב דראשון הורתו שלא בקדושה ולידתו בקדושה, והשני הורתו ולידתו בקדושה, דכשתי אמהות דמי – אפילו הכי אסירי.

תא שמע: שני אחים תאומים גרים, וכן משוחררים – לא חולצין ולא מייבמין, ואין חיבין משום אשת אח. היתה הורתו שלא בקדושה ולידתו בקדושה – לא חולצין ולא מייבמין, אבל חיבין משום אשת אח. היתה הורתו ולידתו בקדושה – הרי הן כישראלים לכל דבריהן. קתני מיהת: אין חיבין משום אשת אח, חיבא – ליבא.

We learned in the mishna: With regard to a female convert whose sons converted with her, they do not perform *halitza* with each other's wives, and they do not perform levirate marriage with them. What is the reason that they may not perform levirate marriage? Is it not because they are prohibited from marrying them, contrary to Rav Aha bar Ya'akov's opinion? The Gemara answers: No, the mishna means that these wives are not included in the law of *halitza* and levirate marriage, as they are considered unrelated, and each wife is therefore permitted to marry anyone. And they, too, are permitted to marry her.

The Gemara asks: But doesn't the mishna teach that this is so even if the mother converted while pregnant with the first son, and the second converted independently? Granted, if you say that they are prohibited from marrying each other's wives, this explanation is consistent with that which is taught: Even so they are prohibited from marriage. Although the first son was not conceived in sanctity and only his birth was in sanctity, whereas the second was both conceived and born in sanctity, and therefore they are like the sons of two different mothers, even so they are prohibited from performing levirate marriage with their sisters-in-law. But if you say they are permitted to marry each other's wives, what is the meaning of the word even?

The Gemara answers: The mishna means that although both of them were born in sanctity, and people might come to confuse them with Jews from birth, who may not marry their sisters-in-law, nevertheless they are permitted to marry each other's wives.

There are those who say a different version of this inference: So too, it is reasonable that they are permitted to marry their sisters-in-law, as the mishna teaches: Even if the mother converted while pregnant. Granted, if you say that they are permitted, this explanation is consistent with that which is taught: Even so they are permitted. Although both of them were born in sanctity, and people might come to confuse them with Jews from birth, nevertheless, they are permitted. But if you say that they are prohibited, what is the meaning of the word even?

The Gemara answers: The mishna means that although the first son was not conceived in sanctity and only his birth was in sanctity, whereas the second was both conceived and born in sanctity, so that they are like the sons of two mothers, nevertheless, they are prohibited from marrying each other's wives.

The Gemara cites another proof. Come and hear: Two twin brothers⁴¹ who are converts, and similarly twin brothers who are freed slaves, do not perform *halitza* for each other's wives, and they do not perform levirate marriage with them, and if they engage in intercourse with them they are not liable to receive *karet* for engaging in intercourse with a brother's wife. If they were not conceived in sanctity and only their birth was in sanctity, they do not perform *halitza* or levirate marriage, but they are liable for engaging in intercourse with a brother's wife. If they were conceived and born in sanctity, they are like Jews from birth in all of their matters. In any event, the *baraita* is teaching that regular converts are not liable for engaging in intercourse with a brother's wife. It can be inferred that while there is no liability by Torah law,

HALAKHA

Two twin brothers – שני אחים תאומים: If twin brothers who were not conceived in sanctity but were born in sanctity engage in intercourse with each other's wives, they are liable for engaging in intercourse with a brother's wife. However, *halitza* and levirate marriage do not apply to them. The *Shakh* cites an opinion that

in the case of brothers who are not twins, if only one brother was conceived in sanctity, they are liable as well (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 14:12–13, *Sefer Nashim, Hilkhot Yibbum* 1:8; *Shulhan Arukh, Yoreh De'a* 269:4).