

NOTES

A gentile has no patrilineage – אין אב לגוי: Patrilineage is not recognized with regard to gentiles because, unlike matrilineage, patrilineage is a legal rather than a natural status. This is true not only because matrilineage is easily established, but because of the close connection between a child and his mother throughout pregnancy and his upbringing. It is for this reason that one's status as a Jew is established through matrilineage. However, a gentile inherits his father's estate, as that is a legal, monetary issue unrelated to personal status.

Where the brother married her while he was still a gentile – דנסבא כשהוא גוי: The Meiri maintains that if their marital relationship continued after conversion, she is still considered his wife, even if they did not formalize their Jewish marriage. This ruling is supported by the Jerusalem Talmud.

And said two statements – ואמר שני דברים: The connection between the statements is as follows: Just as a convert is considered reborn, so too is one who repents for his sin. With regard to his prophecy to the people of Nineveh, Jonah failed to understand this idea (see Jonah 4:1–3 and *Arukh LaNer*).

BACKGROUND

Cities overseas – ברכי הים: This expression is understood by some scholars as referring to Caesarea or Cyprus. In fact, the stories in the Talmud that involve cities overseas usually invoke them in order to solve a linguistic puzzle, since in the cities overseas a certain word is used with a specific meaning, or to describe an unusual occurrence, oftentimes an incidence of sin or an atypical halakhic practice. For this reason, it is likely that when the Sages used this term they did so less to point to a geographic place and more to create a setting for pedagogic purposes.

LANGUAGE

Bench [*safsal*] – ספסל: From the Latin subsellium, bench or seat. It was adopted in Hebrew and Aramaic.

הא איסורא איכא! הוא הדין דאפילו איסורא נמי ליכא, ואיידי דבעי למיתני סיפא "אבל חייבין" תנא נמי רישא "אין חייבין".

אמר רבא: הא דאמור רבנן אין אב לגוי, לא תימא: משום דשטופי בזמיה דלא ידיע, אבל ידיע חיישינן, אלא אפילו ידיע נמי לא חיישינן.

דהא שני אחין תאומים, דטפה אחת היה ונחלקה לשנים, וקתני סיפא: לא חולצין ולא מייבמין, שמע מינה: אפקורי אפקוריה רחמנא לזרעיה, דכתיב "בשר חמורים בשרם וזרמת סוסים וזרמתם".

תא שמע, דאמר רבי יוסי: מעשה בניפטיים הגר שנשא אשת אחיו מאמו, ובא מעשה לפני חכמים, ואמרו: אין אישות לגר. ואלא גר דקדיש, הכי נמי לא תפיס בה קידושין? אלא, אימא: אין אסור אשת אח לגר. מאי לאו דנסבא אח כשהוא גר!

לא, דנסבא כשהוא גוי. כשהוא גוי מאי למימרא? מהו דתימא: לגזור כשהוא גוי אטו כשהוא גר, קא משמע לן.

תא שמע, דאמר בן יאסיין: כשהלכתני לברכי הים מצאתי גר אחד שנשא אשת אחיו מאמו. אמרתי לו: בני, מי הרשך? אמר לי: הרי אשה ושבעה בניה, על ספסל זה יושב רבי עקיבא, ואמר שני דברים: גר נושא אשת אחיו מאמו, ואמר "ויהי דבר ה' אל יונה שנית לאמר" – שנית דברה עמו שכינה, שלישי לא דברה עמו שכינה. קתני מיהת: גר נושא אשת אחיו מאמו. מאי לאו דנסבא אחיו כשהוא גר!

there is a rabbinic prohibition, contrary to Rav Aḥa's opinion. The Gemara answers: **The same is true that there is no prohibition, either. And since the baraita wanted to teach in the latter clause that if they were born in sanctity they are liable, it also taught in the first clause that they are not liable.** For this reason, the *baraita* mentions only the absence of liability.

Rava said: With regard to that which the Sages said, that a gentile has no patrilineage,^N do not say that it is because they are so steeped in licentiousness that they do not know the identity of their fathers with certainty, but if that identity is known, we are concerned that the paternity is recognized, with regard to the prohibition of intercourse with forbidden paternal relatives and other halakhic issues. **Rather, even when it is known, we are still not concerned.**

The proof is from the case of two identical twin brothers, who were one drop that was divided into two and obviously have the same father, and yet it is taught in the latter clause of the *baraita*: **They do not perform halitza and they do not perform levirate marriage, although they certainly have the same father. Learn from this that the Merciful One dispossesses the male gentile of his offspring, as it is written with regard to Egyptians: "Whose flesh is the flesh of donkeys, and whose semen is the semen of horses"** (Ezekiel 23:20), i.e., the offspring of a male gentile is considered no more related to him than the offspring of donkeys and horses.

The Gemara resumes its discussion of the dispute between Rav Aḥa bar Ya'akov and Rav Sheshet. **Come and hear another proof, as Rabbi Yosei said: An incident took place involving Niftayim the convert, who married the wife of his maternal half brother, and the incident came before the Sages, and they said that there is no valid marriage for a convert.** The Gemara asks: Is this possible? **And if a convert betroths a woman who is not related to him, is his betrothal to her indeed ineffective? Rather, modify the baraita and say that with regard to a convert there is no prohibition proscribing a brother's wife.** The Gemara concludes: **What, is the baraita not referring to a case where the brother, her first husband, married her when he was already a convert, thereby proving that a convert is permitted to marry the wife of his deceased brother who was also a convert, even if they were maternal brothers?**

The Gemara answers: **No, the baraita is referring to a case where the brother married her while he was still a gentile,^N and since he converted they are no longer married.** The Gemara asks: **If he married her while he was a gentile, what is the purpose of stating this obvious halakha?** The Gemara answers: **Lest you say the Sages should decree that the marriage is prohibited even in a case where the first husband married her while he was a gentile, due to the prohibition against their marriage if the brother married her when he was already a convert.** The *baraita* therefore teaches us that there is no such decree.

Come and hear another proof, as ben Yasiyan said: **When I went to cities overseas,^B I found one convert who married the wife of his maternal half brother. I said to him: My son, who permitted this to you? He said to me: There is a local woman and her seven sons to whom this was permitted. On this very bench [*safsal*],^L Rabbi Akiva sat and said two statements:^N He said that a convert may marry the former wife of his maternal half brother, and he said that the verse "And the word of the Lord came to Jonah a second time, saying" (Jonah 3:1) implies that the Divine Presence spoke with him only a second time. However, a third time the Divine Presence did not speak with him, i.e., Jonah did not receive any more prophecies. In any event, this baraita teaches that a convert may marry the wife of his maternal brother. What, is it not referring to a case where the convert's brother married her when he himself was already a convert?**

As the convert stated a different incident with it – דְּקָאָמֵר מֵעֵשָׂה אַחֲרֵינָא בְּהֵדָה: The Ritva explains that a scholar is not suspected of dishonesty in ruling. Rather, there is suspicion that his personal interest will lead to inaccuracies. Therefore, if he cites another teaching in the same testimony, he is assumed to be citing a tradition that was handed down to him in a precise manner.

Just as the fortune of Nineveh turned – כְּשֵׁם שְׁנֵהֶפֶךְ – לְיַנְיָהּ: Why does the verse compare Israel's fortune specifically to Nineveh and not to other peoples whose fortunes turned from bad to good? *Ramat Shmuel* says that the verse hints to the ultimate fate of the people of Nineveh, who eventually returned to their sinful ways and whose divine punishment was therefore reinstated. Similarly, Israel's improved state did not last, as their deeds did not improve along with their improved situation.

Has maternal kinship – יֵשׁ לוֹ שְׂאֵר הָאִם – According to Rashi, this decree is based on the concern that this type of convert might marry his half sister who was born after him. Since they were both born as Jews, they are recognized as siblings and intercourse between them is prohibited. However, most commentaries explain that the decree's objective is to prevent the conclusion that converts went from a greater sanctity to a lesser one (*Tosafot*; Ramban; Rashba). According to the latter opinion, this decree applies to all converts, not only to those who were born in sanctity. According to Rashi's opinion, it does not.

לֹא, דְּנִסְבָּא בְּשָׂהוּא גוֹי. מַאי לְמִימְרָא?
מַהוּ דְּתִימָא: נְגִזוֹר בְּשָׂהוּא גוֹי אִטּו
בְּשָׂהוּא גוֹי, קָא מְשַׁמַּע לָן.

The Gemara answers: **No**, the *baraita* is referring to a case where the brother married her while he was still a gentile. The Gemara asks: If so, what is the purpose of stating this obvious *halakha*? The Gemara answers: **Lest you say we should decree that marriage between a convert and the former wife of his brother is prohibited even if the brother married her while he was still a gentile, due to the prohibition against their marrying if the brother married her when he was already a convert.** The *baraita* therefore teaches us that there is no such decree.

וּמִי מְהִימֵן? וְהָאֵמֵר רַבִּי אֲבָא אָמַר רַב
הוֹנָא אָמַר רַב: כָּל תְּלִמִיד חָכֵם שְׂמוּרָה
הִלְכָה וּבָא, אִם קוֹדֵם מֵעֵשָׂה אֲמָרָה
שׁוֹמְעִין לוֹ, וְאִם לְאַחַר אֵין שׁוֹמְעִין לוֹ!

And is that convert who cited Rabbi Akiva a reliable witness, despite the fact that the ruling affects him personally? **Didn't Rabbi Abba say that Rav Huna said that Rav said:** With regard to any Torah scholar who teaches a ruling of *halakha* in a certain case and it comes to be, if he said it before the incident, one listens to him. And if not, if the ruling followed the incident, one does not listen to him.

אֵיבְעִית אִימָא: מוֹרָה וּבָא הִיָּהּ. וְאֵיבְעִית
אִימָא: מְשׁוּם דְּקָאָמֵר הָרִי אֲשֶׁה וְשִׁבְעָה
בְּנֵיהּ. וְאֵיבְעִית אִימָא: שְׂאֵנִי הֲכָא,
דְּקָאָמֵר מֵעֵשָׂה אַחֲרֵינָא בְּהֵדָה.

The Gemara answers: **If you wish**, say that the convert taught the ruling, and only afterward it came to be that he himself married his sister-in-law. **And if you wish**, say that he is reliable because he supported his ruling by stating that there was a practical case involving a woman and her seven sons, in which Rabbi Akiva ruled that this kind of marriage is permitted. **And if you wish**, say that here it is different, as the convert stated a different incident with it.^N Since he cited an unrelated teaching of Rabbi Akiva in the same testimony, this teaching is also considered reliable.

אָמַר מַר "וַיְהִי דְבַר ה' אֶל יוֹנָה שְׁנִית
לְאֹמֵר" שְׁנִית דְּבַרָּה עִמּוֹ שְׂכִינָה, שְׁלִישִׁית
לֹא דְבַרָּה עִמּוֹ. וְהָא כְּתִיב "הוּא הָשִׁיב
[אֶת] גְּבוּל יִשְׂרָאֵל מִלְּבוֹא חֲמַת עַד יָם
הָעֶרְבָה כְּדַבֵּר ה'... אֲשֶׁר דְּבַר בְּיַד עַבְדּוֹ
יוֹנָה בֶן אֲמִתַּי הַנְּבִיא!"

The Master said that Rabbi Akiva inferred from the verse "And the word of the Lord came to Jonah a second time, saying" that the Divine Presence spoke with him only a second time. However, a third time the Divine Presence did not speak with him. The Gemara asks: **Isn't it written** with regard to King Jeroboam ben Joash: "He restored the border of Israel from the entrance of Hamath to the Sea of the Arabah, according to the word of the Lord, the God of Israel, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet" (II Kings 14:25)? Evidently, Jonah prophesied at least once more.

אָמַר רַבִּינָא: עַל עֶסְקֵי נִינְוָה קָאָמֵר. רַב
נַחְמָן בַּר יִצְחָק אָמַר, הֲכִי קָאָמַר: "כְּדַבֵּר
ה'... אֲשֶׁר דְּבַר בְּיַד עַבְדּוֹ הַנְּבִיא" – כְּשֵׁם
שְׁנֵהֶפֶךְ לְנִינְוָה מֵרַעָה לְטוֹבָה, כְּךָ בִּימֵי
יְרֻבְעָם בֶּן יוֹאֵשׁ נִהְפֶּךְ לָהֶם לְיִשְׂרָאֵל
מֵרַעָה לְטוֹבָה.

Ravina said: Rabbi Akiva was saying that Jonah did not prophesize a third time about the issue of Nineveh. Rav Nahman bar Yitzhak said that this is the meaning of the phrase "According to the word of the Lord, the God of Israel, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet": It is not that Jonah had prophesized about the conquests of Jeroboam ben Joash, but rather that just as the fortune of Nineveh turned^N from bad to good, so too, in the days of Jeroboam ben Joash, Israel's fortune turned from bad to good.

תָּא שְׁמַע: גַּר שְׂהִיָּה לִידְתוֹ בְּקְדוּשָׁה
וְהוֹרְתוֹ שְׂלֵא בְּקְדוּשָׁה – יֵשׁ לוֹ שְׂאֵר
הָאִם, וְאֵין לוֹ שְׂאֵר הָאָב. כִּי־עַד? נִשְׂא
אֲחֻתוֹ מִן הָאִם – יוֹצִיא, מִן הָאָב – יְקַיֵּם.
אֲחֻת הָאָב מִן הָאִם – יוֹצִיא,

The Gemara resumes discussion of the dispute between Rav Aha bar Ya'akov and Rav Sheshet. **Come and hear another proof: A convert whose birth was in sanctity but whose conception was not in sanctity has maternal kinship,**^N i.e., his relationship to his mother's relatives is recognized. **However, he does not have paternal kinship.**^H How so? If he married his maternal half sister, who was born before him and converted, he must divorce her. Although by Torah law they are considered unrelated, the Sages rendered it prohibited for them to marry, lest he marry a maternal half sister who was born after him and is forbidden to him. If she is his paternal half sister, he may maintain her as his wife. If he married his father's maternal half sister, he must divorce her.

HALAKHA

The *halakhot* of forbidden relatives with regard to converts – דיני ערויות בגוים: If a gentile man is married to a relative forbidden to him by the Noahide mitzvot, e.g., his mother or his maternal sister, and they both convert, they must separate. However, if he is married to a relative forbidden only to Jews and they convert,

they must separate only for three months, in order to discern between a child conceived in sanctity and one conceived before their conversion (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 14:13; *Shulhan Arukh*, *Yoreh De'a* 269:2–3; see *Shakh*).

NOTES

And all other forbidden relatives are permitted to him – וְשָׂאָר כָּל הָעֲרִיבוֹת מוֹתֵרוֹת לוֹ – Some commentaries maintain that the purpose of the decree prohibiting a convert from marrying his maternal relatives is to prevent converts from concluding that they went from a greater to a lesser sanctity. This concern does not apply to paternal relatives, because it is well known that neither a gentile nor a convert is considered related to his paternal family. The Ritva adds that this is true even when these relatives are forbidden by gentile law. Forsaking gentile law is not considered a lessening of sanctity.

One who married a woman and her daughter, etc. – נִשָּׂא אִשָּׁה וּבִתָּהּ וְכוּ' – Rashi and *Tosafot* explain that the *baraita* is referring to a gentile man who married a gentile mother and daughter, and they all subsequently converted. However, the Rambam rules that this *halakha* applies to any man who marries a mother and daughter who are converts. The reason he must divorce one of them is due to the concern that a man will marry a mother and daughter who are Jews from birth.

The prohibition against engaging in intercourse with one's mother-in-law is weakened after his wife's death – תָּמֹתוּ לְאַחַר מִיתַת קַלֶּשׁ לִיָּה אִיסוּרָא – *Tosafot* ask: How can Rabbi Akiva consider this a weakened prohibition when he concedes that the man and his mother-in-law are liable to receive *karet*? They suggest that the prohibition against marrying a mother and a daughter who are converts is a rabbinic decree that reflects the severity of the prohibition to engage in intercourse with a mother and daughter who are Jews from birth, upon which it is modeled. The Rambam maintains that a man who engaged in intercourse with his mother-in-law after his wife's death is not liable to receive *karet*. He cites the Gemara's interpretation as support.

HALAKHA

Forbidden relatives with regard to converts – עֲרִיבוֹת: Although a convert is considered like a newborn, the Sages rendered it prohibited for him to marry his maternal relatives. However, they did not prohibit him from marrying his paternal relatives. Consequently, a convert may marry his father's brother's wife, his son's wife, and his father's wife, as well as his mother's paternal sister and his own paternal sister. The *Tur* maintains that all relatives that are forbidden to any descendant of Noah remain forbidden to a convert, and therefore his father's wife and sister are forbidden to him as well. The Rema mentions only that his father's wife is forbidden, not his father's sister (Rambam *Sefer Kedusha, Hilkhhot Issurei Bia* 14:13, and *Kesef Mishne* there; *Shulhan Arukh, Yoreh De'a* 269:2–3, and *Biur HaGra* there).

One who married a woman and her daughter – נִשָּׂא אִשָּׁה וּבִתָּהּ: If a man married two converts who are mother and daughter, or who are two maternal sisters, he may maintain one of them as his wife but must divorce the other (*Shulhan Arukh, Yoreh De'a* 269:5).

If his wife died, he is permitted to maintain his mother-in-law as his wife – מִתָּה אִשְׁתּוֹ מוֹתֵר בְּחֻמּוֹתוֹ – If a man married a convert and she died, he may then marry her mother, as the Sages prohibited this marriage only during the wife's lifetime. This ruling is in accordance with the opinion of Rabbi Akiva, following the principle that Rabbi Akiva's opinion is accepted when only a single colleague of his disagrees with it (*Shulhan Arukh, Yoreh De'a* 269:6).

מִן הָאָב – יְקָיִים, אַחֵת הָאֵם מִן הָאֵם – יוֹצִיא. מִן הָאָב – רַבִּי מֵאִיר אָמַר: יוֹצִיא, וְחַכְמַיִם אָמְרִים: יְקָיִים. שְׁהִיָּה רַבִּי מֵאִיר אָמַר: כָּל עֲרוּהָ שְׁהִיא מְשׁוּם שְׂאָר הָאֵם – יוֹצִיא. מְשׁוּם הָאָב – יְקָיִים.

וּמוֹתֵר בְּאִשְׁתּוֹ אַחִיו מֵאָמוֹ, וּבְאִשְׁתּוֹ אָחִי אָבִיו, וְשָׂאָר כָּל הָעֲרִיבוֹת מוֹתֵרוֹת לוֹ, לְאִיתוּיֵי אִשְׁתּוֹ הָאָב.

נִשָּׂא אִשָּׁה וּבִתָּהּ – כּוֹנֵס אַחֵת וּמוֹצִיא אַחֵת, לְכַתְחֻלָּהּ לֹא יִכְנוּס. מִתָּה אִשְׁתּוֹ – מוֹתֵר בְּחֻמּוֹתוֹ. וְאִיכָּא דְתַנִּי: אִסוּר בְּחֻמּוֹתוֹ.

קִתְּנֵי מִיְהָת: מוֹתֵר בְּאִשְׁתּוֹ אַחִיו, מֵאִי לָאוּ – דְּנִסְבָּה אַחִיו בְּשֶׁהוּא גֵר? לֹא, דְּנִסְבָּה בְּשֶׁהוּא גוֹי. מֵאִי לְמִימְרָא? מַהוּ דְתִימְאָ: לִיגוֹר בְּשֶׁהוּא גוֹי אִטּוּ בְּשֶׁהוּא גֵר, קָא מְשַׁמַּע לוֹ.

אָמַר מַר: נִשָּׂא אִשָּׁה וּבִתָּהּ – כּוֹנֵס אַחֵת וּמוֹצִיא אַחֵת, לְכַתְחֻלָּהּ לֹא יִכְנוּס. הֲשִׁתָּא אַפּוּקֵי מִפּוּק – לְכַתְחֻלָּהּ מִיבְעִיא? הֲתָם קָאִי, וְהִכֵּי קָאִמַר: הֵךְ דְּאָמּוֹר רַבְּנֵי יְקָיִים – לְכַתְחֻלָּהּ לֹא יִכְנוּס.

מִתָּה אִשְׁתּוֹ – מוֹתֵר בְּחֻמּוֹתוֹ, וְאִיכָּא דְתַנִּי: אִסוּר בְּחֻמּוֹתוֹ. תְּדָא כְּרַבִּי יִשְׁמַעְאֵל וְחֲדָא כְּרַבִּי עֲקִיבָא.

מֵאֵן דְּאָסַר – כְּרַבִּי יִשְׁמַעְאֵל, דְּאָמַר: חֻמּוֹתוֹ לְאַחַר מִיתָת בְּאִיסוּרָא קִיָּמָא, וְגַבִּי גֵר גּוֹרֵר בֵּיה רַבְּנֵי. וּמֵאֵן דְּשָׂרִי – כְּרַבִּי עֲקִיבָא, דְּאָמַר: חֻמּוֹתוֹ לְאַחַר מִיתָת קַלֶּשׁ לִיָּה אִיסוּרָא, וְגַבִּי גֵר – לֹא גּוֹרֵר בֵּיה רַבְּנֵי.

If she is his father's paternal half sister, he may maintain her as his wife. If she is his mother's maternal half sister, he must divorce her. If she is his mother's paternal half sister, Rabbi Meir says he must divorce her, and the Rabbis say he may maintain her. This is as Rabbi Meir would say: Any relative forbidden due to kinship with the mother, whether the woman is his paternal relative, e.g., his father's maternal half sister, or his maternal relative, he must divorce her. However, if she is forbidden due to the father, he may maintain her.

And he is permitted to marry his maternal brother's wife and his father's brother's wife, and all other forbidden relatives are also permitted to him.^N The expression: And all other relatives are also permitted to him, is added to include the father's wife.^H

With regard to one who married a woman and her daughter^{NH} and they converted, he may remarry one but must divorce the other one. He should not marry her *ab initio*. If his wife, the daughter, died, he is permitted to maintain his mother-in-law as his wife. And some teach that he is prohibited from maintaining his mother-in-law.

In any event, this *baraita* teaches that he is permitted to marry his brother's wife. The Gemara asks: What, is it not referring to a case where his brother married her when he was already a convert? The Gemara answers: No, it is referring to a case where he married her while he was a gentile. The Gemara asks: If so, what is the purpose of stating this obvious *halakha*? The Gemara answers: Lest you say that the Sages should decree that the marriage is prohibited if the brother married her while he was a gentile, due to the prohibition against their marriage if the brother married her when he was already a convert. The *baraita* therefore teaches us that there is no such decree.

The Master said: If one married a woman and her daughter and they converted, he may remarry one but must divorce the other one. He should not marry her *ab initio*. The Gemara asks: Now that he must divorce her, is it necessary to state that he should not marry her *ab initio*? The Gemara answers: That statement is standing there, i.e., it is referring to the previous sentence, and this is what it is saying: Those wives that the Sages said that he may maintain, e.g., his paternal half sister, he should not marry them *ab initio*.

The *baraita* taught: If his wife, the daughter, died, he is permitted to maintain his mother-in-law^H as his wife. And some teach that he is prohibited to maintain his mother-in-law. The Gemara comments: One of the teachings is in accordance with the opinion of Rabbi Yishmael, and the other one is in accordance with the opinion of Rabbi Akiva.

The one who prohibits the convert from maintaining his mother-in-law is in accordance with the opinion of Rabbi Yishmael, who said that one's mother-in-law after his wife's death remains forbidden to him to the same degree as during her lifetime. And therefore, with regard to a convert, the Sages decreed that she is forbidden to him, lest one marry his mother-in-law who is a Jew from birth after his wife's death. And the one who permits him to maintain her is in accordance with the opinion of Rabbi Akiva, who said that the prohibition against engaging in intercourse with one's mother-in-law is weakened after his wife's death,^N as they are not liable to receive the death penalty. And therefore, with regard to a convert, the Sages did not decree that she is forbidden to him.

נָשִׁים שֶׁנִּתְעַרְבוּ – וְלִדְוֵיתָהֶן: If five women had sons who were known to be theirs, and they all gave birth together in hiding, and their children from these births were mixed, and these sons subsequently got married and died, leaving their wives with levirate bonds to the sons who were not mixed, four of the sons must perform *halitza* with one of the wives, and the fifth may marry her. This procedure is performed with all of the women (Rambam *Sefer Nashim, Hilkhot Yibbum* 8:10; *Shulhan Arukh, Even HaEzer* 176:8).

If some of them are brothers, etc. – מִקְצָתָן אֶחָיו וְכוּ': If some of the sons who were not mixed are priests and others are not, the priests perform *halitza* but not levirate marriage, while the others may perform levirate marriage. Similarly, if a number of these sons are paternal brothers of some of the mixed sons and maternal half brothers of others, those brothers perform *halitza* and the other paternal brothers may perform levirate marriage. If some were priests and the others maternal half brothers, all of them perform *halitza* and not levirate marriage, in accordance with the ruling of the *baraita*, as explained by Rav Safra (*Shulhan Arukh, Even HaEzer* 176:8).

מתני' חמש נשים שנתערבו ולדותיהן, הגדילו התערובות ונשאו נשים ומתו – ארבעה חולצין לאחת, ואחד מייבם אותה.

MISHNA With regard to five women^N whose offspring were mixed,^H i.e., their lineage became indeterminate, and they had other sons as well who were not mixed, and the mixed sons matured and married women and subsequently died, then four sons who were not mixed, each one from a different mother, must perform *halitza* with one of the widows, as she might be the sister-in-law of any of them. And one son of the mother whose sons did not perform *halitza* may perform levirate marriage with her instead of *halitza*; even if she is not his sister-in-law, once she has received *halitza* from the others she may marry any man.

הוא ושלשה חולצין לאחת, ואחד מייבם. נמצאו ארבע חליצות ויבום לכל אחת אחת.

Subsequently, he and three of the four other sons must perform *halitza* with one of the remaining widows, and the other one may perform levirate marriage. When this process has been completed for all the widows, four *halitzot* and a levirate marriage are found altogether for each and every widow.

גמ' ודוקא מיחלץ והדר יבומי, אבל יבומי ברישא – לא, דקפגע ביבמה לשיק.

GEMARA The Gemara infers from the mishna that *halitza* specifically is performed first, and afterward levirate marriage. However, levirate marriage may not be performed first, as that would breach the prohibition against a *yevama* engaging in intercourse with a member of the public, if she is not his sister-in-law.

מאי "הוא ושלשה חולצין לאחת"? דלא תימא ליבמניהו חד לכולהו, אלא כל חד וחד מייבם חדא, דלמא מתרמיא ליה דידיה.

The Gemara asks: What is the reason for the mishna's ruling that the son who performed levirate marriage and three of the four others must perform *halitza* with one of the remaining widows, and the remaining son may perform levirate marriage? Why can't the same son who performed levirate marriage with the first widow be the one to perform levirate marriage with the other widows, too, after the other four sons perform *halitza*? The Gemara answers: Do not say that one of the brothers may perform levirate marriage with all of them. Rather, each one of them should perform levirate marriage with one, as perhaps one will happen upon his own^N sister-in-law, whereas if one performs levirate marriage with all of them, the others will not have a chance to perform the mitzva.

"מקצתן אחין ומקצתן שאין אחין – האחין חולצין, ושאין אחין מייבמין." מאי קאמר? אמר רב ספרא, הכי קאמר: מקצתן אחין מן האב ומקצתן אחין מן האם – אחין מן האם חולצין, ואחין מן האב מייבמין.

S A continuation of a case in the mishna is stated in a *baraita*: If some of them are brothers,^H and some of them are not brothers, the brothers perform *halitza* and those who are not brothers perform levirate marriage. The Gemara asks: What is the *baraita* saying? Rav Safra said that this is what it is saying: If some of the sons who were not mixed are only paternal brothers of the mixed sons, and some of them, in addition to being paternal half brothers, are also maternal half brothers of other members of the mixed group, then the maternal half brothers must perform *halitza* with all of the women, since each of them might be his maternal sister-in-law, who is forbidden to him, as levirate marriage applies only to a paternal sister-in-law. And those who are only paternal brothers perform levirate marriage.

מקצתן כהנים ומקצתן שאינן כהנים – כהנים חולצין, שאינן כהנים – מייבמין. מקצתן כהנים ומקצתן אחין מן האם – אלו ואלו חולצין ולא מייבמין.

The *baraita* continues: If some of them are priests and some of them are not priests, the priests perform *halitza*, and those who are not priests perform levirate marriage, as it is prohibited for a priest to marry a woman who underwent *halitza*. If some of them are priests and some of them are maternal half brothers, both these and those perform *halitza* and not levirate marriage.

NOTES

Five women – חמש נשים: Why does the mishna refer to a case of five women when its ruling applies to a case of two or three women as well? In *Meleket Shlomo*, it is explained that it is common for the mishna to use a quantity that is constantly readily accessible, like the five fingers of a hand. In *Tosefot Yom Tov*, it is suggested that since there is a mishna in *Kiddushin* that discusses a case involving five women, the mishna

here uses the same number, although here it has no special significance.

דלמא מתרמיא ליה – Perhaps one will happen upon his own: It is pointed out in *Arukh LaNer* that although if one brother performs levirate marriage with all of the widows, that will guarantee that the mitzva of levirate marriage will be per-

formed once, it is preferable that each brother perform levirate marriage once, as this way there is a chance that more than one of the them will fulfill the mitzva. Furthermore, having five wives is normally a significant burden. The latter rationale also explains why the mishna discusses a case involving five women.