

NOTES

לא – rather you are one who was trampled by a man – **לֹא – כִּי אֵלֶּא דְרוּסַת אִישׁ אֵת**: In the Jerusalem Talmud the question is raised: How is this exchange possible? The husband has no way of knowing that she her hymen was ruptured through intercourse and not by means of a foreign object. Therefore, the case is explained there that the bride claims she informed the groom before betrothal that her hymen was ruptured by a foreign object, and that he agreed to marry her. The groom claims that he married her based on her presumptive status as a virgin, and he concludes from the fact that she did not tell him that her hymen was ruptured by a foreign object that in fact she lost her virginity through intercourse.

טַעֲנֵתֶיהוּ – What are their respective financial claims – **בְּמַאי**: In the *Shita Mekubbetzet* both the question and the basis of the dispute are explained. In the previous mishna (12b), the objective of the claim of each of the parties is articulated. The bride claims that she is entitled to two hundred dinars and the groom claims that she is entitled to nothing, as it is a mistaken transaction. Here, however, the objectives are unarticulated. Therefore, Rabbi Yohanan prefers establishing this mishna parallel to the previous mishna, with the bride claiming two hundred dinars despite the fact that this explanation is possible only according to the opinion of Rabbi Meir (11a). Rabbi Elazar prefers establishing this mishna in accordance with the opinion of the Rabbis, although that means that the bride's claim in this mishna is not parallel to the claim in the previous mishna.

בְּמַאתִים – Two hundred dinars and one hundred dinars – **וּמִנֶּה**: Many early commentaries note that ostensibly this is a classic case of partial admission in response to a claim, as the bride claims two hundred dinars and the groom admits that he owes one hundred. In such a case, the Torah imposed an oath upon the respondent. In this case the groom is unable to take the oath, as he does not know what happened, and the principle is that one unable to take an oath is required to pay. Some explain that this principle applies only in a case where there is a reasonable expectation that he knows what happened, but refuses to take an oath. In this case, where there is no such expectation, he is not obligated to pay (Ri, cited in *Tosafot, Bava Kamma* 46a). Many commentaries dispute that explanation. Others explain that the hundred dinars that he acknowledges owing her are not in dispute. They certainly belong to the bride. It is not an admission on his part; rather, the dispute is solely with regard to the additional one hundred dinars, which he completely denies owing (Ritva).

דָּאם בְּן קַשְׂיָא הִלְכְתָּא אֶהֱלֵתָּא, דְקִיָּמָא לֵן הִלְכְתָּא כְּרַב נַחְמֵן בְּדִינֵי, וּבִהָא אָמַר רַב יְהוּדָה אָמַר שְׂמוּאֵל הִלְכָה כְּרַבֵּן גַּמְלִיאֵל. אֵלֶּא לָאוּ שְׂמַע מִינָהּ כְּדַמְשִׁינֵי, שְׂמַע מִינָהּ.

מתני' היא אומרת: "מופת עץ אני", והוא אומר: "לא כי, אלא דרוסת איש את". רבן גמליאל ורבי אליעזר אומרים: נאמנת, ורבי יהושע אומר: לא מפיה אנו חייין. אלא הרי זו בתוקת דרוסת איש עד שתביא ראיה לדבריה.

גמ' טענתיהו במאי? רבי יוחנן אומר: במאתים ומנה, רבי אלעזר אומר: במנה ולא כלום.

רבי יוחנן אומר: במאתים ומנה, סבר לה כרבי מאיר, דאמר: בין הכיר בה ובין לא הכיר בה – מאתים. ורבי אלעזר אומר: במנה ולא כלום, סבר לה כרבנן דאמרי: בין הכיר בה בין לא הכיר בה – מנה.

Because if that were not so, it is difficult, as there would be a contradiction between one *halakha* and another *halakha*. Since, on the one hand, we maintain a principle in halakhic ruling that the *halakha* is in accordance with the opinion of Rav Nahman in civil law; and, on the other hand, in that case involving the claims of the bride and the groom Rav Yehuda said that Shmuel said: The *halakha* is in accordance with the opinion of Rabban Gamliel. Rather, can we not conclude from this apparent contradiction that the matter must be understood as we are teaching, that the opinion of Rav Nahman can be reconciled with the opinion of Rabban Gamliel? The Gemara affirms: Indeed, conclude from it that this is the case.

MISHNA In a case where she says: I am one whose hymen was ruptured by wood, i.e., she admits that her hymen is not intact but claims that it was not ruptured through intercourse, and the groom says: No; rather, you are one who was trampled by a man,^{NH} and your hymen was ruptured through intercourse, Rabban Gamliel and Rabbi Eliezer say: She is deemed credible and her claim is accepted because she certainly knows what actually happened. Rabbi Yehoshua says: It is not based on the statement emerging from her mouth that we conduct our lives; rather, she retains the presumptive status of one who was trampled by a man, until she brings proof supporting her statement that her hymen was ruptured by wood.

GEMARA The Gemara asks: What are their respective financial claims?^N Rabbi Yohanan said: The bride claims that since her hymen was ruptured by wood, her legal status is that of a virgin and she is entitled to a marriage contract of two hundred dinars; and the groom claims that she engaged in intercourse and is entitled to a marriage contract of one hundred dinars.^N Rabbi Elazar said: The bride claims that although her hymen is not intact she did not completely deceive him, as she never engaged in intercourse, and therefore she is entitled to a marriage contract of one hundred dinars; and the groom claims that she engaged in intercourse, rendering the betrothal a mistaken transaction, and therefore she is entitled to nothing at all.

The Gemara elaborates. Rabbi Yohanan said: The dispute between the bride and groom is whether the marriage contract is two hundred dinars or one hundred dinars, because the *tanna* of the mishna holds in accordance with the opinion of Rabbi Meir, who said: Whether the husband was aware that her hymen was ruptured by wood or whether he was not aware of her condition, she receives payment of her marriage contract of two hundred dinars and it is not a mistaken transaction. And Rabbi Elazar says: The dispute between the bride and groom is whether the marriage contract is one hundred dinars or whether she is entitled to nothing at all, because the *tanna* of the mishna holds in accordance with the opinion of the Rabbis, who said: Whether the husband was aware that her hymen was ruptured by wood or whether he was not aware of her condition, she receives payment of her marriage contract of one hundred dinars.

HALAKHA

מופת עץ או דרוסת – Ruptured by wood or trampled by a man – **איט**: If a man marries a woman with the presumptive status of a virgin and claims that he discovered that she is not a virgin, and she admits that her hymen was not intact when they consummated the marriage but claims that her hymen was ruptured by a foreign object, her claim is accepted and she is entitled to receive payment of a marriage contract of one

hundred dinars. This is in accordance with the opinion of Rabbi Elazar. Even if the husband claims that his wife may have lost her virginity by engaging in intercourse with another man and that the betrothal was a mistaken transaction, his claim is ignored. However, the husband may request that the court excommunicate her if she is lying (Rambam *Sefer Nashim, Hilkhot Ishut* 11:10; *Shulhan Arukh, Even HaEzer* 68:9).

בְּשִׁלְמָא רַבִּי אֶלְעָזָר לֹא קָאָמַר כְּרַבִּי יוֹחָנָן – דְּקָא מוֹקִי לָהּ כְּרַבָּנָן, אֶלָּא רַבִּי יוֹחָנָן מָאִי טַעְמָא לֹא אָמַר כְּרַבִּי אֶלְעָזָר?

The Gemara asks: **Granted, Rabbi Elazar did not state** his explanation of the mishna **in accordance with the explanation of Rabbi Yoḥanan because he preferred to establish the mishna in accordance with the opinion of the Rabbis**, according to which the *halakha* is ruled, and not the opinion of Rabbi Meir. **However, what is the reason that Rabbi Yoḥanan did not state** his explanation of the mishna **in accordance with the explanation of Rabbi Elazar?**

קְסָבֵר: כְּנִסָּה בְּחֻזְקַת בְּתוּלָה וְנִמְצְאוּת בְּעוּלָה – יֵשׁ לָהּ כְּתוּבָה מִנָּה. הֲכָא, הוּא קָאָמַר מִנָּה וְהִיא קָאָמְרָה מִנָּה, מָאִי אֵיכָא בֵּין טַעְנָה דִּידֵיהּ לְטַעְנָה דִּידֵיהּ?

The Gemara answers: The reason that Rabbi Yoḥanan explained the mishna in that manner is that **he holds: If the groom married a woman with the presumptive status of a virgin, and she is found to be a non-virgin, she receives payment of her marriage contract of one hundred dinars.** Therefore, **here**, according to the explanation of Rabbi Elazar, who explains the mishna according to the opinion of the Rabbis, **he is saying** that she engaged in intercourse and is entitled to a marriage contract of **one hundred dinars; and she is saying** that her hymen was ruptured by wood and she is entitled to a marriage contract of **one hundred dinars.** **What difference is there between his claim and her claim?** Therefore, Rabbi Yoḥanan explains the mishna in accordance with the opinion of Rabbi Meir, who holds that the dispute between the bride and the groom is whether she is entitled to a marriage contract of two hundred dinars or a marriage contract of one hundred dinars.

בְּשִׁלְמָא לְרַבִּי אֶלְעָזָר – הֵינֵינוּ דְּקָתַנִּי תְּרֵיתֵי: חֲדָא – לְאַפּוּקֵי מִדְּרַמֵי בְּרַחֲמָא.

Again we question: **Granted, according to Rabbi Elazar**, who explains that the dispute between the bride and the groom is with regard to whether she is entitled to a marriage contract of one hundred dinars because her hymen was ruptured by wood, or whether she is entitled to nothing because she engaged in intercourse, **that is why the tanna teaches two similar disputes**, in this mishna and in the previous one. **One** dispute, in this mishna, comes **to exclude the opinion of Rami bar Hama**, who said: If he was not aware that her hymen was ruptured by wood, everyone agrees that she receives no marriage contract at all, as the marriage was a mistaken transaction. From this mishna it is clear that according to her claim that her hymen was ruptured by wood, she is entitled to one hundred dinars.

וְחֲדָא – לְאַפּוּקֵי מִדְּרַב חֵיָא בְּרַחֲמֵי אָבִין אָמַר רַב שֶׁשֶׁת. אֶלָּא לְרַבִּי יוֹחָנָן, תְּרֵיתֵי לְמָה לִּי?

And one dispute, in the previous mishna, is brought in order **to exclude that which Rav Hiyya bar Avin said that Rav Sheshet said:** If the groom married a woman with the presumptive status of a virgin and she is found to be a non-virgin, she receives payment of her marriage contract of one hundred dinars. In the previous mishna he claims: Before I betrothed you, you were raped and my transaction was a mistaken transaction, indicating that she is entitled to nothing. **However, according to Rabbi Yoḥanan, why do I need the tanna to teach two similar disputes?** In his opinion, the previous mishna could not have been taught to exclude that which Rav Hiyya bar Avin said that Rav Sheshet said. It has already been established that Rabbi Yoḥanan agrees with the opinion that if she is found to be a non-virgin, she receives payment of her marriage contract of one hundred dinars.

חֲדָא לְהוֹדִיעַךְ כְּחוֹ דְּרַבָּן גַּמְלִיאֵל, וְחֲדָא לְהוֹדִיעַךְ כְּחוֹ דְּרַבִּי יְהוֹשֻׁעַ. קַמְיִיתָא לְהוֹדִיעַךְ כְּחוֹ דְּרַבִּי יְהוֹשֻׁעַ, דְּאָף עַל גַּב דְּאֵיכָא לְמִימַר מִיגוּ – לֹא מְהִימְנָא. בְּתַרְיִיתָא לְהוֹדִיעַךְ כְּחוֹ דְּרַבָּן גַּמְלִיאֵל, דְּאָף עַל גַּב דְּלִיכָא לְמִימַר מִיגוּ – מְהִימְנָא.

The Gemara answers: The two similar disputes were necessary. **One is to convey to you the far-reaching nature of the opinion of Rabban Gamliel and the extent of the credibility that he accords to her claim; and one is to convey to you the far-reaching nature of the opinion of Rabbi Yehoshua and the extent to which he does not accord credibility to her claim.** The Gemara elaborates: **The first** mishna, where she admits she was raped but claims that it was after betrothal, **conveys to you the far-reaching nature of the opinion of Rabbi Yehoshua: That even though there is room to say that her claim is bolstered by a miggo, she is not deemed credible.** **The second** mishna, where she claims that her hymen was ruptured by wood and he claims that she engaged in intercourse, **conveys to you the far-reaching nature of the opinion of Rabban Gamliel: That even though there is no room to say that her claim is bolstered by a miggo, in his opinion she is deemed credible.**

LANGUAGE

Nature [tivo] – טיבו: The meaning of the word tivo was discussed by the early commentaries. According to the Rambam it means reason. Others explain that in general it means matter or concern. According to Rabbi Binyamin Musafya it most closely approximates the Hebrew word teva, meaning nature. The question then is: What is the nature of this man (see Meleket Shlomo)?

BACKGROUND

Mamzer – ממזר: A mamzer is a child born from an incestuous or adulterous relationship, i.e., a child born from relations between a married woman and a man other than her husband, or between relatives for whom relations are proscribed by a prohibition punishable by karet. An offspring conceived with a menstruating woman is an exception to this principle, because although the prohibition in that case is punishable by karet, the offspring is not a mamzer. The offspring born of an unmarried couple is not a mamzer. A mamzer inherits from his biological father and is considered his son in every respect. A mamzer may marry only a female mamzer or a convert to Judaism, and the offspring of that union is a mamzer. Likewise, a female mamzer may marry only a mamzer or a convert. The offspring of that union is a mamzer as well.

HALAKHA

What is the meaning of speaking – מאי מדברת – If an unmarried woman was seen engaging in sexual relations with an unidentified man, and she claims that he is of unflawed lineage, her claim is accepted and she is permitted to marry into the priesthood. Although Rav Asi's opinion is not consistent with the mishna, Ze'iri does not disagree with his halakhic conclusion (Vilna Gaon; Rambam Sefer Kedusha, Hilkhot Issurei Bia 15:11, 18:13; Shulhan Arukh, Even HaEzer 6:17).

מתני' ראוה מדברת עם אחד, ואמרו לה: "מה טיבו של איש זה?" "איש פלוני, וכהן הוא." רבן גמליאל ורבי אליעזר אומרים: נאמנת, ורבי יהושע אומר: לא מפיה אנו חייני, אלא הרי זו בחוקת בעולה לנתני ולממזר, עד שתביא ראיה לדבריה.

היתה מעוברת, ואמרו לה: "מה טיבו של עובר זה?" "מאיש פלוני, וכהן הוא." רבן גמליאל ורבי אליעזר אומרים: נאמנת, ורבי יהושע אומר: לא מפיה אנו חייני, אלא הרי זו בחוקת מעוברת לנתני ולממזר, עד שתביא ראיה לדבריה.

גמ' מאי מדברת? זעירי אמר: נסתרה, רב אסי אמר, נבעלה. בשלמא לזעירי – היינו דקתני "מדברת", אלא לרב אסי מאי מדברת? לישנא מעליא. כדכתיב "אכלה ומחתה פיה ואמרה לא פעלתי און".

MISHNA If people saw a woman speaking to one man, but they did not recognize him, and they said to her: What is the nature [tivo]¹ of this man? And she said to them: He is a man called so-and-so and he is a priest;^N Rabban Gamliel and Rabbi Eliezer say: She is deemed credible, and Rabbi Yehoshua says: It is not based on the statement emerging from her mouth that we conduct our lives. Rather, she assumes the presumptive status of one who engaged in intercourse with a Gibeonite or with a mamzer,^{BN} men of flawed lineage who disqualify her from marrying a priest, until she brings proof supporting her statement.^N

Similarly, if a single woman was pregnant, and people said to her: What is the nature of this fetus? And she says to them: It is from a man called so-and-so and he is a priest; Rabban Gamliel and Rabbi Eliezer say: She is deemed credible, and Rabbi Yehoshua says: It is not based on the statement emerging from her mouth that we conduct our lives. Rather, she assumes the presumptive status of one who conceived from a Gibeonite or a mamzer, until she brings proof supporting her statement.

GEMARA The Gemara asks: What is the meaning of speaking^{HN} mentioned in the mishna? Ze'iri said: It means that she secluded herself with a man and it is unknown whether she engaged in intercourse. Rav Asi said: It means that she engaged in intercourse. Granted, according to Ze'iri, that is why the mishna teaches the case employing the term speaking, as it is certain only that they were in seclusion. Perhaps all they did was speak. However, according to Rav Asi, what is the reason the mishna employed the term speaking if the reference is to intercourse? The Gemara answers: The mishna employed a euphemism, as it is written with regard to licentious women: "She eats and wipes her mouth and says: I have done no wickedness" (Proverbs 30:20). The verse euphemistically ascribes the act of intercourse to the mouth instead of to the appropriate body part.

NOTES

איש פלוני וכהן – He is a man called so-and-so and he is a priest – Even according to Rabban Gamliel, who says that her claim is accepted, this does not mean that her identification of a man as the one who engaged in intercourse with her or as the father of the child, is similarly accepted. The early commentaries write, and it is likewise cited in the name of the ge'onim, that her claim is neither accepted with regard to feeding her child teruma if the man she identified as the father was a priest, nor with regard to inheritance, and certainly not with regard to service in the Temple. Others contend that her claim is partially accepted, e.g., to enable her to feed her son produce that is teruma by rabbinic law (Meiri). On a similar note, some commentaries maintain that her claim is partially accepted in the sense that if she is the daughter of a priest, she does not forfeit the right to eat teruma due to her son. Were he deemed an Israelite and not a priest, she would lose that right.

Engaged in intercourse with a Gibeonite or with a mamzer – בעולה לנתני ולממזר: In the Jerusalem Talmud the dispute is explained in the following manner: Rabbi Yehoshua holds that licentiousness is more common among people of flawed lineage. As the case in question involves licentiousness, there is reason for concern that a man of flawed lineage was involved. The Rabbis, based on the principle: There is no steward for restraining sexual immorality, hold that all men are equally suspect with regard to licentiousness. Later commentaries note that the fact that Rabbi

Yehoshua is concerned that perhaps she engaged in intercourse with a mamzer or a Gibeonite, and not that she engaged in intercourse with a gentile, although they are more common, proves that the majority is not a factor. Therefore, even in a place where the majority of men are of unflawed lineage, Rabbi Yehoshua does not accept her claim. Furthermore, Rabbi Yehoshua does not accept her claim even in a city where the majority are Jews, where there would be only minor concern that she engaged in intercourse with a mamzer (Ahavat Tziyyon).

עד שתביא ראיה לדבריה – Until she brings proof supporting her statement – Rabbi Akiva Eiger asks: Even if she brings proof that the man was of unflawed lineage, since she was immodest with one man there is concern that she was immodest with another, and there is no proof with regard to the anonymous second man. He answers: Once she brings proof for her claim, she restores her presumptive status of unflawed lineage. Even though the possibility exists that she engaged in intercourse with another man, it is a concern by rabbinic law, and everyone agrees that her claim is accepted.

What is the meaning of speaking – מאי מדברת – The commentaries explain that since the term speaking is clearly not to be taken literally, as no woman is disqualified from marrying a priest by speaking to a man, the question arises: Is it a euphemism for entering into seclusion or a euphemism for intercourse?

One flogs a man and a woman for entering into seclusion – מִלְקִין עַל הַיְחוד: King David's court decreed that a man may not enter into seclusion with an unmarried woman, and if he does so, both he and the woman are flogged with lashes of rebelliousness. However, a married woman is not forbidden to her husband by entering into seclusion with another man, nor is an unmarried woman forbidden to a priest by entering into seclusion with a man of flawed lineage (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 22:3; *Shulhan Arukh*, *Even HaEzer* 22:2).

בְּשִׁלְמָא לְזַעֲרִי – הֵינּוּ דְקָתְנֵי תְרֵינֵי: "מְדַבֵּרֶת" "וּמְעוּבָרֶת". אֵלָּא לְרַב אָסִי תְרֵינֵי לְמָה לִּי?

The Gemara asks: **Granted, according to Ze'eiri**, who said that speaking means that she secluded herself with him, **that is the reason that the tanna teaches two cases in the mishna: A woman speaking to a man and a woman who is pregnant. However, according to Rav Asi**, if speaking means that she engaged in intercourse, **why do I need two cases addressing the same issue?**

תָּדָא לְהַכְשִׁיר בָּהּ, וְחָדָא לְהַכְשִׁיר בְּבִתָּהּ.

The Gemara answers: The *tanna* teaches **one case**, the case of speaking to a man, **to deem her fit to marry a priest**, because although she engaged in intercourse, Rabbi Eliezer and Rabban Gamliel rule that she is deemed credible and is not considered to have engaged in intercourse with a man of flawed lineage. **And the tanna teaches one case**, the case of the single woman who is pregnant, in order **to deem her daughter born from that pregnancy fit to marry a priest**, as Rabbi Eliezer and Rabban Gamliel rule the mother is deemed credible.

הַנִּחָא לְמָאן דְאָמַר: לְדַבְרֵי הַמְכַשֵּׁיר בָּהּ מְכַשֵּׁיר בְּבִתָּהּ, אֵלָּא לְמָאן דְאָמַר: לְדַבְרֵי הַמְכַשֵּׁיר בָּהּ פּוֹסֵל בְּבִתָּהּ, מֵאִי אֵיכָּא לְמִימַר? רַב אָסִי סָבַר כְּמָאן דְאָמַר לְדַבְרֵי הַמְכַשֵּׁיר בָּהּ מְכַשֵּׁיר בְּבִתָּהּ.

The Gemara asks: **This works out well according to the one who says: With regard to the statement of the one who deems her fit to marry a priest, he deems her daughter fitⁿ to do so as well. However, according to the one who says: With regard to the statement of the one who deems her fit to marry a priest, he nevertheless deems her daughter unfit, what is there to say?** Why did the mishna cite two cases addressing the same issue? The Gemara answers: **Rav Asi holds in accordance with the opinion of the one who said: With regard to the statement of the one who deems her fit to marry a priest, he deems her daughter fit to do so as well.**

אָמַר רַב פַּפָּא לְאַבְיֵי: לְזַעֲרִי, דְאָמַר מֵאִי "מְדַבֵּרֶת" נִסְתַּרָּה, וְאָמַר רַבִּי יְהוֹשֻׁעַ לֹא מְהִימְנָא – הָאָמַר רַב: מִלְקִין עַל הַיְחוד וְאִין אוֹסְרִין עַל הַיְחוד.

Rav Pappa said to Abaye: According to Ze'eiri, who said: **What is the meaning of the term speaking?** It means that she secluded herself, and Rabbi Yehoshua said that she is **not deemed credible** to say that she engaged in intercourse with a man of proper lineage, but the assumption is that she engaged in intercourse with a man of flawed lineage. **Didn't Rav say: One flogs a man and a woman for entering into seclusion,^h for violating rabbinic law, but one does not render a woman forbidden to her husband for entering into seclusion?ⁿ** Only if it is established as a certainty that she engaged in intercourse with a man other than her husband, is she forbidden to her husband.

לֵימָא דְלֹא כְרַבִּי יְהוֹשֻׁעַ! אֶפִּילוּ תִימָא רַבִּי יְהוֹשֻׁעַ, מַעֲלָה עָשׂוּ בְּיוֹחָסִין.

Let us say that this statement of Rav is **not in accordance with the opinion of Rabbi Yehoshua**, as Rabbi Yehoshua rules that she assumes the presumptive status of one who engaged in intercourse with a Gibeonite or with a *mamzer*, and she is forbidden to marry a priest even for entering into seclusion. The Gemara rejects that conclusion. **Even if you say that Rav's statement is in accordance with the opinion of Rabbi Yehoshua, the Sages established a higher standard with regard to matters of lineage.** Although she is not forbidden to her husband for entering into seclusion, she is deemed unfit to marry a priest.

מִיתֵיבֵי: רְאוּהָ שְׁנֹכְבִּינְסָה עִם אֶחָד לְסִתְרָה,

The Gemara raises an objection: **If people saw that a woman entered with one man into seclusion,**

NOTES

Deems her daughter fit – מְכַשֵּׁיר בְּבִתָּהּ: The question is not only relevant to a female child but to a male child as well. The Gemara discusses a female child here because she is disqualified by her mother's intercourse with a man of flawed lineage in more ways than male offspring. For example, she may not marry a priest. By contrast, with regard to a male child, the only relevant concerns are whether she engaged in intercourse with a *mamzer* or a Gibeonite, or one with whom relations are forbidden.

One flogs a man and a woman for entering into seclusion but one does not render a woman forbidden to her husband for entering into seclusion – מִלְקִין עַל הַיְחוד וְאִין אוֹסְרִין עַל הַיְחוד: The early commentaries discuss whether these two statements refer to the same case or to two different cases, and whether the

reference is to a married or an unmarried woman. Most hold that since it is stated in tractate *Kiddushin* that one does not flog a married woman for entering into seclusion with a man, to avoid slandering her children, the Gemara here must be referring to an unmarried woman. *Tosefot Rid*, as well, holds that an unmarried woman is flogged. Others explain that the phrase: One does not render a woman forbidden to her husband for entering into seclusion, is referring specifically to an unmarried woman and her future husband. The Ritva, however, explains that it is referring to a married woman. The Meiri writes that it is referring to both cases, as even an unmarried woman is not rendered forbidden for entering into seclusion with one with whom relations are forbidden, and all the more so a married woman is not rendered forbidden.

NOTES

And he is the son of my father's brother – וּבֶן אָחִי אָבָא – הוּא: In the *Shita Mekubbetzet* an explanation is cited asserting that this formulation supports the opinion of Ze'iri, as it is reasonable to assume that when one asks the woman why she entered into seclusion she would answer that the man was a relative with whom she was speaking. It is also explained there why the Gemara did not cite proof for Ze'iri's opinion from here.

She is deemed credible – נֶאֱמַת: The Ramban cites two opinions. The first is that she is deemed credible in a case where the man with whom she engaged in intercourse cannot be located and therefore cannot be questioned. The second, in the name of Ri Migash, is that this is referring to a case where the man confirms that he engaged in intercourse with her but states that he does not know whether she did so with others as well. Later commentators discuss whether in a case where the man denies having engaged in intercourse with her, Rabban Gamliel would say that her claim is accepted.

This is testimony that a woman is fit to testify – זו עידות – שֶׁהָאִשָּׁה בְּשֵׁרָה לָהּ: The term "this" in the phrase is not to the exclusion of all other testimony, as there are other areas of *halakha* in which a woman is fit to testify. The unique element here is that the woman's testimony is accepted with regard to herself, from which it is inferred that the testimony is accepted with regard to herself and not with regard to her daughter (*Shita Mekubbetzet*).

A woman who was taken captive – שְׁבוּיָה שְׁנֻשְׁבִית – The Ritva explains that in the case of a captive woman there are two factors leading to stringency. First, most men who were in her proximity and potentially violated her while she was in captivity are gentiles, who are sexually immoral and who disqualify her from marrying a priest. Furthermore, she is subject to rape by her captors. Consequently, were she taken captive by Jews, or by gentiles who were unable to rape her, she would not have the legal status of a captive.

או לחורבה, ואמרו לה: "מה טיבו של איש זה?" "כהן הוא, וכן אחי אבא הוא." רבן גמליאל ורבי אליעזר אומרים: נאמנת. רבי יהושע אומר: לא מפיה אנו חייין, אלא הרי זו בחזקת בעולה לנתין ולממור, עד שתביא ראיה לדבריה.

בשלמא לזעירי – היינו דקתני תרתי: "לסתור או לחורבה". אלא לרב אסי, דאמר נבעלה – תרתי למה לוי תדא קתני, לסתור דחורבה.

והא "לסתור או לחורבה" קתני תדא לחורבה דמתא, ותדא לחורבה דדברא. וצריכי, דאי אשמעינן חורבה דמתא – בהא קמכשר רבן גמליאל, משום דרוב כשרים אצלה. אבל לחורבה דדברא, דרוב פסולין אצלה – אימא מודה ליה לרבי יהושע.

ואי אשמעינן בההיא – בההיא קאמר רבי יהושע, אבל בהא – אימא מודה לרבן גמליאל, צריכא.

מיתבי: זו עדות שהאשה כשרה לה, ורבי יהושע אומר: אינה נאמנת. אמר להם רבי יהושע: אי אתם מודים בשבויה שנשבית ויש לה עדים שנשבית והיא אומרת "טהורה אני", שאינה נאמנת?

or into a ruin, which is typically located outside the city, and if a man and woman meet there it is presumably in order to engage in sexual relations, and people said to her: What is the nature of this man with whom you secluded? She said to them: He is a priest, and he is the son of my father's brother,^N a respectable person of impeccable lineage. Rabban Gamliel and Rabbi Eliezer say: She is deemed credible.^N Rabbi Yehoshua says: It is not based on the statement emerging from her mouth that we conduct our lives; rather, she assumes the presumptive status of one who engaged in intercourse with a Gibeonite or with a mamzer, men of flawed lineage who disqualify her from marrying a priest, until she brings proof supporting her statement.

Granted, according to Ze'iri, who said that speaking means that she secluded herself, that is the reason that the *tanna* teaches two cases where there is merely concern: The case of: Into seclusion, where there is lesser concern that she engaged in intercourse, and the case of: Into a ruin, where there is greater concern. However, according to Rav Asi, who said that speaking means that she had intercourse, and only in that case is she not deemed credible according to Rabbi Yehoshua, why do I need two cases? The Gemara answers: According to Rav Asi, the *tanna* is teaching one case: If people saw a woman enter with one man into the seclusion of a ruin, where the likelihood is that that they entered to engage in relations.

The Gemara asks: But isn't the mishna teaching two different cases: Into seclusion or into a ruin? The Gemara suggests a different explanation. According to Rav Asi, two cases are necessary, one with regard to a ruin in the city and one with regard to a ruin in the field, distant from the city. And both cases are necessary, because if the *tanna* taught us only the case of a ruin in the city, one might have concluded that in that case Rabban Gamliel deems her fit to marry a priest due to the fact that the majority of the people in its proximity are honorable and of impeccable lineage. However, with regard to a ruin in the field, where the majority of the people in its proximity are unfit and of flawed lineage, as people from all over the world pass the ruin in the field and the majority of the people in the world are of flawed lineage, say that Rabban Gamliel concedes to Rabbi Yehoshua and deems her unfit to marry a priest.

And if the *tanna* taught us only that case of a ruin in the field, one might have concluded that in that case Rabbi Yehoshua said she is not deemed credible, because the majority of the people there are of flawed lineage. However here, in the case of a ruin in the city, where the majority of the people are of impeccable lineage, say that Rabbi Yehoshua concedes to Rabban Gamliel that she is deemed credible. Therefore, both cases were necessary.

The Gemara raises an objection from the *Tosefta*: This, i.e., that she engaged in intercourse with a man of impeccable lineage, is testimony that a woman is fit to testify.^N And Rabbi Yehoshua says: She is not deemed credible. Rabbi Yehoshua said to the Sages: Do you not agree in the case of a woman who was taken captive,^N and she has witnesses testifying that she was taken captive,^H and she says: I am pure, i.e., I was not violated by my captors, that she is not deemed credible? The assumption in that case is that most captive women are violated by their captors.

HALAKHA

A woman who was taken captive, and she has witnesses that she was taken captive – שְׁבוּיָה שְׁנֻשְׁבִית ויש לה עדים שנשבית – If there are witnesses that the woman was taken into captivity, her claim that she was not violated by her captors is not accepted; rather, she assumes the presumptive status of one who was raped by a gentile and unfit to marry into the priesthood (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 18:21; *Shulhan Arukh*, *Even HaEzer* 7:4).

There is no steward for restraining sexual immorality – אין אפוטרופוס לעריות – Rashi explains this to mean that once she entered into seclusion, the Sages cannot guarantee that she did not engage in intercourse. Rabbeinu Hananel explains the principle in the way in which it is typically applied: Even the most righteous individual cannot be appointed as a steward for restraining sexual immorality. Therefore, there is no distinction between moral and immoral people in this regard.

BACKGROUND

Shetuki – שְׁטוּקִי – A child whose father's identity is not known is referred to as a *shetuki*, from the Hebrew root *shin, tav, kuf*, meaning silence. The Gemara (*Kiddushin* 70a) explains that he is called *shetuki* because when he calls his father, his mother silences him. His legal status is that of an uncertain *mamzer*.

אָמְרוּ לוֹ: אֲבָל – וּמָה הִפְרֵשׁ יֵשׁ בֵּין זֶה לָזֶה? לָזֶה – יֵשׁ יְעִידִים, וְלָזֶה – אֵין לָהּ יְעִידִים.

The Sages said to him: But there is a difference between the cases. And what difference is there between this case of a captive, where the woman is not accorded credibility, and that case of a woman who secluded herself with a man? For this captive, there are witnesses that she was taken captive, and due to the prevalent immorality in that situation, she loses the presumptive status of virtue and is considered to have certainly engaged in intercourse. But for this woman who secluded herself with a man, she does not have witnesses that she engaged in intercourse. Since she could have claimed that she did not engage in intercourse and instead admitted that she engaged in intercourse and claimed that it was with a man of impeccable lineage, she should be accorded credibility.

אָמַר לָהֶם: אֵף לָזֶה יֵשׁ יְעִידִים, שֶׁהָיָה פְּרִיָּסָה בֵּין שְׂנֵיָהֶּם! אָמְרוּ לוֹ: רוֹב גּוֹיִם פְּרוֹצִים בְּעֵרִיּוֹת הֵם. אָמַר לָהֶן: אֵין אֶפּוֹטְרוֹפּוֹס לְעֵרִיּוֹת.

Rabbi Yehoshua said to them: Even for that woman, the one who secluded herself, there are witnesses, because her belly is between her teeth, i.e., her pregnancy is conspicuous and therefore she does not have the option of claiming that she did not engage in intercourse. The Sages said to him: There remains a difference between the cases, as most gentiles are steeped in sexual immorality. Therefore, presumably, they engaged in intercourse with the captive woman. However, in the case of the woman in seclusion there is no presumption that she engaged in intercourse specifically with a man with flawed lineage. Rabbi Yehoshua said to them: There is no steward for restraining sexual immorality,^N and therefore, everyone is suspect in that regard. Therefore, this woman, since she engaged in intercourse, lost her presumptive status of virtue, and there is no basis to trust her that it was with a person of impeccable lineage.

בְּמָה דְּבָרִים אָמוּרִים – בְּעֵדוּת אִשָּׁה בְּגוֹפָה, אֲבָל עֵדוּת אִשָּׁה בְּבֶתָּה – דְּבָרֵי הַכֹּל הַיּוֹלֵד שְׁטוּקִי.

The *baraita* continues: In what case are these divergent statements of Rabban Gamliel and Rabbi Yehoshua said? It is in the case of the testimony of a woman with regard to herself, to render her fit to marry a priest. However, in the case of testimony of a woman with regard to the fact that the father of her daughter is a man of unflawed lineage, everyone agrees that her testimony is not deemed credible, and the legal status of the child is that of a *shetuki*,^B the identity of whose father is unknown and to whom all the stringencies that apply to a *mamzer* apply, due the uncertainty of his lineage.

מֵאֵי קָאָמַר לָהּ וּמֵאֵי קָמְהָדְרִי לִיָּהּ? הֲכִי קָאָמְרִי לִיָּהּ: הֲשִׁבְתָּנִי עַל הַמְעוֹבָרָת, מָה תְּשִׁיבֵנִי עַל הַמְדַבֶּרֶת? אָמַר לָהֶם: מְדַבֶּרֶת הֵינִי שְׂבוּיָהּ. אָמְרוּ לוֹ: שְׂאֵנִי שְׂבוּיָהּ דְּרוֹב גּוֹיִם פְּרוֹצִים בְּעֵרִיּוֹת הֵם. אָמַר לָהֶם: הָא נְמִי, בֵּין דְּאִיסְתָּתֵר – אֵין אֶפּוֹטְרוֹפּוֹס לְעֵרִיּוֹת.

The Gemara seeks to understand the exchange between Rabbi Yehoshua and the Sages. What did he say to them and what did they reply to him? It appears that they were not discussing the same case. This is what the Sages are saying to him: You answered us concerning the pregnant woman, asserting that there is testimony in the case of the pregnant woman comparable to the testimony in the case of the captive. However, what will you answer us concerning the woman who was seen speaking to a man? In that case, there is no testimony that she had intercourse. Rabbi Yehoshua said to them: The case of speaking is the same as the case of the captive, as there is reason to believe that she engaged in intercourse. The Sages said to him: The case of a captive is different, as most gentiles are steeped in sexual immorality, and presumably they engaged in intercourse with the captive woman. Rabbi Yehoshua said to them: In this case too, since she secluded herself with a man, based on the principle: There is no steward for restraining sexual immorality, presumably she engaged in intercourse with him.

קָתַנִּי מֵיהֵת תְּרַתִּי, מְדַבֶּרֶת וּמְעוֹבָרָת, תִּיּוֹבְתָא דְּרַב אֲסִי! תִּיּוֹבְתָא.

With regard to the dispute over the meaning of the term: Speaking, the Gemara says: In any event, from this discussion it is clear that the *tanna* is teaching two different cases, one case of speaking, where there is uncertainty whether she engaged in intercourse, and one case where she is pregnant, and there is no uncertainty in that regard. The Gemara suggests: This is a conclusive refutation of the opinion of Rav Asi, who explained that speaking in the mishna means that she engaged in intercourse. The Gemara concludes: Indeed, this is a conclusive refutation of his opinion.

The one who deems her fit...deems her daughter fit – המכשיר בה מכשיר בבתה – If an unmarried woman is pregnant and the identity of the father is unknown, and she claims that the father is a man of unflawed lineage, her claim is accepted, and both she and her daughter born from that pregnancy are fit to marry into the priesthood, in accordance with the opinion of Rabbi Yoḥanan. The ruling is in accordance with his opinion because he was Rabbi Elazar's teacher, and because he holds in accordance with the opinion of Abba Shaul in tractate *Kiddushin*, according to whose opinion the *halakha* was ruled as authoritative (Rosh; Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 15:11; *Shulḥan Arukh, Even HaEzer* 6:7).

ותיפוק ליה דהתם רוב פסולין אצלה, והכא רוב כשרין אצלה! מסייע ליה לרבי יהושע בן לוי, דאמר רבי יהושע בן לוי: לדברי המכשיר – מכשיר אפילו ברוב פסולין, לדברי הפוסל – פוסל אפילו ברוב כשרים.

The Gemara asks with regard to the *baraita*: **And let the *tanna* derive this distinction between a captive woman and a woman who secluded herself with a man from the fact that there, in the case of the captive, the majority of the men in her proximity are unfit^N and of flawed lineage, but here, where she was secluded, the majority of the men in her proximity are honorable and of impeccable lineage.** Since she is unmarried, most men are not unfit for her. The Gemara notes: The fact that the *tanna* did not derive the distinction from that source **supports the opinion of Rabbi Yehoshua ben Levi, as Rabbi Yehoshua ben Levi said: According to the statement of Rabban Gamliel, the one who deems her fit to marry a priest, he deems her fit even in a case where the majority of the men in her proximity are unfit.^N According to the statement of Rabbi Yehoshua, the one who deems her unfit to marry a priest, he deems her unfit even in a case where the majority of the men in her proximity are fit.**

אמר רבי יוחנן: לדברי המכשיר בה – מכשיר בבתה, לדברי הפוסל בה – פוסל בבתה. ורבי אלעזר אומר: לדברי המכשיר בה – פוסל בבתה.

Rabbi Yoḥanan said: According to the statement of the one who deems her fit to marry a priest and accepts her claim that she engaged in intercourse with a man of unflawed lineage, he deems her daughter fit^{HN} as well. According to the statement of the one who deems her unfit, he deems her daughter unfit as well. But Rabbi Elazar says: According to the statement of the one who deems her fit, he deems her daughter unfit.

אמר רבה: מאי טעמא דרבי אלעזר? בשלמא איהי – אית לה חזקה דכשרות, בתה – לית לה חזקה דכשרות.

Rabba said: What is the reason for the opinion of Rabbi Elazar, who distinguishes between the effectiveness of the woman's claim in determining her own status and its effectiveness in determining the status of her daughter? The reason is that **granted**, her claim is effective with regard to her status because **she has the presumptive status of fitness**. Therefore, until proven otherwise, she retains that status. **Her daughter**, the identity of whose father is unknown, **does not have the presumptive status of fitness**. Therefore, a full-fledged proof is required to establish her fitness.

איתיביה רבי אלעזר רבי יוחנן: במה דברים אמורים – בעדות אשה בגופה. אבל עדות אשה בבתה – דברי הכל הולך שתוקי. מאי לאו – שתוקי ופסול? לא, שתוקי וכשר.

Rabbi Elazar raised an objection to the opinion of Rabbi Yoḥanan from the *baraita*: **In what case are these disputing statements of Rabban Gamliel and Rabbi Yehoshua said? It is in the case of a woman's testimony with regard to herself. However, in the case of testimony of a woman with regard to her daughter, everyone agrees that her testimony is not credible, and the legal status of the child is that of a *shetuki*. What, is it not that contrary to the opinion of Rabbi Yoḥanan, the *baraita* means that the child is a *shetuki* and unfit until proof can be brought that the lineage of the father is unflawed? The Gemara rejects that objection: **No**, the *baraita* means that the child is a *shetuki*, as her lineage is unclear, but she is nevertheless fit.^N**

NOTES

And let the *tanna* derive from the fact that there the majority of the men in her proximity are unfit – ותיפוק ליה דהתם רוב פסולין אצלה: According to Rashi, this passage is a question on the opinion of Rabbi Yehoshua. According to the Rosh and the Ritva, the difficulty is with regard to the opinion of Rabban Gamliel. In their opinion, the question is: Why did he cite the reason that most gentiles are steeped in sexual immorality? He could have cited a different reason: The majority of the men in her proximity are unfit.

Deems her fit even where the majority of the men in her proximity are unfit – מכשיר אפילו ברוב פסולין – Rabbeinu Tam, cited in *Tosafot*, asks: Isn't there a distinction between the case of a captive woman and the case of a woman entering into seclusion? With regard to a captive woman, all the men in her proximity are unfit, not just the majority, as she is subject to coercion and rape by her captors and all intercourse with them renders her unfit. Rabbeinu Tam answers that in this regard there is no halakhic distinction between most and all. Even according to the opinion that the combination of the minority of men who are fit and her presumptive status of fitness

neutralizes the majority of unfit men, this situation remains an equally balanced uncertainty in which the ruling is stringent.

Others explain that when Rabbi Yehoshua ben Levi deems her fit even when the majority of men are unfit, he does not distinguish between most and all. Even if all of the men in her proximity are of flawed lineage, perhaps a man of unflawed lineage happened to be there. This is based on the principle: A woman does not engage in intercourse with a man before ascertaining that he is of unflawed lineage.

One who deems her fit...deems her daughter fit – המכשיר בה מכשיר בבתה: The commentaries explain the reason for Rabbi Yoḥanan's opinion in different ways. According to the Rosh, the certain claim of the mother is effective in rendering the daughter fit, as according to the Rabbis when a certain claim clashes with an uncertain claim, one relies on the certain claim unequivocally. According to the *Maggid Mishna*, by Torah law the daughter should be fit, as the Sages said that it is prohibited for a *mamzer* to marry into the congregation of Israel only if he is a definite *mamzer* but not if there is uncertainty with regard to his status.

In cases of uncertainty, the prohibition is by rabbinic law, and in those cases the mother's claim is sufficient to render her daughter fit. Others explain that the mother's presumptive status of fitness, by virtue of which the Rabbis determine that she engaged in intercourse with a man of unflawed lineage, is effective to render the daughter fit as well (*Nimmukei Yosef*; see Ritva; *Shev Shemateta*).

The child is a *shetuki* but she is fit – שתוקי וכשר: The *ge'onim* write that based on the conclusion of the Gemara there are two types of *shetuki*. One is a child born to an unmarried woman who does not know the child's father. In that case, due to the possibility that the child is a *mamzer*, he may not marry into the congregation of Israel. The second type of *shetuki* is one born to an unmarried woman who claims that she knows the child's father and he is a man of unflawed lineage. Although, based on her claim, he is neither that man's heir nor fit to perform the Temple service if the man is a priest, he may marry into the congregation of Israel.

ומי איכא שתוקי כשר? אין, בדשמואל, דאמר שמואל: עשרה כהנים עומדים, ופירש אחד מהם ובעל – הולד שתוקי.

The Gemara asks: **And is there a case of a *shetuki* who is nevertheless fit?** The Gemara answers: **Yes, as in the statement of Shmuel. As Shmuel said: If ten priests were standing and one of them left and engaged in intercourse, the child is a *shetuki*, literally one who is silenced, because the identity of the father is unclear.** In that case it is clear that the child is fit, because it is known that the father is a priest of flawless lineage.

מאי שתוקי? אילימא שמשתיקין אותו מנכסי אביו – פשיטא, ומי ידעינן אביו מני? אלא שמשתיקין אותו מדין כהונה, דכתיב "והייתה לו ולזרעו אחרי ברית כהנת עולם" – מי שזרעו מיוחס אחרי, יצא זה שאין זרעו מיוחס אחרי.

The Gemara asks: **In what sense is this child a *shetuki*? If we say that it means that one silences him from a claim to his father's assets and he does not inherit his estate, that is obvious. Do we know who his father is?** It could be any one of the ten. **Rather, it means that one silences him from a claim to the status of priesthood.**^{NH} Although there is no doubt that his father is a priest, the son is not a priest, as it is written: **"And it shall be for him and for his offspring after him an everlasting covenant of priesthood"** (Numbers 25:13). From this it is derived: In the case of a priest whose offspring are attributed to him, his offspring are priests; to the exclusion of this priest, whose offspring are not attributed to him, and whose offspring are not priests. This child, therefore, is a *shetuki* only in the sense that he may not perform the Temple service as a priest. However, he is permitted to marry a Jewish woman.

הוא ארוס וארוסתו דאתו לקמיה דרב יוסף, היא אמרה: מיניה, והוא אמר:

Apropos paternity, the Gemara relates: **There was a certain betrothed man and his betrothed, who was pregnant, who came before Rav Yosef. She said that she conceived from relations with him, and he said:**

NOTES

One silences him from a claim to the status of priesthood – משתיקין אותו מדין כהונה: The Gemara here holds that there is a special *halakha* with regard to the priesthood: Mere knowledge that a child is the son of a priest is not sufficient. Rather, a specific priest must be identified as his father. Early and later commentaries discuss whether his entire lineage must be known or whether it is sufficient if his grandfather can be identified. See *Tosafot*, who explain that this demand is by rabbinic law and the verse cited is merely an allusion. There are early commentaries who disagree and hold that it is a demand by Torah law, although they dispute whether it applies only to Temple service or even to partaking of *teruma* and reciting the Priestly Blessing as well.

HALAKHA

One silences him from a claim to the status of priesthood – משתיקין אותו מדין כהונה: If the identity of a child born to an unmarried woman is unknown, he may not function as a priest. For example, if one of a group of ten priests had relations with a woman, but his identity is unknown, the child born of that union is definitely of priestly lineage. If he marries a divorcée or subjects himself to impurity imparted by a corpse, he is flogged, but he may neither perform the Temple service nor partake of *teruma* (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 20:20; *Shulhan Arukh, Even HaEzer* 3:9).

HALAKHA

A betrothed woman who becomes pregnant – ארוסה שנתיבערה: If a betrothed woman becomes pregnant before the wedding and claims that the man to whom she is betrothed is the father of her unborn child, and he admits that he is the father or is not present to confirm or deny her claim, the lineage of the child is unflawed and he is considered the groom's child in every sense, even with regard to inheritance (Rema, based on Ran). If the groom denies his paternity the woman remains fit to marry into the priesthood, although his claim renders her forbidden to him. There are additional distinctions with regard to the *halakha* in a case where she has a reputation of promiscuity with others. These are discussed in tractate *Yevamot* (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 15:17; *Shulhan Arukh, Even HaEzer* 4:27).

The *halakha* is in accordance with the opinion of Rabban Gamliel – הלכה כרבן גמליאל: With regard to an unmarried woman who became pregnant and claims that she had relations with a man of unflawed lineage, her claim is accepted and she may marry a priest, even if the majority of men in her proximity are of flawed lineage. The Sages, however, established a higher standard for priestly lineage, and accepted her claim only if there are two majorities of men of unflawed lineage. Otherwise, she is disqualified from marrying a priest (Rambam). Some authorities (*Tur*, citing Ramban and Rashba) maintain that one majority is sufficient (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 18:13–14; *Shulhan Arukh, Even HaEzer* 6:17).

Perek I

Daf 14 Amud a

אין, מינאי, אמר רב יוסף: למאי נחוש לה? חדא – דהא קא מודה, ועוד: הא אמר רב יהודה אמר שמואל: הלכה כרבן גמליאל.

Yes, she conceived from relations with me.^{NH} Rav Yosef said: The ruling here is clear, as with regard to what suspicion need we be concerned? First, he concedes that he is the father. And furthermore, didn't Rav Yehuda say^N that Shmuel said: The *halakha* is in accordance with the opinion of Rabban Gamliel,^H and even if he didn't admit that the child was his, the woman's claim is accorded credibility?

NOTES

Yes, she conceived from relations with me – אין, מינאי: This entire passage in the Gemara is tied to a passage in tractate *Yevamot* (69b), where a dispute between Rav and Shmuel is cited with regard to the legal status of a child born to a betrothed woman. There, the concern is raised that perhaps she conceived the child of another man. With regard to that concern, two possibilities are raised. Is it a concern only when she has a reputation of promiscuity? Or perhaps it is even a concern when she has no reputation of that sort, and it was apparently her betrothed who impregnated her. Some commentaries explain that the discussion in the Gemara here is based on the first opinion there. Therefore, provided that she does not have a reputation of promiscuity and the man to whom she is betrothed admits that he is the father, the offspring is attributed to him, she may marry into the priesthood, and the lineage of the offspring is unflawed (Ramban; Rashba).

Tosafot hold that the Gemara here is not referring to a case where they engaged in relations once. Rather, it is referring to a case where the betrothed couple lived together as husband and wife. Therefore, the presumptive status of the offspring is that he is the child of her betrothed. This is based on the principle: Most acts of intercourse are attributed to the husband. Others

insist that the Gemara here is referring only to a case where the betrothed woman never left the side of her betrothed until she discovered that she was pregnant. Only then can her betrothed state with certainty that the child is his (Rabbi Yosef Migash; Ritva).

And furthermore didn't Rav Yehuda say – ועוד הא אמר רב יהודה: The early commentaries disagree with regard to the meaning of the phrase: And furthermore, etc. What was Rav Yosef's opinion? According to *Tosafot*, it means that if her betrothed is not present one relies on the claim of the woman. However, if her betrothed is present, her claim is not accepted at all (Ramban; Rosh; Ran). The Rambam holds that if her claim is contradicted by her betrothed, his statement is not effective to disqualify the woman from marrying into the priesthood, but the offspring is a *mamzer*. Others explain that the claim of the woman is accepted even if it is contradicted by her betrothed, but his statement renders her forbidden to him (*Tosefot Rid; Shiltei HaGibborim*). Although the conclusion of the Gemara is that if there is a majority of people of flawed lineage in her proximity she is disqualified from marrying into the priesthood, the offspring is fit to marry into the priesthood because that is a situation after the fact.