

וְיָמֵי אֵיכָא שְׁתוּקֵי כְּשֵׁרָ? אִין, בְּדִשְׁמוּאֵל,
דְּאָמַר שְׁמוּאֵל: עֲשֶׂרָה כְּהֻנִּים עוֹמְדִים,
וּפִירֵשׁ אֶחָד מֵהֶם וּבִעַל – הוֹלֵד שְׁתוּקֵי.

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.**

מֵאֵי שְׁתוּקֵי? אֵילִימָא שְׁמִשְׁתִּיקִין אוֹתוּ
מִנְכֶסֶי אָבוּי – פְּשִׁטָּא, וְיָמֵי יִדְעִין אָבוּהָ
מִנּוּ? אֶלָּא שְׁמִשְׁתִּיקִין אוֹתוּ מִדִּין כְּהוֹנָה,
דְּכַתְיִב "וְהָיְתָה לוֹ וְלוֹעָוֹ אֶחָדִי בְרִית
כְּהֻנַּת עוֹלָם" – מִי שְׁוָרְעוּ מִיּוֹחֶס אֶחָדִי,
יֵצֵא זֶה שְׂאִין זָרְעוּ מִיּוֹחֶס אֶחָדִי.

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.**

הָיוּ אַרוּסִים וְאָרוּסָתָּהּ דָּאָתוּ לְקַמֵּיהּ דְּרַב
יוֹסֵף, הִיא אָמְרָה: מִיָּנִיָּהּ, וְהוּא אָמַר:

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 – מְשַׁתִּיקִין אוֹתוֹ מִדִּין כְּהוֹנָה – 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 – מְשַׁתִּיקִין אוֹתוֹ מִדִּין כְּהוֹנָה – 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 divorcee 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; *Shulḥan Arukh*, *Even HaEzer* 3:9).

Perek I

Daf 14 Amud a

אִין, מִיָּנִיא. אָמַר רַב יוֹסֵף: לְמֵאֵי נִחוּשׁ
לְהָא חֲדָא – דְּהָא קָא מוּדָה, וְעוּד: הָא
אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּין
גַּמְלִיאֵל.

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 – אִין, מִיָּנִיא – 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 – וְעוּד הָא אָמַר רַב יְהוּדָה – 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.

HALAKHA

A betrothed woman who becomes pregnant – אַרוּסָה שֶׁנִּתְעַבְּרָה – 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; *Shulḥan Arukh*, *Even HaEzer* 4:27).

The *halakha* is in accordance with the opinion of Rabban Gamliel – הֲלָכָה כְּרַבִּין גַּמְלִיאֵל – 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; *Shulḥan Arukh*, *Even HaEzer* 6:17).

HALAKHA

The widow whose late husband was a member of a priestly family of questionable lineage – אֲלֻמְנַת עֵיֶסָה: If a woman married a man from a family in which one of the members is an uncertain *halal*, and was then widowed, it is prohibited for her to marry a priest; this is in accordance with the opinion of Rabban Gamliel. However, if she married a priest she may remain married to him, as Rabban Gamliel did not say that it is prohibited for a priest to marry her. Rather, he said that the priests did not accept the leniency (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 19:23; *Shulhan Arukh, Even HaEzer* 2:5).

LANGUAGE

A family of questionable lineage [*issa*] – עֵיֶסָה: Rav Hai Gaon explains that this expression evokes kneaded dough, in which it is difficult to determine exactly what is mixed into the dough. By contrast, the metaphor used to describe a family of impeccable lineage is pure, fine flour. The *Arukh* explains that the reference is to dough from which *halla* was separated, which remains non-sacred. Rashi in tractate *Kiddushin* explains that the reference is to a doughy paste made of grapes from which the juice was squeezed.

אָמַר לִיָּה אָבִי: וּבָהָא, כִּי לֹא מוֹדָה מִכֶּשֶׁר רַבָּן גַּמְלִיאֵל? וְהָאֵמַר לִיָּה שְׁמוּאֵל לְרַב יְהוּדָה: שִׁינָּא! הֲלֹכָה כְּרַבָּן גַּמְלִיאֵל, וְאֵת לֹא תַעֲבִיד עוֹבְדָא עַד דְּאִיכָא רוּב כְּשָׂרִין אֲצֻלָּהּ. וְהָכָא – רוּב פְּסוּלִין אֲצֻלָּהּ!

וְלִיִּטְעַמִּיד, תַּקְשִׁי לָךְ הִיא גּוֹפָא: הֲלֹכָה – וְאֵת לֹא תַעֲבִיד עוֹבְדָא? אֵלָּא מֵאִי אֵית לָךְ לְמִימַר: הָא – לְכַתְּחִלָּה, הָא – דִּיעֵבַד, וְהָא נָמִי, כְּדִיעֵבַד דְּמִי.

רַבִּי לִיָּה אָבִי לְרַבָּא: וּמִי אָמַר רַבִּי יְהוֹשֻׁעַ אֵינָה נְאֻמְנָת? וּרְמִינָהּ: הָעִיד רַבִּי יְהוֹשֻׁעַ וּרְבִי יְהוּדָה בֶּן בְּתוּרָא עַל אֲלֻמְנַת עֵיֶסָה שֶׁהִיא כְּשָׂרָה לְכַהוֹנָה!

אָמַר לִיָּה: הֲכִי הִשְׁתָּא! הֵתָם – אִשָּׁה נִישְׂאָת – בּוֹדְקַת וְנִישְׂאָת, הָכָא – אִשָּׁה מְזוּנָה – בּוֹדְקַת וּמְזוּנָה!?

Abaye said to him: And in this case, based on the fact that you cited two reasons to deem the child fit, is that to say when he does not admit that he is the father Rabban Gamliel deems the child fit?^N But didn't Shmuel say to Rav Yehuda: Big-toothed one, the *halakha* is in accordance with the opinion of Rabban Gamliel, i.e., that she is accorded credibility, but you should not perform an action based on this ruling unless the majority of the men in her proximity are honorable and of impeccable lineage, corroborating her claim. And here, since she is betrothed, the majority of the men in her proximity are unfit, as a child fathered by any man other than her betrothed is a *mamzer*. Shmuel should not have ruled that the *halakha* was in accordance with the opinion of Rabban Gamliel.

Rav Yosef said to Abaye: And according to your reasoning, the *halakha* itself should pose a difficulty for you, as on the one hand Shmuel rules that it is the *halakha* and on the other hand he adds: But you should not perform an action based on this ruling. Rather, what have you to say to explain this contradiction? This statement that one relies on the woman's claim only if a majority of men in her proximity are of unflawed lineage is *ab initio*. That statement that one may rely on the woman's claim regardless of the status on the men in her proximity is *after the fact*. And this case of the betrothed woman, too, is like a case *after the fact*,^N as failure to rely on her claim will render her child a *mamzer*. Therefore, in this case, Shmuel would rule that the *halakha* is in accordance with the opinion of Rabban Gamliel.

Abaye raised a contradiction before Rava from a mishna (*Eduyyot* 10:3): Did Rabbi Yehoshua say that the woman is not deemed credible and her claim is not accepted? And the Gemara raises a contradiction: Rabbi Yehoshua and Rabbi Yehuda ben Beteira testified concerning the widow whose late husband was a member of a priestly family of questionable lineage [*issa*],^{HN} that she is fit to marry into the priesthood. Since the matter is uncertain, the woman retains her presumptive status of fitness and her late husband is presumed to be of unflawed lineage.

Rava said to him: How can these cases be compared? There, in the case of the widow, one could say: A woman who marries investigates the lineage of her prospective husband before the wedding and only then marries.^N Therefore, one may rely on her presumptive status of fitness and deem her fit to marry a priest. Here, can it be said that a woman who engages in licentious intercourse investigates the lineage of her partner and only then engages in licentious intercourse?

NOTES

Rabban Gamliel deems the child fit – מִכֶּשֶׁר רַבָּן גַּמְלִיאֵל: The Ramban cites a variant reading that omits the words: Rabban Gamliel. According to that version, the Gemara is analyzing the opinion of Shmuel and not the opinion of Rabban Gamliel.

And this too is like a case after the fact – וְהָא נָמִי כְּדִיעֵבַד – דְּמִי: The Ra'avad explains that even though with regard to the woman there is an element of after the fact, as she is rendered forbidden to her betrothed, with regard to the offspring the matter is apparently *ab initio*. Nevertheless, he explains that there is an element of a situation after the fact with regard to the offspring. If the question is whether or not her daughter is fit to marry into the priesthood, this would be an *ab initio* situation. However, if the question pertains to classifying the offspring as a *mamzer*, or even worse as an uncertain *mamzer*, who may not marry even another *mamzer*, that is considered after the fact (*Tosafot; Tosefot Rid; Ramban*). The Ritva notes that this is the meaning of the phrase: Like a case after the fact, as even though it is not actually after the fact, it is treated as if it were.

The Ra'avad further explains that the use of the term: Like, is due to the fact that they are not yet married and therefore the situation is not actually after the fact. The Ran explains that it is permitted even for the offspring to marry into the priesthood. The reason is that the case is treated as if it were after the fact,

because the fate of the woman is tied to the fate of the child. If her betrothed is told that her child is unfit, it is likely that he will divorce the woman.

The widow whose late husband was a member of a priestly family of questionable lineage – אֲלֻמְנַת עֵיֶסָה: There are several opinions with regard to the meaning of this concept. Although everyone agrees that there is uncertainty with regard to the *halal* status of the family, there is disagreement with regard to the essence of this uncertainty. Rashi explains that the reference is to a widow whose husband was the son of a priest who married a woman with regard to whom there is uncertainty whether she was a divorcee or whether she was a widow. An example of this would be if her first husband threw a bill of divorce to her and it is unclear whether it landed closer to her or closer to him; and then he died.

Rabbeinu Hananel cites two explanations. In one, he agrees with Rashi. In the other, he explains that she is the widow of a man whose status as a priest is uncertain, e.g., if two babies were intermingled. See Rashi, who cites an additional explanation in the name of Rabbi Yosef Tuv-Elem.

The *ge'onim*, the Rambam, and *Tosafot* all explain that the reference is to an uncertain *halal* who joined a family or moved to a city, but it is not known who he is. There is a compound

uncertainty with regard to the widow of a man from that family. The first uncertainty is whether her late husband is the member of that family with regard to whom the uncertainty exists. Even if it is established that her late husband is indeed the one with regard to whom the uncertainty exists, there remains an uncertainty whether he is in fact a *halal*. The term *issa*, meaning dough, is especially appropriate according to that explanation, as the family is like dough whose ingredients are unknown.

With regard to the legal status of a child born from this union, although the widow enjoys presumptive status of fitness, her offspring does not. Furthermore, as with regard to lineage, the status of the child is determined by the status of the father; since the father is an uncertain *halal*, the same is true of the offspring (*Ayyelet Ahavim; Beit Ya'akov*).

A woman who marries, investigates and marries – אִשָּׁה נִישְׂאָת, בּוֹדְקַת וְנִישְׂאָת: The Rashash explains that since a woman who is getting married plans on spending her entire life with this man, she will investigate his lineage so she does not live her life in sin. However, when it is a one-time, licentious liaison, she is not as careful. Furthermore, before marriage the woman has the time and opportunity to investigate her potential husband. In a licentious liaison, perhaps it is the result of a moment of passion and there is no opportunity to investigate.

אמר רבא: דרבי יהושע אדרבי יהושע קשיא, דרבן גמליאל אדרבן גמליאל לא קשיא? והא קתני סיפא, אמר להן רבן גמליאל: קבלנו עדותכם, אבל מה נעשה שהרי גזר רבן יוחנן בן זבאי שלא להושיב בית דין על כך, שהכהנים שומעין להם לרחק אבל לא לקרב!

אלא אמר רבא: דרבן גמליאל אדרבן גמליאל לא קשיא? והא קתני סיפא, אמר להן רבן גמליאל: קבלנו עדותכם, אבל מה נעשה שהרי גזר רבן יוחנן בן זבאי שלא להושיב בית דין על כך, שהכהנים שומעין להם לרחק אבל לא לקרב!

דרבי יהושע אדרבי יהושע נמי לא קשיא; התיב - חד ספיקא, התיב - חד ספיקא.

הלכה, לרבן גמליאל - אלים ליה ברי, דאפילו בחד ספיקא נמי מבשיר וקיל ליה שמוא, דאפילו בספק ספיקא - נמי פסיל. לרבי יהושע אלים ליה חד ספיקא, דאפילו בברי נמי פסיל וקיל ליה ספק ספיקא, דאפילו בשמוא - נמי מבשיר.

Rava said with regard to the contradiction that was raised: Is the contradiction between one statement of Rabbi Yehoshua and another statement of Rabbi Yehoshua difficult, and the contradiction between one statement of Rabban Gamliel and another statement of Rabban Gamliel not difficult? But isn't it taught in the latter clause of that mishna with regard to the widow whose late husband was from a priestly family of questionable lineage that Rabban Gamliel said to them: We accept your testimony that this is the *halakha*, but what can we do, as Rabban Yoḥanan ben Zakkai decreed not to convene a court for this purpose of ruling the woman fit, because the priests obey you when your ruling calls to distance a woman of questionable lineage from marrying them, but not when your ruling calls to bring her near and deem her fit to marry them. Apparently, Rabban Gamliel did not accept the lenient ruling in the case of the widow, contrary to his statement here that she is accorded credibility.

Rather, Rava said: The contradiction between one statement of Rabban Gamliel and another statement of Rabban Gamliel is not difficult. There, in the case of the woman who engaged in intercourse with an unidentified man, her claim that the lineage of the man is unflawed is a certain claim. Here, in the case of the widow, her claim that his lineage is unflawed is an uncertain claim, because there is objective uncertainty with regard to his lineage.

The contradiction between one statement of Rabbi Yehoshua and another statement of Rabbi Yehoshua is similarly not difficult. There, in the case of the woman who engaged in intercourse with an unidentified man, there is only one uncertainty:^N Is the lineage of the man with whom she engaged in intercourse flawed or unflawed? In the case of one uncertainty, the ruling is stringent. Here, in the case of the widow, there are two uncertainties^N with regard to the objective situation. It is established that there is uncertainty with regard to one of the members of the family whether or not he is a *halal*. The first uncertainty is whether her late husband is the member of that family with regard to whom the uncertainty exists. Even if it is established that her late husband is indeed the one with regard to whom the uncertainty exists, there remains an uncertainty whether he is in fact a *halal*.

Therefore, according to Rabban Gamliel, a certain claim is so powerful for him^N that even in a case where there is one uncertainty, he also deems her fit to marry a priest. And an uncertain claim is so insignificant for him that even in a case where there is a compound uncertainty, he also deems her unfit to marry a priest. According to Rabbi Yehoshua, a case where there is one uncertainty is so powerful for him that even in a case where she makes a certain claim, he also deems her unfit. And the case of a compound uncertainty is so insignificant for him that even if she makes an uncertain claim, he also deems her fit.

NOTES

There, there is one uncertainty - התיב חד ספיקא: Some ask: Isn't there a compound uncertainty in the case of a woman who entered into seclusion as well, the uncertainty whether or not she engaged in intercourse, and even if she did engage in intercourse, perhaps her paramour was of unflawed lineage? The Ramban explains that according to Rabbi Yehoshua, once she enters into seclusion there is no longer uncertainty whether or not she engaged in intercourse, as there is no steward for restraining sexual immorality, i.e., presumably she engaged in intercourse with him.

of questionable lineage, the compound uncertainty is clear: There is uncertainty whether there was a *halal* at all, and even if there was a *halal*, whether her husband was that *halal*. In the *Shita Mekubbetzet* another explanation is cited: Since there is uncertainty with regard to the status of the husband, the resultant uncertainty with regard to his widow is considered a second uncertainty. Since she has the presumptive status of fitness, the flaw in lineage is not dependent on her but originates elsewhere and perhaps there was no flaw at all (see *Beit Shmuel; Ayyelet Ahavim*).

Here, there are two uncertainties - התיב תרי ספיקא: According to the opinion of the Rambam and the *ge'onim* with regard to the widow whose late husband was from a priestly family

A certain claim is so powerful for him - אלים ליה ברי: The Ritva explains that there is not merely a claim of certainty here. It is bolstered by the presumptive status of her body.

NOTES

Slaves of kings – עבדי מלכים: Most commentaries explain that the concern is due to the prohibition against marrying slaves. The Meiri, however, explains that the reference here is to gentiles, who exercised their power and took Jewish women. Although the *halakha* is that a child born to a Jewish woman and a gentile or slave is permitted to marry into the congregation of Israel, a female child is disqualified from marrying into the priesthood.

תנו רבנן: איזוהי אלמנת עיסה – כל שאין בה לא משום ממזרות, ולא משום נתינות, ולא משום עבדי מלכים. אמר רבי מאיר:

S Apropos the widow, the Rabbis taught: Who is the widow whose late husband was a member of a priestly family of questionable lineage and is fit to marry a priest? It is one who married into any family that does not have the status of being unfit, neither due to uncertain *mamzer* status, nor due to uncertain Gibeonite status, nor due to uncertain status as slaves of kings,^N who would force Jewish women, even daughters of priests, to marry them. Rabbi Meir said:

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NOTES

Jews identify the *mamzerim* that are among them – מבירין ישראל ממזרים שביניהם: The same is true of the other men of flawed lineage enumerated there, because people identify all those prohibited from entering the congregation of Israel. However, since the *halal* is prohibited only with regard to the priesthood and the prohibition is irrelevant to all other people, they are likely to forget the prohibition.

That does not have the status of being unfit...due to uncertain *mamzer* status – לא משום ממזרות: Most commentaries explain that other examples of flawed lineage by Torah law, e.g., Ammonites, Moabites, Egyptians, and Edomites, were not cited here for various reasons: Ammonites and Moabites because there is a difference between males, who may never enter into the congregation, and females, who may do so immediately; Egyptians and Edomites because they may enter into the congregation three generations after conversion. Rather, only those people of flawed lineage for whom the prohibition is universal and permanent were enumerated here.

These flaws which render her unfit by Torah law – הנין דאורייתא: Rashi explains that all these are derived from the verse: "And if a priest's daughter be married to a common man" (Leviticus 22:12). However, the lack of fitness of a *halal* does not fall into that category because he is a priest, not a common man. The status of a *halal* is derived from a different verse.

That is identical to the opinion of the first *tanna* – היינו תנא קמא: Some early commentaries ask: Why didn't the Gemara explain that Rabbi Meir disagrees and holds that the dispute between Rabban Gamliel and Rabbi Yehoshua is limited to a case where there is uncertainty with regard to the fitness of other categories of flawed lineage, but where there is uncertainty with regard to *halal* status Rabban Gamliel would concede? They answer that since all of these categories of flawed lineage are derived from the Torah, there is no reason to distinguish between them (Ramban; Rabbi Aharon HaLevi; Ritva).

שמעתי כל שאין בה אחד מכל אלו – משיאין לכהונה.

רבי שמעון בן אלעזר אומר משום רבי מאיר, וכן היה רבי שמעון בן מנסיא אומר בדבריו: איזוהי אלמנת עיסה – כל שנטמעה בה ספק חלה.

מבירין ישראל ממזרים שביניהם, ואין מבירין חללין שביניהם.

אמר מר: איזוהי אלמנת עיסה – כל שאין בה לא משום ממזרות, ולא משום נתינות, ולא משום עבדי מלכים. הא חלה – בשר.

מאי שנא הנין – דאורייתא, חלה נמי דאורייתא! ותו, אמר רבי מאיר: שמעתי כל שאין בה אחד מכל אלו משיאין לכהונה, היינו תנא קמא!

I heard that with regard to the widow of any family that has none of these uncertainties associated with it, one allows her to marry members of the priesthood. The only uncertainty where this ruling applies is in the case of uncertain *halal* status.

Rabbi Shimon ben Elazar says in the name of Rabbi Meir, and likewise Rabbi Shimon ben Menasya would say in accordance with his statement: Who is the widow whose late husband was a member of a priestly family of questionable lineage? It is a widow who marries into any family in which a person with regard to whom there is uncertainty whether or not he is a *halal* was assimilated among its members. Therefore, she is referred to as a widow of dough [*issa*]. Just as dough is the result of a mixture of several ingredients, this family too has a person with regard to whom there is uncertainty whether he is a *halal* mixed within it.

The reason for the distinction between uncertain *halal* status and uncertain *mamzer* status is that Jews identify the *mamzerim* that are among them,^N and there is no concern lest they assimilate into families of unflawed lineage. But they do not identify the *halalin* among them. Therefore, there is concern lest a *halal* assimilate into the family.

The Gemara analyzes the *baraita*. The Master said in the *baraita*: Who is the widow whose late husband was a member of a priestly family of questionable lineage? It is one who married into any family that does not have the status of being unfit, neither due to uncertain *mamzer* status,^N nor due to uncertain Gibeonite status, nor due to uncertain status as slaves of kings. The Gemara infers: However, if it is due to uncertain *halal* status, her marriage to a priest is deemed fit.

The Gemara asks: What is different about these flaws in lineage, uncertain *mamzer* status and Gibeonite status, which render her unfit to marry a priest by Torah law?^N A *halal* also renders her unfit by Torah law. And furthermore, the *baraita* continues: Rabbi Meir said: I heard that with regard to the widow of any family that has none of these uncertainties associated with it, one marries her to members of the priesthood. That is identical to the opinion of the first *tanna*.^N If there is uncertainty with regard to one in the late husband's family that he is a *mamzer* or a Gibeonite, she is unfit to marry a priest; if the uncertainty is with regard to *halal* status, she is fit to marry a priest. What novel element does Rabbi Meir introduce?

One who when called *mamzer* screams and protests that he is being slandered, and when called *halal* is silent – **מְמוֹר צוֹחַ וְחָלַל שׁוֹתֵק**: The early commentaries discuss the matter of unfitness resulting from the silence of the accused, and there are different explanations with halakhic ramifications. Some explain that according to the first *tanna*, his silence is tantamount to an admission that the allegation of unfitness is accurate (Rambam; Meiri). Some explain that silence is incriminating only if there were rumors of flawed lineage surrounding the accused and his family; otherwise, his silence proves nothing (Ramban; Rashba). The Ra'avad explains that the distinction between screaming and silence was in effect only in those generations when the courts would punish one who slanders another in this manner.

Today, however, the opposite is true. Silence in reaction to an allegation during a quarrel indicates unflawed lineage; it is considered admission of flawed lineage only if the allegation is leveled not in the context of a quarrel. According to these opinions, the matter of one who screams in response to allegations of a *mamzer* is irrelevant. The Ramban cites in the name of Rav Hai Gaon that there is a variant reading that omits the phrase: One who when called *mamzer* screams. However, others hold that confirmation of the allegation is specifically with regard to one who when called *mamzer* screams and protests, and when called *halal* is silent. If one is consistently silent in the face of allegations, perhaps he is one of those people who never scream, even when quarreling with others.

In tractate *Kiddushin*, silence is an indication of impeccable lineage. However, one who screams when called *mamzer* indicates that he reacts to and protests false allegations. If he is then silent when called *halal*, that confirms the allegation (Ritva; Ran).

Silence in response to allegations of *halal* status – שׁוֹתֵק חָלַל: The significance of silence in the face of allegations of *halal* is understood according to those who explain that the *halal* is certain that he is a *halal* and it is everyone else who is uncertain. However, according to those opinions who explain that there is an objective uncertainty, how can the silence be considered an admission if the *halal* himself is uncertain of his status? The Ritva explains that his silence is an admission that he is a member of the family with regard to which there is uncertainty.

וְתוֹ, רַבִּי שִׁמְעוֹן בֶּן אֱלִיעֶזֶר אוֹמֵר מִשּׁוּם רַבִּי מֵאִיר, וְכֵן הָיָה רַבִּי שִׁמְעוֹן בֶּן מְנַסְיָא אוֹמֵר בְּדִבְרֵי: אִיזוּהִי אֲלֻמְנַת עֵיפָה – כָּל שֶׁנִּשְׁמַע בָּהּ סֶפֶק חָלַל, מְכִירִין יִשְׂרָאֵל מִמְזִירִים שְׁבִינֵיהֶן וְאִין מְכִירִין חָלְלִין שְׁבִינֵיהֶן, וְהָא אֲמַרְתָּ רִישָׁא חָלַל בְּשׂוֹר!

אָמַר רַבִּי יוֹחָנָן: "מְמוֹר" – צוֹחַ, וְ"חָלַל" – שׁוֹתֵק, אִיכָּא בִּינֵיהוּ. תִּנְא קָמָא סָבֵר: כָּל פְּסוּל דְקָרוּ לִיהּ וְשׁוֹתֵק – פְּסוּל וְהִכִּי קָאָמַר תִּנְא קָמָא: אִיזוּהִי אֲלֻמְנַת עֵיפָה – כָּל שְׂאִין בָּהּ לֹא שׁוֹתֵק מִמְזוּרוֹת, וְלֹא שׁוֹתֵק נְתִינְוֹת, וְלֹא שׁוֹתֵק עֲבָדֵי מַלְכִּים, וְלֹא שׁוֹתֵק חָלַל.

וְקָאָמַר לִיהּ רַבִּי מֵאִיר: הֲנֵךְ הוּא – דְקָא פְּסוּל לִיהּ בְּקַהֲלָא, אֲבָל שׁוֹתֵק חָלַל – כְּשׂוֹר, וְהָא דְשׁוֹתֵק – מִשּׁוּם דְלֹא אִיכְפַּת לִיהּ.

וְקָאָמַר לִיהּ רַבִּי שִׁמְעוֹן בֶּן אֱלִיעֶזֶר לְתַנָּא קָמָא דְרַבִּי מֵאִיר: אִי שְׁמִיעַ לְךָ דְמְכָשׁוֹר רַבִּי מֵאִיר בְּשׁוֹתֵקָה – לֹא דְקָרוּ לִיהּ חָלַל וְשׁוֹתֵק, אֲלֵא דְקָרוּ לִיהּ מְמוֹר וְשׁוֹתֵק, וְהָא דְשׁוֹתֵק – סָבֵר: מִמְזוּר קָלָא אִית לִיהּ. אֲבָל "מְמוֹר" וְצוֹחַ: "חָלַל" וְשׁוֹתֵק, פְּסוּל, וְהָא דְשׁוֹתֵק – סָבֵר: מִסְתַּיְהָא דְלֹא מְפָקִי לִיהּ מִקַּהֲלָא.

The *baraita* continues: **And furthermore, Rabbi Shimon ben Elazar says in the name of Rabbi Meir, and likewise, Rabbi Shimon ben Menasya would say in accordance with his statement: Who is the widow whose late husband was a member of a priestly family of questionable lineage?** It is a widow who marries into any family in which a person with regard to whom there is uncertainty whether or not he is a *halal* was assimilated. Because Jews identify the *mamzerim* that are among them there is no concern that they will assimilate into families of unflawed lineage, but Jews do not identify the *halalim* among them. Due to the concern that a *halal* assimilated into the family, the widow is unfit to marry a priest. The Gemara asks: **But didn't you say in the first clause of the *baraita* that if there is uncertainty whether or not a *halal* was assimilated among its members, her marriage to a priest is deemed fit?**

Rabbi Yohanan said: The case of one who when called *mamzer* screams and protests that he is being slandered, and when called *halal* is silent,ⁿ is the subject of the dispute between the *tanna'im* in the *baraita*. **The first *tanna* holds: Anyone who when others call him unfit and he is silent, is unfit,**ⁿ as his silence confirms the allegation. **And this is what the first *tanna* is saying: Who is the widow whose late husband was a member of a priestly family of questionable lineage, who is fit to marry a priest?** It is one who married into any family that has neither unfitness due to silence in response to allegations of *mamzer* status, nor silence in response to allegations of Gibeonite status, nor silence in response to allegations that they are slaves of kings, nor silence in response to allegations of *halal* status.ⁿ Only a woman who was married into a family that protested in response to all these allegations is fit to marry a priest.

And Rabbi Meir is saying to him: Specifically, each of those silent in response to allegations of *mamzer* or Gibeonite status or allegations that they are slaves of kings are rendered unfit because these allegations render him unfit to marry into the congregation of Israel. However, despite silence in response to allegations of *halal* status, her marriage to a priest is deemed fit. And the fact that he is silent is due to his indifference, as even were he deemed a *halal* the only restriction would be with regard to marriage to priests.

And Rabbi Shimon ben Elazar is saying to the first *tanna* who quoted Rabbi Meir as saying: I heard, etc. **If you heard that Rabbi Meir deems her marriage to a priest fit, in a case of silence in response to allegations, it is not in a case where they called him *halal* and he is silent; rather, it is in a case where they call him *mamzer* and he is silent.** In that case, the reason he is silent is that he holds: The fact that one is a *mamzer* generates publicity, and since he is not reputed to be a *mamzer*, he is indifferent to the allegation. However, in a case where he is called *mamzer* and he screams in protest, or where he is called *halal* and he is silent, he is unfit. **And the fact that he is silent and does not protest is because he holds: It is sufficient for him that they do not expel him from the congregation of Israel.**

HALAKHA

Anyone who hears an allegation of unfitness that others call him and is silent, is unfit – **כָּל פְּסוּל דְקָרוּ לִיהּ וְשׁוֹתֵק פְּסוּל** – If one is silent in the face of allegations that he is of flawed lineage, e.g., he is called a *mamzer*, a *halal*, or a Gibeonite, the suspicion is that his silence confirms those allegations, and one may marry him or members of his family only after those allegations are investigated and refuted, in accordance with the opinion of the first *tanna*. Some maintain that this is the case only if it is known that a person of flawed lineage married into the family; otherwise, his silence proves nothing (*Tur*, citing Rabbeinu Yitzhak; *Beit Yosef*,

citing Ramban and Rashba). The Ra'avad explains that the distinction between silence and screaming was in effect only in those generations when the courts would punish one who slanders another in this manner.

Today, however, the opposite is true. Silence in reaction to an allegation during a quarrel indicates unflawed lineage. Yet others hold that his silence confirms the allegations only if he is not silent in response to other allegations (Ran; Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 19:22; *Shulhan Arukh*, *Even HaEzer* 2:4).

תני חדא: רבי יוסי אומר שתוק ממזר - כשר, שתוק חלל - פסול. ותניא אידך: שתוק חלל - כשר, שתוק ממזר - פסול!

The Gemara notes: **It is taught in one baraita** that Rabbi Yosei says: Despite the fact that with **silence** in response to allegations of *mamzer* one is **fit**; **silence** in response to allegations of *halal* renders one **unfit**. **It is taught in another baraita**: Despite the fact that with **silence** in response to allegations of *halal* one is **fit**; **silence** in response to allegations of *mamzer* renders one **unfit**.

לא קשיא; הא - תנא קמא אליבא דרבי מאיר, הא - דרבי שמעון בן אלעזר אליבא דרבי מאיר.

The Gemara explains: The contradiction between the *baraitot* is **not difficult**. This second *baraita* is the opinion of the **first tanna** in accordance with the opinion of Rabbi Meir, who holds that silence in response to allegations of *halal* does not render one unfit. And this first *baraita* is the opinion of Rabbi Shimon ben Elazar in accordance with the opinion of Rabbi Meir, who holds that silence in response to allegations of *mamzer* is motivated by indifference and does not render him unfit; however, silence in response to allegations of *halal* is an indication that the allegations are true and he is unfit.

מתני' אומר רבי יוסי: מעשה בתינוקת שירדה למלאות מים מן העין ונאנסה, אומר רבי יוחנן בן נורי: אם רוב אנשי העיר משיאין לכהונה - הרי זו תינשא לכהונה.

MISHNA Rabbi Yosei said: There was an incident involving a young girl who descended^N to fill her jug with water from the spring, and she was raped, and the identity of the rapist was unknown. Rabbi Yohanan ben Nuri said: If the majority of the people of the city marry their daughters to members of the priesthood,^N this young girl may be married to a member of the priesthood.

גמ' אומר ליה רבא לרב נחמן: רבי יוחנן בן נורי דאמר כמאן? אי ברבן גמליאל, אפילו ברוב פסולין נמי מכשר! אי ברבי יהושע, אפילו ברוב כשרים נמי פסיל! אומר ליה, הכי אומר רב יהודה אומר רב:

GEMARA Rava said to Rav Nahman: In accordance with whose opinion is it that Rabbi Yohanan ben Nuri stated his opinion?^N If it is in accordance with the opinion of Rabban Gamliel, even in a case where the majority of the people are of flawed lineage as well, he deems her fit to marry into the priesthood. If it is in accordance with the opinion of Rabbi Yehoshua,^N even in a case where the majority of the people are of unflawed lineage, he deems her unfit to marry into the priesthood. Rav Nahman said to Rava that this is what Rav Yehuda said that Rav said:

NOTES

תינוקת שירדה – *tanna*: One of the questions raised by the early commentaries is whether the girl who was raped claims that she is certain that the man who raped her is of unflawed lineage. The fact is that according to Rabban Gamliel, her certain claim is part of the reason that she is not disqualified. Many prove from the formulation of the mishna, where no claim is mentioned, that the girl made no claim with regard to the identity of the rapist. This is underscored by the fact that the mishna is referring to a young girl and by the fact that the incident transpired among the wagons (see 15a) where there are many strangers whose lineage is unknown (Ramban; Ritva).

אם רוב אנשי העיר משיאין לכהונה: Rashi writes that this means simply that most of the people in the city are of unflawed lineage and could marry their daughters to priests. Others explain that it means that most of the residents in fact marry their daughters to priests (*ge'onim*).

במאן – *tanna*: The early commentaries ask: Since Rabbi Yohanan ben Nuri

is a *tanna*, why was it necessary to align his opinion with the opinion of one of the *tanna'im*? Why not say that his is a third opinion? They answer that his opinion was introduced by means of an incident, and the mishna typically cites incidents in support of what was stated previously. Furthermore, were this a third opinion, Rabbi Yosei should have cited it earlier and stated that there is an opinion that the entire matter is dependent on the question whether the majority of the people are of flawed or unflawed lineage (Rabbi Yosef MiGash; Ritva).

אי ברבי יהושע – *tanna*: The conclusion of the Jerusalem Talmud differs from the Gemara here. There it is stated that the statement of Rabbi Yohanan ben Nuri is in accordance with the opinion of Rabbi Yehoshua. The reason that Rabbi Yohanan ben Nuri rules that she is fit to marry into the priesthood is that she was raped. Rabbi Yehoshua deems her unfit because her presumptive status of fitness is compromised by her volitional promiscuity. However, one who is raped does not lose her presumptive status of fitness. That status together with the majority of people of unflawed lineage in her proximity is sufficient to render her fit to marry into the priesthood.