

XVII.

THE STRUCTURE OF BABYLONIAN TALMUD YEBAMOT

Whether or not the Talmud of Babylonia is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here.

By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be?

The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things one way rather than in some other, they wish to imagine the world in which they wish to live, to which they address these thoughts. For if the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints.

Now the Talmud commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view — the one implicit in the representation of the document for academic analysis — rests the burden of proof. I set forth the allegation that the Talmud exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further

identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit — composition formed into composites, composites formed into a complete statement — holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else.* Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

*I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well.

Identifying and classifying the components of the tractate — the composites, the compositions of which they are made up — we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals — the received document they wished to examine, the questions that they brought to that document — realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the

document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Talmud of Babylonia, like its counterpart in the Land of Israel, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our Bavli-tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem — otherwise we should not have to ask — and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement — the Mishnah-sentences at hand — what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining Babylonian Talmud tractate Yebamot derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of

Babylonia in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of Pesahim is cited in the Talmud, the framers of the Talmud by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud's composites and the authors of its compositions* what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection ("making connections, drawing conclusions" meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

*This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate — we do not have compositions that were not used, only the ones that were — but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence — that alone.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of the Talmud-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites — footnotes, appendices, and the like — bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud's structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages — any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose,

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by the Talmud and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. Mishnah-Tractate Yebamot 1:1-2

A. FIFTEEN WOMEN WHO ARE NEAR OF KIN TO THEIR DECEASED, CHILDLESS HUSBAND'S BROTHER BECAUSE THEY CANNOT ENTER INTO LEVIRATE MARRIAGE WITH THE DECEASED CHILDLESS HUSBAND'S BROTHER ALSO EXEMPT THEIR CO-WIVES, AND THE CO-WIVES, FROM THE RITE OF REMOVING THE SHOE HALISAH AND FROM LEVIRATE MARRIAGE, WITHOUT LIMIT. AND THESE ARE THEY: (1) HIS DAUGHTER, AND (2) THE DAUGHTER OF HIS DAUGHTER, AND (3) THE DAUGHTER OF HIS SON; (4) THE DAUGHTER BY A FORMER MARRIAGE OF HIS WIFE, AND (5) THE DAUGHTER OF HER SON BY A FORMER MARRIAGE, AND (6) THE DAUGHTER OF HER DAUGHTER BY A FORMER MARRIAGE; (7) HIS MOTHER-IN-LAW, AND (8) THE MOTHER OF HIS MOTHER-IN-LAW, AND (9) THE MOTHER OF HIS FATHER-IN-LAW MARRIED TO HIS BROTHER BY THE SAME FATHER; (10) HIS SISTER BY THE SAME MOTHER, AND (11) THE SISTER OF HIS MOTHER, AND (12) THE SISTER OF HIS WIFE; (13) AND THE WIFE OF HIS BROTHER BY THE SAME MOTHER, AND (14) THE WIFE OF HIS BROTHER WHO WAS NOT ALIVE AT THE SAME TIME AS HE BUT WHO DIED BEFORE HE WAS BORN, IN WHICH CASE THE SURVIVING BROTHER HAS NO CLAIM; AND (15) HIS FORMER DAUGHTER-IN-LAW WHO THEN MARRIED HIS BROTHER — LO, THESE EXEMPT THEIR CO-WIVES AND THE CO-WIVES OF THEIR CO-WIVES, FROM RITE OF REMOVING THE SHOE AND FROM LEVIRATE MARRIAGE, WITHOUT LIMIT. AND IN THE CASE OF ALL OF THEM, IF THEY DIED BEFORE THE HUSBAND, OR EXERCISED THE RIGHT OF REFUSAL, OR WERE DIVORCED BY THE CHILDLESS HUSBAND, OR TURNED OUT TO BE BARREN — THEIR CO-WIVES ARE PERMITTED TO ENTER INTO LEVIRATE MARRIAGE, SINCE THEY ARE NOT NOW DEEMED CO-WIVES OF A FORBIDDEN PARTY. BUT YOU CANNOT RULE IN THE CASE OF HIS MOTHER-IN-LAW AND IN THE CASE OF THE MOTHER OF HIS MOTHER-IN-LAW, OR IN THE CASE OF THE MOTHER OF HIS FATHER-IN-LAW, WHO TURNED OUT TO BE BARREN," OR WHO EXERCISED THE RIGHT OF REFUSAL.

1. I:1: Since all of the other entries on the list of fifteen classes of women in point of fact derive from the exemption of the wife's sister from entering into levirate marriage with the deceased childless husband's brother, why not present the classification the sister of the wife, to begin with? And should you propose that the Tannaite authority of the passage has chosen to focus upon the issue of severity listing the entries in the order of the degree of severity of the penalty that is incurred if one has sexual intercourse with these relatives, and it is formulated in accord with the principle of R. Simeon, who regards the penalty of death through burning as the most severe of the four ways in which the death penalty is inflicted, and that is the form of the death penalty that is incurred for sexual relations with any of the first eight classes of women listed in our passage, then to begin with the framer of the passage should repeat the case of his mother in law first of all, for the principle of inflicting death through burning is stated by Scripture in connection with his mother in law. And, furthermore, the case of his daughter in law should then be listed next after his mother in law, since, after burning, the next most severe form of the death penalty is stoning which is the penalty for sexual relations with one's daughter in law.

2. I:2: How come the Tannaite framer of the passage has used the word exempt, rather than the word prohibit that is, “exempt from entering,” rather than, “prohibit from entering”?

3. I:3: How come the Tannaite framer of the passage uses the language, from the rite of removing the shoe halisah and from levirate marriage? Why not just say, from levirate marriage alone for it would go without saying that there also would not have to be a rite of removing the shoe?

4. I:4: What classification of persons or relationships is meant to be excluded by the specific enumeration given at the outset of fifteen classes of woman and what classification of persons or relationships is meant to be excluded by the specific enumeration given at the end all these?

5. I:5: What is the scriptural basis of the rule of our Mishnah that not only the forbidden class of woman, but also co-wives and co-wives of co-wives, also are exempt from having to enter levirate marriage and from having to perform the rite of removing the shoe?

a. I:6: Secondary analysis of the foregoing proof. The operative consideration, then, is that the All-Merciful has stated explicitly, “beside her.” Then it is to be inferred that otherwise, levirate marriage may be contracted with the wife’s sister. How come? It is because we invoke the rule: let a positive religious duty come and set aside a negative religious duty.

I. I:7: Tertiary analysis; amplification of a detail of the foregoing.

A. I:8: Same exegetical principle, different case altogether.

B. I:9: Continuation of the foregoing.

1. I:10: Challenge to the proposition of the foregoing.

2. I:11: Continuation of the challenge.

3. I:12: As above.

b. I:13: Continuation of I:6: Thus far we have found that a positive commandment will come along and supersede a negative commandment standing on its own. But where do we find that a positive commandment supersedes a negative commandment, the punishment of which is extirpation, so that the language “beside her” should be required to forbid such an action in this special case? That is, to forbid the marriage of the levir and the widow of the deceased childless brother if she is a forbidden relative.

I. I:14: Amplification of a tangential detail of the foregoing.

c. I:15: Rather, the reason that the language “beside her is required is that it might have entered your mind to suppose that the proposition might be derived from the prohibition of kindling a fire on the Sabbath.

d. I:16: Still, it was necessary to invoke a specific text. For otherwise, it might have entered your mind to suppose that this wife of the deceased brother should be classified as something that was covered by an

encompassing rule and was singled out from the classification of things covered by the encompassing rule to teach a lesson, and not to teach a lesson concerning that classification itself, but rather, to teach a lesson concerning the encompassing rule in its entirety.

e. I:17: The reason that the superfluous text was needed was that you might have argued that the law of the wife's sister should derive from what pertains in the case of the brother's wife: just as a levir may marry the brother's wife, so he may marry the wife's sister and the superfluous text, "beside her" serves to eliminate that possibility. But are the cases parallel? There, in the case of the brother's wife, there is only one grounds for prohibition; here, in the case of the wife's sister, there are grounds for prohibition on two counts brother's wife, and wife's sister, hence how could the one be deduced from the other? What might you have said? Since the brother's wife who is also the wife's sister, and whose husband died childless was permitted in regard to one prohibition that of marrying the brother's wife in a levirate marriage, she was also permitted in the case of the other the prohibition of marrying one's wife's sister. So we are informed that that is not the case, by the superfluous language under discussion.

f. I:18: Said R. Aha of Difti to Rabina, "Well, now, since all of the other forbidden consanguineous relationships may be compared to the generative analogy of the wife of the brother, or may also be compared to the generative analogy of the sister of the wife, how come you seize upon the analogy of the sister of the wife. Rather, invoke the analogy of the wife of the brother" and levirate marriage with all of them would thus be permitted.

6. I:19: Raba said, "The prohibition of the levir's marrying a consanguineous relative does not require scriptural proof anyhow, since an affirmative commandment that the levir marry the widow of the deceased childless brother does not override a negative commandment, violation of which is penalized by extirpation. Where there is a requirement of scriptural proof, it concerns it is to prohibit the levir from marrying the co-wife."

a. I:20: Continuation of the foregoing: And what explains the difference between the consanguineous relative, who requires no proof-text for the stated proposition, and the other class of wife? It is because an affirmative commandment that the levir marry the widow of the deceased childless brother does not override a negative commandment, violation of which is penalized by extirpation.

b. I:21: Said Rammi bar Hama to Raba, "Might I not say that the consanguineous relative herself that is, the wife's sister would be permitted to marry the levir in a case in which the religious duty of levirate marriage is not applicable?"

l. I:22: Further analysis of the scriptural proof adduced in the foregoing.

A. I:23: Gloss of a detail in the foregoing.

7. I:24: Fifteen women exempt their co-wives, and the co-wives, from the rite of removing the shoe and from levirate marriage, without limit: said Levi to Rabbi, “How come the Tannaite formulation refers to fifteen, when it should speak of sixteen!”

a. I:25: Expansion of the foregoing.

8. I:26: It has been stated: He who permits the rite of refusal with his deceased childless brother’s wife and then betrothed her — said R. Simeon b. Laqish, “For having sexual relations with her, he is not liable on account of the woman with whom he has performed the rite of refusal to the penalty of extirpation the betrothal being valid, but the other brothers are subject to extirpation for having sexual relations with the woman who has performed the rite of removing the shoe that is, if they should betroth her, the betrothal is invalid. In the case of a co-wife of such a woman who has been exempted from the requirements of either the rite of removing the shoe or levirate marriage because the woman has performed the rite of removing the shoe, both he the levir, with whom the rite of removing the shoe was done and the other brothers are subject to extirpation should they betroth a co-wife and have sexual relations with her.” R. Yohanan said, “Neither he nor the brothers are liable either on account of the woman who has performed the rite of removing the shoe, in regard to extirpation, or on account of the co-wife, in regard to extirpation.”

a. I:27: Secondary expansion of the foregoing.

9. I:28: It has been stated: If the levir had intercourse with the widow of the deceased childless brother, and one of the other brothers had sexual relations with her co-wife that is, another such widow — there is a dispute in this matter between R. Aha and Rabina — One said, “He is subject to the penalty of extirpation.” And the other said, “He has violated an affirmative religious duty.” The precept is to perform one levirate marriage, not more than one, a transgression to which no penalty is attached.

10. I:29: Said R. Judah said Rab, “The co-wife of a woman accused of adultery is forbidden to the levir. How come? ‘Uncleanness’ is written concerning her, just as in the case of the forbidden consanguineous relations Num. 5:13, Lev. 18:24, respectively.”

a. I:30: Secondary expansion of the foregoing.

11. I:31: Said R. Hiyya bar Abba, “R. Yohanan raised this question: ‘He who remarries a woman whom he has divorced after she had married someone else — what is the law as to her co-wife?’”

12. I:32: Said R. Lili bar Mammel said Mar Uqba said Samuel, “The co-wife of a girl who has exercised the rite of refusal is forbidden.”

13. I:33: Said R. Assi, “The co-wife of a barren woman is forbidden to the levir, if one of the widows of the brother who died without issue is barren, the other co-wife also is forbidden. For it is said, ‘And it shall be that the firstborn that she bears’ (Deu. 25: 6) — excluding the case of a barren woman, who is not going to give birth.”

14. I:34: Said Raba, “The decided law is that the co-wife of a barren women is permitted to marry the levir, even though the deceased knew her defect before marriage; and even the co-wife of one’s own daughter who was barren is permitted.” The co-wife of a forbidden relative is forbidden only where the latter would have been subject to the duty of levirate marriage if she had been no relative; in the case of a wife incapable of giving birth, since she is not subject to the levirate marriage even where she is no relative at all, her co-wife even where the wife is a forbidden relative is regarded as the co-wife of one in relation to whom the duty of the levirate marriage simply does not apply.

15. I:35: When Rabin came, he said R. Yohanan said, “All the same are the co-wife of a girl who has exercised the right of refusal, the co-wife of a barren woman, and the co-wife of a divorced woman who was remarried after an intervening marriage to the original husband — all of them are permitted to enter into levirate marriage.”

B. HOW DO THEY EXEMPT THEIR CO-WIVES FROM THE REQUIREMENT OF RITE OF REMOVING THE SHOE AND FROM LEVIRATE MARRIAGE? IF HIS DAUGHTER OR ANY ONE OF ALL THOSE FORBIDDEN DEGREES WAS MARRIED TO HIS BROTHER, AND HE THE BROTHER HAD ANOTHER WIFE, AND HE THE BROTHER DIED WITHOUT CHILDREN, JUST AS HIS DAUGHTER IS EXEMPT FROM LEVIRATE MARRIAGE OR RITE OF REMOVING THE SHOE, SO HER CO-WIFE IS EXEMPT. IF THE CO-WIFE OF THE DAUGHTER WENT AND MARRIED ANOTHER OF HIS BROTHERS “HIS SECOND BROTHER” , AND HE THE OTHER BROTHER HAD ANOTHER CO-WIFE, AND HE THE OTHER BROTHER DIED, JUST AS THE CO-WIFE OF HIS DAUGHTER IS EXEMPT, SO THE CO-WIFE OF HER COWIFE IS EXEMPT, EVEN IF THEY ARE A HUNDRED.

1. II:1: What is the scriptural basis of this rule?

C. HOW DO WE DEFINE A CASE IN WHICH IF THEIR CO-WIVES DIED, THEY ARE PERMITTED? IF HIS DAUGHTER OR ANY ONE OF ALL THOSE FORBIDDEN DEGREES WAS MARRIED TO HIS BROTHER, AND HE THE BROTHER HAD ANOTHER WIFE, AND HIS DAUGHTER DIED OR WAS DIVORCED, AND AFTERWARD HIS BROTHER DIED WITHOUT CHILDREN — HER CO-WIFE NOW NO LONGER A CO-WIFE OF HIS DAUGHTER IS PERMITTED TO ENTER LEVIRATE MARRIAGE WITH HIM.

1. III:1: Is that so even if the deceased brother married the co-wife and then divorced the first wife the forbidden one. In such a case, is the co-wife, though the two were co-wives prior to the divorce, permitted to the levir wherever the forbidden relative was dead or divorce at the time the husband died and the question of the levirate marriage arose? Then an objection may be raised: Three brothers — two of them married to two sisters, and one of them married to an unrelated woman — one of the husbands of the sisters divorced his wife — and the brother married to the unrelated woman died — and the one who divorced his wife married her the unrelated woman, and he too died — this is the sort of case concerning which they have stated, “And in the case of all of them who died or were divorced, their co-wives are permitted for the unrelated woman taken in levirate marriage never was the co-wife of the sister of the wife of the surviving brother. The sister had been divorced before the levirate marriage to the unrelated man ever took place M. **3:7I-L**. So the operative consideration that the co-wife is

permitted is that he divorced and then married. But if he had married and then divorced, that would not be the case. The co-wife would not have been permitted; how then could this be reconciled with our Mishnah-paragraph, from which it has been inferred that even if he married first and then divorced, the rival is permitted?

D. AND ANY YOUNG GIRL WHO CAN EXERCISE THE RIGHT OF REFUSAL AND HAS NOT EXERCISED THE RIGHT OF REFUSAL — HER CO-WIFE PERFORMS THE RITE OF REMOVING THE SHOE AND DOES NOT ENTER INTO LEVIRATE MARRIAGE.

1. IV:1: So let her exercise the right of refusal now, and allow her co-wife to marry the levir! If the marriage were annulled, the co-wife would not be the co-wife of a forbidden relative any longer. May we then say that this supports the position of R. Oshaia? For said R. Oshaia, “The minor girl may exercise the right of refusal against the statement of the levir that he plans to enter into levirate marriage, but she may not exercise the right of refusal so as to sever the levirate bond itself.” She has no power to annul the original marriage in order to exempt herself from the rite of removing the shoe; here too the declaration of the minor has no force to annul the original marriage and so to enable the co-wife to marry the levir.

II. Mishnah-Tractate Yebamot 1:3-4

A. SIX FORBIDDEN DEGREES ARE SUBJECT TO A MORE STRICT RULE THAN THESE, FOR THEY ARE VALIDLY MARRIED ONLY TO OUTSIDERS, NOT TO ONE’S PATERNAL BROTHER, AND SO THEIR CO-WIVES ARE PERMITTED: (1) HIS MOTHER, AND (2) THE WIFE OF HIS FATHER, AND (3) THE SISTER OF HIS FATHER, AND (4) HIS SISTER FROM THE SAME FATHER, AND (5) THE WIFE OF HIS FATHER’S BROTHER, AND (6) THE WIFE OF HIS BROTHER FROM THE SAME FATHER.

THE HOUSE OF SHAMMAI DECLARE THE CO-WIVES PERMITTED TO ENTER INTO LEVIRATE MARRIAGE WITH THE OTHER BROTHERS. AND THE HOUSE OF HILLEL DECLARE THEM PROHIBITED.

1. I:1: The House of Shammai declare the co-wives permitted to enter into levirate marriage with the brothers: said R. Simeon b. Pazzi, “What is the scriptural basis for the position of the House of Shammai permitted the co-wives to marry the other brothers? Since it is said, ‘The outside unrelated wife of the deceased shall not be married to one not of his kin’ (Deu. 25: 5) — ‘outside’ means there is one who is ‘internal’ related to the levir. Now the All-Merciful has said, ‘She shall not marry one who is not of his kin’ but only one of the deceased’s other brothers, so Deu. 25: 5.”

2. I:2: Raba said, “The operative consideration behind the position of the House of Shammai is that a prohibition cannot take effect where another prohibition is already in effect.”

B. IF THEY HAVE PERFORMED THE RITE OF REMOVING THE SHOE, THE HOUSE OF SHAMMAI DECLARE THEM INVALID FOR MARRIAGE WITH THE PRIESTHOOD. AND THE HOUSE OF HILLEL DECLARE THEM VALID.

1. II:1: So what else is new!

C. IF THEY HAVE ENTERED INTO LEVIRATE MARRIAGE, THE HOUSE OF SHAMMAI DECLARE THEM VALID FOR MARRIAGE WITH THE PRIESTHOOD. AND THE HOUSE OF HILLEL DECLARE THEM INVALID.

1. III:1: Once again, what need do I have for making this position explicit?

D. EVEN THOUGH THESE DECLARE PROHIBITED AND THOSE PERMIT, THESE DECLARE INVALID AND THOSE DECLARE VALID, THE HOUSE OF SHAMMAI DID NOT REFRAIN FROM TAKING WIVES FROM THE WOMEN OF THE HOUSE OF HILLEL, NOR DID THE HOUSE OF HILLEL REFRAIN FROM TAKING WIVES FROM THE WOMEN OF THE HOUSE OF SHAMMAI. AND DESPITE ALL THOSE DECISIONS REGARDING MATTERS OF CLEANNES OR UNCLEANNES IN WHICH THESE DID DECLARE CLEAN AND THOSE UNCLEAN, THEY DID NOT REFRAIN FROM PREPARING THINGS REQUIRING PREPARATION IN A STATE OF CLEANNES IN DEPENDENCE ON ONE ANOTHER.

1. IV:1: There we have learned in the Mishnah: The Scroll of Esther is read on the eleventh, twelfth, thirteenth, fourteenth, or fifteenth of Adar, no earlier, no later (M. Meg. 1:1A-B). Said R. Simeon b. Laqish to R. Yohanan, “In this connection, recite the verse, ‘You shall not break up into separate sects’ (Deu. 14: 1) — you shall indulge in sectarianism.”

a. IV:2: Expansion of the foregoing.

I. IV:3: Illustrative story.

II. IV:4: As above.

A. IV:5: Gloss of the foregoing.

B. IV:6: Amplification of a detail of IV:4.

2. IV:7: Did the Houses actually act in accord with their divergent views?

3. IV:8: Same issue as above, different case.

4. IV:9: Same issue as above, different case.

5. IV:10: Same issue as above, different case.

6. IV:11: Same issue as above, different case.

7. IV:12: Same issue as above, different case.

8. IV:13: Same issue as above, different case.

9. IV:14: Same issue as above, different case.

10. IV:15: Same issue as above, different case.

11. IV:16: Same issue as above, different case.

a. IV:17: Gloss of IV:15.

b. IV:18: Continuation of the foregoing.

I. IV:19: Gloss of a passage cited at IV.17.

II. IV:20: Continuation of the foregoing.

III. IV:21: As above.

IV. IV:22: As above.

- A. IV:23: Topical appendix.
- B. IV:24: Topical appendix.
- C. IV:25: Topical appendix.
- D. IV:26: Topical appendix extended.
- E. IV:27: Topical appendix extended.
- F. IV:28: Topical appendix extended.
- G. IV:29: Topical appendix extended.

III. Mishnah-Tractate Yebamot 2:1

A. HOW IS IT SO THAT THE WIFE OF HIS BROTHER WHO WAS NOT A CONTEMPORARY EXEMPTS HER CO-WIFE FROM THE REQUIREMENT OF LEVIRATE MARRIAGE OR RITE OF REMOVING THE SHOE? TWO BROTHERS — AND ONE OF THEM DIED, AND A FURTHER BROTHER WAS BORN TO THEM, AND AFTERWARD THE SECOND BROTHER ENTERED INTO LEVIRATE MARRIAGE WITH THE WIFE OF HIS DECEASED CHILDLESS FIRST BROTHER, AND THEN HE THE SECOND BROTHER TOOK DIED — THE FIRST WIFE, WHO ALREADY HAD ONE TIME ENTERED INTO LEVIRATE MARRIAGE TO THE THIRD, SURVIVING BROTHER DOES NOT ENTER INTO LEVIRATE MARRIAGE WITH THE NEW-BORN BROTHER BUT RATHER GOES FORTH ON THE COUNT OF BEING THE WIFE OF HIS BROTHER WHO WAS NOT A CONTEMPORARY. AND THE SECOND WIFE, THE ONE MARRIED TO THE SECOND BROTHER GOES FORTH WITHOUT LEVIRATE MARRIAGE TO THE THIRD, SURVIVING BROTHER OR RITE OF REMOVING THE SHOE ON THE COUNT OF BEING HER THE FIRST BROTHER'S WIFE'S CO-WIFE. IF HE THE SECOND BROTHER HAD BESPOKEN HER, AND THEN HE THE SECOND BROTHER DIED, THE SECOND EXECUTES THE RITE OF REMOVING THE SHOE BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE.

1. I:1: Said R. Nahman, "One who repeats as the version of the Mishnah first (the widow of the first deceased brother) does not err, and one who repeats as the version of the Mishnah second also does not err.

2. I:2: Now where in Scripture is it written that the wife of the brother who was not his contemporary may not marry the levir?

3. I:3: Rabbah said, "That for the purposes of the law brothers are only those who descend from the same father derives by comparison of the use of the word 'brother' here with the use of the word 'brother' in reference to the sons of Jacob. Just as there, the fact that they are brothers is based on their descent from the same father, but not from the same mother, so here too brotherhood derives from the father, not the mother."

a. I:4: Gloss of the proof-text of the foregoing.

4. I:5: Said R. Huna said Rab, "A woman awaiting levirate marriage who died — her levir is permitted to marry her mother." Therefore he takes the view that there is no levirate relationship whatever until the actual marriage has taken place. Had such a bond existed, her mother would have been forbidden to the levir as his mother-in-law. But R. Judah said, "A woman awaiting levirate marriage who died

— her levir is prohibited to marry her mother.” Therefore he takes the view that there is a levirate relationship whatever until the actual marriage has taken place. Had such a bond existed, her mother would have been forbidden to the levir as his mother-in-law.

- a. I:6: Expansion of the foregoing dispute to the position of another authority.

IV. Mishnah-Tractate Yebamot 2:2

A. TWO BROTHERS — AND ONE OF THEM DIED, AND THE SECOND ENTERED INTO LEVIRATE MARRIAGE WITH THE WIFE OF HIS BROTHER, AND AFTERWARD A BROTHER WAS BORN TO THEM, AND HE THE SECOND BROTHER, WHO ENTERED INTO LEVIRATE MARRIAGE WITH THE WIDOW OF THE DECEASED FIRST BROTHER DIED — THE FIRST BROTHER’S WIFE GOES FORTH ON THE COUNT OF BEING THE WIFE OF HIS BROTHER WHO WAS NOT A CONTEMPORARY, AND THE SECOND ON THE COUNT OF BEING HER CO-WIFE. IF HE THE SECOND BROTHER HAD BESPOKEN HER AND THEN DIED, THE SECOND EXECUTES THE RITE OF REMOVING THE SHOE BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE. R. SIMEON SAYS, “HE ENTERS INTO LEVIRATE MARRIAGE WITH WHICHEVER ONE OF THEM HE CHOOSES, OR HE EXECUTES THE RITE OF REMOVING THE SHOE WITH WHICHEVER ONE OF THEM HE CHOOSES.”

1. I:1: Said R. Oshaia, “R. Simeon differed also as to the first paragraph Two brothers — and one of them died, and a further brother was born to them, and afterward the second brother entered into levirate marriage with the wife of his deceased childless first brother, and then he the second brother too died.... How so? Since the Tannaite formulation involves a redundant formulation. For in accord with whose position is it necessary to set forth the first of the two paragraphs? If we should suppose it is in accord with the contrary view of rabbis, if in the case of a levirate marriage that took place first, and the birth took place afterward, so on the date of his birth the third brother found the widow of the first brother permitted, rabbis still forbade her from marrying the third brother, is there any need for rabbis to give their opinion in a case in which the birth of the third brother took place first and the marriage only afterward when the third brother’s birth was during the time that she was forbidden to him as the wife of his brother who was not a contemporary? So it must be necessary to give the rule only in response to the position of R. Simeon. And the first paragraph is set forth to show you how far R. Simeon in permitting marriage with the third brother, even where the birth was prior to the widow’s marriage is willing to go; and the second paragraph is set forth to show you how far rabbis forbidding the marriage even when the birth followed the marriage are willing to go. True, it would have stood to reason for R. Simeon to dissent in the first case, but he held up his opinion so rabbis could conclude their statement, and then he set forth his dissent with their entire position.”

2. I:2: R Pappa said, “R. Simeon differs from the sages before us only in a case in which the levirate marriage has taken place, and then the birth of the third brother. But if the third brother was born first, and then the levirate marriage took place, he

does not disagree; and both of these cases, that is, marriage prior to the birth of the third brother, as in the passage at hand, birth prior to marriage, as in the prior instance are required fully to set forth the position of rabbis who exempt in both cases. First we have the weaker case, then the stronger one.”

a. I:3: Tannaite recapitulation.

I. I:4: Gloss of a detail of the foregoing.

II. I:5: As above: citation and gloss of a Tosefta-passage cited at I:3.

III. I:6: Continuation of the foregoing.

IV. I:7: Further analysis of the same Tosefta-passage.

V. Mishnah-Tractate Yebamot 2:3-4

A. A GENERAL RULE DID THEY LAY DOWN IN REGARD TO THE LEVIRATE WOMAN WIDOW OF A DECEASED CHILDLESS BROTHER:

(1) ANY SISTER-IN-LAW WHO IS PROHIBITED AS ONE OF THE FORBIDDEN REMOVES OF LEVITICUS CHAPTER EIGHTEEN NEITHER EXECUTES THE RITE OF REMOVING THE SHOE NOR IS TAKEN IN LEVIRATE MARRIAGE. (2) IF SHE IS PROHIBITED TO HER BROTHER-IN-LAW BY REASON OF A PROHIBITION ON ACCOUNT OF A COMMANDMENT OR A PROHIBITION ON ACCOUNT OF SANCTITY E.G., THE LEVIR MAY NOT MARRY A WOMAN OF HER CASTE, SHE EXECUTES THE RITE OF REMOVING THE SHOE BUT IS NOT TAKEN IN LEVIRATE MARRIAGE.

1. I:1: A general rule: to include what further cases?

B. (3) IF HER SISTER IS ALSO HER SISTER-IN-LAW WIDOW OF HER CHILDLESS BROTHER-IN-LAW, SHE EITHER EXECUTES THE RITE OF REMOVING THE SHOE OR IS TAKEN INTO LEVIRATE MARRIAGE.

1. II:1: Whose sister? If we say it is the sister of the woman who is forbidden on account of a commandment, then, since it is on the strength of the rule of the Torah that the woman forbidden by scribes is obligated to the levir, if he marries the sister, he would enter into a marital web with the sister of her who is tied to him by the levirate bond.”

C. A PROHIBITION ON ACCOUNT OF A COMMANDMENT IS A SECONDARY GRADE OF FORBIDDEN REMOVES ON ACCOUNT OF THE RULINGS OF SCRIBES.

1. III:1: Why is this classification called a prohibition on account of a commandment?

D. A PROHIBITION ON ACCOUNT OF SANCTITY OF THE LEVIR...:

1. IV:1: Why is this classification called a prohibition on account of sanctity?

2. IV:2: It has been taught on Tannaite authority: R. Judah reverses these definitions. T. **Yeb. 2:4J**: R. Judah says, “A widow wed to a high priest, or a divorcee or a woman who has undergone the rite of removing the shoe wed to an ordinary priest, fall into the category of those prohibited on account of a commandment.”

E. ...IS FOR INSTANCE, THE CASE OF (1) A WIDOW MARRIED TO A HIGH PRIEST (LEV. 21:14), (2) A DIVORCÉE, OR (3) A WOMAN WHO HAS EXECUTED THE RITE OF REMOVING THE SHOE TO AN ORDINARY PRIEST (LEV. 21: 7), (4) A MAMZERET DAUGHTER OF PARENTS NEVER LEGALLY PERMITTED TO MARRY, (5) A OF THE CAST OF TEMPLE SERVANTS TO AN ISRAELITE, A DAUGHTER OF AN ISRAELITE (6) TO A NETIN MALE OF THE CASTE OF TEMPLE SERVANTS, OR (7) TO A MAMZER.

1. V:1: Is it then taken as established fact in the Tannaite formulation that there is no distinction to be drawn between a widow at the stage of betrothal and a widow at the stage of a fully consummated union? Now there is no problem in understanding the rule governing the widow at the stage of the fully consummated union, since it is both a positive and a negative religious duty that is involved, Lev. 21:13, the high priest is to marry a virgin, and Lev. 21:14, he is not to marry a widow; and a positive religious duty cannot override both a negative and a positive one. But in the case of a widow at the stage of betrothal, there is only a negative religious duty involved, Lev 21:14, forbidding a widow but no positive religious duty since she is still a virgin.

2. V:2: It has been stated: Sexual relations between a high priest and a widow — R. Yohanan and R. Eleazar — one said, “It does not exempt her co-wife from the levirate connection.” And the other said, “It does exempt her co-wife from the levirate connection.”

3. V:3: Said Raba, “Where in the Torah do we find an indication that one may not marry relations in the second remove? As it is said, ‘For all these abominations have the men of the land done’ (Lev. 18:27). The expression ‘these’ refers to weighty abominations, yielding the inference that there are lighter ones as well. And what can these be? Incest with second remove relations. And on what basis is it inferred that the expression ‘these’ refers to weighty abominations? As it is written, ‘And the mighty of the land he took away’ (Eze. 17:13).”

4. V:4: Our rabbis have taught on Tannaite authority: What are the forbidden consanguineous relations in the second remove? The mother of his mother and the mother of his father, the wife of his father’s father and the wife of his father’s mother, the wife of his father’s brother on the father’s mother’s side, and the wife of his mother’s paternal brother, the daughter-in-law of his son and the daughter-in-law of his daughter. And a man is permitted to marry the wife of his father-in-law and the wife of his step-son, but he is forbidden to marry the daughter of his step-son. His step-son is permitted to marry the step-father’s wife and daughter. The wife of his step-son may say to him, “I am permitted to you, but my daughter is forbidden to you.”

5. V:5: Said Rab, “Four classes of women forbidden in the second day are subject to a limitation in that they are forbidden, but their descendants or ancestors are not forbidden, while in the case of all other relatives in the second degree of consanguinity, the prohibition goes up and down through all generations.”

6. V:6: The question was raised: “As to the wife of the mother’s maternal brother, what is the law? Was the prohibition as a precautionary measure only the wife of the father’s maternal brother and the wife of a mother’s paternal brother, since in these cases there is an aspect of a paternal relationship, but in cases in which there

is no aspect of a paternal relationship at all, , there was no precautionary decree? Or perhaps it makes no difference?”

7. V:7: R. Mesharshayya of Tusanayya sent word to R. Pappi: “May our lord instruct us: the wife of the father’s father’s paternal brother and a father’s father’s sister — what is the law? Since relations blow that remove are in an incestuous relationship, has a precautionary measure been made in regard to those that are at a remove above a generation higher, or perhaps that is not the case, since the relationship stands in a further remove?”

a. V:8: Concrete case.

8. V:9: The Tannaite formulation of the household of R. Hiyya: The third generation of his son the son’s son’s daughter and of his daughter and of his wife’s son and of his wife’s daughter are in the second remove the prior generations being specified explicitly in the Torah; the fourth generation through his father-in-law for his father-in-law’s mother’s mother, who is the fourth generation from his wife, for the father-in-law’s mother comes under the prohibition of actual incest or his mother-in-law is forbidden as incest in the second remove.

a. V:10: Gloss: Said Rabina to R. Ashi, “What differentiates the ascending life, in which the wife is included, from the descending line the son’s son’s daughter is the third generation, not of the fourth, as would have been the case had his wife, his son’s mother, been included, in which she is not counted?”

b. V:11: As above.

9. V:12: Said Raba to R. Nahman, “Has the master seen one of the rabbis who has come from the West, and who has said, ‘They asked in the West: did they make a precautionary degree covering relations in the second remove in the case of converts, or have they not made a decree covering relations in the second remove in the case of converts?’”

10. V:13: Said R. Nahman, “As to proselytes, since the subject has come up, let’s talk about it: maternal brothers may not give evidence; if they have done so, their evidence is valid; paternal brothers may give evidence without restriction. Among proselytes, there is no conception of brotherhood, since there is no valid paternity, so brothers of proselytes are not regarded as related to them and may give evidence.”

VI. Mishnah-Tractate Yebamot 2:5

A. HE WHO HAS A BROTHER OF ANY SORT — THAT BROTHER IMPOSES UPON THE WIFE OF HIS DECEASED, CHILDLESS BROTHER THE OBLIGATION OF LEVIRATE MARRIAGE.

1. I:1: of any sort: to include what classification?

B. AND HE IS HIS BROTHER IN EVERY REGARD —

1. II:1: To what practical legal purpose is this statement made?

C. EXCEPT FOR HIM WHO HAS A BROTHER FROM A FEMALE SLAVE OR FROM A GENTILE.

1. III:1: How come?

D. HE WHO HAS A SON OF ANY SORT — HE THE SON EXEMPTS THE WIFE OF HIS FATHER FROM THE OBLIGATION OF LEVIRATE MARRIAGE.

1. IV:1: Said R. Judah, “To include a mamzer.”

E. AND HE THE SON IS LIABLE FOR HITTING HIM THE FATHER OR FOR CURSING HIM. AND HE IS HIS SON IN EVERY REGARD — EXCEPT FOR HIM WHO HAS A SON FROM A FEMALE SLAVE OR FROM A GENTILE.

1. V:1: Why should this be the case? Scripture says, “Nor curse a rule of your people” (Exo. 22:27). meaning, only when he acts in accord with the practice of your people.

2. V:2: Our rabbis have taught on Tannaite authority: He who has sexual relations with his sister, who is also the daughter of his father’s wife, is guilty on the count of her being his sister and also on the count of her being the daughter of his father’s wife. R. Yosé b. R. Judah says, “He is liable only on the count of having sexual relations with his sister alone, and not because she is the daughter of his father’s wife.”

a. V:3: Gloss of the foregoing: What is the scriptural basis for the position of rabbis?

VII. Mishnah-Tractate Yebamot 2:6

A. HE WHO BETROTHED ONE OF TWO SISTERS AND DOES NOT KNOW WHICH OF THEM HE BETROTHED GIVES A WRIT OF DIVORCE TO THIS ONE AND A WRIT OF DIVORCE TO THAT ONE. IF HE DIED, AND HE HAD ONE BROTHER, HE THE BROTHER EFFECTS A RITE OF REMOVING THE SHOE WITH BOTH OF THEM. IF HE WHO DIED CHILDLESS HAD TWO BROTHERS, ONE OF THEM EFFECTS A RITE OF REMOVING THE SHOE AND ONE OF THEM ENTERS INTO LEVIRATE MARRIAGE. IF THEY WENT AHEAD AND MARRIED THE TWO WOMEN, THEY THE COURT DO NOT REMOVE THE WOMEN FROM THEIR POSSESSION.

1. I:1: Does this then imply that an act of betrothal that cannot lead to sexual intercourse for here, we do not know which of the sisters was betrothed is regarded as a valid act of betrothal since a writ of divorce is required for each?

2. I:2: So what does the framer of the passage tell us since it is obvious that both women require a writ of divorce!

B. TWO UNRELATED MEN WHO BETROTHED TWO SISTERS — THIS ONE DOES NOT KNOW WHICH OF THEM HE BETROTHED, AND THAT ONE DOES NOT KNOW WHICH OF THEM HE BETROTHED — THIS ONE GIVES TWO WRITS OF DIVORCE, AND THAT ONE GIVES TWO WRITS OF DIVORCE. IF THEY DIED, IF THIS ONE HAS A BROTHER AND THAT ONE HAS A BROTHER, THIS ONE EFFECTS THE RITE OF REMOVING THE SHOE WITH BOTH OF THEM, AND THAT ONE EFFECTS THE RITE OF REMOVING THE SHOE WITH BOTH OF THEM. IF THIS ONE HAD ONE BROTHER AND THAT ONE HAD TWO, THE ONE THE SOLE BROTHER OF ONE OF THE DECEASED EFFECTS A RITE OF REMOVING THE SHOE WITH BOTH OF THEM. AND AS TO THE TWO BROTHERS OF THE OTHER DECEASED — ONE EFFECTS A RITE OF RITE OF REMOVING THE SHOE

WITH ONE OF THEM, AND THEN ONE ENTERS INTO LEVIRATE MARRIAGE WITH ONE OF THEM. IF THEY WENT AHEAD AND MARRIED THE TWO WIDOWS OUT OF BETROTHAL, THEY DO NOT REMOVE THEM FROM THEIR POSSESSION.

1. II:1: Does this then imply that an act of betrothal that cannot lead to sexual intercourse is regarded as a valid act of betrothal since a writ of divorce is required for each?

2. II:2: So what does the framer of the passage tell us since it is obvious that both women require a writ of divorce!

C. IF THIS ONE HAD TWO AND THAT ONE HAD TWO BROTHERS, A BROTHER OF THIS ONE EFFECTS A RITE OF REMOVING THE SHOE WITH ONE OF THEM, AND A BROTHER OF THAT ONE EFFECTS A RITE OF REMOVING THE SHOE WITH ONE OF THEM, A BROTHER OF THIS ONE ENTERS INTO LEVIRATE MARRIAGE WITH THE WOMAN WITH WHOM THE OTHER PARTY'S BROTHER HAD EFFECTED A RITE OF REMOVING THE SHOE, AND A BROTHER OF THAT ONE ENTERS INTO LEVIRATE MARRIAGE WITH THE WOMAN WITH WHOM THE OTHER PARTY'S BROTHER HAS EFFECTED A RITE OF REMOVING THE SHOE. IF THE TWO WENT AHEAD AND PERFORMED A RITE OF REMOVING THE SHOE, THEN THE OTHER TWO SHOULD NOT ENTER INTO LEVIRATE MARRIAGE. BUT ONE OF THEM PERFORMS THE RITE OF REMOVING THE SHOE AND ONE OF THEM ENTERS INTO LEVIRATE MARRIAGE.

1. III:1: Why do I need more cases to make the same point? This is the same thing as before.

D. IF THEY WENT AHEAD AND MARRIED THEM, THEY DO NOT REMOVE THEM FROM THEIR POSSESSION.

1. IV:1: Shila repeated as a Tannaite statement: "And that is the case, even if both of them were priests. How come? A woman who has undergone the rite of removing the shoe is forbidden to a priest only by a decree of rabbis, and concerning a woman who may or may not be in that status rabbis made no such decree."

VIII. Mishnah-Tractate Yebamot 2:8A-B

A. IT IS A RELIGIOUS DUTY FOR THE OLDEST SURVIVING BROTHER TO ENTER INTO LEVIRATE MARRIAGE WITH THE DECEASED, CHILDLESS BROTHER'S WIDOW. BUT IF THE YOUNGEST WENT AHEAD AND MARRIED HER, HE HAS ACQUIRED THE SISTER-IN-LAW.

1. I:1: Our rabbis have taught on Tannaite authority: "And it shall be that the first born" (Deu. 25: 6) — on this basis, we know that it is a religious duty for the oldest surviving brother to enter into levirate marriage with the deceased, childless brother's widow. "...that she bears:" This excludes from the obligation of levirate marriage a surviving widow who is barren and unable to produce an heir. "The first son that she bears shall be accounted to the dead brother, that his name may not be blotted out in Israel." That is in respect to inheritance. You say that it is in respect to inheritance. But perhaps it has to do only with his name, e.g., if the deceased's name was Yosé, the son's name is to be Yosé, if it was Yohanan, the son's name will be Yohanan? (Sifré to Deu. CCLXXXIX:II.1, 3).

a. I:2: Gloss of the foregoing.

b. I:3: As above. Now that you have said that Scripture addresses the eldest brother in particular, might I then suppose that if it is the firstborn, he enters into levirate marriage, but an ordinary brother would not enter into levirate marriage?

IX. Mishnah-Tractate Yebamot 2:8C-H

A. HE WHO IS SUSPECTED OF HAVING INTERCOURSE WITH A SLAVE WOMAN, WHO IS SUBSEQUENTLY SET FREE, OR WITH A GENTILE WOMAN, WHO SUBSEQUENTLY CONVERTS, LO, THIS ONE SHOULD NOT MARRY HER. BUT IF HE MARRIED HER, THEY DO NOT REMOVE HER FROM HIS POSSESSION.

1. I:1: or with a gentile woman, who subsequently converts: lo, she is still deemed a proselyte. But the following contradiction is to be raised: “All the same are the man who converted for the sake of a woman and a woman who converted for the sake of a man, so too, a man who converted for the sake of getting a job with the government or for the sake of becoming one of the slaves of Solomon, they are not regarded as valid converts,” the words of R. Nehemiah. For R. Nehemiah maintained, “Those who convert because of lions the Samaritans, those who converted by reason of what they saw in a dream, those who converted on account of the victory of Mordecai and Esther (Est. 8: 1) — they are not regarded as valid converts. They are valid proselytes only if they are converted under the presently-prevailing conditions of repression.”

2. I:2: Our rabbis have taught on Tannaite authority: Converts will not be accepted in the days of the Messiah, just as they did not accept proselytes either in the time of David or in the time of Solomon. Said R. Eleazar, “What verse of Scripture supports that claim? ‘Behold, he shall be a convert who is converted for my own sake; he who lives with you shall be settled among you’ (Isa. 54:14) — only he who lives with you in your misery will be settled among you, and no other.”

B. HE WHO IS SUSPECTED OF HAVING INTERCOURSE WITH A MARRIED WOMAN, AND THEY THE COURT DISSOLVED THE MARRIAGE WITH HER HUSBAND, EVEN THOUGH HE THE SUSPECT MARRIED THE WOMAN, HE MUST PUT HER OUT.

1. II:1: Said Rab, “But this must be proved by witnesses.”

a. II:2: Gloss of a detail of the foregoing.

2. II:3: There was have learned: He who puts his wife away because she has a bad name should not take her back. If he did so because of a vow which she had made, he should not take her back. R. Judah says, “If it was on account of any sort of vow which is publicly known, he should not take her back. But if it was on account of a vow which is not publicly known, he may take her back.” R. Meir says, “If it is on account of any sort of vow which requires the investigation of a sage for its absolution, he should not take her back. If it is any sort of vow which does not require the investigation of a sage, he may take her back” (M. [Git. 4: 7](#)). Sent Rabbah bar R. Huna to Rabbah bar R. Nahman, “May our lord instruct us: If he did remarry her, what is the law as to his having to divorce her?” He said to him, “It is taught as the Tannaite rule: He who is suspected of having intercourse

with a married woman, and they the court dissolved the marriage with her husband, even though he the suspect married the woman, he must put her out.”

X. Mishnah-Tractate Yebamot 2:9

A. HE WHO DELIVERS A WRIT OF DIVORCE FROM OVERSEAS AND STATED, “IN MY PRESENCE WAS IT WRITTEN AND IN MY PRESENCE WAS IT SEALED” AND WHO THEREBY VALIDATES THE WRIT MAY NOT THEN MARRY HIS THE MAN’S WIFE TO WHOM HE BROUGHT THE WRIT OF DIVORCE.

1. I:1: So the operative consideration is that he brought the writ from overseas, in which case we entirely have to rely on him; but if he had brought it from someplace in the Land of Israel, in which case we do not depend wholly upon what he says, would he have been permitted to marry the wife that has now been divorced? But lo, if what he said was that he had died, in which instance, we do not entirely depend on him, for a master has said, “A woman takes a good look at her situation before she remarries,” it has been taught, may not then marry his the man’s wife!

B. IF HE TESTIFIED, “HE THE HUSBAND HAS DIED,” “I KILLED HIM,” “WE KILLED HIM,” HE MAY NOT THEN MARRY HIS THE DECEASED’S WIFE. R. JUDAH SAYS, “IF HE STATED, ‘I HAVE KILLED HIM,’ THEN HIS WIFE MAY NOT REMARRY. BUT IF HE STATED, ‘THEY HAVE KILLED HIM,’ THEN HIS WIFE MAY REMARRY.”

1. II:1: Lo, it is to him that his wife may not be married, but to a third party, she may be remarried. And yet, has not R. Joseph stated, “If someone testified, ‘Mr. So-and-so had sexual relations with Mr. Such-and-such against the latter’s will, the victim and another party may join together to give testimony to have the criminal put to death. If he testified that it was with the assent of the victim, then the victim is wicked, and the Torah has said, ‘Do not put your hand with the wicked to be an unrighteous witness’ (Exo. 23: 1)”? And should you say that evidence concerning a marriage is exceptional, because the rabbis have ruled leniently in that matter a single witness being sufficient here, has not R. Manasseh said, “A person classified by the criteria of rabbis as a robber may be testimony in matters having to do with a marriage, while one classified by the criteria of the Torah as a robber may not give testimony in a matter having to do with a marriage” which proves that even in matrimonial matters a murderer is not eligible as a witness? Shall we then have to say that R. Manasseh conforms to the view of R. Judah? Would Manasseh ignore the majority, which is anonymous, in favor of the minority, Judah?

C. ...”I KILLED HIM,” “WE KILLED HIM,”

1. III:1: What difference is there between the formulation, “I killed him,” and “we killed him for one way or the other it is a confession of murder?

XI. Mishnah-Tractate Yebamot 2:10-D

A. A SAGE WHO FORBADE A WOMAN TO HER HUSBAND BY REASON OF HER VOW, LO, THIS SAGE MAY NOT MARRY HER.

1. I:1: Lo, if the sage had pronounced the woman relieved of her vow, may he then marry her should she be divorced later on? Then under what circumstances is this case to be interpreted? If we say that he acted as a singleton, then can a single judge release a vow? And did not R. Hiyya bar Abin said R. Amram said, “It is taught as the Tannaite formulation: the release of vows is to be done by three sages”? But if it were three judges who did it, then would a court of three be subject to this kind of suspicion? And do we not learn in the Mishnah: If she exercised the right of refusal or performed the rite of removing the shoe in his presence, he may marry her, because in these latter instances, he is serving as a member of a court?

B. IF SHE EXERCISED THE RIGHT OF REFUSAL OR PERFORMED THE RITE OF REMOVING THE SHOE IN HIS PRESENCE, HE MAY MARRY HER, BECAUSE IN THESE LATTER INSTANCES, HE IS SERVING AS A MEMBER OF A COURT.

AND IN THE CASE OF ALL OF THEM WHO HAD WIVES (AND) THE WIVES OF WHOM THEREAFTER DIED — THE OTHER WOMEN MAY BE MARRIED TO THEM WHO SECURED THE RIGHT TO REMARRY.

1. II:1: The operative consideration then is that it was a court of three, but if he had been part of a group of two persons, he would not then have been permitted. Then how does this differ from that which has been taught on Tannaite authority: witnesses who have signed on a document pertaining to the sale of a field or a writ of divorce — rabbis do not take precautions in such a case in respect to collusion?

2. II:2: The question was raised: “If he married her, what is the law as to his having to divorce her?”

XII. Mishnah-Tractate Yebamot 2:10E-F

A. AND IN THE CASE OF ALL OF THEM WHO WERE MARRIED TO OTHER MEN AND WERE DIVORCED OR WIDOWED, THEY THEN ARE PERMITTED TO BE MARRIED TO THEM:

1. I:1: Only if they died it is the rule that they then are permitted to be married to them, but if they were divorced, they are not.

2. I:2: And in the case of all of them who were married to other men and were divorced or widowed, they then are permitted to be married to them: Assuming that the reference to the death of the second husbands, with whom marriage has taken place, is to the case of death, and divorce to the case of divorce, where a letter of divorce was brought by a messenger, may we then say that the Mishnah-paragraph does not accord with the position of Rabbi, for from the viewpoint of Rabbi, there could not have been a third marriage, for he has said, “If something happens twice, it constitutes presumptive evidence so she should not marry again.”

B. AND ALL OF THEM ARE PERMITTED TO MARRY THEIR SONS OR THEIR BROTHERS OF THE AFOREMENTIONED MESSENGERS, WITNESSES, OR SAGES.

1. II:1: How is this different from the case concerning which it has been taught on Tannaite authority: He who is suspect of having intercourse with a woman may not marry her mother, daughter, or sister (T. [Yeb. 4:5K](#))?

XIII. Mishnah-Tractate Yebamot 3:1-3

A. FOUR BROTHERS — TWO OF THEM MARRIED TO TWO SISTERS — AND THOSE WHO ARE MARRIED TO THE SISTERS DIED — LO, THESE SURVIVING, CHILDLESS WIDOWS PERFORM A RITE OF REMOVING THE SHOE AND DO NOT ENTER INTO LEVIRATE MARRIAGE WITH THE OTHER TWO BROTHERS.

AND IF THEY THE OTHER TWO BROTHERS WENT AHEAD AND MARRIED THE TWO SISTERS, THEY MUST PUT THEM AWAY. R. ELIEZER SAYS, “THE HOUSE OF SHAMMAI SAY, ‘THEY MAY REMAIN WED.’ AND THE HOUSE OF HILLEL SAY, ‘THEY MUST PUT THEM AWAY.’”

1. I:1: Four brothers — two of them married to two sisters — and those who are married to the sisters died — lo, these surviving, childless widows perform a rite of removing the shoe and do not enter into levirate marriage with the other two brothers: That rule bears the implication that there is a levirate connection at all, for if there were no levirate relationship, since the two widows come from two different houses widows of different husbands, neither standing in any marital relationship with a surviving brother, let one brother enter into levirate marriage with one, and the other with the other so a levirate bond does exist.

2. I:2: Rabbah bar R. Huna said Rab said, “Three sisters who are widows of deceased childless husbands who fell to the lot of two brothers who are their levirs — this one performs the rite of removing the shoe with one of them, and that one performs the rite of removing the shoe with one of them, and the omitted one in the middle performs the rite of removing the shoe with them both.”

a. I:3: Gloss of a detail subordinated in the foregoing.

I. I:4: Gloss of the gloss.

3. I:5: The question was raised: **27B** As between two widows of the same husband, with a single surviving brother-in-law, one of whom has received a writ of divorce from the surviving brother, and the other of whom has been subjected to a bespeaking by him, which is to take precedence in the rite of removing the shoe, if that rite is to exempt the co-wife?” Neither of the widows may enter into levirate marriage, the one because of the divorce, the other as the co-wife of the former; but which one should perform the rite of removing the shoe and exempt the other? Is the one who has the writ of divorce the preferable choice for the rite of removing the shoe, or perhaps it is the one to which the act of bespeaking has been addressed is preferable, because she is nearer to him in regard to sexual relations?

4. I:6: Said R. Huna said Rab, “If there were two sisters who were widows of a deceased childless brother who fell to a single surviving brother-in-law, if the levir performed the rite of removing the shoe with the first of the two brothers, the other has been freed of the connection; if he performed the rite of removal with the second, the first is permitted. If the first widow died the one who was subject to the levirate connection prior to the other, before she performed the rite of removing the shoe with the levir, the levir may marry the second, since death has severed his levirate bond with the first, and the surviving widow is no longer the

sister of a woman subject to the levirate bond with him, and, it goes without saying, if the second died the widow of the brother who died after the first, and who became subject to the levirate connection after the first widow did, the first is permitted, since, as a levirate widow who was permitted to the levir, when she became a widow, there being no other levirate connection at that moment then forbidden when the sister's husband died, and then permitted again when her sister died, she reverts to her initial status of being permitted." R. Yohanan said, "If the second the widow of the brother who died second in line, who became subject to levirate marriage after the first did die, the levir may marry the first because when she became subject to the levirate connection, she was permitted to him, but if the first died, he may not marry the second. How come? The reason is that any levirate widow to whom the law, 'her husband's brother shall go into her' (Deu. 25: 5) does not apply when she enters the obligation of the levirate connection as in this case, where she was forbidden to the levir as sister of a woman who was subject to a levirate bond to him, at the time she became obligated to levirate marriage when her husband died, lo, such a one is regarded as equivalent to the wife of a brother who has children and so is forbidden."

5. I:7: We have learned in the Mishnah: If one of them the sisters was prohibited to one of the men by reason of being a forbidden degree, he is prohibited to marry her. But he is permitted to enter into levirate marriage with her sister. And the second brother is prohibited to enter into levirate marriage with either of them. Assuming that his mother-in-law was the one who entered the levirate obligation first her husband dying before the other brother, why should both sisters be forbidden? Let the son-in-law go and enter into levirate marriage with the widow who is not his mother in law first of all, and then his mother in law in regard to the other levir would be in the class of a sister-in-law who was permitted, forbidden, and permitted again, who refers to her former status of being permitted?

B. IF ONE OF THEM THE SISTERS WAS PROHIBITED TO ONE OF THE MEN BY REASON OF BEING A FORBIDDEN DEGREE, HE IS PROHIBITED TO MARRY HER. BUT HE IS PERMITTED TO ENTER INTO LEVIRATE MARRIAGE WITH HER SISTER. AND THE SECOND BROTHER IS PROHIBITED TO ENTER INTO LEVIRATE MARRIAGE WITH EITHER OF THEM. IF ONE OF THEM WAS PROHIBITED BY REASON OF BEING PROHIBITED AS A COMMANDMENT OR PROHIBITED BY REASON OF SANCTITY, THE SISTER PERFORMS THE RITE OF REMOVING THE SHOE BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE.

1. II:1: It has been taught on Tannaite authority: R. Eliezer says, "The House of Shammai say, they may remain wed." And the House of Hillel say, "They must put them away." R. Simeon says, "They may remain wed." Abba Saul says, "In this matter the House of Hillel took the lenient position and ruled they remain wed while the House of Shammai take the strict position that they must be put away" (T. **Yeb. 5:1F-I**)

C. IF ONE OF THE SISTERS WAS PROHIBITED TO ONE OF THE BROTHERS BY REASON OF BEING A FORBIDDEN DEGREE, AND THE SECOND WAS PROHIBITED TO ANOTHER OF THE BROTHERS BY REASON OF BEING A FORBIDDEN DEGREE, THE ONE WHO IS PROHIBITED TO THIS ONE IS PERMITTED TO THE OTHER, AND THE ONE WHO IS PROHIBITED TO THE OTHER ONE IS PERMITTED TO THIS ONE.

1. III:1: Lo, we already have learned this rule as a Tannaite formulation: If her sister is also her sister-in-law widow of her childless brother-in-law, she either executes the rite of removing the shoe or is taken into levirate marriage (M. 2:3D).

D. THIS IS A CASE IN WHICH THEY HAVE STATED IN A CASE IN WHICH HER SISTER ALSO IS HER SISTER-IN-LAW AWAITING LEVIRATE MARRIAGE, SHE EITHER PERFORMS THE RITE OF REMOVING THE SHOE OR ENTERS INTO LEVIRATE MARRIAGE THERE BEING NO PROHIBITION IN SUCH A CASE BY REASON OF A WOMAN'S BEING THE SISTER OF ONE WHO IS SUBJECT TO LEVIRATE MARRIAGE WITH THE SURVIVING BROTHER.

1. IV:1: This too we have already learned as a Tannaite statement: If she is prohibited to her brother-in-law by reason of a prohibition on account of a commandment or a prohibition on account of sanctity e.g., the levir may not marry a woman of her caste, she executes the rite of removing the shoe but is not taken in levirate marriage.

a. IV:2: Expansion of the foregoing.

E. IF ONE OF THE SISTERS WAS PROHIBITED TO ONE OF THE BROTHERS BY REASON OF BEING A FORBIDDEN DEGREE, AND THE SECOND WAS PROHIBITED TO ANOTHER OF THE BROTHERS BY REASON OF BEING A FORBIDDEN DEGREE, THE ONE WHO IS PROHIBITED TO THIS ONE IS PERMITTED TO THE OTHER, AND THE ONE WHO IS PROHIBITED TO THE OTHER ONE IS PERMITTED TO THIS ONE.

1. V:1: Why say this point again? Lo, it's the same as the other where one sister-in-law is forbidden to one levir and he is permitted to marry her sister! Why is there any difference whether a woman is forbidden to one or to two brothers?

F. THIS IS A CASE IN WHICH THEY HAVE STATED IN A CASE IN WHICH HER SISTER ALSO IS HER SISTER-IN-LAW AWAITING LEVIRATE MARRIAGE, SHE EITHER PERFORMS THE RITE OF REMOVING THE SHOE OR ENTERS INTO LEVIRATE MARRIAGE THERE BEING NO PROHIBITION IN SUCH A CASE BY REASON OF A WOMAN'S BEING THE SISTER OF ONE WHO IS SUBJECT TO LEVIRATE MARRIAGE WITH THE SURVIVING BROTHER.

1. VI:1: What case does the language This is a case in particular mean to exclude?

2. VI:2: Said R. Judah said Rab, and so R. Hiyya repeated as a Tannaite formulation: "In the case of all of these fifteen cases, I maintain that one who is forbidden to one brother may be permitted to another, and one who is forbidden to another brother may be permitted to the one, and her sister who is her sister-in-law may be required to either carry out the rite of removing the shoe or enter into levirate marriage." And R. Judah interpreted that statement of Rab to speak of the items on the list from the mother-in-law onwards, but not to the first six items on the list! How come? Because in the case of the daughter, this statement of Rab applies only with one born from a woman who had been raped, but not one born from a legal marriage for the latter would be forbidden to all the brothers, and the author of our Mishnah addresses only the cases of legal marriages and not those of women who have been raped, who would be forbidden to all the brothers.

XIV. Mishnah-Tractate Yebamot 3:4

A. THREE BROTHERS — TWO OF THEM MARRIED TO TWO SISTERS — OR TO A WOMAN AND HER DAUGHTER — OR TO A WOMAN AND THE DAUGHTER OF HER DAUGHTER — LO, THESE WOMEN PERFORM THE RITE OF REMOVING THE SHOE AND DO NOT ENTER INTO LEVIRATE MARRIAGE. AND R. SIMEON DECLARES EXEMPT FROM RITE OF REMOVING THE SHOE AND LEVIRATE MARRIAGE.

1. I:1: It has been taught on Tannaite authority: R. Simeon declares exempt in the case of both of them both as to performing the rite of removing the shoe and as to entering into levirate marriage, since it is said, “And you shall not take a woman to her sister to be a co-wife to her” (Lev. 18:18) — when they become co-wives, you may not marry even any one of them even the first widow; so the exemption applies to all; he sees no distinction on the question of the levirate bond between one levir .”

B. IF ONE OF THEM WAS PROHIBITED TO HIM BY REASON OF BEING A FORBIDDEN DEGREE, HE IS PROHIBITED TO THAT ONE BUT PERMITTED TO MARRY HER SISTER.

1. II:1: So here we go again! Why repeat the same rule that we have already been given: If one of them the sisters was prohibited to one of the men by reason of being a forbidden degree (M. 2:3-4), he is prohibited to marry her. But he is permitted to enter into levirate marriage with her sister. And the second brother is prohibited to enter into levirate marriage with either of them. If one of them was prohibited by reason of being prohibited as a commandment or prohibited by reason of sanctity (M. 2:3-4), the sister performs the rite of removing the shoe but does not enter into levirate marriage (M. 3: 2)!

C. IF THE PROHIBITION WAS A PROHIBITION DERIVING FROM A COMMANDMENT OR A PROHIBITION OF SANCTITY, THE SISTERS PERFORM THE RITE OF REMOVING THE SHOE BUT DO NOT ENTER INTO LEVIRATE MARRIAGE.

1. III:1: But lo, said R. Simeon, “The two sisters do not undertake the rite of removing the shoe and do not enter into levirate marriage,” owing to the levirate bond which, on the law of the Torah, binds both sisters to the levir. Why then should there be a rite of removing the shoe here, where on the law of the Torah both sisters are subject to levirate marriage, and each is therefore forbidden as the sister of a woman who is subject to the levirate relationship to the man?

XV. Mishnah-Tractate Yebamot 3:5

A. THREE BROTHERS — TWO OF THEM MARRIED TO TWO SISTERS — AND ONE THE THIRD OF THEM IS UNMARRIED — ONE OF THE HUSBANDS OF THE SISTERS DIED, AND THIS ONE WHO WAS UNMARRIED BESPOKE HER THE SURVIVING SISTER — AND AFTERWARD HIS OTHER BROTHER DIED — THE HOUSE OF SHAMMAI SAY, “HIS WIFE THE BESPOKEN WOMAN REMAINS WITH HIM. AND THAT OTHER SISTER GOES FORTH ON THE GROUNDS OF BEING THE SISTER OF HIS WIFE.” AND THE HOUSE OF HILLEL SAY, “HE DIVORCES HIS WIFE WITH A WRIT OF DIVORCE AND WITH THE RITE OF REMOVING THE SHOE, AND THE WIFE OF HIS BROTHER WITH A RITE OF REMOVING THE SHOE.

THIS IS THE SORT OF CASE CONCERNING WHICH THEY HAVE STATED, ‘WOE IS HIM BECAUSE OF HIS WIFE, AND WOE IS HIM BECAUSE OF THE WIFE OF HIS BROTHER!’”

1. I:1: “This is the sort of case concerning which they have stated, ‘Woe is him because of his wife, and woe is him because of the wife of his brother!’”: What does the language This is the sort of case mean to exclude?

2. I:2: Said R. Eleazar, “You should not suppose that in the view of the House of Shammai, an act of bespeaking effects a complete acquisition of the woman as a wife, so that, if the husband then wishes to get rid of her, a mere writ of divorce is enough. Rather, from the perspective of the House of Shammai, an act of bespeaking suffices only so as to eliminate her co-wife.” Her co-wife who is her sister does not cause her to be forbidden to the levir as the sister of a woman who is subject to the levirate relation with him.”

a. I:3: Secondary gloss: Rabbah raised this question: “From the perspective of the House of Shammai, does the act of bespeaking effect the relationship of a consummated marriage or a betrothal?”

b. I:4: Now from the perspective of R. Eleazar, who has said, “In the view of the House of Shammai, an act of bespeaking does not effect a complete acquisition of the woman as a wife, except so far as to keep out the co-wife,” thus the act of bespeaking is not even tantamount to betrothal, why should the annulment be carried out jointly by the levir and the father, as in the case of betrothal?

XVI. Mishnah-Tractate Yebamot 3:6A-H

A. THREE BROTHERS — TWO OF THEM MARRIED TO TWO SISTERS — AND ONE OF THEM THE THIRD MARRIED TO AN UNRELATED WOMAN — ONE OF THE HUSBANDS OF THE SISTERS DIED, AND THE BROTHER MARRIED TO THE UNRELATED WOMAN MARRIED HIS THE DECEASED, CHILDLESS BROTHER’S WIDOW, AND THEN HE THE BROTHER WHO WAS MARRIED TO THE UNRELATED WOMAN AND ALSO TO THE WIDOW OF HIS DECEASED, CHILDLESS BROTHER WENT AND DIED — THE FIRST WOMAN GOES FORTH WITHOUT RITE OF REMOVING THE SHOE OR LEVIRATE MARRIAGE AS THE SISTER OF HIS WIFE, AND THE SECOND ON THE GROUNDS OF BEING HER CO-WIFE NEITHER ONE THEREFORE ENTERING INTO LEVIRATE MARRIAGE OR REQUIRING A RITE OF REMOVING THE SHOE WITH THE SURVIVING BROTHER.

IF HE BESPOKE HER AND DIED, THE UNRELATED WOMAN PERFORMS THE RITE OF REMOVING THE SHOE BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE.

1. I:1: If he bespoke her and died, the unrelated woman performs the rite of removing the shoe but does not enter into levirate marriage: the operative consideration is that he bespoke her. Lo, if he had not done so, the unrelated woman also would have been subject to levirate marriage despite the fact that the first widow is also subject to the levir.

XVII. Mishnah-Tractate Yebamot 3:6I-Q

A. THREE BROTHERS — TWO OF THEM MARRIED TO TWO SISTERS — AND ONE OF THEM MARRIED TO AN UNRELATED WOMAN — THE ONE MARRIED TO THE UNRELATED WOMAN DIED — AND ONE OF THE BROTHERS MARRIED TO THE SISTERS MARRIED HIS WIFE, THEN HE TOO DIED — THE FIRST WOMAN GOES FORTH ON GROUNDS OF BEING THE SISTER OF HIS WIFE, AND THE SECOND ON GROUNDS OF BEING THE CO-WIFE, IF HE BESPOKE HER AND THEN DIED, THE UNRELATED WOMAN PERFORMS THE RITE OF REMOVING THE SHOE, AND DOES NOT ENTER INTO LEVIRATE MARRIAGE.

1. I:1: Why repeat the rule, when the cases are the same?! For if, where the wife's sister is merely a co-wife to an unrelated woman the first wife, it is said that the unrelated woman is forbidden to enter into levirate marriage, how much more so should the unrelated woman be kept out of levirate marriage here, where the unrelated woman is the co-wife of a wife's sister who is the first wife?

XVIII. Mishnah-Tractate Yebamot 3:7A-H

A. THREE BROTHERS — TWO OF THEM MARRIED TO TWO SISTERS — AND ONE OF THEM MARRIED TO AN UNRELATED WOMAN — ONE OF THE HUSBANDS OF THE SISTERS DIED, AND THE ONE MARRIED TO AN UNRELATED WOMAN MARRIED HIS WIDOW — AND THEN THE WIFE OF THE SECOND BROTHER DIED, AND AFTERWARD THE BROTHER MARRIED TO THE UNRELATED WOMAN DIED — LO, THIS SURVIVING SISTER IS PROHIBITED TO HIM FOR ALL TIME, SINCE SHE HAD BEEN PROHIBITED TO HIM FOR ONE MOMENT.

1. I:1: Said R. Judah said Rab, "Any levirate widow to whom the law, 'her husband's brother shall go into her' (Deu. 25: 5) does not apply when she enters the obligation of the levirate connection — lo, such a one is regarded as equivalent to the wife of a brother who has children and so is forbidden."

XIX. Mishnah-Tractate Yebamot 3:7I-O

A. THREE BROTHERS — TWO OF THEM MARRIED TO TWO SISTERS, AND ONE OF THEM MARRIED TO AN UNRELATED WOMAN — ONE OF THE HUSBANDS OF THE SISTERS DIVORCED HIS WIFE — AND THE BROTHER MARRIED TO THE UNRELATED WOMAN DIED — AND THE ONE WHO DIVORCED HIS WIFE MARRIED HER THE UNRELATED WOMAN, AND HE TOO DIED — THIS IS THE SORT OF CASE CONCERNING WHICH THEY HAVE STATED, "AND IN THE CASE OF ALL OF THEM WHO DIED OR WERE DIVORCED, THEIR CO-WIVES ARE PERMITTED, FOR THE UNRELATED WOMAN TAKEN IN LEVIRATE MARRIAGE NEVER WAS THE CO-WIFE OF THE SISTER OF THE WIFE OF THE SURVIVING BROTHER. THE SISTER HAD BEEN DIVORCED BEFORE THE LEVIRATE MARRIAGE TO THE UNRELATED MAN EVER TOOK PLACE.

1. I:1: The operative consideration that the unrelated woman married by the levir who was one of the husbands of sisters may now marry the last surviving brother is

that he had first divorced his wife, and then his brother died; but if the first husband of the unrelated woman had first died, and then the brother divorced his wife, the unrelated woman would be forbidden.

XX. Mishnah-Tractate Yebamot 3:8

A. AND IN EVERY CASE IN WHICH THE BETROTHAL OR DIVORCE OF THE DECEASED BROTHER IS SUBJECT TO DOUBT, LO, THESE, THE CO-WIVES PERFORM THE RITE OF REMOVING THE SHOE BUT OF COURSE DO NOT ENTER INTO LEVIRATE MARRIAGE. WHAT IS A CASE OF DOUBT CONCERNING BETROTHAL? IF HE THREW HER A TOKEN OF BETROTHAL — IT IS A MATTER OF DOUBT WHETHER IT LANDED NEARER TO HIM OR NEARER TO HER — THIS IS A CASE IN WHICH THERE IS DOUBT CONCERNING BETROTHAL. AND A CASE OF DOUBT CONCERNING A WRIT OF DIVORCE? IF ONE WROTE THE WRIT OF DIVORCE IN HIS OWN HAND, BUT THERE ARE NO WITNESSES TO ATTEST THE DOCUMENT — IF THERE ARE WITNESSES TO ATTEST THE DOCUMENT, BUT IT IS NOT DATED — IF IT IS DATED, BUT IT CONTAINS THE ATTESTATION OF ONLY A SINGLE WITNESS — THIS IS A CASE IN WHICH THE DIVORCE IS SUBJECT TO DOUBT.

1. I:1: Now with reference to the writ of divorce, we do not find the language, it is a matter of doubt whether it landed nearer to him or nearer to her. How come?
2. I:2: And what is the language, this is a case, meant to exclude?
 - a. I:3: Gloss of the foregoing.

XXI. Mishnah-Tractate Yebamot 3:9A-H

A. THREE BROTHERS MARRIED TO THREE UNRELATED WOMEN — AND ONE OF THE MEN DIED, AND THE SECOND BROTHER BESPOKE HER THE WIDOW OF HIS BROTHER AND THEN HE TOO DIED — LO, THESE PERFORM THE RITE OF REMOVING THE SHOE AND DO NOT ENTER INTO LEVIRATE MARRIAGE, SINCE IT IS SAID, “AND ONE OF THEM DIES . . . HER BROTHER-IN-LAW WILL COME UNTO HER” (DEU. 25: 5) — REFERRING TO THE ONE WHO IS SUBJECT TO THE LEVIRATE POWER OF A SINGLE BROTHER-IN-LAW, AND NOT THE ONE WHO IS SUBJECT TO THE LEVIRATE POWER OF TWO BROTHERS-IN-LAW. R. SIMEON SAYS, “HE THE SURVIVING BROTHER TAKES IN LEVIRATE MARRIAGE WHICHEVER ONE HE WANTS AND PERFORMS THE RITE OF REMOVING THE SHOE WITH THE SECOND WOMAN.”

1. I:1: If the levirate bond is with two levirs by the law of the Torah as maintained by rabbis vis à vis Simeon, then she should also not have to undertake the rite of removing the shoe!
2. I:2: Said Raba, “If one handed over a writ of divorce covering his act of bespeaking nullifying his statement of intent, the co-wife has been permitted to marry the third surviving brother if the second died without issue; the two widows are no longer co-wives, since the writ of divorce has annulled the act of bespeaking, and the widows are of two different brothers deriving from two different houses. But she herself is forbidden, since she might be thought to be one

who holds a writ of divorce” by reason of the levirate bond, not the bespeaking, and she is prohibited in line with.

XXII. Mishnah-Tractate Yebamot 3:9I-L

A. TWO BROTHERS MARRIED TO TWO SISTERS — AND ONE OF THEM DIED — AND AFTERWARD THE WIFE OF THE SECOND DIED — LO, THIS ONE SURVIVING SISTER IS PROHIBITED TO HIM FOR ALL TIME, SINCE SHE WAS PROHIBITED TO HIM FOR A SINGLE MOMENT AS HIS WIFE’S SISTER.

1. I:1: So what else is new! If there were three brothers, two married to two sisters, where the widow of the first brother was not entirely excluded from that house though she had been forbidden to the second brother, who was married to her sister, she was permitted to the third and remained in the family, it is said that she is forbidden to the second brother after the death of the third brother who had married her, owing to the original prohibition, which may have lasted for one moment only, even after his wife, her sister, had died, how much the more so here with only two brothers, where the widow is entirely excluded from that house when her husband died there was not a single brother whom she was permitted to marry!

2. I:2: Our rabbis have taught on Tannaite authority: “If the levir had sexual relations with the widow while his wife was still alive, he is liable on her account on the count of having sexual relations with the wife of his brother and also on the count of his wife’s sister,” the words of R. Yosé. R. Simeon says, “He is liable only on the count of his brother’s wife alone” (T. **Yeb. 5:8E-H**).

a. I:3: Analysis of the foregoing.

b. I:4: As above.

I. I:5: Gloss of the foregoing.

II. I:6: Continuation of the foregoing.

III. I:7: Continuation of the foregoing.

IV. I:8: Continuation of the foregoing.

A. I:9: Secondary analysis of the foregoing set.

B. I:10: As above.

1. I:11: Secondary analysis of a detail of the foregoing.

XXIII. Mishnah-Tractate Yebamot 3:10

A. TWO MEN WHO BETROTHED TWO WOMEN, AND AT THE TIME OF THEIR ENTRY INTO THE MARRIAGE-CANOPY, THE TWO WOMEN INADVERTENTLY WERE EXCHANGED FOR ONE ANOTHER —

LO, THESE MEN ARE LIABLE FOR (1) HAVING SEXUAL RELATIONS WITH A MARRIED WOMAN NAMELY, THE BETROTHED OF THE OTHER. IF IN ADDITION THEY WERE BROTHERS, THEY ARE LIABLE (2) ON THE COUNT OF HAVING SEXUAL RELATIONS WITH THE WIFE OF THE BROTHER. AND IF THE WOMEN IN ADDITION WERE

SISTERS, THEY ARE LIABLE FOR (3) HAVING SEXUAL RELATIONS WITH A WOMAN AND HER SISTER. AND IF AT THE TIME OF SEXUAL RELATIONS THEY IN ADDITION WERE IN THEIR MENSTRUAL PERIOD, THE MEN ARE LIABLE FOR (4) HAVING SEXUAL RELATIONS WITH A MENSTRUATING WOMAN:

1. I:1: they exchanged the two women for one another: so are we dealing with genuinely wicked people, wife-swappers? And furthermore, there is a problem deriving from the statement that R. Hiyya set forth as a Tannaite rule: “Lo, sixteen sin-offerings are involved here” (T. **Yeb. 5:9C**)— for is there a sin-offering to be presented in the event of a deed that was carried out deliberately?

2. I:2: And who is the Tannaite authority before us, who takes the view that we do enforce in the case of one and the same person a comprehensive prohibition, a prohibition that extends the rule to a broader range, and simultaneous prohibitions holding such a person guilty on a variety of counts?

3. I:3: All of these cases listed in our Mishnah-paragraph do occur at one and the same time, for example, when the brothers appointed an agent to deliver the tokens of betrothal, and the sisters appointed an agent to receive them, and one agent met the other so everything happened at once. But with respect to menstruation, And if at the time of sexual relations they in addition were in their menstrual period, the men are liable for (4) having sexual relations with a menstruating woman, how could there be simultaneity?

B. AND THEY SET THEM APART FOR THREE MONTHS, LEST THEY BE PREGNANT. AND IF THEY WERE MINORS, NOT YET FIT TO GIVE BIRTH, THEY ARE FORTHWITH RESTORED TO THEIR PROPER HUSBANDS.

1. II:1: Well, just how likely is it that a woman will get pregnant after the initial act of sexual relations anyhow?

a. II:2: Secondary expansion of the foregoing.

i. II:3: Gloss of the foregoing.

2. II:4: Our rabbis have taught on Tannaite authority: “The woman also with whom a man shall lie’ (Lev. 15:18) — excludes a bride,” the words of R. Judah. And sages say, “It excludes anal intercourse.”

3. II:5: When Rabin came, he said R. Yohanan said, “Any woman who waited ten years after separating from her husband and then remarried will have no more children from the first husband, but only from the second.” Said R. Nahman, “That rule pertains to a case only in which she was not planning to remarry; but if she was planning to remarry, she may have children again.”

a. I:6: Case.

4. I:7: Said Samuel, “All these women have to wait three months — except for a convert and a slave who was freed, who were minors. But an Israelite girl has to wait three months.”

C. AND IF THEY WERE DAUGHTERS OF PRIESTS, THEY ARE INVALID FOR EATING HEAVE OFFERING.

1. III:1: Does this rule apply only to women of the priestly caste and not women of the Israelite caste? But the woman of priestly caste cannot have sexual relations with her husband any more.

XXIV. Mishnah-Tractate Yebamot 4:1

A. HE WHO UNDERGOES THE RITE OF REMOVING THE SHOE WITH HIS DECEASED CHILDLESS BROTHER'S WIDOW, AND IT TURNS OUT THAT SHE IS PREGNANT, AND SHE GIVES BIRTH — WHEN THE OFFSPRING IS TIMELY AND NOT PREMATURE, HE IS PERMITTED TO MARRY HER RELATIVES, AND SHE IS PERMITTED TO MARRY HIS RELATIVES, AND HE HAS NOT INVALIDATED HER FROM MARRYING INTO THE PRIESTHOOD:

1. I:1: It has been stated: He who enters into the rite of removing the shoe with a pregnant woman who then miscarried — R. Yohanan said, “She does not perform the rite of removing the shoe with the brothers.” And R. Simeon b. Laqish said, “She does perform the rite of removing the shoe with the brothers.”

- a. I:2: Said Raba, “The decided law accords with the position of R. Simeon
- b. Laqish in three matters. The first is the one that we have just now been discussing.

B. IF THE OFFSPRING IS NOT TIMELY, HE IS PROHIBITED FROM MARRYING HER RELATIVES, AND SHE IS PROHIBITED FROM MARRYING HIS RELATIVES, AND HE HAS INVALIDATED HER FROM MARRYING INTO THE PRIESTHOOD.

1. II:1: It has been stated as a Tannaite formulation: in the name of R. Eliezer they have said, contrary to the law that allows the levir to continue his connubial association with his sister-in-law wherever the child is not viable, “He has to divorce her with a writ of divorce.” Though the death of the child has proved retrospectively that the levirate marriage was lawful, divorce is imposed upon such a union as a penalty for contracting it at a time when, owing to the uncertainty of the result of the pregnancy, it was of doubtful legality.

- a. II:2: Secondary observation on the foregoing.

2. II:3: Said Raba, “In accord with the opinion of sages, who permit marriage after twenty-four months have elapsed, he must send her out with a writ of divorce.”

3. II:4: Said R. Ashi to R. Hoshai b. R. Idi, “There it has been taught on Tannaite authority: Rabban Simeon b. Gamaliel says, ‘Any offspring that survived for thirty days in the case of a human being is no longer deemed a miscarriage’ (T. **Shab. 16:7E**). Lo, if it did not live that long a time, however, it would have been regarded as subject to doubt. But it has been stated: if it died within thirty days and the mother widow of the deceased father went and got betrothed assuming that she no longer had a levirate obligation — Rabina in the name of Raba said, ‘If she is the wife of a member of the Israelite caste, she undertakes the rite of removing the shoe, but if she is the wife of a member of the priestly caste, she does not even have to do that.’ R. Mesharshayya in the name of Raba said, “All the same is this woman and that one: she performs the rite of removing the shoe. Said Rabina to R. Mesharshayya, ‘In the evening Raba made that statement, but the next morning he reversed himself.’ He said to him, ‘Once you have permitted it,

would you also have permitted the forbidden abdominal fat!’ Now, with reference to the pregnant or nursing wife of one’s fellow who was married to a priest, what is the rule? Did rabbis make provision for the case of a priest, or did they not do so?”

4. II:5: It has been stated: If someone betrothed a woman who was pregnant or nursing, that is, a widow or divorcée within three months of the death or divorce, and then fled — there was a dispute between R. Aha and Rafram — One said, “We excommunicate him” until he agrees to divorce the woman. The other said, “His flight suffices” since he clearly did not plan to live with her before the end of the period of twenty-four months after the birth.

C. HE WHO MARRIES ENTERS INTO LEVIRATE MARRIAGE WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW, AND IT TURNS OUT THAT SHE IS PREGNANT, AND SHE GIVES BIRTH — WHEN THE OFFSPRING IS TIMELY, HE MUST PUT HER AWAY, AND THEY BOTH MAN AND WOMAN ARE LIABLE FOR A SACRIFICE. IF THE OFFSPRING IS NOT TIMELY, HE MAY CONFIRM THE MARRIAGE. IF IT IS A MATTER OF DOUBT WHETHER THE OFFSPRING IS BORN AT NINE MONTHS, THEREFORE ASSIGNED TO THE FIRST HUSBAND, OR BORN AT SEVEN MONTHS, THEREFORE ASSIGNED TO THE SECOND, HE MUST PUT HER AWAY. BUT THE OFFSPRING IS VALID. AND BOTH OF THEM ARE LIABLE FOR A SUSPENSIVE GUILT OFFERING.

1. III:1: Said Raba to R. Nahman, “Why not say, ‘We follow the majority of women,’ and the majority of women give birth at nine months?” The child would be deemed the son of the first husband, and the marriage of the mother with the levir would be forbidden; the levir should bring a sin offering, not a suspensive guilt offering.

2. III:2: Our rabbis have taught on Tannaite authority: The first child to be born from the levirate marriage, not known whether it is born at nine months and belongs to the deceased or at seven months and belongs to the levir is worth of becoming a high priest, if he is son of the deceased brother, he is legitimate, though the subsequent levirate marriage is forbidden; if he is the son of the levir, the levirate marriage is lawful, but the second is deemed a mamzer by reason of doubt. Any child after the first, born from the levirate marriage, is invalid, since it is possible that the first child was son of the deceased and the levirate marriage was forbidden under the penalty of extirpation. R. Eliezer b. Jacob says, “He is not deemed a mamzer by reason of doubt” (T. **Yeb. 6:2I-J**).

a. III:3: Analysis of the foregoing.

I. III:4: Extension of a subordinate detail of the foregoing.

A. III:5: Comment on a detail of the foregoing.

B. III:6: As above.

3. III:7: If the son whose status is subject to doubt and the levir come to divide up a share in the estate of the deceased, and the son whose status is subject to doubt says, “I am the son of the deceased, and the property is mine,” and the levir says, “You are my son, and you have no claim on the property of the estate,” what we have is a case in which the estate itself is subject to doubtful ownership, and money that is subject to doubtful ownership is to be divided.

4. III:8: A son whose status is subject to doubt and a levir who came to divide up the estate of the grandfather — the son whose status is subject to doubt says, “I am the son of the deceased, so half of the estate belongs to me,” and the levir claims, “You are my own son, and you have no claim at all” — the situation of the levir is certain, but that of the son whose status is subject to doubt is, obviously, subject to doubt, and doubt may not supersede certainty.

XXV. Mishnah-Tractate Yebamot 4:3-4

A. A WOMAN AWAITING LEVIRATE MARRIAGE WHO RECEIVED PROPERTY — THE HOUSE OF SHAMMAI AND THE HOUSE OF HILLEL CONCUR THAT SHE SELLS OR GIVES AWAY THE PROPERTY WHICH SHE HAS RECEIVED, AND THE TRANSACTION IS CONFIRMED. IF SHE DIED, WHAT DO THEY DO WITH HER MARRIAGE CONTRACT AND WITH THE PROPERTY WHICH COMES IN AND GOES OUT WITH HER PLUCKING PROPERTY, THAT IS, THE HUSBAND ENJOYS THE USUFRUCT BUT THE PRINCIPAL REMAINS UNDER THE TITLE OF THE WIFE? THE HOUSE OF SHAMMAI SAY, “THE HEIRS OF THE LEVIRATE HUSBAND AND THE HEIRS OF THE WOMAN’S FATHER DIVIDE IT.” AND THE HOUSE OF HILLEL SAY, “THE PROPERTY REMAINS IN THE POSSESSION OF THOSE WHO HAVE A PRESUMPTIVE CLAIM TO IT: THE MARRIAGE CONTRACT IS SUBJECT TO THE PRESUMPTIVE CLAIM OF THE HEIRS OF THE HUSBAND. THE PROPERTY WHICH COMES IN AND GOES OUT WITH HER IS SUBJECT TO THE PRESUMPTIVE CLAIM OF THE HEIRS OF THE FATHER.”

1. I:1: So what’s the difference between the first clause in which the widow is alive, in which case there is no dispute between the Houses of Shammai and Hillel, and the second case where she has died, in which instance there is a dispute?

2. I:2: So what’s the difference between the first clause, in which the widow is alive, in which case there is no dispute between the Houses of Shammai and Hillel, and the second case, where she has died, in which instance there is a dispute, Abbayye said, “The first clause deals with a case in which the property fell to her while she was in the status of a woman awaiting the decision of the levir as the levirate bond is not strong enough to give the levir any right over the property, people concur that she or her heirs dispose of it as they like, and the second clause deals with a case in which the property came to her when she was already married.”

B. IF HE MARRIED HER, LO, SHE IS DEEMED TO BE IN THE STATUS OF HIS WIFE FOR EVERY PURPOSE:

1. II:1: What is the practical purpose of this ruling?

C. BUT IN THIS MATTER ONLY: THE CHARGE OF HER MARRIAGE CONTRACT FALLS ONTO THE PROPERTY OF HER FIRST HUSBAND.

1. III:1: How come?

XXVI. Mishnah-Tractate Yebamot 4:5-6

A. IT IS THE DUTY OF THE OLDEST SURVIVING BROTHER TO ENTER INTO LEVIRATE MARRIAGE. IF HE DID NOT WANT TO DO SO, THEY PASS IN TURN TO ALL THE

OTHER BROTHERS. IF THEY ALL DID NOT WANT TO DO SO, THEY GO BACK TO THE OLDEST AND SAY TO HIM, “YOURS IS THE DUTY! EITHER UNDERGO THE RITE OF REMOVING THE SHOE OR ENTER INTO LEVIRATE MARRIAGE.”

IF THE LEVIR PROPOSED TO SUSPEND HIS DECISION, WAITING FOR A YOUNGSTER TO GROW UP, OR FOR AN ADULT TO COME FROM OVERSEAS, OR FOR A DEAF-MUTE OR AN IDIOT TO RECOVER SOUND OR SENSE, THEY DO NOT LISTEN TO HIM. BUT THEY SAY TO HIM: “YOURS IS THE DUTY. EITHER UNDERGO THE RITE OF REMOVING THE SHOE OR ENTER INTO LEVIRATE MARRIAGE.”

1. I:1: It has been stated: As to the relative importance of the act of sexual relations of a minor brother or the act of performing the rite of removing the shoe on the part of an adult brother, there was a dispute: R. Yohanan and R. Joshua b. Levi — One said, “The act of sexual relations of the minor takes precedence.” The other said, “The act of performing the rite of removing the shoe on the part of an adult brother takes precedence.” The Mishnah-passage before us contributes to the solution of this problem.

a. I:2: The same problem, different Mishnah-proof.

l. I:3: Extension of the foregoing.

b. I:4: As at I:2.

2. I:5: Who is the Tannaite authority who stands behind that which our rabbis have taught on Tannaite authority?

“Her husband’s brother shall go in unto her” (Deu. 25: 5) — this is a religious duty. For to begin with she was permitted to him, then she was forbidden when his brother married her, and now once more she is permitted to him. So one might have supposed that she is restored to the original condition of being permissible as she had been. So it is made explicit: “Her husband’s brother shall go in unto her” (Deu. 25: 5) — this is a religious duty. Now who is the Tannaite authority behind this formulation?

a. I:6: Gloss of the foregoing.

XXVII. Mishnah-Tractate Yebamot 4:7A-E

A. HE WHO UNDERGOES A RITE OF REMOVING THE SHOE WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW, LO, HE IS DEEMED AS ONE WITH THE BROTHERS FOR INHERITANCE OF THE DECEASED BROTHER’S ESTATE —

1. I:1: He who undergoes a rite of removing the shoe with his deceased childless brother’s widow, lo, he is deemed as one with the brothers for inheritance of the deceased brother’s estate: so what else is new?

B. AND IF THERE IS A FATHER OF THE DECEASED BROTHER THERE TO SHARE IN THE INHERITANCE, THE PROPERTY REVERTS TO THE FATHER.

1. II:1: For a master has said: “The father takes precedence over all of his lineal heirs.”?

C. HE WHO MARRIES HIS DECEASED CHILDLESS BROTHER’S WIDOW, HOWEVER, ACQUIRES THE ESTATE OF HIS BROTHER.

1. III:1: What is the scriptural basis for this rule?

D. R. JUDAH SAYS, “ONE WAY OR THE OTHER: IF THE FATHER IS THERE, THE PROPERTY REVERTS TO THE FATHER.”

1. IV:1: Said Ulla, “The decided law accords with R. Judah.”
2. IV:2: As above.
3. IV:3: As above.

XXVIII. Mishnah-Tractate Yebamot 4:7F-L

A. HE WHO UNDERGOES A RITE OF REMOVING THE SHOE WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW — HE IS PROHIBITED FROM MARRYING HER RELATIVES, AND SHE IS PROHIBITED FROM MARRYING HIS RELATIVES. HE IS PROHIBITED FROM MARRYING HER MOTHER, HER MOTHER’S MOTHER, HER FATHER’S MOTHER, HER DAUGHTER, THE DAUGHTER OF HER DAUGHTER, THE DAUGHTER OF HER SON, AND HER SISTER WHILE SHE IS YET ALIVE. BUT HIS BROTHERS ARE PERMITTED TO MARRY ANY OF THE AFORE-NAMED. AND SHE IS PROHIBITED FROM MARRYING HIS FATHER, THE FATHER OF HIS FATHER, HIS SON, THE SON OF HIS SON, HIS BROTHER, AND THE SON OF HIS BROTHER.

1. I:1: The question was raised: in the case of a woman with whom one has carried out the rite of removing the shoe, did sages make a precautionary decree against marrying relations of hers in the second remove e.g., her mother’s mother’s mother or her father’s mother’s mother or was such a precautionary decree not issued? Was there a precautionary decree prohibiting marriage with relations in the second remove only in regard to a relative who is forbidden by the law of the Torah, while in regard to a woman with whom one has performed the rite of removing the shoe, rabbis made no such precautionary degree forbidden relatives in the second remove — or is there no difference in respect to the law of incest, between the relations of a wife who are pentateuchally forbidden and those of a woman with whom one has performed the rite of removing the shoe, who are only rabbinically forbidden?

B. A MAN IS PERMITTED TO MARRY THE KINSWOMAN OF THE CO-WIFE OF A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF REMOVING THE SHOE BUT IS PROHIBITED FROM MARRYING THE CO-WIFE OF THE KINSWOMAN OF A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF REMOVING THE SHOE.

1. II:1: Said R. Tubi bar Qisna said Samuel, “He who has sexual relations with the co-wife of a woman with whom he has performed the rite of removing the shoe — the offspring is a mamzer. How come? The co-wife remains under the original prohibition of the brother’s wife, subject to the penalty of extirpation; children born from such a union are classified as mamzers.”

XXIX. Mishnah-Tractate Yebamot 4:8-9

A. HE WHO UNDERGOES A RITE OF REMOVING THE SHOE WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW, AND HIS BROTHER MARRIED HER SISTER, AND THIS BROTHER DIED — SHE PERFORMS A RITE OF REMOVING THE SHOE AND IS NOT TAKEN IN LEVIRATE MARRIAGE.

AND SO: HE WHO DIVORCES HIS WIFE, AND HIS BROTHER MARRIED HER SISTER, AND HIS BROTHER DIED — LO, THIS ONE IS EXEMPT FROM THE RITE OF REMOVING THE SHOE AND FROM LEVIRATE MARRIAGE.

1. I:1: What is the meaning of And so: He who divorces his wife which introduces a rule that is not similar?

B. A WOMAN AWAITING MARRIAGE WITH A LEVIR, THE BROTHER OF WHOM BETROTHED HER SISTER — IN THE NAME OF R. JUDAH B. BETERAH DID THEY SAY, “THEY INSTRUCT HIM: ‘WAIT UNTIL YOUR OLDER BROTHER DOES A DEED.’”

IF HIS BROTHER UNDERWENT A RITE OF REMOVING THE SHOE WITH HER THE WOMAN AWAITING LEVIRATE MARRIAGE OR MARRIED HER, HE MAY THEN MARRY HIS WIFE. IF THE DECEASED CHILDLESS BROTHER’S WIDOW DIED, HE MAY MARRY HIS WIFE. IF THE LEVIR DIED, LET HIM OF A PUT AWAY HIS BETROTHED WIFE WITH A WRIT OF DIVORCE AND THE WIFE OF HIS BROTHER WITH A RITE OF REMOVING THE SHOE.

1. II:1: Said Samuel, “The decided law accords with the position of R. Judah b. Betera.”

2. II:2: The question was raised: if his wife the sister of the widow of his deceased brother died, what is his status as to his deceased childless brother’s widow, whose sister is no longer his wife?

a. II:3: Gloss of the foregoing.

XXX. Mishnah-Tractate Yebamot 4:10

A. A DECEASED CHILDLESS BROTHER’S WIDOW SHOULD NOT PERFORM THE RITE OF REMOVING THE SHOE OR ENTER INTO LEVIRATE MARRIAGE UNTIL THREE MONTHS HAVE GONE BY.

1. I:1: A deceased childless brother’s widow should not perform the rite of removing the shoe or enter into levirate marriage until three months have gone by. And so in the case of all other women: they should not become betrothed or enter marriage until three months have gone by after the conclusion of a former marriage: there is no problem understanding why she should not enter into levirate marriage, since the offspring may not be viable, and so he the brother-in-law may end up violating the prohibition of marrying a brother’s wife, which derives from the Torah. But why should she not undertake the rite of removing the shoe? May we then say that this refutes what R. Yohanan said, “The rite of removing the shoe performed by a pregnant woman is classified as a valid rite of removing the shoe, and the act of sexual relations of a pregnant woman is classified as a valid act of sexual relations”?

2. I:2: Our rabbis have taught on Tannaite authority: A deceased childless brother’s widow for the first three months after the death of the husband is supported by the estate of the husband. Therefore she is supported neither from the estate of the husband nor from the estate of the levir. If the levir went to court but then ran off, she is supported by the estate of the levir. If she was subject to the levirate relationship with a minor, she gets nothing from him.

3. I:3: Our rabbis have taught on Tannaite authority: A deceased childless brother's widow, with whom one of the brothers has entered into the rite of removing the shoe within three months of the death of the husband still has to wait for three months. If the rite of removing the shoe was done after three months, she does not have to wait for three months beyond the performance of the rite. The three months of which they spoke pertains to the time of the husband's death, not to the time of the levir's performing the rite of removing the shoe.

B. AND SO IN THE CASE OF ALL OTHER WOMEN: THEY SHOULD NOT BECOME BETROTHED OR ENTER MARRIAGE UNTIL THREE MONTHS HAVE GONE BY AFTER THE CONCLUSION OF A FORMER MARRIAGE.

1. II:1: Well, there is no problem in understand the prohibition of the deceased childless brother's widow's not being permitted to marry within three months of the husband's death, as we just said. But as to all other women, why is this the rule?

2. II:2: Now there is no problem in understanding why a divorcee or widow should not marry after waiting for only two months, since doing so would create a doubt as to whether or not the offspring is born at nine months and is assigned to the first husband, or it is born at seven months and is assigned to the second. But why not let her wait for one month and marry, so, if she gives birth at seven months, the child would be born at seven months of the second husband, but if it were born at eight months after marriage, it would be a child born at nine months and belong to the first husband!

C. ALL THE SAME ARE VIRGINS AND WOMEN WHO HAVE HAD SEXUAL RELATIONS, ALL THE SAME ARE WOMEN WHO HAVE BEEN DIVORCED AND WIDOWS, ALL THE SAME ARE MARRIED WOMEN AND BETROTHED WOMEN. R. JUDAH SAYS, "WITHIN THE STATED SPAN OF TIME, THOSE WHO HAVE BEEN MARRIED AND WHOSE HUSBANDS HAVE DIED MAY BE BETROTHED, AND THOSE WHO ARE BETROTHED AND WHOSE HUSBANDS DIED MAY BE MARRIED, EXCEPT FOR THOSE WHO HAVE BEEN BETROTHED IN THE PROVINCE OF JUDAH. FOR THERE, THE BRIDEGROOM IS SHAMELESS FOR HER."

1. III:1: What is the definition of virgins, and what is the definition of women who have had sexual relations?

D. R. YOSÉ SAYS, "ALL WOMEN MAY BE BETROTHED..."

1. IV:1: R. Yosé says, "All women may be betrothed, except for a widow, on account of mourning for a period of thirty days:" One day R. Eleazar did not go to the house of study. He came across R. Assi. He said to him, "What did our rabbis say in the house of study?" He said to him, "This is what R. Yohanan said, 'The decided law accords with the opinion of R. Yosé' that women may be betrothed right away, and those who were betrothed may marry right away, with the exceptions that are stated."

a. IV:2: Expansion on an abstract principle introduced by the foregoing.

b. IV:3: Continuation of the analysis of the foregoing.

2. IV:4: R. Hiyya bar Abin sent word: "Betrothal may be conducted within the months of the death of the husband, and so it is actually done. And so did R.

Eleazar teach us in the name of R. Hanina the Elder: ‘The greater part of the first month, the whole of the second, and the greater part of the third month suffice.’”

a. IV:5: Concrete case and analysis thereof.

E. “...EXCEPT FOR A WIDOW, ON ACCOUNT OF MOURNING FOR A PERIOD OF THIRTY DAYS.”

1. V:1: Said R. Hisda, “That rule may be derived from an argument a fortiori: if in a case in which it is forbidden to wash one’s clothing the week in which the ninth of Ab occurs, it is permitted to betroth, in a case in which it is permitted to wash one’s clothing, is it not reasonable that it should be permitted to betroth?”

XXXI. Mishnah-Tractate Yebamot 4:11

A. FOUR BROTHERS MARRIED TO FOUR WOMEN, AND THEY DIED — IF THE OLDEST SURVIVING BROTHER AMONG THEM WANTS TO ENTER INTO LEVIRATE MARRIAGE WITH ALL OF THEM THE SURVIVING, CHILDLESS WIDOWS,

1. I:1: Four brothers married to four women: is such a thing possible? Then where would there be further brothers to enter into levirate marriage?

B. ...HE HAS THE RIGHT TO DO SO.

1. II:1: Do they let him do so? And has it not been taught on Tannaite authority: “Then the elders of his city shall call him” (Deu. 25: 8) — “they” but not their agent; “and speak to him” — teaches that he is given advice appropriate to his situation. If he was a boy and she was an old lady, or he was an old man and she was a girl, they say to him, “What do you want with a girl? What do you want with an old lady? Go to someone your own age and don’t start trouble in your house!” Here too, he would be advised not to take on four wives.

C. HE WHO WAS MARRIED TO TWO WOMEN AND WHO DIED — THE ACT OF SEXUAL RELATIONS IN LEVIRATE MARRIAGE OR THE RITE OF REMOVING THE SHOE OF ONE OF THEM EXEMPTS HER CO-WIFE FROM THE REQUIREMENT TO DO THE SAME.

1. III:1: Why should the surviving brother not enter into levirate marriage with both women?

2. III:2: May I suggest that if there is only one widow, then the religious duty of levirate marriage is invoked, but if there are two, then the religious duty of levirate marriage is not invoked?

D. IF ONE OF THEM WAS VALID AND ONE OF THEM WAS INVALID FOR MARRIAGE INTO THE PRIESTHOOD, IF HE THEN PERFORMS THE RITE OF REMOVING THE SHOE, LET HIM PERFORM THE RITE OF REMOVING THE SHOE WITH THE ONE INVALID FOR MARRIAGE INTO THE PRIESTHOOD. AND IF HE WAS GOING TO ENTER INTO LEVIRATE MARRIAGE, LET HIM ENTER INTO LEVIRATE MARRIAGE WITH THE ONE WHO IS VALID FOR MARRIAGE INTO THE PRIESTHOOD.

1. IV:1: Said R. Joseph, “Here Rabbi taught: ‘A man should not pour water out of his cistern while others need the water’ A man should not destroy anything that may be of use to others, though it is of no use to him; in the case under discussion, the levir submits to the rite of removing the shoe done by the forbidden woman,

and thus liberates the permitted one to marry even a priest, to whom she would have been forbidden had the rite been done by her.

XXXII. Mishnah-Tractate Yebamot 4:12

A. HE WHO REMARRIES A WOMAN WHOM HE HAS DIVORCED AFTER SHE HAD WED SOMEONE ELSE AND WAS DIVORCED OR WIDOWED, HE WHO MARRIES A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF REMOVING THE SHOE, AND HE WHO MARRIES THE KINSWOMAN OF A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF REMOVING THE SHOE MUST PUT HER AWAY.

“AND THE OFFSPRING OF SUCH A UNION IS A MAMZER,” THE WORDS OF R. AQIBA. AND SAGES SAY, “THE OFFSPRING IS NOT A MAMZER”

BUT THEY CONCEDE IN THE CASE OF ONE WHO MARRIES THE KINSWOMAN OF A WOMAN WHOM HE HAS DIVORCED, THAT THE OFFSPRING IS A MAMZER

1. I:1: Does R. Aqiba really maintain that who marries the kinswoman of a woman with whom he has performed the rite of removing the shoe — the offspring is a mamzer? And did not R. Simeon b. Laqish say, “Here Rabbi has taught that the prohibition to marry the sister of a woman one has divorced is based on the law of the Torah, and the prohibition of the sister of a woman with whom one has performed the rite of removing the shoe is based on the rulings of the scribes”? The reason that the sister of a co-wife of a woman with whom one has performed the rite of removing the shoe is permitted is not that assumed by Joseph, but rather, because the prohibition of the sister of the woman with whom one has removed the shoe is only rabbinical, it does not extend to the sister of the co-wife of that woman as well.

2. I:2: Said R. Joseph said R. Simeon b. Rabbi, “All concur in the case of one who remarries a woman whom he has divorced that the offspring is a ruined for marriage into the priesthood.”

3. I:3: Said Rabbah bar bar Hannah said R. Yohanan, “All concur in the case of a slave or a gentile who had sexual relations with an Israelite woman that the offspring is a mamzer.”

a. I:4: Rather, said R. Joseph, “So who is ‘all concur’? It is Rabbi. Even though Rabbi says, ‘These statements are made only in accord with the position of R. Aqiba, who would treat the woman with whom one has performed the rite of removing the shoe as tantamount to a consanguineous relation,’ though he does not concur with that position, he does agree with Aqiba in the case of a gentile or a slave.”

4. I:5: R. Joshua b. Levi says, “The offspring is spoiled.” For whom? If I should say, for entry into the congregation, lo, said R. Joshua, “The offspring is valid.” So it must be, for the priesthood, for all of the Amoraic authorities who declare the offspring valid concur that the offspring also is spoiled for marriage in the priesthood, on the basis of an argument a fortiori based on the case of the widow, namely: if the son of a widow who was married to a high priest, who is not subject to a prohibition to all a widow cannot marry only a high priest, not an ordinary

priest, is tainted, how much more the offspring of this one, who is forbidden to all, should be spoiled?

a. I:6: Concrete case. So too Rab teaches that the offspring is permitted.

b. I:7: So too R. Mattenah teaches that the offspring is permitted.

c. I:8: So too R. Judah teaches that the offspring is permitted.

d. I:9: Concrete ruling.

B. COMPOSITE ON THE MARRIAGE-RULES GOVERNING A SLAVE

a. I:10: The citizens of Be Miksi sent to Rabbah: “He who is half-slave and half-free who has sexual relations with an Israelite woman — what is the law?”

I. I:11: Concrete case.

II. I:12: As above.

III. I:13: And this is the decided law: a gentile or a slave who had sexual relations with an Israelite woman — the offspring is valid, whether it was a woman without marital ties or a married woman.

IV. I:14: Concrete case.

V. I:15: Concrete case.

VI. I:16: Concrete case.

VII. I:17: Concrete case.

C. COMPOSITE ON CONVERSION IN GENERAL

a. I:18: Said R. Hama bar Guria said Rab, “He who buys a slave from a gentile, and the slave went ahead on his own and immersed, so as to acquire the status of a freed man — he has acquired title to himself as a free man. How come? The gentile has no title to the person of the slave, and what he transfers to the Israelite is only what he owns. Now since the slave went ahead on his own and immersed, so as to acquire the status of a freed man, the slave has removed from himself his indenture as a slave.”

b. I:19: Said Samuel, “When one immerses a gentile slave to initiate him into Judaism, it is necessary to hold him firmly in the water.”

I. I:20: Secondary theoretical problem, not required by the foregoing.

II. I:21: A case pertinent in general theme: R. Hiyya bar Abba came to Gabla. He saw Israelite women who had become pregnant by gentiles who had been circumcised but not immersed. He saw Israelite wine that gentiles had mixed, being drunk by Israelites. He saw lupines boiled by gentiles and eaten by Israelites. And he said nothing whatsoever to them.

A. I:22: The same problem as in the foregoing, namely: Our rabbis have taught on Tannaite authority: A proselyte who was circumcised but did not immerse — R. Eliezer says, “Lo, this one is a valid proselyte. For so we find in the case of our fathers that they

circumcised themselves but did not immerse.” If he immersed but did not circumcise — R. Joshua says “Lo, this one is a proper proselyte, for so we find in the case of our mothers that they immersed but did not circumcise.” And sages say, “If he immersed but did not circumcise, circumcise but did not immerse, he is no proselyte — until he both circumcises himself and immerses.

I. I:23: Gloss of the foregoing.

c. I:24: Said R. Hiyya bar Abba said R. Yohanan, “Under no circumstances does a man become a full proselyte until he both is circumcised and also immersed in a ritual pool.”

I. I:25: Gloss of the foregoing.

II. I:26: Gloss of the foregoing.

A. I:27: Case.

d. I:28: Said R. Hiyya bar Abba said R. Yohanan, “A proselyte’s conversion-rite must be done in the presence of three men, for ‘law’ is written in that connection” Num. 15:16.

e. I:29: Our rabbis have taught on Tannaite authority: If someone came along and said, “I am a convert,” might one suppose that we accept that statement? Scripture says, “...with you...” (Lev. 19:33), meaning, it is only when he is well known to you. If he came with witnesses as to his status with him, how do we know the rule that he is accepted forthwith? Scripture states, “And if a proselyte sojourn...in your land” (Lev. 19:33).

I. I:30: Gloss of the foregoing.

II. I:31: Gloss of the foregoing.

III. I:32: Continuation of the foregoing.

IV. I:33: Said R. Hiyya bar Abba said R. Yohanan, “The decided law is that whether in the land or abroad, it is necessary to produce proof.”

f. I:34: Our rabbis have taught on Tannaite authority: “And judge righteously between a man and his brother and the proselyte that is with him” (Deu. 1:16): On this basis said R. Judah, “A proselyte who converts in court, lo, this is a valid proselyte; but one who converts all by himself is not regarded as a proselyte.”

I. I:35: Case.

II. I:36: Gloss of the foregoing.

g. I:37: Our rabbis have taught on Tannaite authority: A person who comes to convert at this time — they say to him, “How come you have come to convert? Don’t you know that at this time the Israelites are forsaken and harassed, despised, baited, and afflictions come upon them?” If he said, “I know full well, and I am not worthy of sharing their suffering,” they accept him forthwith. And they inform him about some of the lesser religious duties and some of the weightier religious duties. He is

informed about the sin of neglecting the religious duties involving gleanings, forgotten sheaf, corner of the field, and poorman's tithe. They further inform him about the penalty for not keeping the commandments. They say to him, "You should know that before you came to this lot, if you ate forbidden fat, you would not be penalized by extirpation. If you violated the Sabbath, you would not be put to death through stoning. But now if you eat forbidden fat, you are punished with extirpation. If you violate the Sabbath, you are punished by stoning." And just as they inform him about the penalties for violating religious duties, so they inform him about the rewards for doing them. They say to him, "You should know that the world to come is prepared only for the righteous, and Israel at this time is unable to bear either too much prosperity or too much penalty."

I. I:38: Gloss of the foregoing.

II. I:39: As above.

III. I:40: As above; the case of Ruth.

IV. I:41: As above.

V. I:42: As above.

VI. I:43: As above.

VII. I:44: As above.

VIII. I:45: As above.

IX. I:46: As above.

A. I:47: Expansion on a topic introduced in, but tangential to, the foregoing, namely, the the woman of goodly form (Deu. 21:11).

B. I:48: As above.

h. I:49: Our rabbis have taught on Tannaite authority: "People may keep uncircumcised slaves," the words of R. Ishmael. R. Aqiba says, "People may not keep uncircumcised slaves."

i. I:50: Said R. Joshua b. Levi, "He who buys a slave from a gentile and did not want to circumcise him may postpone the matter for twelve months. If he has not circumcised him by that time, he goes and resells him to gentiles."

j. I:51: R. Hanina bar Pappi, R. Ammi, and R. Isaac Nappaha happened to go into session in the doorway of R. Isaac Nappaha, and in session they stated: "There was a town in the Land of Israel, where the slaves did not want to be circumcised, and after postponing the matter for twelve months, they went and resold them to gentiles. Now in accord with which authority did they act in this manner? It is in accord with the Tannaite authority responsible for that which has been taught as a Tannaite formulation: He who buys a slave from a gentile and did not want to circumcise him may postpone the matter for twelve months. If he has not circumcised him by that time, he goes and resells him to gentiles. R. Simeon b. Eleazar says, 'They do not postpone the matter involving him when the case is in the

Land of Israel, on account of the loss of food requiring preparation in conditions of cultic cleanness which will be made unclean by his touch. But in a town near the frontier, they do not postpone the matter concerning him for a single moment, lest he hear something and go and tell his gentile friend.””

k. I:52: It has been taught on Tannaite authority: R. Hanania b. Rabban Gamaliel says, “How come gentiles at this time are harassed, and suffering comes upon them? Because they have not carried out even the seven religious duties assigned to the children of Noah.” R. Yosé says, “A proselyte at the moment of conversion is like a new-born baby. So why are they harassed? Because they are not expert in the details of the religious duties as Israelites are.”

XXXIII. Mishnah-Tractate Yebamot 4:13

A. WHAT IS THE DEFINITION OF A “MAMZER”? “THE OFFSPRING OF ANY MARRIAGE OF NEAR OF KIN — THE RUBRIC, ‘HE SHALL NOT COME INTO THE CONGREGATION OF THE LORD’ (DEU. 23: 3),” THE WORDS OF R. AQIBA. SIMEON OF TEMAN SAYS, “THE OFFSPRING OF ANY MARRIAGE FOR WHICH THE PARTICIPANTS ARE LIABLE TO EXTIRPATION BY HEAVEN.” AND THE LAW FOLLOWS HIS OPINION. R. JOSHUA SAYS, “THE OFFSPRING OF ANY MARRIAGE FOR WHICH THE PARTICIPANTS ARE LIABLE TO BE PUT TO DEATH BY A COURT.”

1. I:1: “The offspring of any marriage of near of kin — the rubric, ‘He shall not come into the congregation of the Lord’ (Deu. 23: 3),” the words of R. Aqiba: what is the scriptural basis for the position of R. Aqiba?

a. I:2: Gloss of the development of the foregoing.

B. SAID R. SIMEON B. AZZAI, “I DISCOVERED A FAMILY REGISTER IN JERUSALEM, IN WHICH WAS WRITTEN: ‘MR. SO-AND-SO IS A MAMZER, HAVING BEEN BORN OF AN ILLICIT UNION OF A MARRIED WOMAN AND SOMEONE OTHER THAN HER HUSBAND”” — SO SUPPORTING THE OPINION OF R. JOSHUA:

1. II:1: A Tannaite statement: Simeon b. Azzai said, “I found a scroll of genealogies in Jerusalem, in which was written: ‘So and so- is a mamzer, having been born from a union with a married woman and a man other than her husband.’ and therein was written, ‘The Mishnah-teaching of R. Eliezer b. Jacob is a mere qab in volume but is pure flour. And in it was written, ‘Manasseh killed Isaiah.’”

a. II:2: Expansion of the foregoing.

C. 1) HIS WIFE WHO DIED — HE IS PERMITTED TO MARRY HER SISTER. (2) IF HE DIVORCED HER AND AFTERWARD SHE DIED, HE IS PERMITTED TO MARRY HER SISTER (3) IF SHE WAS MARRIED TO SOMEONE ELSE AND DIED, HE IS PERMITTED TO MARRY HER SISTER. (4) HIS DECEASED CHILDLESS BROTHER’S WIDOW WHO DIED — HE IS PERMITTED TO MARRY HER SISTER. (5) IF HE PERFORMED THE RITE OF REMOVING THE SHOE WITH HER AND SHE DIED, HE IS PERMITTED TO MARRY HER SISTER.

1. III:1: Said R. Joseph, “Here Rabbi taught a Mishnah-paragraph that is hardly required” since the laws therein enumerated are self-evident, in line with Lev. 18:18.

XXXIV. Mishnah-Tractate Yebamot 5:1-6

A. IN THE CASE OF ONE LEVIR AND TWO DECEASED CHILDLESS BROTHER’S WIDOWS, OR TWO LEVIRS AND ONE DECEASED CHILDLESS BROTHER’S WIDOW, RABBAN GAMALIEL SAYS, “THERE IS NO WRIT OF DIVORCE WHICH IS VALID AFTER ANOTHER WRIT OF DIVORCE SO THAT THE SECOND SUCH WRIT IS INVALID, AND NO BESPEAKING A STATEMENT OF BETROTHAL IN A CASE OF A LEVIRATE CONNECTION AFTER ANOTHER BESPEAKING, AND NO COITION CONSUMMATING A LEVIRATE MARRIAGE AFTER ANOTHER COITION, AND NO RITE OF REMOVING THE SHOE WHICH IS VALID AFTER ANOTHER RITE OF REMOVING THE SHOE.”

AND SAGES SAY, “THERE IS A WRIT OF DIVORCE WHICH IS VALID AFTER ANOTHER WRIT OF DIVORCE, AND THERE IS BESPEAKING AFTER BESPEAKING, BUT THERE IS NOTHING VALIDLY DONE AFTER COITION OR AFTER A RITE OF REMOVING THE SHOE.”

1. I:1: There is a writ of divorce which is valid after another writ of divorce, and there is bespeaking after bespeaking, but there is nothing validly done after coition or after a rite of removing the shoe: The dispute between Gamaliel and sages concerns only a case of a writ of divorce’s being issued after another writ of divorce, or an act of bespeaking after another act of bespeaking. But as to a writ of divorce issued to one deceased childless brother’s widow or an act of bespeaking to one — that is valid. The writ of divorce prevents subsequent levirate marriage, under the prohibition of “that does not build,” and the act of bespeaking prevents the levirate marriage of a co-wife under the injunction, a levir may build one house but not two, and necessitates also a writ of divorce should it be desired to cancel the act of bespeaking.

2. I:2: How come rabbis have said that a writ of divorce to one deceased childless brother’s widow is valid?

3. I:3: How come rabbis have said that an act of bespeaking to one deceased childless brother’s widow is valid?

4. I:4: How come rabbis have said that after an invalid act of sexual relations, an element of the levirate connection remains?

5. I:5: And how come rabbis have said that after an invalid act of removing the shoe, nothing of the levirate connection remains — should the levir subsequent to such a rite address an act of bespeaking or give a writ of divorce to a third sister-in-law, his act would have no validity whatsoever?

6. I:6: Rabban Gamaliel says, “There is no writ of divorce which is valid after another writ of divorce so that the second such writ is invalid, and no bespeaking a statement of betrothal in a case of a levirate connection after another bespeaking, and no coition consummating a levirate marriage after another coition, and no rite of removing the shoe which is valid after another rite of removing the shoe.” What is the reason for the position of Rabban Gamaliel?

B. HOW SO? IF A LEVIR BESPOKE HIS DECEASED CHILDLESS BROTHER'S WIDOW AND THEN GAVE HER A WRIT OF DIVORCE, SHE NONETHELESS REQUIRES A RITE OF REMOVING THE SHOE FROM HIM. IF HE BESPOKE HER AND THEN PERFORMED A RITE OF REMOVING THE SHOE, SHE NONETHELESS REQUIRES A WRIT OF DIVORCE FROM HIM:

1. II:1: Our rabbis have taught on Tannaite authority: How so in the case of what Rabban Gamaliel said, namely, "There is no writ of divorce which is valid after another writ of divorce so that the second such writ is invalid"? Two deceased childless brother's widows who fell to the lot of a single levir, and he gave a writ of divorce to this one and a writ of divorce to that one — Rabban Gamaliel says, "He performs the rite of removing the shoe with the first of the two, and is forbidden to marry her relatives, but is permitted to marry the relatives of the second widow." And sages say, "If he gave a writ of divorce to this one and a writ of divorce to that one, then he is forbidden to marry the relatives of either one of them, but he performs the rite of removing the shoe with only one of them. And so is the rule in the case of two levirs and a single deceased childless brother's widow. How so in the case of what Rabban Gamaliel said, namely, "There is no valid act of bespeaking after another valid act of bespeaking"? Two deceased childless brother's widows who fell to the lot of a single levir, and he performed an act of bespeaking with this one and an act of bespeaking with that one — Rabban Gamaliel says, "He gives a writ of divorce to the first one and performs a rite of removing the shoe with her, and is forbidden to marry her relatives, but permitted to marry the relatives of the second." And sages say, "He gives a writ of divorce to them both and is forbidden to marry the relatives of both of them, but he performs the rite of removing the shoe with only one of them. And so is the rule in the case of two levirs and a single deceased childless brother's widow (T. **Yeb. 7:3F-O**).

a. II:2: Gloss of the foregoing.

b. II:3: As above.

l. II:4: Said R. Yohanan, "Rabban Gamaliel, the House of Shammai, R. Simeon, Ben Azzai, and R. Nehemiah all take the view that the act of bespeaking effects a complete transfer of ownership of the widow to the levir."

2. II:5: How so? If a levir bespoke his deceased childless brother's widow and then gave her a writ of divorce, she nonetheless requires a rite of removing the shoe from him: Does this really illustrate the case of a writ of divorce after another writ of divorce? In fact, we have an act of bespeaking after a writ of divorce!

C. IF HE BESPOKE HER AND THEN HAD SEXUAL RELATIONS, LO, THIS HAS BEEN DONE IN ACCORD WITH ITS REQUIREMENT.

IF ONE GAVE A WRIT OF DIVORCE AND THEN BESPOKE THE DECEASED CHILDLESS BROTHER'S WIDOW, SHE REQUIRES A WRIT OF DIVORCE AND A RITE OF REMOVING THE SHOE. IF HE GAVE A WRIT OF DIVORCE AND THEN HAD SEXUAL RELATIONS, SHE REQUIRES A WRIT OF DIVORCE AND A RITE OF REMOVING THE SHOE. IF HE GAVE A WRIT OF DIVORCE AND PERFORMED THE RITE OF REMOVING THE SHOE, NOTHING WHATSOEVER FOLLOWS THE RITE OF REMOVING THE SHOE.

1. III:1: May we say that this rule supports the position of R. Huna, for said R. Huna, “The religious duty of the levirate connection is best done when the levir betroths and then has sexual relations with her” and the act of bespeaking and betrothal are the same form of effecting acquisition.

a. III:2: Gloss of the foregoing.

2. III:3: Our rabbis have taught on Tannaite authority: How is the duty of bespeaking carried out? If he gave her money or what is worth money the bespeaking is done. How with a writ?

3. III:4: Abbayye asked Rabbah, “If he gave her a writ of divorce and said to her, ‘Lo, you are divorced from me, but you are not permitted to any other man,’ what is the law? Is the requirement of a writ of divorce for a deceased childless brother’s widow merely on the authority of the rabbis, so that only a writ of divorce valid in the case of a married woman would be valid in the case of a deceased childless brother’s widow, but one that would not be valid in the case of a married woman would not be valid in the case of a deceased childless brother’s widow and this writ is therefore null? Or perhaps the consideration for which the writ is issued, namely, so that people will not mistake the writ for an ordinary, unqualified divorce, and this divorce is a valid one?”

4. III:5: Said Rammi bar Hamma, “Lo, they have said, ‘If someone said to a scribe, “Write a writ of divorce to my betrothed, when I marry her, I shall divorce her,” lo, this is a valid writ of divorce, since in any event he has the power to divorce her.’ But if he made that statement in connection with any other woman, the writ is null, because he does not have the power to divorce her not being married or bound to him in any way.”

5. III:6: R. Hananiah raised this question: “If one wrote a writ of divorce to a woman in respect to the levirate bond but not in regard to his act of bespeaking, or in respect to his act of bespeaking but not in regard to the levirate bond, what is the law? Is the act of bespeaking an add-on to the levirate bond, so that the action of the levir is as though he had divorced half a woman, and if one divorces a woman by halves, his action is null, or are these two matters autonomous of one another?”

D. (1) IF HE PERFORMED THE RITE OF REMOVING THE SHOE AND THEN BESPOKE THE DECEASED CHILDLESS BROTHER’S WIDOW, OR (2) GAVE A WRIT OF DIVORCE, OR HAD SEXUAL RELATIONS WITH HER, OR IF HE (1) HAD SEXUAL RELATIONS, THEN BESPOKE THE WOMAN, OR (2) GAVE A WRIT OF DIVORCE OR PERFORMED THE RITE OF REMOVING THE SHOE, NOTHING WHATSOEVER FOLLOWS THE RITE OF REMOVING THE SHOE.

1. IV:1: Said R. Judah said Rab, “This represents the view of R. Aqiba, who has said, ‘A valid betrothal does not take effect in a situation in which there is a violation of a negative commandment.’ But sages say, ‘There is validity in acts carried out after the rite of removing the shoe.’”

2. IV:2: (1) If he performed the rite of removing the shoe and then bespoked the deceased childless brother’s widow, or (2) gave a writ of divorce, or had sexual relations with her, Or if he (1) had sexual relations, then bespoked the woman, or

(2) gave a writ of divorce or performed the rite of removing the shoe: Well, why not formulate the Tannaite rule in this language too: nothing whatsoever follows the act of sexual relations as in the earlier cases?

E. ALL THE SAME ARE THE CASES OF A SINGLE DECEASED CHILDLESS BROTHER'S WIDOW WITH A SINGLE LEVIR, AND TWO DECEASED CHILDLESS BROTHERS' WIDOWS WITH A SINGLE LEVIR.

1. V:1: The formulation of our Mishnah concurring that there can be a valid act of bespeaking after another such act when there are two widows and one levir does not accord with the position of Ben Azzai, for it has been taught on Tannaite authority: Ben Azzai says, "There can be a valid act of bespeaking after another act of bespeaking, in the case of two levirs and one deceased childless brother's widow, but there cannot be a valid act of bespeaking after another such act where there are two deceased childless brother's widows and one levir."

F. HOW SO? IF HE BESPOKE THIS ONE AND BESPOKE THAT ONE, THEY REQUIRE TWO WRITS OF DIVORCE AND ONE RITE OF REMOVING THE SHOE. IF HE BESPOKE THIS ONE AND GAVE A WRIT OF DIVORCE TO THAT ONE, SHE THE BESPOKEN WIDOW REQUIRES A WRIT OF DIVORCE AND THE RITE OF REMOVING THE SHOE. IF HE BESPOKE THIS ONE AND HAD SEXUAL RELATIONS WITH THAT ONE, THEY REQUIRE TWO WRITS OF DIVORCE AND ONE RITE OF REMOVING THE SHOE. IF HE BESPOKE THIS ONE AND PERFORMED THE RITE OF REMOVING THE SHOE WITH THAT ONE, THE FIRST ONE REQUIRES A WRIT OF DIVORCE.

1. VI:1: The statement supports the view of Samuel, for said Samuel, "If the levir entered the rite of removing the shoe with her to whom he performed the act of bespeaking, her co-wife is not exempt," and this would represent a refutation of R. Joseph.

G. IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND A WRIT OF DIVORCE TO THAT ONE, THEY REQUIRE FROM HIM A RITE OF REMOVING THE SHOE. IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND HAD SEXUAL RELATIONS WITH THAT ONE, SHE THE LATTER REQUIRES A WRIT OF DIVORCE AND A RITE OF REMOVING THE SHOE. IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND BESPOKE THAT ONE, SHE THE LATTER REQUIRES A WRIT OF DIVORCE AND REMOVING THE SHOE.

1. VII:1: Since both require the rite of removing the shoe, does this not support the position of Rabbah b. R. Huna? For said Rabbah b. R. Huna, ""In the case of an invalid rite of removing the shoe, the deceased childless brother's widow has to make the rounds of all the brothers."

H. IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND PERFORMED REMOVING THE SHOE WITH THAT ONE, NOTHING WHATSOEVER FOLLOWS THE RITE OF REMOVING THE SHOE.

1. VIII:1: May one suppose that the statement supports the view of Samuel and represents a refutation of R. Joseph.

I. (1) IF HE PERFORMED THE RITE OF REMOVING THE SHOE WITH THIS ONE AND PERFORMED THE RITE OF REMOVING THE SHOE WITH THAT ONE, OR (2) IF HE PERFORMED THE RITE OF REMOVING THE SHOE WITH THIS ONE AND BESPOKE THAT ONE, OR (3) IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND HAD SEXUAL

RELATIONS WITH THAT ONE, (4) IF HE HAD SEXUAL RELATIONS WITH THIS ONE AND HAD SEXUAL RELATIONS WITH THAT ONE, OR (5) IF HE HAD SEXUAL RELATIONS WITH THIS ONE AND BESPOKE THAT ONE, OR (6) IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND PERFORMED THE RITE OF REMOVING THE SHOE WITH THAT ONE, NOTHING WHATSOEVER FOLLOWS THE RITE OF REMOVING THE SHOE.

1. IX:1: Well, why not formulate the Tannaite rule in this language too: nothing whatsoever follows the act of sexual relations as in the earlier cases?

J. AND THIS IS THE RULE WHETHER IN THE CASE OF A SINGLE LEVIR AND TWO DECEASED CHILDLESS BROTHER'S WIDOWS, OR TWO LEVIRS AND A SINGLE DECEASED CHILDLESS BROTHER'S WIDOW.

1. X:1: Now from the perspective of R. Yohanan, who has said, "The entire household of surviving brothers stand under the prohibition of a negative religious requirement," it is necessary to tell us that betrothal with those with whom intercourse involves a negative commandment is invalid. Had this not been indicated, it might have been assumed that betrothing a woman forbidden only by a negative commandment is legally valid. But from the perspective of R. Simeon b. Laqish, who has said, "The entire household of surviving brothers are subject to the penalty of extirpation if any of them married the cop-wife of a woman subject to the rite of removing the shoe, is there any need to tell us that betrothal is invalid if it involves someone with whom marriage is penalized by extirpation? That is a well-known fact.

K. IF HE PERFORMED A RITE OF REMOVING THE SHOE WITH ONE AND BESPOKE ONE, GAVE A WRIT OF DIVORCE TO ONE AND HAD SEXUAL RELATIONS WITH ONE OR HAD SEXUAL RELATIONS AND BESPOKE, AND GAVE A WRIT OF DIVORCE AND PERFORMED REMOVING THE SHOE NOTHING WHATSOEVER FOLLOWS THE RITE OF REMOVING THE SHOE WHETHER THIS COMES AT THE OUTSET, OR IN THE MIDDLE, OR AT THE END.

1. XI:1: Now there is no problem in understanding why it was necessary to include the case, If he performed a rite of removing the shoe with one and bespoke one, for it might have entered your mind to supposed that we might make a precautionary decree in the case of an act of bespeaking followed by the rite of removing the shoe as a measure against the case of an act of bespeaking that preceded the rite of removing the shoe. So it was necessary to let us know that no such precautionary measure is adopted. But why tell us that a divorce is invalid where there is only one levir and one deceased childless brother's widow, where If he performed the rite of removing the shoe and then ... gave a writ of divorce?

L. AS TO SEXUAL RELATIONS: WHEN THIS IS AT THE OUTSET, NOTHING WHATSOEVER FOLLOWS. IF THIS COMES IN THE MIDDLE OR AT THE END, THERE IS SOMETHING WHICH FOLLOWS. R. NEHEMIAH SAYS, "ALL THE SAME ARE SEXUAL RELATIONS AND THE RITE OF REMOVING THE SHOE, WHETHER AT THE BEGINNING OR AT THE MIDDLE OR AT THE END: NOTHING WHATSOEVER FOLLOWS EITHER OF THEM."

1. XII:1: Our Mishnah-passage does not accord with the Tannaite authority represented in that which has been taught on Tannaite authority: Abba Yosé b. Yohanan of Jerusalem says in the name of R. Meir, "In both the case of sexual

relations or of the rite of removing the shoe, if these took place first, no valid act can follow; if it occurred in the middle or at the end there can be a valid act.”

XXXV. Mishnah-Tractate Yebamot 6:1-2

A. HE WHO HAS SEXUAL RELATIONS WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW — WHETHER INADVERTENTLY OR DELIBERATELY, WHETHER UNDER CONSTRAINT OR WILLINGLY — EVEN IF HE DOES SO INADVERTENTLY AND SHE DELIBERATELY, HE DELIBERATELY AND SHE INADVERTENTLY — HE UNDER CONSTRAINT AND SHE NOT UNDER CONSTRAINT, SHE UNDER CONSTRAINT AND HE NOT UNDER CONSTRAINT —

1. I:1: ...even if he does so inadvertently and she deliberately: what is the meaning of even?

2. I:2: R. Hiyya formulated the Tannaite statement as follows: “Even if both of them acted inadvertently, or both deliberately, or both under constraint.” Both of them acted inadvertently, to which our Mishnah-paragraph makes references — what sort of a case can be in mind? If I should say that it is a case in which gentiles forced them so he had sexual relations with her, has not Raba said, “There is no such thing as constraint when it comes to sexual relations, since a hard-on is invariably willful”? Rather, is it when they were asleep? But has not R. Judah said, “If one has sexual relations while asleep, he has not acquired possession of his deceased childless brother’s widow”? So it must be by accident. But has not Rabbah said, “If someone fell from the roof and hit a woman inserting his erect penis in her, he is liable on Four Counts; if it was his deceased childless brother’s widow and in falling, he had sexual relations with her, he has not acquired her as his levirate wife; he is liable for the compensation to injury done her, pain, medical expenses, and time lost from work, but not for humiliation”? Rather, it is a case in which, for example, he had the intention of having sexual relations with his wife but his deceased childless brother’s widow grabbed him so he had sexual relations with her.

a. I:3: Gloss: What is the foundation of Scripture for this ruling?

3. I:4: It has further been taught on Tannaite authority: “Her levirate husband will have sexual relations with her” — through vaginal intercourse. “...and take her” (Deu. 25: 5) — through anal intercourse. “And enter into levirate marriage with her” (Deu. 25: 5) — only the act of sexual relations consummates the marriage with her, but the transfer of money or a deed does not consummate the marriage with her. “and perform the duty of the husband’s brother unto her” (Deu. 25: 4) — even against her will.

a. I:5: Gloss.

b. I:6: As above.

c. I:7: As above.

I. I:8: As above.

B. ALL THE SAME BEING THE ONE WHO MERELY PARTIALLY OPENS UNCOVERS THE VAGINA AND THE ONE WHO COMPLETES ENTRY THEREIN — HAS ACQUIRED HIS

SISTER-IN-LAW AS HIS LEVIRATE WIFE. AND THERE IS NO DISTINCTION BETWEEN ONE SORT OF SEXUAL ACT AND SOME OTHER.

1. I:1: Said Ulla, “What evidence is there in Scripture that the the first stage in sexual relations ‘merely partially uncovers the vagina’ is regarded as a sexual action and forbidden in the case of consanguineous relations? ‘...and uncovers her nakedness; he has made naked her mountain, and she has uncovered the fountain of her blood.’ Scripture so indicates that the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse.

a. I:2: Gloss of the foregoing. Then with such a universal proof, what need did I have to make reference in particular to the menstruant when Scripture speaks of the brother’s wife?

b. I:3: As above.

I. I:4: Secondary expansion.

A. I:5: Gloss of the foregoing.

B. I:6: As above. And how come the Tannaite authority here is so certain that the aunt is the one on the father’s side but not on the mother’s side that is, the wife of the father’s paternal brother?

2. I:7: How do we know that the sister of his wife, whether on her father’s side or on her mother’s side, is forbidden?

3. I:8: How do we know that the brother’s wife herself is forbidden?

4. I:9: How come Scripture had to specify the penalty of extirpation for having sexual relations with one’s sister since it is covered by Lev. 18:29?

5. I:10: How come Scripture had to specify the penalty of having no children in the case of sexual relations with one’s aunt, “They shall be childless” (Lev. 20:21) that is, extirpation?

6. I:11: How on the basis of Scripture do we know that the first stage of sexual relations uncovering the organ as it pertains to those liable on account of violating negative commandments?

7. I:12: How on the basis of Scripture do we know that the first stage in sexual relations is sufficient to invoke the penalty of having violated the law against such relations with those subject to negative commandments in connection with the priesthood?

8. I:13: How do we know that that is the case for those who are subject to liability for violating an affirmative commandment?

9. I:14: How do we know that a levirate widow is forbidden to the world at large?

10. I:15: How do we know that the first stage in sexual relations suffices in regard to the act of acquisition through sexual relations between a husband and a wife?

11. I:16: Said Raba, “Why was it necessary for Scripture to make reference to ‘carnal’ with respect to the designated bondwoman Lev. 19:20, a married woman Lev. 18:20, and a woman accused of adultery Num. 5:13?

12. I:17: Said Samuel, “The first stage in sexual relations involves kissing. The matter may be compared to the case of someone who puts his finger on his mouth; it is not possible that he won’t press the flesh.”

13. I:18: When Rabbah bar bar Hannah came, he said R. Yohanan said, “In the case of the designated bondwoman, consummation of sexual relations is constituted by inserting the crown of the penis into the vagina.”

14. I:19: When R. Dimi came, he said R. Yohanan said, “The first stage in sexual relations inserting the crown of the penis into the vagina.”

15. I:20: When Rabin came, he said R. Yohanan said, “The first stage in sexual relations inserting the crown of the penis into the vagina.”

16. I:21: When R. Samuel bar Judah came, he said R. Yohanan said, “The first stage in sexual relations inserting the crown of the penis into the vagina. The conclusion of the act of sexual relations is at the stage of actual consummation. In any other aspect, all we have is kissing, and one is exempt on her account.”

17. I:22: all the same being the one who merely partially opens uncovers the vagina and the one who completes entry therein — has acquired his sister-in-law as his levirate wife: To what extent has he effected acquisition?

18. I:23: Our rabbis have taught on Tannaite authority: An Israelite woman of sound senses who was betrothed to a priest of sound senses, who did not suffice to consummate the marriage with her before becoming a deaf-mute, may not eat priestly rations. If a child was born to her, she may eat priestly rations. If the offspring died — R. Nathan says, “She may eat priestly rations.” And sages say, “She may not eat priestly rations.”

a. I:24: Gloss. What is the operative consideration behind the position of R. Nathan?

C. AND SO: HE WHO HAS SEXUAL RELATIONS WITH ANY ONE OF ALL THE FORBIDDEN DEGREES WHICH ARE LISTED IN THE TORAH, OR WITH ANY OF THOSE INVALID FOR SEXUAL RELATIONS WITH HIM — FOR EXAMPLE (1) A WIDOW TO A HIGH PRIEST, (2) A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE WITH AN ORDINARY PRIEST, (3) A MAMZERET OR A TEMPLE SLAVE-FEMALE WITH AN ISRAELITE, AND (4) ISRAELITE WOMAN WITH A MAMZER OR A NETIN — HAS RENDERED HER INVALID TO MARRY A PRIEST OR, IF SHE IS A PRIEST’S DAUGHTER, TO EAT HEAVE OFFERING. AND THERE IS NO DISTINCTION BETWEEN ONE SORT OF SEXUAL ACT AND SOME OTHER

1. I:1: Said R. Amram, “This statement was made to us by R. Sheshet, and we found it illuminating in respect to our Mishnah-paragraph: An Israelite’s wife a priest’s daughter, who when her husband dies once more is permitted to eat heave offering who was raped, even though she is permitted to return to her husband, is invalid for marriage into the priesthood. And a Tannaite authority taught along the same lines: And so: he who has sexual relations with any one of all the forbidden degrees which are listed in the Torah, or with any of those invalid for sexual relations with him — for example (1) a widow to a high priest, (2) a divorcée or a woman who has performed the rite of removing the shoe with an ordinary priest, (3) a mamzeret or a Temple slave-female with an Israelite, and (4) Israelite woman

with a mamzer or a Netin — has rendered her invalid to marry a priest or, if she is a priest's daughter, to eat heave offering. And there is no distinction between one sort of sexual act and some other. Now what is the meaning of and so? Does this not mean, whether inadvertently or deliberately, whether under constraint or willingly? And yet it is stated, has rendered her invalid to marry a priest or, if she is a priest's daughter, to eat heave offering!"

2. I:2: Said Rabbah, "An priest's wife who was raped, — her husband is flogged on her account on the ground of having sexual relations with a whore for the act, whether done willingly or under constraint, forbids her from marrying a priest, in line with Lev. 21: 7."

XXXVI. Mishnah-Tractate Yebamot 6:3

A. IF IT IS A MARRIAGE BETWEEN A WIDOW AND A HIGH PRIEST, BETWEEN A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE AND AN ORDINARY PRIEST — FROM THE TIME OF THE BETROTHAL, THEY SHOULD NOT EAT HEAVE OFFERING.

1. I:1: It has been taught on Tannaite authority: Said R. Meir, "It is a matter of an argument a fortiori: if a betrothal that is permissible does not confer the right to eat priestly rations, a betrothal that is a transgression all the more so should not confer that right!"

B. R. ELEAZAR AND R. SIMEON DECLARE HER VALID TO CONTINUE TO DO SO UNTIL THE MARRIAGE IS CONSUMMATED.

1. II:1: Said R. Eleazar said R. Oshaia, "In the case of a priest with damaged testicles who betrothed an Israelite woman, we come to the dispute of R. Meir and R. Eleazar and R. Simeon. In the view of R. Meir, who has said that just as a woman who is awaiting an act of sexual relations that is invalid on the strength of the law of the Torah, may not eat priestly rations, lo, this one also may not do so. In the view of R. Eleazar and R. Simeon, who take the view that a woman who is awaiting an act of sexual relations that is invalid on the strength of the law of the Torah, may continue to eat priestly rations, this one likewise may continue to do so."

2. II:2: It has been stated: Abbayye said, "The priest with damaged testicles has the power to confer on the betrothed woman the right to eat priestly rations because he can confer on his wife married prior to the injury the right to do so, so long as he does not have sexual relations with her." He may confer the right where the betrothal was unlawful, so long as the woman is not profaned by him through marriage. Raba said, "The priest with damaged testicles has the power to confer on the betrothed woman the right to eat priestly rations because he can confer on his Canaanite bondsmen and bondwomen." Since he may confer the privilege in that case, he may also confer it on the woman he betrothed.

3. II:3: R. Yohanan asked R. Oshaia, "A priestly with damaged testicles who married the daughter of proselytes — what is the law as to his conferring upon her the right to eat heave offering?"

4. II:4: It has been stated: Rab said, “The consummation of the marriage through sexual relations without a prior form of betrothal constitutes an act of acquisition with women otherwise ineligible to marry,” whom one is not permitted otherwise to marry, e.g., a widow and a high priest or a divorcée and a common priest. And Samuel said, “The consummation of the marriage through sexual relations without a prior form of betrothal does not constitute an act of acquisition with women otherwise ineligible to marry.”

a. II:5: Gloss of the foregoing.

5. II:6: Said R. Amram, “This statement was made to us by R. Sheshet, and we found it illuminating in respect to our Mishnah-paragraph: The bridal chamber effects acquisition of women otherwise ineligible for betrothal.’ And a Tannaite formulation of the same rule, in support of the foregoing, is as follows: To what does she say, Amen, Amen?...”Amen that I have not gone aside while betrothed, married, awaiting levirate marriage, or wholly taken in Levirate marriage” (M. **Sot. 2:5A-D**). Now as this reference to her having been betrothed, what can it possibly mean? If we say that he expressed his warning of jealous to her when she was betrothed, and then she went aside with the alleged lover, and is now made to drink the bitter water while still betrothed, then is a woman who has been merely betrothed required to undergo the ordeal of drinking the bitter water as a woman accused of adultery? Lo, we have learned in the Mishnah: A betrothed girl and a deceased childless brother’s widow awaiting levirate marriage neither undergo the ordeal of drinking the bitter water nor receive a marriage contract, since it is written, “When a wife, being subject to her husband, goes astray” (Num. 5:29) — excluding the betrothed girl and the deceased childless brother’s widow awaiting levirate marriage (M. **Sot. 4:1A-C**). And if it is proposed that she was warned when betrothed, then went aside with the alleged lover, and now has to drink that she has been married, do the waters test her under these conditions? Has it not been taught on Tannaite authority: “And the man shall be free from iniquity, and the woman shall bear her iniquity” (Num. 5:31). The sense of the foregoing verse of Scripture is that when the man is free of transgression, the water puts his wife to the test, and if the man is not free of transgression, the water does not put his wife to the test? Rather, he must have acquired possession of her when she was betrothed and she went aside with the alleged paramour and then she entered into the marriage canopy but did not have sexual relations. And it is therefore to be inferred that the marriage canopy does effect possession for women otherwise invalid for marriage.”

6. II:7: R. Hanina sent word in the name of R. Yohanan, “He who carries out an act of bespeaking to his deceased childless brother’s wife while he has a living brother disqualifies her from eating food in the status of heave offering until the marriage is consummated even if he is in the priestly caste and she is a daughter of a priest so that she can eat the food in her own right if she is free of the marital bond, and he can confer that right as well. Now in accord with which authority is this statement made? Should we say that it accords with the position of R. Meir? Well, perhaps R. Meir took the position that one who is subject to illegitimate act of sexual relations may not eat food in the status of priestly rations so far as the law of the Torah, but did he take that position when the law that prohibits doing so

is merely on the authority of rabbis? And should we then suppose that the statement is made within the position of R. Eleazar and R. Simeon? But then, if eating food in the status of priestly rations is allowed to a woman who is subject to have sexual relations that are forbidden on the strength of the Torah, do we have to say that that is the same for one who is forbidden on the strength of rabbis' ruling?"

C. IF THEY WERE WIDOWED OR DIVORCED — IF THIS IS A SEVERANCE OF THE FULLY CONSUMMATED MARRIAGE, THEY REMAIN INVALID FOR EATING HEAVE OFFERING. IF THIS IS A SEVERANCE OF BETROTHAL, THEY ARE VALID ONCE MORE TO EAT HEAVE OFFERING OR TO MARRY A PRIEST.

1. III:1: R. Hiyya bar Joseph asked Samuel, "If a high priest betrothed a minor and she reached maturity while subject to the betrothal with him, what is the law? Is the operative criterion the marriage or the betrothal?"

XXXVII. Mishnah-Tractate Yebamot 6:4A-D

A. A HIGH PRIEST SHOULD NOT MARRY A WIDOW, WHETHER THIS IS A WOMAN WIDOWED OUT OF BETROTHAL OR WIDOWED OUT OF MARRIAGE.

1. I:1: Our rabbis have taught on Tannaite authority: "A widow shall he not take" (Lev. 21:14) — whether widowed at the stage of betrothal or widowed at the stage of a fully consummated marriage.

B. AND HE SHOULD NOT MARRY A PUBESCENT GIRL, THAT IS, ONE AGED TWELVE AND A HALF. R. ELEAZAR AND R. SIMEON DECLARE IT VALID FOR HIM TO MARRY A PUBESCENT GIRL.

HE SHOULD NOT MARRY A GIRL WHO HAS LOST HER VIRGINITY BY REASON OF A BLOW FROM A PIECE OF WOOD.

1. II:1: Our rabbis have taught on Tannaite authority: "And he shall take a wife in her virginity" (Lev. 21:13) — thus excluding a pubescent girl, whose virginity has come to an end," the words of R. Meir. R. Eleazar and R. Simeon permit him to marry a pubescent girl. What is at stake in this dispute?

2. II:2: Said R. Judah said Rab, "If a girl has had anal intercourse, she is invalid for marriage into the high priesthood."

3. II:3: Said R. Shimi bar Hiyya, "If a woman had sexual relations with a beast, she remains valid for marriage into the priesthood."

a. II:4: Illustrative case.

4. II:5: Said Raba of Parzaqayya to R. Ashi, "What is the basis of Scripture for the rabbis' saying: 'the category of whore does not apply to sexual relations with an animal'?"

5. II:6: Our rabbis have taught on Tannaite authority: A woman whom a high priest himself has raped or seduced he may not marry. If he married her, after the fact the marriage is valid. A woman whom a third party has raped or seduced he shall not marry. And if he married her — R. Eliezer b. Jacob says, "The offspring is profaned and not permitted to marry into the priesthood if a female, or not a valid priest if a male." And sages say, "The offspring is perfectly valid."

6. II:7: “If he married her, after the fact the marriage is valid:” said R. Huna said Rab, “But he has to put her out with a writ of divorce.”

7. II:8: A woman whom a third party has raped or seduced he shall not marry. And if he married her — R. Eliezer b. Jacob says, “The offspring is profaned and not permitted to marry into the priesthood if a female, or not a valid priest if a male.” And sages say, “The offspring is perfectly valid.” Said Rab, “The decided law accords with the position of R. Eliezer b. Jacob.”

8. II:9: R. Ashi said, “At issue between Eliezer b. Jacob, who differs from Eleazar, and rabbis is whether or not the status of profaned priest derives from a union of those who are liable for violating a commandment of affirmative action. R. Eliezer b. Jacob takes the view that the status of profaned priest derives from a union of those who are liable for violating a commandment of affirmative action. And rabbis maintain that the status of profaned priest does not derive from a union of those who are liable for violating a commandment of affirmative action.”

a. II:10: Secondary analytical exercise.

9. II:11: Our rabbis have taught on Tannaite authority: For one’s sister who has been betrothed — R. Meir and R. Judah say, “A priest contracts corpse uncleanness to bury her since she is still part of his household, not having been transferred out of the family through a consummated marriage.” R. Yosé and R. Simeon say, “A priest does not contract uncleanness to bury her.”

a. II:12: Scriptural foundations for the several positions.

10. II:13: It has been taught on Tannaite authority: R. Simeon b. Yohai says, “A convert who converted at the age of less than three years and a day may marry into the priesthood, as it is said, ‘But all the female children who have not known man by lying with him keep alive for yourselves’ (Num. 31:18), and Phineas a priest was certainly among them.”

a. II:14: Tannaite recapitulation.

b. II:15: Further secondary analysis: How did they know who had and who hadn’t had?

I. II:16: Supplement to the foregoing.

II. II:17: Supplement to the foregoing.

c. II:18: Said R. Jacob bar Idi said R. Joshua b. Levi, “The decided law accords with the position of R. Simeon b. Yohai.”

I. II:19: Illustrative case.

A. II:20: Another ruling of comparable character in the name of Simeon b. Yohai.

XXXVIII. Mishnah-Tractate Yebamot 6:4E-H

A. IF HE BETROTHED A WIDOW AND THEN WAS APPOINTED HIGH PRIEST, HE MAY CONSUMMATE THE MARRIAGE.

1. I:1: How on the basis of Scripture do we know that if he betrothed a widow and then was appointed high priest, he may consummate the marriage?

B. M'SH B: JOSHUA B. GAMLA BETROTHED MARTHA, DAUGHTER OF BAYTUS. THEN THE KING APPOINTED HIM HIGH PRIEST. HE MARRIED HER.

A WOMAN AWAITING MARRIAGE WITH HER LEVIRATE BROTHER-IN-LAW WHO CAME FOR THAT PURPOSE BEFORE AN ORDINARY PRIEST, AND THEN HE THE ELIGIBLE BROTHER-IN-LAW WAS APPOINTED HIGH PRIEST — EVEN THOUGH HE HAS BESPOKEN HER, LO, THIS ONE SHOULD NOT CONSUMMATE THE MARRIAGE.

1. II:1: Then the king appointed him high priest, but the priests did not nominate him as was the usual procedure?

XXXIX. Mishnah-Tractate Yebamot 6:4I

A. A HIGH PRIEST WHOSE BROTHER DIED, PERFORMS THE RITE OF REMOVING THE SHOE AND DOES NOT ENTER INTO LEVIRATE MARRIAGE WITH THE SURVIVING SISTER-IN-LAW.

1. I:1: Does the framer of the passage present so decisively the rule that there is no distinction between widowhood at the stage of betrothal and widowhood at the stage of marriage? Now with respect to widowhood at the stage of marriage, we have the case of a conflict between an affirmative and a negative commandment, and a negative commandment is not set aside by an affirmative one. But as to the case of widowhood at the stage of betrothal, let the affirmative commandment come and set aside the negative commandment

XL. Mishnah-Tractate Yebamot 6:5

A. AN ORDINARY PRIEST SHOULD NOT MARRY A STERILE WOMAN, UNLESS HE ALREADY HAS A WIFE AND CHILDREN. R. JUDAH SAYS, “EVEN THOUGH HE HAS A WIFE AND CHILDREN, HE SHOULD NOT MARRY A STERILE WOMAN, BECAUSE SHE IS THE WHORE (LEV. 21: 7) REFERRED TO IN THE TORAH.” AND SAGES SAY, “THE CATEGORY OF WHORE APPLIES ONLY TO THE WOMAN WHO HAS CONVERTED OR TO THE WOMAN WHO HAS BEEN FREED FROM SLAVERY BECAUSE OF THEIR PRIOR STATUS, AND TO THE WOMAN WHO HAS UNDERGONE LICENTIOUS SEXUAL RELATIONS.”

1. I:1: An ordinary priest should not marry a sterile woman, unless he already has a wife and children: Said the exilarch to R. Huna, “How come? Surely it is because of the consideration of being fruitful and multiplying! But then are only priests subject to the commandment of being fruitful and multiply, while Israelites are not so commanded that only the priest should be listed here, when the rule pertains to everybody?

2. I:2: It has been taught on Tannaite authority: R. Eliezer says, “A priest should not marry a minor.”

a. I:3: Secondary analysis of the foregoing.

I. I:4: Secondary gloss of the foregoing.

XLI. Mishnah-Tractate Yebamot 6:6

A. A MAN SHOULD NOT GIVE UP HAVING SEXUAL RELATIONS UNLESS HE HAS CHILDREN.

1. II:1: Lo, if he has children, he may then give up having sexual relations, but he may not give up living with a woman. This supports what R. Nahman said Samuel said, “Even though a man has any number of children, he still may not live without a woman: ‘It is not good for man to be alone’ (Gen. 2:18).”

B. THE HOUSE OF SHAMMAI SAY, “TWO BOYS.” AND THE HOUSE OF HILLEL SAY, “A BOY AND A GIRL, SINCE IT IS SAID, MALE AND FEMALE HE CREATED THEM (GEN. 5: 2).”

1. II:1: What is the scriptural foundation for the position of the House of Shammai?

a. II:2: Gloss of a secondary proof in the foregoing.

b. II:3: As above.

c. II:4: As above.

2. II:5: It has been taught on Tannaite authority: R. Nathan says, “The House of Shammai say, ‘Two sons,’ Bavli lacks: just as Moses had two sons: ‘And the sons of Moses, Gershom and Eliezer’ (1Ch. 23:15). And the House of Hillel say, ‘A son and a daughter,’ Bavli lacks: as it is said, ‘Male and female he made them’” (T. **Yeb. 8:4J-K**).

a. II:6: What is the scriptural basis adduced by R. Nathan for the position of the House of Shammai?

3. II:7: It has further been taught on Tannaite authority: R. Nathan says, “The House of Shammai say, ‘A son and a daughter.’ And the House of Hillel say, ‘Either a son or a daughter.’”

a. II:8: Said Raba, “What is the scriptural basis adduced by R. Nathan for the position of the House of Hillel? ‘He created it not a waste, he formed it to be inhabited’ (Isa. 45:18), and such a person obviously has made his contribution to its being inhabited.”

4. II:9: It has been stated: If someone had children while he was a gentile and he converted — R. Yohanan said, “He has already fulfilled the obligation to be fruitful and multiply.” R. Simeon b. Laqish says, “He has not already fulfilled the obligation to be fruitful and multiply.”

a. II:10: Secondary issue: Said Rab, “All concur that a slave has no valid genealogy whatsoever: ‘Stay here with the ass’ (Gen. 22: 5) — people who are classified along with the ass which has no genealogy and is merely chattel.”

5. II:11: It has been stated: If someone had children but they died, R. Huna said, “He still has carried out the obligation to be fruitful and multiply.” R. Yohanan said, “He has not carried out that obligation.”

a. II:12: Gloss of a detail of the foregoing.

I. II:13: Secondary gloss.

6. II:14: A man should not give up having sexual relations unless he has children — Lo, if he has children, he may then give up having sexual relations: our Mishnah as just now interpreted cannot accord with the position of R. Joshua, for it has been taught on Tannaite authority: R. Joshua says, “If a man married a wife when young, he should marry a wife when old, if he begot children when young, he should beget children when old: ‘For you do not know which will prosper, the one or the other, or perhaps both of them will survive, and they shall both turn out well. In the morning sow your seed and in the evening keep it up (Qoh. 11: 6).” R. Aqiba says, “If a man has studied the Torah in his youth, he should study it also when he gets old, and if he has raised up disciples in youth, he should raise up more disciples in your old age, ‘for you do not know which will prosper, whether this or that, or whether they both shall alike be good’ (Qoh. 11: 6).”

a. II:15: Gloss of Aqiba’s statement.

I. II:16: Gloss of the gloss.

II. II:17: Gloss of the gloss.

b. II:18: Said R. Mattena, “The decided law accords with R. Joshua.”

C. TOPICAL APPENDIX ON WIVES AND MARRIAGE

1. II:19: Said R. Hanilai, “Any man who has no wife lives without joy, blessing, goodness.”

2. II:20: In the West they say: without Torah and without a wall of refuge.

3. II:21: Raba bar Ulla said, “Without peace.”

4. II:22: Said R. Joshua b. Levi, “Every man who knows that his wife fears Heaven but does not ‘visit’ her sins: ‘and you shall know that your tent is in peace’ (Job. 5:24).”

5. II:23: And said R. Joshua b. Levi, “A man is obligated to visit his wife when he goes out on a journey: ‘and you shall know that your tent is in peace, and you shall visit your habitation and shall miss nothing’ (Job. 5:24).”

6. II:24: Our rabbis have taught on Tannaite authority: He who loves his wife as he loves himself, he who honors her more than he honors himself, he who raises up his sons and daughters in the right path, and he who marries them off close to the time of their puberty — of such a one, Scripture says, “And you shall know that your tabernacle shall be in peace and you shall visit your habitation and you shall not sin” (Job. 5:24).

7. II:25: Our rabbis have taught on Tannaite authority: He who loves his neighbors, he who draws his relatives near, he who marries his sister’s daughter, and he who lends a sela to a poor person when he needs it — concerning such a person Scripture says, “Then you will call, and the Lord will answer” (Isa. 58: 9).

8. II:26: Said R. Eleazar, “Any man who has no wife is no man: ‘Male and female created he them and called their name Adam’ (Gen. 5: 2).”

9. II:27: And further said R. Eleazar, “Any man who has no land is no man: ‘The heavens are the heavens of the Lord, but the earth he has given to the children of man’ (Psa. 115:16).”

10. II:28: And further said R. Eleazar, “What is the meaning of this verse: ‘I will make him a help meet’ (Gen. 2:18)? If he enjoys divine favor, she is a help for him, if not, it she will be against him.”

a. II:29: R. Yosé came upon Elijah. He said to him, “It is written, ‘I will make him a help’ — how does a woman help a man?”

11. II:30: And further said R. Eleazar, “What is the meaning of the verse of Scripture: ‘This is now bone of my bones and flesh of my flesh’ (Gen. 2:23)? This teaches that Adam had sexual relations with every beast and wild animal and was left unsatisfied until he had sexual relations with Eve.”

D. COMPOSITE OF FURTHER TEACHINGS ATTRIBUTED TO ELEAZAR

1. II:31: And further said R. Eleazar, “What is the meaning of the verse of Scripture: ‘And in you shall all the families of the earth be blessed’ (Gen. 12: 3)? Said the Holy One blessed be to Abraham, ‘I have two good shoots to graft onto you: Ruth of Moab and Naamah of Ammon.’”

2. II:32: And further said R. Eleazar, “All craftsmen are destined to go into labor on the earth: ‘And all that handle the oar, the mariners, and all the pilots of the sea, shall come down from their ships; they shall stand upon the land’ (Eze. 27:29).”

3. II:33: And further said R. Eleazar, “You have no craft that is more menial than working on the land: ‘And they shall come down’ (Eze. 27:29).”

a. II:34: Gloss on working the land.

b. II:35: As above.

c. II:36: As above.

4. II:37: Reverting to II:31. Said R. Eleazar bar Abina, “Punishment comes upon the world only for the sake of Israel: ‘I have cut off nations, their corners are desolate, I have made their streets waste’ (Zep. 3: 6) followed by ‘I said, Surely you will fear me, you will accept correction’ (Zep. 3: 6).”

E. CONTINUATION OF THE TOPICAL APPENDIX ON WIVES AND MARRIAGE

1. II:38: A bad marriage is worth than death.

a. II:39: A case in point.

b. II:40: As above.

c. II:41: As above.

2. II:42: What is the definition of a bad wife?

3. II:43: Said R. Hama bar Hanina, “When a man marries a wife, his sins are buried: ‘Whoso finds a wife finds a great good and gets favor of the Lord’ (Pro. 18:22).”

4. II:44: In the West, when somebody got married, they should say to him, “Is it ‘finds’ or ‘find’? ‘Who finds a wife finds a great good’ (Pro. 18:22), or ‘and I find more bitter than death the woman’ (Qoh. 7:26).”

- 5. II:45:** Said Raba, “As to a bad wife, it is a religious duty to divorce her: ‘Cast out the scoffer and contention will go out, yes, strife and shame will cease’ (Pro. 22:10).”
- 6. II:46:** Raba further stated, “A bad wife with a weighty marriage-settlement — put a co-wife at her side: ‘By her partner, not by a thorn.’”
- 7. II:47:** Raba further stated, “Come and see how good is a good wife and how bad is a bad wife. How good is a good wife: ‘Who finds a wife finds a great good’ (Pro. 18:22). If Scripture speaks of the woman herself, then how good is a good wife whom Scripture praises! If Scripture speaks of the Torah, then how good is a good wife, with whom the Torah is to be compared.”
- 8. II:48:** “Behold I will bring upon them evil, which they shall not be able to evade” (Jer. 11:11) — said R. Nahman said Rabbah bar Abbuhā, “This refers to a bad wife with a weighty marriage settlement.”
- 9. II:49:** “The Lord has delivered me into their hands against whom I am not able to stand: (Lam. 1:14) — said R. Hisda said Mar Uqba bar Hiyya, “This refers to a bad wife with a weighty marriage settlement.”
- 10. II:50:** “Your sons and daughters shall be given to another people” (Deu. 38:32) — said R. Hanan bar Raba said Rab, “This refers to the father’s wife stepmother to his children.”
- 11. II:51:** “I will provoke them with a vile nation” (Deu. 32:21) — said R. Hanan bar Raba said Rab, “This refers to a bad wife with a weighty marriage-settlement.”
- a. II:52:** Secondary gloss of a subordinated detail in the foregoing.
- b. II:53:** Continuation of the foregoing.
- c. II:54:** Continuation of the foregoing.
- 12. II:55:** It is written in the book of Ben Sira: “A good woman is a good gift, who will be put into the bosom of a God-fearing man. A bad woman is a plague for her husband. What is his remedy? Let him drive her from his house and be healed from what is plaguing him.
- 13. II:56:** Importance of procreation: Said R. Assi, “The son of David will come only after all of the souls in the body: ‘For the spirit that wraps itself is from me, and the souls that I have made’ (Isa. 57:16).”
- 14. II:57:** It has been taught on Tannaite authority: R. Eliezer says, “Anybody who does not get busy with being fruitful and multiplying is as though he shed blood: ‘whoever sheds man’s blood by man shall his blood be shed’ (Gen. 9: 6) followed by, ‘and you, be fruitful and multiply’ (Gen. 9: 7).”
- 15. II:58:** It has further been taught on Tannaite authority: R. Eliezer says, “Anybody who does not get busy with being fruitful and multiplying is as though he shed blood: ‘whoever sheds man’s blood by man shall his blood be shed’ (Gen. 9: 6) followed by, ‘and you, be fruitful and multiply’ (Gen. 9: 7).” R. Eleazar b. Azariah says, “It is as though he diminished the divine form: ‘For in the image of God made he man’ (Gen. 9: 6) followed by ‘and you, be fruitful and multiply’ (Gen. 9: 7).”

16. II:59: Our rabbis have taught on Tannaite authority: “And when it rested, he said, Return O Lord to the tens of thousands and thousands of Israel” (Num. 10:36) — this teaches you that the Presence of God comes to rest on Israel only if there are two thousand and two tens of thousands. If they lacked one, and someone did not engaging in being fruitful and multiplying, will that one not turn out to cause the Presence of God to remove from Israel?

XLII. Mishnah-Tractate Yebamot 6:6E-H

A. IF A MAN MARRIED A WOMAN AND LIVED WITH HER FOR TEN YEARS AND SHE DID NOT GIVE BIRTH, HE HAS NO RIGHT TO DESIST FROM HAVING SEXUAL RELATIONS WITH HER.

1. I:1: Our rabbis have taught on Tannaite authority: If a man married a woman and lived with her for ten years and she did not give birth, he should divorce her and pay off her marriage settlement, lest he not enjoy the divine favor of producing children with her. And even though there is no proof for that proposition, there is at least scriptural indication for it: “At the end of ten years of Abraham’s dwelling in the land of Canaan” (Gen. 16: 3), which serves to teach you that living abroad does not count (T. **Yeb. 8:5A-F**).

a. I:2: Gloss of the foregoing.

I. I:3: Gloss of the gloss.

II. I:4: As above.

III. I:5: As above.

IV. I:6: As above.

V. I:7: As above.

b. I:8: Further gloss of the cited passage of Tosefta, I:1: for ten years: said R. Judah b. R. Samuel bar Shilat in the name of Rab, “That limit was placed only upon the early generations, who had a lot of years to live, but as to the latter-day generations, who don’t have a lot of years to live, two and a half years is the limit, corresponding to three periods of pregnancy.”

c. I:9: Further gloss of the cited passage of Tosefta, I:1: Said Rabbah, “These encompassing rules are null. For note: who ordained our Mishnah-paragraph? It is Rabbi, and lo, the length of a lifetime was already cut down by the time of David: ‘The days of our years are three score years and ten’ (Psa. 90:10).”

d. I:10: Further gloss of the cited passage of Tosefta, I:1: And as to the consideration, lest he not enjoy the divine favor of producing children with her, but maybe she is the one who did not enjoy the divine favor of having children from him?

B. IF HE DIVORCED HER, SHE IS PERMITTED TO MARRY SOMEONE ELSE. THE SECOND HUSBAND IS ALLOWED TO LIVE WITH HER

1. II:1: Only a second husband but not a third? Then who is the authority who stands behind our Mishnah-paragraph? It is Rabbi, for it has been taught on

Tannaite authority: “If one circumcised the first child and he died, a second and he died, she must not circumcise the third,” the words of Rabbi. Rabban Simeon b. Gamaliel says, “The third she may circumcise, but not the fourth.”

a. II:2: Gloss of a detail of the foregoing.

b. II:3: What’s the upshot?

c. II:4: Said R. Joseph b. Raba to Raba, “I asked R. Joseph whether or not the decided law accords with Rabbi, and he said yes. I asked whether the decided law accords with Rabban Simeon b. Gamaliel and he said yes. Is he making fun of me?”

I. II:5: Amplification of the foregoing.

II. II:6: Amplification of the foregoing.

III. II:7: Amplification of the foregoing.

IV. II:8: Amplification of the foregoing.

2. II:9: Our rabbis have taught on Tannaite authority: If a woman married her first husband and had no children, a second and had no children, a third she should not marry unless he has children. If she married a third husband who had no children, she must go forth without collecting a marriage settlement.

3. II:10: The question was raised: if she married a third husband and had no children, what is the law as to the first two husbands’ getting back what they paid in her marriage contract? Can they claim, “Now it becomes clear that you were the cause”? Or perhaps she can say to them, “Now is the point at which I have deteriorated”?

4. II:11: The question was raised: if she married a fourth husband and had children, what is the law as to her laying claim of the third for payment of her marriage contract?

5. II:12: If the husband claims, “She’s at fault,” and the wife, “He’s at fault being impotent or unproductive,” said R. Ammi, “When it comes to matters that are strictly between him and her, she is believed. How come? She is situated to know whether the ejaculation is like an arrow, but he’s not in a position to know whether the ejaculation is like an arrow.”

6. II:13: If the husband claims, “So I’ll then go and take another wife to check it out on my own” — said R. Ammi, “Even in such a case he has to divorce the wife and pay off the marriage contract, for I rule, ‘Whoever goes and marries a wife in addition to his present wife has to divorce the present wife and pay off her marriage contract.’”

7. II:14: If the husband said, “She miscarried within the past ten years,” and she says, “I never had a miscarriage,” said R. Ammi, “Even in such a case she is believed, for if she had really had a miscarriage, she would never have gone and gotten herself a reputation as barren. If a woman had a miscarried and went and had a miscarriage and went and had a third, then she is assumed to miscarry.”

8. II:15: If the husband claimed, “She miscarried twice” and is not assumed to miscarry, and she claimed, “Three times,” said R. Isaac b. Eleazar, “There was a

cause at the house of study, and they ruled: ‘She is believed, for if it were not the fact that she had miscarried, she would never have gone and gotten herself a reputation as one who miscarries.’

XLIII. Mishnah-Tractate Yebamot 6:6I-J

A. THE MAN IS REQUIRED BY THE TORAH TO BE FRUITFUL AND MULTIPLY BUT NOT THE WOMAN.

1. I:1: What is the scriptural basis for this statement?

a. I:2: Same attribution, different topic.

b. I:3: Same attribution, different topic.

2. I:4: A Tannaite authority of the household of R. Ishmael: “Great is peace, for even the Holy One, blessed be he, changed the wording for the sake of peace. For to begin with: ‘My Lord is old’ (Gen. 18:12), but then: ‘And I am old’ (Gen. 18:13).”

B. R. YOHANAN B. BEROQAH SAYS, “CONCERNING BOTH OF THEM DOES SCRIPTURE SAY, ‘AND GOD BLESSED THEM AND SAID TO THEM, BE FRUITFUL AND MULTIPLY’ (GEN. 1:28).”

1. II:1: It has been stated: R. Yohanan and R. Joshua b. Levi: One said, “The decided law accords with R. Yohanan b. Beroqah.” And the other said, “The decided law does not accord with R. Yohanan b. Beroqah.”

a. II:2: Illustrative case.

2. I:3: Is it really true that the religious duty of being fruitful and multiplying does not apply to women? But did not R. Aha bar R. Qattina say R. Isaac said, “There was a case in which a woman came, who was half slave and half free, and Rabbah forced the master to free her”?

XLIV. Mishnah-Tractate Yebamot 7:1-2

A. A WIDOW WED TO A HIGH PRIEST, A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE WED TO AN ORDINARY PRIEST — IF SHE BROUGHT IN TO HIM AS PART OF HER DOWRY “PLUCKING”-SLAVES AND “IRON-FLOCK”-SLAVES — THE “PLUCKING”-SLAVES DO NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS SINCE SHE IS NOT VALIDLY WED TO THE PRIEST, SO SLAVES TO WHICH SHE RETAINS EFFECTIVE OWNERSHIP, WHICH ARE HER PROPERTY, DO NOT GAIN THE RIGHTS OF SLAVES OF A PRIEST, BUT SLAVES TO WHICH HE GAINS EFFECTIVE OWNERSHIP DO. THE “IRON-FLOCK”-SLAVES EAT.

WHAT ARE “PLUCKING”-SLAVES? IF THEY DIED, THE LOSS IS HERS, AND IF THEY INCREASE IN VALUE, THE INCREASE IS HERS. EVEN THOUGH HE THE HUSBAND IS LIABLE TO MAINTAIN THEM, LO, THESE DO NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. AND WHAT ARE “IRON-FLOCK”-SLAVES? IF THEY DIE, THE LOSS IS HIS, BUT IF THEY INCREASE IN VALUE, THE INCREASE IS HIS. SINCE HE IS RESPONSIBLE TO REPLACE THEM IF THEY ARE LOST, LO, THESE EAT FOOD IN THE STATUS OF PRIESTLY RATIONS.

AN ISRAELITE GIRL WHO MARRIED A PRIEST AND BROUGHT HIM SLAVES AS PART OF HER DOWRY, WHETHER THESE ARE “PLUCKING”-SLAVES OR “IRON-FLOCK”-SLAVES — LO, THE MARRIAGE BEING ENTIRELY VALID, THESE EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. AND A PRIEST’S DAUGHTER WHO MARRIED AN ISRAELITE AND BROUGHT HIM AS PART OF HER DOWRY, EITHER “PLUCKING”-SLAVES OR “IRON-FLOCK”-SLAVES, LO, THESE DO NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS.

1. I:1: the “plucking”-slaves do not eat food in the status of priestly rations: how come? Let them be classified as possessions acquired by one whom he possesses, and such a one is permitted to eat food in the status of priestly rations.

2. I:2: It has been stated: A woman who brought into her husband’s domain appraised goods and he guarantees a specific sum in her marriage-contract, to be recovered if he dies or divorces her — at the time of divorce or settlement of his estate she says, “I will accept only my own goods” the ones I brought in, and he says, “I am willing to pay their value as appraised in the original marriage-settlement contract — with whom does the decision go? R. Judah said, “The judgment goes with her.” R. Assi said, “The judgment goes with him.”

a. I:3: Secondary analysis of the foregoing.

b. I:4: Rabbah and R. Joseph were in session at the end of the lesson of R. Nahman, and, in session, they stated: “It has been taught on Tannaite authority in accord with the view of R. Judah, and it has been taught on Tannaite authority in accord with the view of R. Ammi.

I. I:5: Illustrative case.

3. I:6: Said R. Judah, “If the wife brought in to him two utensils worth a thousand zuz and they increased in value and were worth two thousand, one she receives in settlement of her marriage contract, and for the other she pays the price and gets it back, for the increase in the value of her paternal property belongs to her.”

XLV. Mishnah-Tractate Yebamot 7:3

A. “AN ISRAELITE DAUGHTER WHO WAS MARRIED TO A PRIEST, WHO DIED AND LEFT HER PREGNANT — “HER SLAVES DO NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS ON ACCOUNT OF THE PORTION OF THE SLAVES THAT BELONGS TO THE FOETUS. FOR THE FOETUS INVALIDATES A WOMAN FROM EATING FOOD IN THE STATUS OF PRIESTLY RATIONS BUT DOES NOT VALIDATE HER DOING SO,” THE WORDS OF R. YOSÉ. THEY SAID TO HIM, “SINCE YOU HAVE GIVEN US TESTIMONY ABOUT THE DAUGHTER OF AN ISRAELITE MARRIED TO A PRIEST, THEN EVEN IN THE CASE OF THE DAUGHTER OF A PRIEST MARRIED TO A PRIEST, WHO DIED AND LEFT HER PREGNANT — HER SLAVES SHOULD NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS ON ACCOUNT OF THE PORTION THAT BELONGS TO THE FOETUS.”

1. I:1: The question was raised: what is the operative consideration for the rule of R. Yosé that her “iron-flock”-slaves do not eat food in the status of priestly rations on account of the portion of the slaves that belongs to the foetus? Is it that he takes the view that the embryo in the womb of a non-priest is classified as a non-

priest? Or perhaps once the offspring is born, it confers the right to eat food in the status of priestly rations, but prior to birth, it does not?

a. I:2: Said R. Judah said Samuel, “This represents the view of R. Yosé, but sages say, ‘If the deceased priest has children other than the embryo, the ‘iron-flock’-slaves eat food in the status of priestly rations on account of the other children, if he has no other children, they do so on account of his brothers, and if he has no brothers, they do so on account of the entire family” some one of whom must be his heir, and so long as the embryo is unborn, the heir, owning the slaves, confers that right upon them.

2. I:3: Our rabbis have taught on Tannaite authority: If the husband died and left her childless, the “plucking”-slaves do not eat food in the status of priestly rations, just as she does not do so; ‘the iron-flock’-slaves do do so, because they are in the possession of the husband’s heirs until they are returned to her. If he left her children, these and those classifications of slaves do continue to eat food in the status of priestly rations. If he left her pregnant, these and those types of slaves do not do so. If he left her with children and he left her pregnant, the “plucking”-slaves do eat food in the status of priestly rations, just as she does. But the “iron-flock”-slaves do not eat food in the status of priestly rations, on account of the share of the foetus, for the foetus prior to birth renders one invalid but do not confer the right to eat food in the status of priestly rations,” the words of R. Yosé. R. Ishmael b. R. Yosé says in the name of his father, “A daughter validates eating food in the status of priestly rations, a son may not.” R. Simeon b. Yohai says, “If all of the heirs are males, all of the slaves may eat food in the status of heave offering. If they all are female heirs, they do not do so, lest the foetus be male, and where there is a son, the daughter inherits nothing” (T. **Yeb. 9:1/0-X**).

a. I:4: Gloss of the foregoing.

I. I:5: Secondary gloss.

b. I:6: Gloss of I:3.

XLVI. Mishnah-Tractate Yebamot 7:4

A. THE FOETUS:

1. II:1: if the mother is the daughter of a priest married to an Israelite, he invalidates her: “as in her youth” (Lev. 22:13) — excluding a pregnant woman. If she is the daughter of an Israelite married to a priest, the embryo does not bestow the right of eating food in the status of priestly rations, since the child once born confers that right, but not the offspring prior to birth.

B. THE LEVIR:

1. II:1: if the deceased childless brother’s widow is the daughter of a priest married to an Israelite, the levir invalidates her: “and is returned to her father’s house” (Lev. 22:13) — excluding the deceased childless brother’s widow awaiting the decision of the levir. If she is an Israelite married to a priest, then he does not confer that right: “the purchase of his money” (Lev. 22:11) is what Scripture has said, and she is the purchase of not him but his deceased brother.

C. BETROTHAL:

1. III:1: if the mother is the daughter of a priest married to an Israelite, betrothal deprives her of the right, for lo, he acquires title to her by betrothal. If she is an Israelite married to a priest, then betrothal does not confer that right.

D. A DEAF-MUTE”

1. IV:1: if the mother is the daughter of a priest married to an Israelite, he invalidates her, since the Israelite deaf-mute has acquired title to her by virtue of the authority of rabbis

E. A BOY NINE YEARS AND ONE DAY OLD INVALIDATE A WOMAN FROM EATING FOOD IN THE STATUS OF PRIESTLY RATIONS BUT DO NOT VALIDATE HER TO DO SO.

THAT IS THE CASE EVEN IF IT IS A MATTER OF DOUBT WHETHER OR NOT THE BOY IS NINE YEARS AND ONE DAY OLD, OR IF IT IS A MATTER OF DOUBT WHETHER OR NOT HE HAS PRODUCED TWO PUBIC HAIRS. IF A HOUSE COLLAPSED ON HIM AND ON THE DAUGHTER OF HIS BROTHER HIS WIFE AND IT IS NOT KNOWN WHICH OF THEM DIED FIRST, HER CO-WIFE PERFORMS REMOVING THE SHOE AND DOES NOT ENTER INTO LEVIRATE MARRIAGE.

1. V:1: In the assumption that this refers to a deceased childless brother's widow awaiting the levirate connection with a boy nine years and one day old, in what regard does the age of the boy matter anyhow? If it is in regard to invalidating her from eating food in the status of priestly rations, then a younger boy would have the same affect upon that right, and if it was in regard to bestowing the right to eat food in the status of priestly rations, an adult levir could not bestow that right!

a. V:2: Gloss of a secondary statement of the foregoing. An Ammonite, Moabite, Egyptian, Idumaeen proselyte, Samaritan, Netin, person of profaned priestly genealogy, mamzer, who was nine years and a day old, who had sexual relations with the daughter of a priest, Levite, or Israelite, disqualifies a woman so that, if of Levitical or Israelite caste, she may not marry a priest, and if of priestly caste, may not marry a priest nor eat food in the status of priestly rations. R. Yosé says, “Any whose offspring is unfit — she is rendered unfit; but any whose offspring is fit — she is not disqualified.” Rabban Simeon b. Gamaliel says, “Any whose daughter you may marry, his widow you may marry, but if you may not marry his daughter, you may not marry his widow” (T. **Nid. 6:1A-C**).

I. V:3: What is the source of these rulings in Scripture? Said R. Judah said Rab, “Said Scripture, ‘And if a priest's daughter be married to a non-priest’ (Lev. 22:12) — once she has had sexual relations with him, he has disqualified her.”

II. V:4: We now have found the proof governing the woman of priestly caste. How do we know the same for the woman of Levitical or Israelite caste?

III. V:5: Now we have found the rule that in the appropriate case, the woman may no longer eat food in the status of priestly rations. But how about the prohibition against marrying a priest if a woman has had sexual relations with a person who disqualifies her?

A. V:6: Secondary development of the foregoing.

IV. V:7: Thus we have found the basis for the law governing the woman of priestly caste that sexual relations with a slave or gentile disqualifies her. What is the source of the same law governing the marriage of a woman of Levitical or Israelite caste into the priesthood after sexual relations with a man of the same classification

A. V:8: Development of the foregoing.

B. V:9: Development of the foregoing.

C. V:10: As above.

v. V:11: R. Yosé says, “Any whose offspring is unfit — she is rendered unfit; but any whose offspring is fit — she is not disqualified.” On what point do the initial Tannaite authority and R. Yosé differ?

VI. V:12: Rabban Simeon b. Gamaliel says, “Any whose daughter you may marry, his widow you may marry, but if you may not marry his daughter, you may not marry his widow.” What is at issue between R. Yosé and Rabban Simeon b. Gamaliel?

XLVII. Mishnah-Tractate Yebamot 7:5-6

A. THE RAPIST AND THE SEDUCER AND THE IDIOT DO NOT INVALIDATE WOMEN WITH WHOM THEY HAVE SEXUAL RELATIONS FROM EATING FOOD IN THE STATUS OF PRIESTLY RATIONS AND DO NOT VALIDATE THEM FOR EATING FOOD IN THE STATUS OF PRIESTLY RATIONS. BUT IF THEY ARE NOT SUITABLE TO ENTER INTO THE CONGREGATION OF ISRAEL (DEU. 22: 2-4), LO, THEY DO INVALIDATE HER FROM EATING FOOD IN THE STATUS OF PRIESTLY RATIONS.

1. I:1: We have learned on Tannaite authority concerning the betrothal of an imbecile, which neither confers nor invalidates the right of eating food in the status of priestly rations, so clarifying that his act of acquisition is null that which our rabbis have taught on Tannaite authority: An idiot or a minor who married and died — their wives are exempt from the requirement of performing the rite of removing the shoe (T. **Yeb. 11:11:K-L**).

B. HOW SO? AN ISRAELITE WHO HAD SEXUAL RELATIONS WITH A PRIEST’S DAUGHTER — SHE CONTINUES TO EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. IF SHE TURNED OUT TO BE PREGNANT, SHE DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. IF THE FOETUS WAS REMOVED FROM HER WOMB, SHE EATS FOOD IN THE STATUS OF PRIESTLY RATIONS.

A PRIEST WHO HAD SEXUAL RELATIONS WITH AN ISRAELITE GIRL — SHE DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. IF SHE TURNED OUT TO BE PREGNANT, SHE STILL DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. IF SHE GAVE BIRTH TO A VIABLE OFFSPRING, SHE DOES EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. IT TURNS OUT THAT THE POWER OF THE CHILD IS GREATER THAN THAT OF THE FATHER SINCE THE CHILD VALIDATES OR

INVALIDATES THE MOTHER FOR EATING FOOD IN THE STATUS OF PRIESTLY RATIONS, WHICH HIS FATHER COULD NOT ACCOMPLISH.

1. II:1: Since if she is pregnant, she may not eat such food, we have to take a precaution lest she might be pregnant. So how may we say, she continues to eat food in the status of priestly rations? Have we not learned in the Mishnah: And they set them apart for three months, lest they be pregnant?

2. II:2: It has been stated: He who had sexual relations with his betrothed when in the house of his father-in-law to be — Rab said, “The offspring is a mamzer.” And Samuel said, “The offspring is in the status of one who is silenced when he asks who his father was.

C. A SLAVE INVALIDATES BY REASON OF HAVING SEXUAL RELATIONS BUT NOT BY REASON OF OFFSPRING. HOW SO? AN ISRAELITE GIRL MARRIED TO A PRIEST, OR A PRIESTLY GIRL MARRIED TO AN ISRAELITE, AND SHE GAVE BIRTH TO A SON WITH HIM, AND THE SON WENT AND TRIFLED WITH A SLAVE GIRL, AND SHE PRODUCED A SON FROM HIM — LO, THIS BOY IS A SLAVE. IF THE MOTHER OF HIS THE SLAVE’S FATHER WAS AN ISRAELITE GIRL MARRIED TO A PRIEST, IF THE FATHER AND SON DIE SHE DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS BY REASON OF THE GRANDSON. IF SHE WAS A PRIEST’S DAUGHTER MARRIED TO AN ISRAELITE, DESPITE THE GRANDSON SHE DOES EAT FOOD IN THE STATUS OF PRIESTLY RATIONS.

1. III:1: What is the scriptural basis for this rule?

D. A MAMZER INVALIDATES AND VALIDATES FOR EATING. HOW SO? AN ISRAELITE GIRL MARRIED TO A PRIEST, A PRIESTLY GIRL MARRIED TO AN ISRAELITE — AND SHE PRODUCED A DAUGHTER WITH HIM, AND THE DAUGHTER WENT AND MARRIED A SLAVE OR A GENTILE AND PRODUCED A SON FROM HIM — LO, THIS SON IS A MAMZER. IF THE MOTHER OF HIS MOTHER WAS AN ISRAELITE GIRL MARRIED TO A PRIEST, BECAUSE OF THE MAMZER GRANDSON, THE GRANDMOTHER EATS FOOD IN THE STATUS OF PRIESTLY RATIONS. IF SHE WAS THE DAUGHTER OF A PRIEST MARRIED TO AN ISRAELITE, BECAUSE OF THE GRANDSON, THE GRANDMOTHER SHOULD NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS.

1. IV:1: Our rabbis have taught on Tannaite authority: “And have no children” (Lev. 22:13) — I know only that that pertains to her own child, what about her grandchild? Scripture says, “And have no child,” meaning, any child whatsoever. So far I know that that is the case only of a valid offspring, what about an invalid one? Scripture says, “And have no child,” meaning, “hold an inquiry concerning her.”

a. IV:2: Said R. Simeon b. Laqish to R. Yohanan, “In accord with whose opinion is it the rule that the offspring of a marriage between an Israelite woman and a gentile or slave, forbidden by a negative commandment but not under penalty of extirpation, is a mamzer? It is in accord with R. Abia, who has said, a mamzer may derive from a union prohibited merely on penalty of violating a negative commandment.”

E. A HIGH PRIEST — SOMETIMES HE INVALIDATES A WOMAN FROM EATING FOOD IN THE STATUS OF PRIESTLY RATIONS. HOW SO? A PRIESTLY GIRL MARRIED TO AN ISRAELITE, AND SHE PRODUCED A DAUGHTER BY HIM, AND THE DAUGHTER WENT AND MARRIED A PRIEST AND PRODUCED A SON BY HIM — LO, THIS SON IS WORTHY TO BE HIGH PRIEST STANDING AND SERVING AT THE ALTAR, AND HE VALIDATES HIS MOTHER FOR EATING FOOD IN THE STATUS OF PRIESTLY RATIONS, AND IF HIS MOTHER DIED HE INVALIDATES HIS MOTHER’S MOTHER. THIS LADY THEN SAYS, “LET THERE NOT BE MANY LIKE MY GRANDSON, THE HIGH PRIEST, WHO BECAUSE HE IS YET ALIVE INVALIDATES ME FROM EATING FOOD IN THE STATUS OF PRIESTLY RATIONS.”

1. V:1: Our rabbis have taught on Tannaite authority: The grandmother may say, “Lo, I shall be an atonement for my grandson, the little fellow, who bestows on me the right to eat food in the status of priestly rations, but I would not serve as atonement for my grandson, the big fellow, who deprives me of that right.”

XLVIII. Mishnah-Tractate Yebamot 8:1

A. THE UNCIRCUMCISED PRIEST:

1. I:1: It has been taught on Tannaite authority: Said R. Eleazar, “How on the basis of Scripture do we know that an uncircumcised priest may not eat food in the status of priestly rations? In regard with eating the Passover lamb, it is stated, ‘a sojourner and a hired hand’ (Exo. 12:45), and in connection with eating food in the status of priestly rations, it is stated, ‘a sojourner and a hired hand.’ Just as when ‘sojourner and hired hand’ are stated with reference to the Passover offering, they indicate that an uncircumcised person is forbidden to eat that offering, so the use of ‘sojourner and hired hand’ stated with reference to food in the status of priestly rations indicate that an uncircumcised person is forbidden to eat food of that classification as well.” R. Aqiba says, “Such a proof is hardly required. Lo, Scripture states, any person whatsoever’ (Lev. 22: 4) — the duplicated usage serving to encompass under the law at hand also the uncircumcised man who is subject to the prohibition of eating food in the status of priestly rations.”

a. I:2: Gloss of the foregoing.

I. I:3: Secondary amplification.

II. I:4: Continuation of the foregoing.

b. I:5: Further gloss of I:1.

c. I:6: As above.

2. I:7: R. Hama bar Uqba raised this question: “An infant that is not yet circumcised — what is the law on anointing him with oil in the status of priestly rations? Does uncircumcision prior to the time that it is to take place prevent using produce in that status, or is that not the case?”

3. I:8: Said R. Yohanan in the name of R. Benaah, “An uncircumcised person received sprinkling of purification water, if he contracted corpse uncleanness, and then he might deal with Holy Things, for the majority of the people in Gilgal had not been circumcised in the wilderness. For so we find in the case of our fathers,

that they received sprinkling while still uncircumcised: ‘And the people came up out of the Jordan on the tenth day of the first month’ (Jos. 4:19), but on the tenth they were not circumcised, because of the exhaustion of the trip, so when could the sprinkling have been done? It must have been while they were still uncircumcised.”

a. I:9: Said Rabbah b. R. Isaac said Rab, “The commandment concerning uncovering the corona of the penis at circumcision was not given to Abraham our father, for it is said, ‘At that time the Lord said to Joshua, “Make knives of flint and circumcise again” (Jos. 5:20) and the “again” means the prior one, done as assigned to Abraham, without uncovering the corona, was invalidated in the time of Joshua.”

4. I:10: How come they were not circumcised in the wilderness?

a. I:11: Gloss on Israel in the wilderness.

5. I:12: Said R. Huna, “By the law of the Torah, a priest or priest’s slave bearing a circumcision in which the prepuce is drawn forward to cover up the corona may eat food in the status of priestly rations, but on account of the authority of scribes they made a precautionary decree in that regard, since such a person looks as though he were uncircumcised.”

a. I:13: Gloss of the foregoing.

6. I:14: R. Eleazar has stated, “An uncircumcised person who sprinkled purification water — his act of sprinkling is valid. He is in the same category as one who has immersed on the self-same day and awaits sunset for the completion of his rite of purification, who may not eat food in the status of priestly rations but is permitted to prepare the red cow and sprinkle purification water.”

7. I:15: R. Sheshet was asked: “What is the law as to an uncircumcised person’s eating second tithe? Is the rule governing tithe deduced from the Passover lamb in the case of circumcision so that just as the Passover lamb may not be eaten by an uncircumcised person, so second tithe may not be eaten by him as the rule governing the Passover lamb is deduced from the rule governing tithe in the case of the mourning of one who has suffered a bereavement but not yet buried his dead such a person cannot eat second tithe, so Deu. 26:14, while the prohibition in regard to the Passover lamb is derived only by deduction? Or perhaps one may derive the rule for a major order of sanctification from a minor one, but not a minor one from a major one?”

a. I:16: Gloss of the Tannaite passage cited in the foregoing.

b. I:17: As above.

c. I:18: As above.

d. I:19: As above.

e. I:20: As above.

f. I:21: Further gloss of I:15.

g. I:22: Reversion to the question of I:15.

l. I:23: Gloss of I:22.

h. I:24: Further on I:15: Also R. Isaac takes the view that an uncircumcised man is forbidden to eat tithe, for said R. Isaac, “How on the basis of Scripture do we know that an uncircumcised man is forbidden to eat second tithe? ‘of it...’ (is used with regard to tithe, and ‘of it’ is used with regard to the Passover lamb. Just as the Passover lamb, concerning which ‘of it’ is used, is forbidden to the uncircumcised man, so second tithe, in regard to which ‘of it’ is used, likewise is forbidden to an uncircumcised man.”

B. AND ALL UNCLEAN PRIESTS DO NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. THEIR WIVES AND SLAVES DO EAT FOOD IN THE STATUS OF PRIESTLY RATIONS.

1. II:1: What is the scriptural source for this rule?

a. II:2: Further analysis of the foregoing: And how do we know that “until he is clean” (Lev. 22: 4) means “until sunset” so that the unclean person may eat food in the status of priestly rations even before he has brought his atonement offering? Maybe it means, “until the atonement offering has been presented”?

b. II:3: Continuation of the foregoing.

c. II:4: As above.

C. ONE WITH CRUSHED TESTICLES OR WHOSE PENIS IS CUT OFF (DEU. 23: 2) — THEY AND THEIR SLAVES DO EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. THEIR WIVES DO NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. AND IF HE DID NOT HAVE INTERCOURSE WITH HER FROM THE TIME THAT HIS TESTICLES WERE CRUSHED OR HIS PENIS WAS CUT OFF, LO, THESE WOMEN DO EAT FOOD IN THE STATUS OF PRIESTLY RATIONS:

1. III:1: Who is the authority who has stated as a Tannaite rule: A woman who has had sexual relations that violate the law of the Torah nonetheless may eat food in the status of priestly rations?

D. WHO IS HE WHO HAS CRUSHED TESTICLES? ANY ONE WHOSE TESTICLES ARE CRUSHED, AND EVEN ONE OF THEM. AND ONE WHOSE PENIS IS CUT OFF? ANY WHOSE SEXUAL ORGAN IS CUT OFF.

1. IV:1: Our rabbis have taught on Tannaite authority: Who is he who has crushed testicles? Any one whose testicles are crushed, and even one of them. And even if they are punctured, perforated, or one of which is lacking. Said R. Ishmael, b. R. Yohanan b. Beroqah, “I heard on the authority of sages in the vineyard in Yavneh: Anyone who has only one testicle is a eunuch by nature and and is fit” (T. **Yeb. 10:3A-D**)

a. IV:2: Gloss.

2. IV:3: Said R. Judah said Samuel, “One whose testicles are injured by nature is valid.”

3. IV:4: In a Tannaite formulation it is repeated: “He who is wounded...shall not enter” (Deu. 23: 2), and further, “A mamzer shall not enter” (Deu. 23: 3). Just as

the latter is the work of human beings, so the former must be such as was injured by human action.

4. IV:5: Said Raba, “‘Wounded’ (Deu. 23: 2) applies to all, ‘crushed’ (Deu. 23: 2) applies to all, ‘cut off’ applies to all the sexual organs.”

a. IV:6: Secondary analysis of the foregoing proposition.

5. IV:7: In a Tannaite formulation it is repeated: “He who is wounded in his testicles shall not enter” (Deu. 23: 2), and further, “A mamzer shall not enter” (Deu. 23: 3). Just as the latter refers to the result of genital action, so too does the former deal with the genitals.

6. IV:8: If there was a puncture beginning below the head of the penis and ending at the other end of it above the head....

E. BUT IF SO MUCH AS A HAIRBREADTH OF THE CROWN REMAINED, HE IS VALID TO EAT FOOD IN THE STATUS OF PRIESTLY RATIONS.

1. V:1: In session, Rabina raised this question: “As to the hairbreadth of which they have spoken, does this extend over the entire circumference of the penis, or only over the greater part?”

2. V:2: Said R. Huna, “If it is cut away like a reed pen, it is valid. If it is cut away like a gutter, the cut running across the center and leaving the sides intact, it is invalid. In the latter instance, the air can penetrate, in the former, it cannot.” And R. Hisda said, “If it is cut away like a gutter, it is valid, if it is cut away like a reed pen, it is invalid. In the former case, it produces friction, in the latter, it does not.”

a. V:3: Case.

b. V:4: Case.

3. V:5: Said R. Judah said Samuel, “If there had been a hole that was closed up, in any case in which, if the hole reopens when semen is emitted, he is unfit, but if not, he is fit.”

a. V:6: Recapitulation of the foregoing.

4. V:7: Raba b. Rabbah sent word to R. Joseph, “May our lord instruct us how we should act in practice?”

5. V:8: Our rabbis have taught on Tannaite authority: If the semen-duct was punctured, he is invalid, because the semen pours out. If it is closed up, he is valid, because the semen will impregnate. And this is a case in which one who is invalid can once more return to the state of validity (T. **Yeb. 10:4E-G**).

a. V:9: Gloss: What is the emphatic language, this is a case, meant to exclude?

b. V:10: R. Idi bar Abin sent word to Abayye, “How are we to act in practice in closing up the hole in a penis?”

c. V:11: Said Rabbah b. R. Huna, “He who urines through two spots is invalid.”

XLIX. Mishnah-Tractate Yebamot 8:2F-H

A. THOSE WHOSE TESTICLES ARE CRUSHED OR WHOSE PENIS IS CUT OFF ARE PERMITTED TO HAVE SEXUAL RELATIONS WITH A FEMALE CONVERT AND A FREED SLAVE GIRL. THEY ARE PROHIBITED ONLY FROM COMING INTO THE CONGREGATION, SINCE IT IS WRITTEN, “HE WHOSE TESTICLES ARE CRUSHED AND WHOSE PENIS IS CUT OFF SHALL NOT ENTER THE CONGREGATION OF THE LORD” (DEU. 23: 2).

1. I:1: This question was addressed to R. Sheshet: “What is the law on whether or not a priest whose testicles are crushed remains in his condition of sanctification in respect to a a female convert and a freed slave girl, so that he would be forbidden to marry her? Or perhaps he does not remain in his condition of sanctification in which case he is permitted to marry her?”

L. Mishnah-Tractate Yebamot 8:3A-I

A. THE MALE AMMONITE AND MOABITE ARE PROHIBITED FROM ENTERING THE CONGREGATION OF THE LORD (DEU. 23: 4), AND THE PROHIBITION CONCERNING THEM IS FOREVER. BUT THEIR WOMEN ARE PERMITTED FORTHWITH.

1. I:1: What is the scriptural basis for these rules?

a. I:2: Tannaite recapitulation.

I. I:3: Exegesis of relevant verses.

II. I:4: As above.

III. I:5: As above.

2. I:6: Said Ulla said R. Yohanan, “The daughter of an Ammonite proselyte is valid for marriage into the priesthood.”

a. I:7: Said Raba bar Ulla to Ulla, “In accord with what authority is this statement made? If it is supposed to accord with R. Judah, lo, he has said, ‘The daughter of a male convert is in the status of the daughter of a male who is unfit for the priesthood.’ And if it accords with R. Yosé, then your statement is obvious and therefore redundant, for lo, he has said, ‘Also a male proselyte who married a female proselyte — his daughter is valid for marriage into the priesthood.’ And were you to maintain that the dispute pertains to those that are fit to enter the assembly not forbidden by Deu. 23, but not to this man, who is not fit to enter the assembly, then whence the distinction?”

B. THE EGYPTIAN AND THE EDMITE ARE PROHIBITED ONLY FOR THREE GENERATIONS, ALL THE SAME BEING MALES AND FEMALES. R. SIMEON PERMITS THE FEMALES FORTHWITH. SAID R. SIMEON, “IT IS AN ARGUMENT A FORTIORI: NOW IF IN THE CASE IN WHICH SCRIPTURE HAS PROHIBITED THE MALES FOREVER, IT HAS PERMITTED THE FEMALES FORTHWITH, IN A CASE IN WHICH SCRIPTURE HAS PROHIBITED THE MALES ONLY FOR THREE GENERATIONS, IS IT NOT LOGICAL THAT WE SHOULD PERMIT THE FEMALES FORTHWITH?” THEY SAID TO HIM, “IF

YOU STATE THE RULE AS A MATTER OF LAW, WE SHALL ACCEPT IT. BUT IF YOU STATE IT AS A PROPOSED LOGICAL ARGUMENT, THERE IS AN ANSWER.”

HE SAID TO THEM, “NOT SO! I STATE A RULE OF LAW.”

1. II:1: So what’s the answer?

2. II:2: It has been taught on Tannaite authority: Said to them R. Simeon, “I state a rule of law. And, furthermore, there is a verse of Scripture that sustains my position: ‘sons’ (Deu. 23: 9) — but not daughters.”

3. II:3: Our rabbis have taught on Tannaite authority: “‘sons’ (Deu. 23: 9) — but not daughters,” the words of R. Simeon. Said R. Judah, “Lo, Scripture says, ‘The sons of the third generation that are born to them’ (Deu. 23: 9) — Scripture has placed the emphasis on ‘birth’ without regard to gender.”

a. II:4: Gloss: Said R. Yohanan, “If it were not for the fact that R. Judah has said, ‘Scripture has placed the emphasis on “birth,”’ he would not have found hands and feet for himself at the house of study but would have been outclassed by Simeon. For since a master has said, ‘the congregation of converts is classified as a congregation,’ how is an Egyptian of the second generation going to become pure” For if Egyptian women proselytes are classified as an assembly, just as is Israel, and if Egyptian women were not included in the prohibition to enter the assembly, then an Egyptian male of the first or second generation would never be permitted to marry them. Since he cannot marry an Israelite women or a proselyte of Egyptian origin, how would he produce a third generation to be fit to enter the assembly?

4. II:5: Our rabbis have taught on Tannaite authority: If Scripture uses “sons” (Deu. 23: 9), then why use “generations” (Deu. 23: 9) “the sons that are born...generation...” and if the language if generations, why also sons? If “sons” were used and not “generations,” I might have supposed that the first and the second sons are forbidden, but the third son of a proselyte of the first generation is permitted; so “generations” is used as well. And if “generations” were used but not “sons,” I might have supposed that the commandment was given only to those who stood before Mount Sinai, so the language “sons” was used to address future generations too. “Unto them” Deu. 23: 9) — count from them. “Unto them” — follow the status of those ineligible among them, whether the father is an Egyptian convert and the mother Israelite, or the mother Egyptian and the father Israelite, the children are eligible only from the third generation.

a. II:6: Gloss.

5. II:7: Said Rabbah bar bar Hannah said R. Yohanan, “An Egyptian of the second generation who married an Egyptian woman of the first generation — her son counts as in the third generation.” Therefore he takes the view that we assign the child to the father’s genealogy

6. II:8: When R. Dimi came, he said R. Yohanan said, “An Egyptian of the second generation who married an Egyptian woman of the first generation — the offspring is of the second generation. Therefore we assign the status of the offspring to that of the mother.”

a. II:9: Secondary analysis of the foregoing.

7. II:10: When Rabin came, he said R. Yohanan said, “Among the nations of the world, follow the status of the male assigning the child to the father’s nation, though the mother belongs to some other nation. When they have converted, follow the status of the more tainted of the two nations of which the parents derive.”

LI. Mishnah-Tractate Yebamot 8:3J-K

A. MAMZERIM (CHILDREN OF MARRIAGES PENALIZED BY EXTIRPATION, WHO CAN NEVER MARRY VALID ISRAELITES) AND NETINIM (DESCENDANTS OF THE GIBEONITES WHO DECEIVED JOSHUA, JOS. 9: 3FF.), ASSIGNED THE TASK OF CUTTING WOOD AND CARRYING WATER FOR THE CONGREGATION AND THE ALTAR ARE PROHIBITED, AND THE PROHIBITION CONCERNING THEM IS FOREVER, ALL THE SAME BEING MALES AND FEMALES.

1. I:1: Said R. Simeon b. Laqish, “The mamzer-girl, after ten generations is permitted to enter the community. This remission of the prohibition derives from the analogy between the use of ‘tenth’ in regard to the mamzer (Deu. 23: 3) and the use of the word ‘tenth’ in regard to the Ammonite and Moabite. Just as in the latter case, the females are permitted, so in the former they are permitted. And should you say, just as in the latter case, one is eligible right away, so in the former she is eligible right away, the analogy works only after the generations from the tenth.” Since in the case of the mamzer, the prohibition of the first generation is explicitly stated and includes both men and women, whereas the prohibition after ten generations in the case of mamzers is not stated explicitly but derived on the basis of analogy from an Ammonite, in respect to whom ‘forever’ is explicitly stated at Deu. 23: 4.

2. I:2: They asked R. Eliezer, “As to a mamzer-girl after ten generations, what is the law?”

a. I:3: Case.

B. ...AND NETINIM (DESCENDANTS OF THE GIBEONITES WHO DECEIVED JOSHUA, JOS. 9: 3FF.), ASSIGNED THE TASK OF CUTTING WOOD AND CARRYING WATER FOR THE CONGREGATION AND THE ALTAR ARE PROHIBITED, AND THE PROHIBITION CONCERNING THEM IS FOREVER, ALL THE SAME BEING MALES AND FEMALES.

1. II:1: Said R. Hana bar Ada, “Concerning the Netinim did David issue a decree: ‘And the king called the Gibeonites and said to them — now the Gibeonites were not of the children of Israel and so were excluded from the congregation of Israel’ (2Sa. 21: 2).”

a. II:2: Further exegesis of a proof-text cited in the foregoing.

b. II:3: As above.

I. II:4: Secondary development of the foregoing.

II. II:5: Secondary development of the foregoing.

c. II:6: Further exegesis of the governing proof-text.

d. II:7: As above.

2. II:8: And did David issue the decree concerning the Netinim? It was Moses who issued the decree concerning them: “From the hewer of your wood to the drawer of your water” (Deu. 29:10)!

3. II:9: In the time of Rabbi they wanted to release the restriction against marriage to Netinim. Said to them Rabbi, “So we can remit our share, but who can remit the share pertaining to the altar?”

LII. Mishnah-Tractate Yebamot 8:4-5

A. SAID R. JOSHUA, “I HAVE HEARD THAT: THE EUNUCH PERFORMS THE RITE OF REMOVING THE SHOE, AND THEY PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE. AND: THE EUNUCH DOES NOT PERFORM THE RITE OF REMOVING THE SHOE, AND THEY DO NOT PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE. AND I CANNOT EXPLAIN THE CONFLICT BETWEEN THE TWO SAYINGS.”

SAID R. AQIBA, “I SHALL EXPLAIN THE CONFLICT BETWEEN THE TWO SAYINGS. A EUNUCH CASTRATED BY MAN PERFORMS THE RITE OF REMOVING THE SHOE, AND THEY PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE, BECAUSE THERE WAS A TIME IN WHICH HE WAS VALID AS A HUSBAND.

1. I:1: A eunuch castrated by man performs the rite of removing the shoe, and they perform the rite of removing the shoe with his wife: note that we have in hand a tradition of R. Aqiba who has said, “Those guilty of violating a negative commandment are in the same classification with those guilty of violating a commandment the penalty of which is extirpation. But those who are subject to the penalty of extirpation are then not eligible to begin with for either the rite of removing the shoe or for levirate marriage so how can he take the view that A eunuch castrated by man performs the rite of removing the shoe, and they perform the rite of removing the shoe with his wife?

B. “A EUNUCH BY NATURE DOES NOT PERFORM THE RITE OF REMOVING THE SHOE, AND THEY DO NOT PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE, BECAUSE THERE WAS NEVER A TIME IN WHICH HE WAS VALID”

1. II:1: what is a eunuch by nature?

C. R. ELIEZER SAYS, “NOT SO, BUT: A EUNUCH BY NATURE PERFORMS THE RITE OF REMOVING THE SHOE, AND THEY PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE, BECAUSE HE MAY BE HEALED. A EUNUCH CASTRATED BY MAN DOES NOT PERFORM THE RITE OF REMOVING THE SHOE, AND THEY DO NOT PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE, BECAUSE HE MAY NEVER BE HEALED.” TESTIFIED R. JOSHUA B. BETERAH CONCERNING BEN MEGUSAT, WHO WAS IN JERUSALEM, A EUNUCH CASTRATED BY MAN, AND THEY SUBJECTED HIS WIFE TO LEVIRATE MARRIAGE — THUS CONFIRMING THE OPINION OF R. AQIBA.

1. III:1: A contradictory passage was cited: A girl twenty years old who has not produced two pubic hairs — let her bring evidence that she is twenty years old and she is then declared sterile: she does not perform the rite of removing the shoe to

sever a levirate connection and does not enter into levirate marriage. A boy twenty years old who has not produced two pubic hairs — let him bring evidence that he is twenty years old, and he is declared a eunuch. He does not perform the rite of removing the shoe and does not enter into levirate marriage. These are the words of the House of Hillel. The House of Shammai say, “Both rules apply to one who is eighteen years old.” R. Eliezer says, “The rule for the male is in accord with the opinion of the House of Hillel, and the rule for the female is in accord with the opinion of the House of Shammai, for the woman matures before the man” (M. **Nid. 5:9A-I**). The case here is a congenital eunuch and yet Eliezer stated that he is subject to neither the rite of removing the shoe nor levirate marriage, contradicting what he says here.

2. III:2: It has been stated: If a girl between the age of twelve years and a day and eighteen years age forbidden fat and after the marks of a eunuch appeared, she produced two pubic hairs — Rab said, “He is treated as retrospectively a eunuch.” From the age of twelve years onward; despite the absence of the hairs until after eighteen and their subsequent appearance, the girl is regarded as having passed into her majority at the earlier age of twelve years and one day and consequently subject from that time to all legal penalties. And Samuel said, “She was a minor at that time” and the majority sets in at the latter age only when the girl’s impotence is definitely established

3. III:3: Said R. Abbahu, “On the basis of the signs that one is a eunuch, or that a woman is sterile, or that a child is born at the eighth month after conception, no decision is made on the issue of impotency or age or viability until they reach the age of twenty.” Between the age of twelve and that age the former are regarded as minors until they have produced puberty marks, if these appear before twenty; if not, their majority begins from age twelve; in the case of the child, he cannot be regarded as viable before he has completed the twentieth year of his life.

4. III:4: Our rabbis have taught on Tannaite authority: What is the definition of a eunuch by nature? It is any male that has survived for twenty years without producing two pubic hairs. Even if he produced two pubic hairs thereafter, lo, he is deemed a eunuch for all purposes. And what are his characteristics? Any who has no beard and whose skin is smooth and not hairy. Rabban Simeon b. Gamaliel says in the name of R. Judah b. Yair, “Any whose urine does not produce a froth.” And some say, “Any whose urine is sour.” And some say, “Any whose semen is watery.” And some say, “Any who urinates without producing an arch.” And others say, “Any who bathes in cold water in the rainy season and whose flesh does not steam.” And R. Simeon b. Eleazar says, “Any whose voice croaks, so one cannot tell whether it is male or female.” What is the definition of a sterile woman? It is any female who has survived for twenty years without producing two pubic hairs. Even if she produced two pubic hairs thereafter, lo, she is deemed sterile for all purposes. What are the indications? Any who has no breasts and whose hair is abnormal and who finds sexual relations painful. Rabban Simeon b. Gamaliel says, “Any who has no mons veneris like other women.” R. Simeon b. Gamaliel says, “Any who has a deep voice, so one cannot tell whether it is male or female” (T. **Yeb. 10:6A-K, 10:7A-G**).

a. III:5: It has been stated: As to the indications of a eunuch — R. Huna said, “They are deemed indicative only if all of them are present.” R. Yohanan said, “Even if one of them was present.”

D. A EUNUCH DOES NOT PERFORM THE RITE OF REMOVING THE SHOE AND DOES NOT ENTER INTO LEVIRATE MARRIAGE. AND SO: A STERILE WOMAN DOES NOT PERFORM THE RITE OF REMOVING THE SHOE AND IS NOT TAKEN IN LEVIRATE MARRIAGE.

1. IV:1: The eunuch is mentioned as comparable to the barren woman: just as the barren woman is due to an act of heaven, so the saris must be one by nature, and the unattributed rule accords with the principle of R. Aqiba, who has said, “If it is a eunuch by human action, he undergoes the rite of removing the shoe, but not if it is one made a eunuch by nature.”

E. THE EUNUCH WHO PERFORMED THE RITE OF REMOVING THE SHOE WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW HAS NOT RENDERED HER INVALID FOR MARRIAGE INTO THE PRIESTHOOD. IF HE HAD SEXUAL RELATIONS WITH HER, HE HAS RENDERED HER INVALID FOR MARRIAGE INTO THE PRIESTHOOD, FOR IT IS AN ACT OF SEXUAL RELATIONS OF THE CHARACTER OF FORNICATION.

1. V:1: one of the character of fornication: The operative consideration for his disqualifying her is that the levir, to whom she is forbidden under penalty by extirpation as his brother’s wife has had sexual relations with her. Lo, someone else would not do so. May we therefore say that this would refute the position of R. Hamnuna, who has said, “A woman awaiting levirate marriage who committed an act of fornication is invalidated to marry her deceased childless husband’s brother”?

F. AND SO: A STERILE WOMAN WITH WHOM THE BROTHERS HAVE PERFORMED THE RITE OF REMOVING THE SHOE — THEY HAVE NOT RENDERED HER INVALID FOR MARRIAGE INTO THE PRIESTHOOD. IF THEY HAD SEXUAL RELATIONS WITH HER, THEY HAVE RENDERED HER INVALID FOR MARRIAGE INTO THE PRIESTHOOD, FOR IT IS AN ACT OF SEXUAL RELATIONS OF THE CHARACTER OF FORNICATION.

1. VI:1: The operative consideration that when they have had sexual relations, they have invalidated her is that they had sexual relations with her; but if not, they would not have done so. In accord with what principle is this rule set forth?

LIII. Mishnah-Tractate Yebamot 8:6

A. A PRIEST WHO WAS A EUNUCH BY NATURE WHO MARRIED AN ISRAELITE GIRL, CONFERS ON HER THE RIGHT TO EAT FOOD IN THE STATUS OF PRIESTLY RATIONS.

1. I:1: A priest who was a eunuch by nature who married an Israelite girl, confers on her the right to eat food in the status of priestly rations: Yeah, so what else is new?

B. R. YOSÉ AND R. SIMEON SAY, “A PRIEST WHO BORE SEXUAL TRAITS OF BOTH GENDERS WHO MARRIED AN ISRAELITE GIRL FEEDS HER FOOD IN THE STATUS OF PRIESTLY RATIONS.”

1. II:1: Said R. Simeon b. Laqish, “He confers upon her the right to eat food in the status of priestly rations, but he does not confer upon her the right to eat the breast and shoulder which the priest receives from certain offerings, Lev. 7:34.” R. Yohanan says, “He also confers upon her the right to eat the breast and shoulder.”

a. II:2: To what is reference made in the foregoing?

2. II:3: Said Rab, “Our Mishnah-paragraph when it says, R. Yosé and R. Simeon say, “A priest who bore sexual traits of both genders who married an Israelite girl feeds her food in the status of priestly rations”, cannot stand before the following Tannaite formulation: R. Yosé says, ‘An androgyne is sui generis, and the sages could not decide whether it is a man or a woman (T. **Bik. 2: 7**).”

3. II:4: The household of Rab stated in the name of Rab, “The decided law accords with R. Yosé in the matter of the androgyne and grafting,” and Samuel said, “In regard to a woman in protracted labor and in regard to the sanctification and prohibition of crops as will now be explained.”

a. II:5: Gloss of the foregoing.

C. R. JUDAH SAYS, “A PERSON LACKING REVEALED SEXUAL TRAITS WHO WAS TORN AND TURNED OUT TO BE A MALE SHOULD NOT PERFORM THE RITE OF REMOVING THE SHOE, FOR HE IS DEEMED EQUIVALENT TO A EUNUCH.”

1. III:1: Said R. Ammi, “How would R. Judah deal with the case of such as the person lacking revealed sexual traits that came from Biri, who, after having been subjected to an operation and being torn open, produced seven children?”

2. III:2: It has been taught on Tannaite authority: R. Yosé b. R. Judah says, “A person of undefined sexual traits does not release his deceased childless brother’s wife by a rite of removing the shoe, lest the skin be torn open and he will turn out to have been a eunuch by nature” (T. **Yeb. 11:1F-G**).

3. III:3: Said R. Samuel bar. Judah said R. Abba brother of R. Judah bar Zebedi said R. Judah said Rab, “For an androgyne, one incurs the death penalty through stoning for having had sexual relations through either of his organs anus, vagina.”

a. III:4: Gloss of the development of the foregoing.

D. A PERSON BEARING TRAITS OF BOTH SEXES MARRIES BUT IS NOT TAKEN IN MARRIAGE.

R. ELIEZER SAYS, “THOSE WHO HAVE SEXUAL RELATIONS WITH A PERSON BEARING TRAITS OF BOTH SEXES ARE LIABLE ON HIS ACCOUNT FOR STONING AS IS HE WHO HAS SEXUAL RELATIONS WITH A MALE.”

1. IV:1: It has been taught on Tannaite authority: Said Rabbi, “When I went to study Torah at the household of R. Eleazar b. Shammua, his disciples joined against me like a bunch of chickens in Bet Buqayya, and let me learn only one thing in our Mishnah-passage, namely, R. Eliezer says, “Those who have sexual relations with a person bearing traits of both sexes are liable on his account for stoning as is he who has sexual relations with a male.”

LIV. Mishnah-Tractate Yebamot 9:1-3

A. THERE ARE WOMEN PERMITTED TO THEIR HUSBANDS AND PROHIBITED TO THEIR LEVIRS, PERMITTED TO THEIR LEVIRS AND PROHIBITED TO THEIR HUSBANDS, PERMITTED TO THESE AND TO THOSE, AND PROHIBITED TO THESE AND TO THOSE.

THESE ARE WOMEN PERMITTED TO THEIR HUSBANDS AND PROHIBITED TO THEIR LEVIRS: (1) AN ORDINARY PRIEST WHO MARRIED A WIDOW, AND WHO HAS A BROTHER WHO IS HIGH PRIEST; (2) A MAN OF IMPAIRED PRIESTLY STOCK WHO MARRIED A VALID WOMAN, AND WHO HAS A BROTHER WHO IS VALID AS A PRIEST; (3) AN ISRAELITE WHO MARRIED AN ISRAELITE GIRL AND WHO HAS A BROTHER WHO IS A MAMZER; (4) A MAMZER WHO MARRIED A FEMALE MAMZER, AND WHO HAS A BROTHER WHO IS A VALID ISRAELITE — THESE ARE PERMITTED TO THEIR HUSBANDS AND PROHIBITED TO THEIR LEVIRS.

1. I:1: An ordinary priest who married a widow, and who has a brother who is high priest; a man of impaired priestly stock who married a valid woman, and who has a brother who is valid as a priest; an Israelite who married an Israelite girl and who has a brother who is a mamzer; a mamzer who married a female mamzer, and who has a brother who is a valid Israelite: why speak of married, when it would have been entirely in order to frame the Tannaite formulation as betrothed? And should you say that the operative consideration is that he actually married a woman in such a category, because under such conditions there are both a positive and a negative commandment involved, but if he had only betrothed such a woman, then a positive commandment levirate marriage overrides the considerations of a negative commandment, well, in point of fact, the entirety of our chapter addresses cases in which there is a positive commandment levirate marriage that is in competition with a negative one e.g., the status of mamzer to an Israelite, and in fact the positive commandment does override the negative one throughout!

a. I:2: Gloss of a detail of the foregoing.

l. I:3: The issue of the foregoing further analyzed.

B. AND THESE ARE PERMITTED TO THEIR LEVIRS AND PROHIBITED TO THEIR HUSBANDS: (1) A HIGH PRIEST WHO BETROTHED A WIDOW, AND WHO HAS A BROTHER WHO IS AN ORDINARY PRIEST; (2) A VALID PRIEST WHO MARRIED A WOMAN OF IMPAIRED PRIESTLY STOCK AND WHO HAS A BROTHER OF IMPAIRED PRIESTLY STOCK; (3) AN ISRAELITE WHO MARRIED A FEMALE MAMZER AND WHO HAS A BROTHER WHO IS A MAMZER OFFSPRING OF A UNION SUBJECT TO THE PENALTY OF EXTIRPATION, UNABLE EVER LEGITIMATELY TO MARRY A VALID ISRAELITE; (4) A MAMZER WHO MARRIED AN ISRAELITE GIRL AND WHO HAS A BROTHER WHO IS A VALID ISRAELITE — THEY ARE PERMITTED TO THEIR LEVIRS AND PROHIBITED TO THEIR HUSBANDS.

PROHIBITED TO THESE AND TO THOSE: (1) A HIGH PRIEST MARRIED TO A WIDOW WHO THUS IS IMPAIRED, WHO HAS A BROTHER WHO IS A HIGH PRIEST OR WHO IS AN ORDINARY PRIEST; (2) A VALID PRIEST WHO MARRIED A WOMAN OF IMPAIRED PRIESTLY STOCK, AND WHO HAS A BROTHER WHO IS A VALID PRIEST; (3) AN

ISRAELITE WHO MARRIED A FEMALE MAMZER, AND WHO HAS A BROTHER WHO IS AN ISRAELITE; (4) A MAMZER WHO MARRIED AN ISRAELITE GIRL, AND WHO HAS A BROTHER WHO IS A MAMZER — THESE ARE PROHIBITED TO THESE AND TO THOSE. AND ALL OTHER WOMEN ARE PERMITTED TO THEIR HUSBANDS AND TO THEIR LEVIRS.

IN WHAT CONCERNS THE SECONDARY REMOVE OF FORBIDDEN DEGREES BY REASON OF SCRIBAL RULINGS: A WOMAN WITHIN A SECONDARY REMOVE OF KINSHIP TO THE HUSBAND AND NOT IN A SECONDARY REMOVE OF KINSHIP TO THE LEVIR IS PROHIBITED TO HER HUSBAND AND PERMITTED TO HER LEVIR. IF SHE IS IN A SECONDARY REMOVE OF KINSHIP TO THE LEVIR AND NOT IN A SECONDARY REMOVE OF KINSHIP TO THE HUSBAND, SHE IS PROHIBITED TO THE LEVIR AND PERMITTED TO THE HUSBAND. IF SHE IS IN A SECONDARY REMOVE OF KINSHIP TO THIS ONE AND TO THAT ONE, SHE IS PROHIBITED TO THIS ONE AND TO THAT ONE. SHE HAS NO RIGHTS TO A MARRIAGE CONTRACT, OR TO THE USUFRUCT OF HER “PLUCKING”-PROPERTY, OR TO ALIMONY, OR TO WORN CLOTHES INDEMNITY, FOR CLOTHES WHICH HAVE COMPLETELY WORN OUT E.G., FOR LOSS ON “PLUCKING”-PROPERTY. BUT AN OFFSPRING OF SUCH A MARRIAGE IS VALID FOR THE PRIESTHOOD. AND THEY FORCE HIM TO PUT HER AWAY.

IN THE CASE OF A WIDOW WED TO A HIGH PRIEST, A DIVORCEE OR A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE TO AN ORDINARY PRIEST, A FEMALE MAMZER OR A FEMALE NETIN TO AN ISRAELITE, OR AN ISRAELITE GIRL TO A NETIN OR A MAMZER, SHE HAS A RIGHT TO HER MARRIAGE-SETTLEMENT.

1. II:1: The men of Biri asked R. Sheshet, “As to a woman who is in a secondary remove of kinship to the husband but not to the levir, does she have the right of collecting a marriage-settlement from the levir or not? Since a master has said, ‘The charge of her marriage contract falls onto the property of her first husband (M. [Yeb. 4:4B](#)),’ she has no such claim; or perhaps, since the rabbis have made the ordinance that in any case in which she cannot collect a marriage settlement from the first husband, she has the right to claim it from the second, here she may claim it from the levir?”

2. II:2: R. Eleazar asked R. Yohanan, “In the case of a widow married to a high priest, a divorcée or a woman who has undergone the rite of removing the shoe married to an ordinary priest, do they have a claim for maintenance or not?”

3. II:3: Our rabbis have taught on Tannaite authority: A widow married to a high priest, a divorcée of a woman who has undergone the rite of removing the shoe married to an ordinary priest lo, these are deemed legal wives in every respect. They have a right to a marriage contract, to the disposition of the return on their property, to support, to indemnity replacement of worn out clothing. But she becomes unfit and her offspring is unfit, and the husband is compelled to divorce her. Relatives in the second remove of kinship forbidden by ordinances of scribes are entitled neither to the marriage-settlement nor to to the disposition of the return on their property, to support, to indemnity replacement of worn out clothing. But she remains fit and her offspring is fit; but the husband is forced to divorce her. Said R. Simeon b. Eleazar, “On what account did they rule that a widow married to a high priest is entitled to her marriage-settlement? Because he

becomes unfit to work in the Temple and she becomes unfit, and in every case in which the male is invalid and the female is invalid, sages have imposed an extrajudicial penalty on him, requiring him to pay her marriage-settlement. And on what account did they rule that those women prohibited to a man because of a secondary remove of a consanguineous relationship do not receive the marriage-settlement? Because he is valid to marry her, and she is valid to marry him. Sages have imposed an extrajudicial penalty on her, denying her a marriage-settlement, so that it will be easy for him to divorce her.” Rabbi says, “This rule is a restricting deriving from the teachings of the Torah itself, and the teachings of the Torah do not require a backup; but the other rule is prohibited by reason of the teachings of scribes, and teachings of scribes most certainly do require a backup. “Another matter: this one has responsibility for getting the woman ready to marry him, but this woman has responsibility for getting herself ready to marry him” (T. **Yeb. 2:4A-O**).

a. II:4: Gloss of the foregoing.

LV. Mishnah-Tractate Yebamot 9:4

A. AN ISRAELITE GIRL BETROTHED TO A PRIEST, PREGNANT BY A PRIEST, AWAITING LEVIRATE MARRIAGE WITH A PRIEST, AND SO TOO: A PRIESTLY GIRL MARRIED TO AN ISRAELITE — DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS AN ISRAELITE GIRL BETROTHED TO A LEVITE, PREGNANT BY A LEVITE, AWAITING LEVIRATE MARRIAGE WITH A LEVITE, AND SO TOO: A LEVITE GIRL MARRIED TO AN ISRAELITE — DO NOT EAT TITHE.

A LEVITE GIRL BETROTHED TO A PRIEST, PREGNANT BY A PRIEST, AWAITING LEVIRATE MARRIAGE WITH A PRIEST, AND SO TOO, A PRIESTLY GIRL MARRIED TO A LEVITE, EAT NEITHER FOOD IN THE STATUS OF PRIESTLY RATIONS NOR TITHE.

1. I:1: A Levite girl betrothed to a priest, pregnant by a priest, awaiting levirate marriage with a priest: while, to be sure, she is no more than a commoner, is not a commoner permitted to eat tithe?

a. I:2: How then have you explained the rule that An Israelite girl betrothed to a Levite, pregnant by a Levite, awaiting levirate marriage with a Levite, and so too: a Levite girl married to an Israelite — do not eat tithe? In accord with the position of R. Meir? Then how do you deal with what follows: A Levite girl betrothed to a priest, pregnant by a priest, awaiting levirate marriage with a priest, and so too, a priestly girl married to a Levite, eat neither food in the status of priestly rations nor tithe? Now what relevance does the issue of whether one is or is not a priest have in this case since neither the daughter of a priest nor daughters of a Levite are outsiders in this context!

2. I:3: A Levite girl betrothed to a priest, pregnant by a priest, awaiting levirate marriage with a priest, and so too, a priestly girl married to a Levite, eat neither food in the status of priestly rations nor tithe: Mar b. Rabbana said, “This indicates that they give her unaccompanied by her husband no share of tithe at the threshing floor.” That poses no problem to him who has said that the operative

consideration is because a woman should not go alone among men, but from the perspective of him who has said that the rule is to avoid giving it to a divorced woman who might continue to collect the priestly due at the threshing floor even after she is divorced, if a woman is divorced and is the daughter of a Levite, may she not eat tithe?

B. TOPICAL APPENDIX ON THE DISPOSITION OF THE TITHES

1. I:4: Our rabbis have taught on Tannaite authority: “The great heave offering goes to the priest, first tithe to the Levite,” the words of R. Aqiba. R. Eleazar b. Azariah says, “The first tithe too goes to the priest.”

a. I:5: Scriptural basis.

b. I:6: Illustrative case.

4. I:7: It has been stated: How come the Levites were subjected to a penalty in regard to tithe which is given not to the Levites, as the Torah says, but to the priests? There was a difference of opinion between R. Jonathan and Sabayya. One said, “Because they did not go up to the Land of Israel in the time of Ezra.” And the other said, “So that the priests may rely on it when they are unclean.”

a. I:8: Scriptural basis.

LVI. Mishnah-Tractate Yebamot 9:5-6

A. AN ISRAELITE GIRL WHO MARRIED A PRIEST EATS FOOD IN THE STATUS OF PRIESTLY RATIONS. IF HE DIED AND SHE HAD A CHILD FROM HIM, SHE EATS FOOD IN THE STATUS OF PRIESTLY RATIONS. IF SHE MARRIED A LEVITE, SHE EATS TITHE. IF HE DIED AND SHE HAD A CHILD FROM HIM, SHE EATS TITHE. IF SHE MARRIED AN ISRAELITE, SHE EATS NEITHER FOOD IN THE STATUS OF PRIESTLY RATIONS NOR TITHE. IF HE DIED, AND SHE HAD A CHILD FROM HIM, SHE EATS NEITHER FOOD IN THE STATUS OF PRIESTLY RATIONS NOR TITHE. IF HER SON BY AN ISRAELITE DIED, SHE EATS TITHE.

IF HER SON BY A LEVITE DIED, SHE EATS FOOD IN THE STATUS OF PRIESTLY RATIONS.

IF HER SON BY A PRIEST DIED, SHE EATS NEITHER FOOD IN THE STATUS OF PRIESTLY RATIONS NOR TITHE.

1. I:1: If her son by a Levite died, she eats food in the status of priestly rations, since she reverts to the status of being permitted to eat it on account of her son. What is the scriptural source of that fact?

2. I:2: Our rabbis have taught on Tannaite authority: When the priest’s daughter goes home, she reverts to the right of eating food in the status of priestly rations, but she does not revert to the right to eat the meat of the breast and shoulder that is given to the priests in line with (Exo. 29:27, Lev. 7:34, 10:14).

a. I:3: And said R. Hisda said Rabina bar R. Shila, “What verse of Scripture makes that point?”

B. A PRIEST’S DAUGHTER WHO MARRIED AN ISRAELITE DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. IF HE DIED AND SHE HAD A CHILD FROM HIM,

SHE DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS. IF SHE MARRIED A LEVITE, SHE EATS TITHE. IF HE DIED AND SHE HAD A CHILD FROM HIM, SHE EATS TITHE. IF SHE MARRIED A PRIEST, SHE EATS FOOD IN THE STATUS OF PRIESTLY RATIONS. IF HE DIED AND SHE HAD A CHILD FROM HIM, SHE EATS FOOD IN THE STATUS OF PRIESTLY RATIONS. IF HER CHILD FROM THE PRIEST DIED, SHE DOES NOT EAT FOOD IN THE STATUS OF PRIESTLY RATIONS, IF HER CHILD FROM THE LEVITE DIED, SHE DOES NOT EAT TITHE. IF HER CHILD FROM THE ISRAELITE DIED, SHE GOES BACK TO HER FATHER'S HOUSE.

CONCERNING SUCH A ONE IS IT SAID, "AND SHE SHALL RETURN TO HER FATHER'S HOUSE, AS IN HER GIRLHOOD. THE FOOD OF HER FATHER SHE WILL EAT" (LEV. 22:13).

1. II:1: Our rabbis have taught on Tannaite authority: "If a priest's daughter is married to an outsider, she shall not eat of the offering of the holy things. But if a priest's daughter is a widow or divorced and has no child and returns to her father's house, as in her youth, she may eat of her father's food; yet no outsider shall eat of it." this excludes a woman who is awaiting marriage to her levirate husband. "as in her youth:" this excludes a widow who is pregnant. Is that proposition that a pregnant woman may not return to her father's house and eat priestly rations not logical? if in a case in which the law has not treated the offspring of the first husband as tantamount to an offspring from the most recent husband who has died without issue, so as to free the widow from having to enter into levirate marriage, the law has treated the foetus a pregnancy caused by the now deceased husband as equivalent to a fully-born child so as to free the woman from the levirate connection, here, where the law has treated the offspring of the first husband as tantamount to an offspring from the most recent husband since if the woman has any issue, without regard to the husband involved, she no longer may eat priestly rations, should we not treat the foetus as equivalent to a fully-born child so as to prevent the woman from eating priestly rations? Not at all. For after all, the reason that the law has treated the foetus as tantamount to a fully-born child is to free the widow from the levirate connection, for the law has treated the deceased offspring in that case as equivalent to living offspring since if the deceased husband had children who died after he did but before the levirate marriage, the widow does not enter into levirate marriage as though the deceased children were still alive. But in the present case, should we treat the foetus as equivalent to an offspring to invalidate the widow from reverting to her father's house and eating priestly rations, for in this case the law has not treated deceased as equivalent to living offspring since if she had a child with an Israelite, and the child died, the offspring is not treated as if it were alive so as to prevent her from eating priestly rations; she reverts to her father's house and status, for, in line with Scripture, at this moment "she has no child"? Accordingly, Scripture settles the question when it says, "as in her youth:" this excludes a widow who is pregnant (Sifra CCXXII:I.1).

a. II:2: Gloss of the foregoing.

2. II:3: Said R. Judah of Disqarta to Raba, "When it comes to the levirate marriage, we should not assign to the dead the same status as the living, on the strength of an argument a fortiori: if in a case in which an offspring by the first

husband is treated as the same as the offspring of the second husband, so far as disqualifying the woman from eating food in the status of priestly rations, we do not treat the dead as having the same status as the living, then we surely should not give the dead the same status as the living and therefore not exempt the mother from levirate bond where the child of the first husband is not regarded as the offspring of the second, in regard to exempting the woman from levirate marriage. So Scripture has to say, 'her ways are ways of pleasantness and all her paths are peace' (Pro. 3:17)." If a woman whose child died after the father be subjected to the obligations of the levirate marriage, the family life would be disrupted if the woman married after the death of the husband and only then the first husband's offspring died.

LVII. Mishnah-Tractate Yebamot 10:1-2

A. BUT IF SHE SHOULD REMARRY WITHOUT PERMISSION, SINCE THE REMARRIAGE WAS AN INADVERTENT TRANSGRESSION AND NULL, SHE IS PERMITTED TO RETURN TO HIM.

1. I:1: But if she should remarry without permission, she is permitted to return to him: since the concluding clause states, But if she should remarry without permission, she is permitted to return to him, it must follow that without permission of the court must mean, "but with the evidence of witnesses," and the first clause then must refer to a woman who married with the permission of the court but on the evidence of a single witness that the husband had died. Therefore, it must follow, a single witness is believed in such a matter. And we furthermore have learned in the Mishnah: And they confirmed in the practice of permitting the wife to remarry on the evidence of a single witness, on the evidence of a slave, on the evidence of a woman, on the evidence of a slave girl (M. **Yeb. 16:7I**). So it follows that the evidence of a single witness is believed in such a matter. And we have learned in the Mishnah: If a witness says, "He ate," and he says, "I did not eat" – he is exempt from bringing an offering (M. **Ker. 3:1E-F**). The operative consideration is that the accused himself has said, "I did not eat." Lo, if he had remained silent, the single witness would have been believed. Therefore on the strength of the Torah, the evidence of a single witness is believed in such a matter.

B. THE WOMAN WHOSE HUSBAND WENT OVERSEAS, AND WHOM THEY CAME AND TOLD, "YOUR HUSBAND HAS DIED," AND WHO REMARRIED, AND WHOSE HUSBAND AFTERWARD RETURNED, (1) GOES FORTH FROM THIS ONE THE SECOND HUSBAND AND FROM THAT ONE THE FIRST –

1. II:1: Said Rab, "This rule governs only if the woman remarried on the testimony of a single witness that her husband had died, but if she remarried on the strength of the evidence of two witnesses that her husband has died, she does not go forth."

2. II:2: With reference to the statement, goes forth from this one and from that one, said Samuel, "That rule applies only in a case in which she does not contradict the man claiming to be her first husband, but if she does contradict his claim, she does not go forth from the second."

C. AND (2) SHE REQUIRES A WRIT OF DIVORCE FROM THIS ONE AND FROM THAT.

1. III:1: Now there is no problem understanding why she requires a writ of divorce from the first, to whom she was validly married, but why does she require a writ of divorce from the second man, since it was a relationship of mere fornication?

D. AND SHE HAS NO CLAIM OF (3) PAYMENT OF HER MARRIAGE CONTRACT:

1. IV:1: How come rabbis have ordained a marriage settlement for a woman? It is so that it will not be a light thing in his eyes to divorce her. Lo, here, it should be a light thing in his eyes to divorce her.

E. (4) OF USUFRUCT, (5) OF ALIMONY, OR (6) OF INDEMNIFICATION, EITHER ON THIS ONE OR ON THAT.

1. V:1: A stipulation in the marriage contract is in the same status as the marriage settlement itself.

F. (7) IF SHE HAD COLLECTED ANYTHING OF G FROM THIS ONE OR FROM THAT, SHE MUST RETURN IT.

1. VI:1: So what else is new?

G. (8) AND THE OFFSPRING IS DEEMED A MAMZER, WHETHER BORN OF THE ONE MARRIAGE OR THE OTHER.

1. VII:1: There we have learned in the Mishnah: They do not separate heave-offering from that produce which is unclean for that which is clean. And if he separated heave-offering in that manner – if he did it unintentionally, that which he has separated is valid heave-offering; but if he did it intentionally, he has not done anything (M. **Ter. 2:2A-D**). What is the meaning of he has not done anything? Said R. Hisda, “...he has not done anything,’ whatsoever, so that even that part that has been designated as priestly rations reverts to its initial status of being produce that is subject to tithing but has not yet been tithed.” R. Nathan b. R. Oshaia said, “...he has not done anything,’ so far as properly tithing the remainder of the produce, but as to the status of priestly rations, lo, that status is confirmed.”

a. VII:2: Secondary gloss of a detail introduced in the analysis in the foregoing: R. Hisda sent word to Rabbah via R. Aha bar R. Huna, “But is it the fact that a court never stipulate a rule such that it would uproot a law of the Torah? And has it not been taught on Tannaite authority: At what age is a husband permitted to inherit the estate of his wife, if she dies while yet a minor so we assume that if she had lived, she would not exercise the right of refusal and therefore is assumed to have been his wife? The House of Shammai say, ‘When she reaches her full height at puberty.’ The House of Hillel say, ‘When she enters the bridal canopy.’ R. Eliezer says, ‘When sexual relations have taken place. Then he may inherit her estate; if a priest he may contract corpse uncleanness to bury her, and she may eat priestly rations on account of his status as a priest.’”

H. AND (9) NEITHER ONE OF THEM IF HE IS A PRIEST BECOMES UNCLEAN FOR HER IF SHE SHOULD DIE AND REQUIRE BURIAL.

1. VIII:1: What is the source of this law in Scripture?

I. AND NEITHER ONE OF THEM HAS THE RIGHT EITHER (10) TO WHAT SHE FINDS:

1. IX:1: What is the operative consideration?

J. OR (11) TO THE FRUIT OF HER LABOR:

1. X:1: What is the operative consideration?

K. OR (12) TO ANNUL HER VOWS.

1. XI:1: What is the operative consideration?

L. IF (13) SHE WAS AN ISRAELITE GIRL, SHE IS RENDERED INVALID FOR MARRIAGE INTO THE PRIESTHOOD; A LEVITE, FROM EATING TITHE:

1. XII:1: If she was an Israelite girl, she is rendered invalid for marriage into the priesthood: so what else is new?

M. AND A PRIEST GIRL, FROM EATING HEAVE-OFFERING.

1. XIII:1: Even produce designated only on the strength of rabbinical authority as priestly rations.

N. AND THE HEIRS OF EITHER ONE OF THE HUSBANDS DO NOT INHERIT HER MARRIAGE SETTLEMENT.

1. XIV:1: What's her marriage settlement doing here?

O. AND IF THEY DIED, A BROTHER OF THIS ONE AND A BROTHER OF THAT PERFORM THE RITE OF REMOVING THE SHOE BUT DO NOT ENTER INTO LEVIRATE MARRIAGE.

1. XV:1: The brother of the first husband performs the rite of removing the shoe by reason of the law of the Torah and does not enter into levirate marriage by reason of the decree of rabbis. The brother of the second performs the rite of removing the shoe by reason of the authority of rabbis, and does not enter into levirate marriage by reason of the authority of both the Torah and the rabbis.

P. R. YOSÉ SAYS, "HER MARRIAGE CONTRACT IS A LIEN ON THE PROPERTY OF HER FIRST HUSBAND." R. ELEAZAR SAYS, "THE FIRST HUSBAND HAS A RIGHT TO WHAT SHE FINDS AND TO THE FRUIT OF HER LABOR AND TO ANNUL HER VOWS." R. SIMEON SAYS, "HAVING SEXUAL RELATIONS WITH HER OR PERFORMING A RITE OF REMOVING THE SHOE WITH HER ON THE PART OF THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER COWIFE FROM LEVIRATE CONNECTION. AND OFFSPRING FROM HIM IS NOT A MAMZER."

1. XVI:1: Said R. Huna, "The latter authorities entering specific dissents concur with the former authorities in regard to the woman's being held the wife of the first husband, but the former authorities do not concur with the latter." R. Yohanan said, "To the contrary, the former concur with the latter, but the latter do not concur with the former. R. Yosé accepts the judgment of R. Eleazar, for if the marriage settlement, which is taken from the husband and is given to the wife, is not subjected to a penalty, how much less in the case of what she finds and earns through her own labor, which are to be taken from her and given to him?"

Q. BUT IF SHE SHOULD REMARRY WITHOUT PERMISSION, SINCE THE REMARRIAGE WAS AN INADVERTENT TRANSGRESSION AND NULL, SHE IS PERMITTED TO RETURN TO HIM.

1. XVII:1: Said R. Huna said Rab, "That's the decided law."

- a. XVII:2: Gloss of the foregoing.

I. XVII:3: Secondary development of the gloss.

A. I:4: Concrete decision.

2. I:5: Said R. Ashi, “We pay no attention to rumors concerning the survival of the first husband, once declared dead.”

R. IF SHE WAS REMARRIED AT THE INSTRUCTION OF A COURT, SHE IS TO GO FORTH, BUT SHE IS EXEMPT FROM THE REQUIREMENT OF BRINGING AN OFFERING. IF SHE DID NOT REMARRY AT THE INSTRUCTION OF A COURT, SHE GOES FORTH, AND SHE IS LIABLE TO THE REQUIREMENT OF BRINGING AN OFFERING. THE AUTHORITY OF THE COURT IS STRONG ENOUGH TO EXEMPT HER FROM THE REQUIREMENT OF BRINGING A SACRIFICE:

1. XVIII:1: Said Zeiri, “There is no validity to our Mishnah paragraph, since it has been stated at the schoolhouse as a Tannaite statement to the contrary, for it has been stated at the schoolhouse as a Tannaite formulation: If the court made a decision that the sun had set on a cloudy Sabbath afternoon, and it turned out not to have been the case, but in the end the sun shone again, this is a decision that is no instruction but a mere mistake” as to the facts, not the law; here, too, the court thought the man was dead but he was alive, and that is therefore a deed done in error, and the woman is not exempt from a sin-offering in the case of a sin committed in error; so the Mishnah formulation cannot be authentic. But R. Nahman said, “Permitting the woman to remarry falls into the category of a court’s instruction, for throughout the entire Torah, the testimony of a single witness is not believed, but here it is believed. What can the reason possibly be? Is it not because the court’s decision on the strength of which the woman has remarried is classified as a decision not a mere mistake?”

S. IF THE COURT INSTRUCTED HER TO REMARRY, AND SHE WENT AND ENTERED AN UNSUITABLE UNION, SHE IS LIABLE FOR THE REQUIREMENT OF BRINGING AN OFFERING. FOR THE COURT PERMITTED HER ONLY TO MARRY PROPERLY.

1. XIX:1: What is the meaning of and she went and entered an unsuitable union?

LVIII. Mishnah-Tractate Yebamot 10:3

A. THE WOMAN WHOSE HUSBAND AND SON WENT OVERSEAS, AND WHOM THEY CAME AND TOLD, “YOUR HUSBAND DIED, AND THEN YOUR SON DIED,” AND WHO REMARRIED, AND WHOM THEY AFTERWARD TOLD, “MATTERS WERE REVERSED” – GOES FORTH FROM THE SECOND MARRIAGE.

AND EARLIER AND LATER OFFSPRING ARE IN THE STATUS OF A MAMZER.

IF THEY TOLD HER, “YOUR SON DIED AND AFTERWARD YOUR HUSBAND DIED,” AND SHE ENTERED INTO LEVIRATE MARRIAGE, AND AFTERWARD THEY TOLD HER, “MATTERS WERE REVERSED,” SHE GOES FORTH FROM THE LEVIRATE MARRIAGE. AND THE EARLIER AND LATER OFFSPRING ARE IN THE STATUS OF A MAMZER. IF THEY TOLD HER, “YOUR HUSBAND DIED,” AND SHE MARRIED, AND AFTERWARD THEY TOLD HER, “HE WAS ALIVE, BUT THEN HE DIED,” SHE GOES FORTH FROM THE SECOND MARRIAGE. AND THE EARLIER OFFSPRING BORN PRIOR TO THE ACTUAL DEATH OF THE HUSBAND IS A MAMZER, BUT THE LATER IS NOT A MAMZER.

IF THEY TOLD HER, “YOUR HUSBAND DIED,” AND SHE BECAME BETROTHED, AND AFTERWARD HER HUSBAND CAME HOME, SHE IS PERMITTED TO RETURN TO HIM. EVEN THOUGH THE SECOND MAN GAVE HER A WRIT OF DIVORCE, HE HAS NOT RENDERED HER INVALID FROM MARRYING INTO THE PRIESTHOOD.

1. I:1: what is the meaning of earlier? And what is the meaning of later? Shall we say that earlier refers to before the second report, and later means, afterward? Then the passage should read: The offspring is a mamzer for the legitimacy of the offspring is not determined by the date of the report but by the facts of the case!

2. I:2: Our rabbis have taught on Tannaite authority: This represents the position of R. Aqiba, who would say, “A valid betrothal does not take effect in a situation in which there is a violation of a negative commandment.” But sages say, “A child born to a deceased childless brother’s widow is not classified as a mamzer” (T. **Yeb. 11:8G-H**).

3. I:3: Said R. Judah said Rab, “How on the basis of Scripture do we know that a rite of betrothal by an outsider is null in the case of a deceased childless brother’s widow who must marry the levir? Scripture states, ‘The wife of the dead shall not be married to an outsider, to one not of his kin’ (Deu. 25: 5). That is to say, there will be no valid marital arrangement to her with an outsider.” And Samuel said, “By reason of our poverty of wit, to understand the cited verse, she does require a writ of divorce nonetheless.”

a. I:4: Decided law.

4. I:5: Speaking of a deceased childless brother’s widow who prior to the rite of removing the shoe has married a third party, said R. Hiyya bar Joseph said Rab, “A levirate widow is not validly betrothed, but she is validly married and so must receive a writ of divorce.”

5. I:6: Said R. Yannai, “In a meeting it was voted and decided: ‘A levirate widow is not validly betrothed.’”

a. I:7: Gloss of the foregoing.

I. I:8: Data to fill out the gloss.

II. I:9: Data to fill out the gloss.

III. I:10: Data to fill out the gloss.

IV. I:11: Data to fill out the gloss.

V. I:12: As above.

VI. I:13: As above.

VII. I:14: As above.

6. I:15: This question was addressed to R. Sheshet: “What is the standing of a single witness in the case of a levirate wife? Is such a witness believed to testify that the levir is dead? Is the operative consideration for accepting the testimony of a single witness that the matter is such that, one way or the other, the truth will come out, so someone would not lie, and here, too, someone would not lie? Or perhaps is the operative consideration that a single witness is believed because the woman herself is going to look into the matter very cautiously before she

remarries, and here, where she may have fallen in love with her late husband's surviving brother, she might marry him without undertaking very careful inquiries?"

B. THIS DID R. ELEAZAR B. MATYA EXPOUND, “‘AND A WOMAN DIVORCED FROM HER HUSBAND’ (LEV. 21: 7) – AND NOT FROM A MAN WHO IS NOT HER HUSBAND.”

1. II:1: It is has been taught on Tannaite authority: “Neither shall they take a woman put away from her husband” (Lev. 21: 7) – even if she has been divorced only from her husband but not permitted to marry any other man, the priests may not marry her since such a divorce has the validity of causing the woman's prohibition to her husband who is a priest, it might be mistaken for a valid divorce, for this is the sense of the statement, “Even the very whiff of a divorce causes a woman to be unfit for marriage to the priest.”

LIX. Mishnah-Tractate Yebamot 10:4

A. HE WHOSE WIFE WENT OVERSEAS, AND WHOM THEY CAME AND TOLD, “YOUR WIFE HAS DIED,” AND WHO MARRIED HER SISTER, AND WHOSE WIFE THEREAFTER CAME BACK –

1. I:1: He whose wife went overseas, and whom they came and told, “Your wife has died,” and who married her sister, and whose wife thereafter came back – she is permitted to come back to him: Now even though his wife and his brother-in-law husband of his wife's sister went overseas, so that the marriage of the man with his sister-in-law invoked the prohibition of the wife of his brother-in-law to his brother-in-law, it is the wife of the brother-in-law that is forbidden to her husband, while his own wife is permitted to him. We do not invoke the rule, since the wife of his brother-in-law is forbidden to his brother-in-law, his own wife should be forbidden to him so that the same marriage that prohibits the one woman does not permit the other. May we therefore say that our Mishnah rule is not in accord with the position of R. Aqiba, for, if it were to have accorded with his view, his wife would who may return to him is the sister of a woman he has divorced whom he cannot marry! For it has been taught on Tannaite authority: None of the women who stand in a consanguineous relationship as specified in the laws of the Torah has to receive a writ of divorce from a consanguineous man whom she has married, except for a wife who has married on the instructions of a court. And R. Aqiba adds to the list, “Also the wife of the brother, and the sister of the wife.” These have to receive a writ of divorce; if the man married his sister-in-law upon hearing that his brother has died but the husband came back, or, as in our Mishnah's rule, he married the wife's sister on news that the husband has died, he needs to issue a writ of divorce. Now, since R. Aqiba has maintained that the wife's sister has to get a writ of divorce, his first wife becomes forbidden to him as the sister of a woman whom he has divorced!

B. SHE IS PERMITTED TO COME BACK TO HIM. HE IS PERMITTED TO MARRY THE KINSWOMEN OF THE SECOND, AND THE SECOND WOMAN IS PERMITTED TO MARRY HIS KINSMEN. AND IF THE FIRST DIED, HE IS PERMITTED TO MARRY THE SECOND WOMAN.

1. II:1: She is permitted to come back to him: but why not forbid the woman to her husband because he has had sexual relations with her sister, along the lines of the case in which a woman's husband has gone overseas who married someone else, and who cannot revert to the first husband? In both cases the women have acted unwittingly.

a. II:2: The issue of inadvertent relations pursued: Said R. Judah, "The House of Shammai and the House of Hillel did not differ concerning one who has sexual relations with his mother-in-law, concurring that he renders his wife invalid for continuing to live with him, but must divorce her. Concerning what did they disagree? Concerning him who had sexual relations with the sister of his wife. For the House of Shammai say, 'He invalidates his wife from remaining wed to him,' and the House of Hillel say, 'He does not invalidate his wife from remaining wed to him.'"

I. II:3: The scriptural basis for the positions outlined in the foregoing.

II. II:4: Said R. Judah said Samuel, "The decided law does not accord with R. Judah."

III. II:5: Case.

b. II:6: Reverting to the exposition of II:1.

I. II:7: Tannaite recapitulation.

C. IF THEY SAID TO HIM, "YOUR WIFE HAS DIED," AND HE MARRIED HER SISTER, AND AFTERWARD THEY SAID TO HIM, "SHE WAS ALIVE, BUT THEN SHE DIED" – THE FORMER OFFSPRING IS A MAMZER BORN BEFORE THE WIFE DIED, AND THE LATTER BORN AFTER SHE DIED IS NOT A MAMZER. R. YOSÉ SAYS, "ANYONE WHO INVALIDATES HIS WIFE FOR MARRIAGE WITH OTHERS INVALIDATES HER FOR MARRIAGE FOR HIMSELF, AND WHOEVER DOES NOT INVALIDATE HIS WIFE FOR MARRIAGE WITH OTHERS DOES NOT INVALIDATE HER FOR HIMSELF."

1. III:1: In the context of the prior statement, what can R. Yosé possibly mean? If we say that the initial Tannaite authority has stated that if the man's wife and brother-in-law his wife's sister's husband went overseas and they returned after he had married his wife's sister because he heard a single witness testify that both had died, then the wife of the brother-in-law is forbidden to her husband, his brother-in-law, though his own wife is permitted, then R. Yosé said to him, "Just as his wife is permitted to him, his brother-in-law's wife is permitted to him" – if that is what we think it means, then the language that is used, whoever does not invalidate his wife for marriage with others does not invalidate her for himself, is not correct, but it should have been whoever does not invalidate himself for marriage with others does not invalidate ...for others. If the meaning is, just as the wife of his brother-in-law is forbidden to her husband, his brother-in-law, so his own wife is forbidden to him, then the language, Anyone who invalidates his wife for marriage with others invalidates her for marriage for himself, poses no problems, but what shall we make of the language, whoever does not invalidate?

a. III:2: Said R. Judah said Samuel, "The decided law accords with R. Yosé."

LX. Mishnah-Tractate Yebamot 10:5-6

A. (1) IF THEY SAID TO HIM, “YOUR WIFE HAS DIED,” (2) AND HE MARRIED HER SISTER BY THE SAME FATHER, (3) AND THEY REPORTED THAT SHE DIED AND HE MARRIED HER SISTER FROM THE SAME MOTHER, (4) AND THEY REPORTED THAT SHE DIED AND HE MARRIED HER SISTER FROM THE SAME FATHER, (5) AND THEY REPORTED THAT SHE DIED, AND HE MARRIED HER SISTER FROM THE SAME MOTHER – AND IT TURNS OUT THAT ALL OF THEM ARE ALIVE – HE IS PERMITTED TO CONTINUE IN MARRIAGE WITH THE FIRST, THE THIRD, AND THE FIFTH, AND THEY EXEMPT THEIR CO-WIVES. BUT HE IS PROHIBITED TO CONTINUE IN MARRIAGE WITH THE SECOND AND THE FOURTH, AND SEXUAL RELATIONS OF THE LEVIR WITH ONE OF THEM DOES NOT EXEMPT HER CO-WIFE. AND IF HE HAD INTERCOURSE WITH THE SECOND AFTER THE ACTUAL DEATH OF THE FIRST, HE IS PERMITTED TO REMAIN MARRIED TO THE SECOND AND THE FOURTH, AND THEY EXEMPT THEIR CO-WIVES. AND HE IS PROHIBITED TO REMAIN MARRIED TO THE THIRD AND THE FIFTH. AND SEXUAL RELATIONS WITH ONE OF THEM DOES NOT EXEMPT HER CO-WIFE.

1. I:1: But didn't all the marriages take place after the first wife and why is that fact mentioned only in the second clause?

B. A BOY NINE YEARS AND ONE DAY OLD INVALIDATES HIS DECEASED CHILDLESS BROTHER'S WIDOW FOR THE OTHER BROTHERS, AND THE OTHER BROTHERS INVALIDATE HER FOR HIM, BUT WHILE HE INVALIDATES HER AT THE OUTSET, THE BROTHERS INVALIDATE HER AT THE OUTSET AND AT THE END. HOW SO? A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS DECEASED CHILDLESS BROTHER'S WIDOW HAS INVALIDATED HER FOR THE OTHER BROTHERS. IF ONE OF THE BROTHERS HAD SEXUAL RELATIONS WITH HER, BESPOKE HER, GAVE HER A WRIT OF DIVORCE, OR PERFORMED THE RITE OF REMOVING THE SHOE WITH HER, THEY HAVE INVALIDATED HER FOR HIM.

1. II:1: Is it the fact that a boy of nine years and a day at the outset before the adult levirs have undertaken bespeaking the widow invalidates the levirate widow, but at the end does not if they have bespoken her and only then he had sexual relations with her? Did not R. Zebid b. R. Oshaia state as a Tannaite formulation, “He who performs an act of bespeaking of his levirate sister-in-law and afterward his brother nine years and a day old had sexual relations, he has invalidated her for marriage with the one who earlier had bespoken the widow”?

2. II:2: But does the act of bespeaking of a boy bear any consequences at all in respect to the other brothers?

a. II:3: Secondary gloss of a detail of the foregoing.

LXI. Mishnah-Tractate Yebamot 10:7, 8A-D

A. A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS DECEASED CHILDLESS BROTHER'S WIDOW, AND AFTERWARD HIS BROTHER, WHO WAS NINE YEARS AND ONE DAY OLD, HAD SEXUAL RELATIONS WITH HER, HE THE LATTER HAS INVALIDATED HER FOR MARRIAGE WITH HIM THE FORMER. R.

SIMEON SAYS, “HE HAS NOT INVALIDATED HER FOR MARRIAGE WITH THE FIRST BROTHER.”

A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW, AND AFTERWARD HE HAD SEXUAL RELATIONS WITH HER CO-WIFE, HAS INVALIDATED HER FOR HIMSELF. R. SIMEON SAYS, “HE HAS NOT INVALIDATED HER FOR HIMSELF.”

1. I:1: It has been taught on Tannaite authority: Said R. Simeon to sages, “If the first act of sexual relations was valid, the second is null, and if the first is not valid, then the second also is not valid.” Now so far as rabbis are concerned, the act of sexual relations of a nine-year-old is treated as tantamount to the act of bespeaking, and yet, as we see, R. Simeon has declared that such an act of sexual relations is null.

2. I:2: Our Mishnah’s rule, regarding the sexual relations of the levir minor as equivalent to an act of bespeaking and yet rules that an act of sexual relations after another such act is legally effective is not in accord with Ben Azzai.

LXII. Mishnah-Tractate Yebamot 10:8E-G, 10:9

A. A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW AND THEN DIED – SHE PERFORMS THE RITE OF REMOVING THE SHOE BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE WITH A LEVIR.

1. I:1: Said Raba, “In regard to what rabbis have said, namely, when there is a levirate bond pertaining to two levirs, the widow performs the rite of removing the shoe but does not contract levirate marriage, you should not suppose that that is the case only where there is a co-wife, since in that case, it is a precautionary decree on account of the co-wife. For here, there is no co-wife, and yet it is still the case that the widow performs the rite of removing the shoe but does not contract levirate marriage.”

B. IF HE MARRIED A WOMAN AND DIED, LO, THIS ONE IS EXEMPT FROM THE LEVIRATE CONNECTION ENTIRELY.

1. II:1: In the present passage we learn a Tannaite version of that which our rabbis have taught on Tannaite authority: An idiot or a minor who married and died – their wives are exempt from the requirement of performing the rite of removing the shoe (T. **Yeb. 11:11:K-L**).

C. A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW, AND WHEN HE GREW UP, MARRIED ANOTHER WIFE, AND THEN DIED – IF HE DID NOT HAVE SEXUAL RELATIONS WITH THE FIRST FROM THE TIME THAT HE REACHED MATURITY, THE FIRST PERFORMS THE RITE OF REMOVING THE SHOE BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE. AND THE SECOND EITHER PERFORMS THE RITE OF REMOVING THE SHOE OR ENTERS INTO LEVIRATE MARRIAGE. R. SIMEON SAYS, “HE THE SURVIVING LEVIR ENTERS INTO LEVIRATE MARRIAGE WITH WHICHEVER ONE HE WANTS, BUT HE ALSO PERFORMS THE RITE OF REMOVING THE SHOE WITH THE SECOND WOMAN.”

1. III:1: But why not treat the act of sexual relations of a boy nine years and a day old as equivalent to the act of bespeaking of an adult, with the consequence that the co-wife here is invalidated for levirate marriage and why give her the choice of removing the shoe or levirate marriage?

a. III:2: Gloss on the attributive formula of the foregoing.

D. ALL THE SAME IS A BOY NINE YEARS AND ONE DAY OLD AND ONE WHO IS TWENTY YEARS OLD BUT HAS NOT PRODUCED TWO PUBIC HAIRS.

1. IV:1: An objection was raised: A boy twenty years old who has not produced two pubic hairs – let him bring evidence that he is twenty years old, and he is declared a eunuch. He does not perform the rite of removing the shoe and does not enter into levirate marriage. A girl twenty years old who has not produced two pubic hairs – let her bring evidence that she is twenty years old and she is then declared sterile: she does not perform the rite of removing the shoe to sever a levirate connection and does not enter into levirate marriage. So at the age of twenty, one is legally an adult, although the body has not matured, while our Mishnah passage regards signs of maturity as the criterion.

2. IV:2: But if the marks of being a eunuch do not develop, how long is one still regarded as a minor?

LXIII. Mishnah-Tractate Yebamot 11:1

A. THEY MARRY THE KINSWOMEN OF A WOMAN WHOM ONE HAS RAPED OR SEDUCED. HE WHO RAPES OR SEDUCES THE KINSWOMAN OF HIS WIFE, HOWEVER, IS LIABLE. A MAN MARRIES THE WOMAN RAPED BY HIS FATHER OR SEDUCED BY HIS FATHER, RAPED BY HIS SON OR SEDUCED BY HIS SON.

1. I:1: What we have as a Tannaite statement here is in line with that which our rabbis have taught on Tannaite authority: A rapist is permitted to marry the daughter of the woman he has raped; if he married the woman, he may not marry her daughter.

2. I:2: What is the source in Scripture for our rule?

a. I:3: Challenge to the foregoing.

b. I:4: Raba said, “That someone who has raped a woman may marry her daughter derives from this verse: ‘The nakedness of your son’s daughter or your daughter’s daughter you shall not uncover’ (Lev. 18:10), so it follows that the daughter of her son and the daughter of her daughter may be uncovered; but it is written, ‘You shall not uncover the nakedness of a woman and her daughter; you shall not take her son’s daughter or her daughter’s daughter’ (Lev. 18:17). So how do these fit together? The one passage speaks of rape, the other, marriage.”

B. R. JUDAH PROHIBITS IN THE CASE OF THE ONE RAPED BY HIS FATHER OR SEDUCED BY HIS FATHER:

1. II:1: Said R. Giddal said Rab, “What is the scriptural basis for the position of R. Judah? As it is written, ‘A man shall not take his father’s wife and shall not uncover his father’s skirt’ (Deu. 23: 1), meaning that he may not uncover a skirt

which his father has seen. And how do we know that the text speaks of a woman whom his father has raped? It is written, ‘Then the man that lay with her shall give to the father’ (Deu. 22:29). And juxtaposed is: ‘A man shall not take’ (Deu. 23: 1).”

C. RIDDLES OF CONSANGUINITY

1. II:2: A riddle of consanguinity: He is my brother on my father’s side but not on my mother’s side, and he is the husband of my mother, and I am the daughter of his wife that is, the daughter was born of a rape by the father, where the son of the man by another wife has subsequently married her mother.
2. II:3: “He whom I carry on my shoulder is my brother and my son and I am his sister”
3. II:4: “Hi, son! I am the daughter of your sister”:
4. II:5: “Water drawers, we ask you a riddle you can’t resolve: He whom I carry is my son and I am the daughter of his brother”:
5. II:6: “Woe, woe for my brother who is my father, he is my husband and son of my husband; he is the husband of my mother and I am the daughter of his wife; he provides no food for his orphan brothers, children of his daughter”:
6. II:7: “You and I are brother and sister, your father and I are brother and sister, your mother and I are sisters”
7. II:8: “You and I are the children of sisters, your father and I are the children of brothers, your mother and I are the children of brothers”:

LXIV. Mishnah-Tractate Yebamot 11:2

A. THE CONVERT WHOSE SONS CONVERTED WITH HER – THEY THE SONS NEITHER PERFORM THE RITE OF REMOVING THE SHOE NOR ENTER INTO LEVIRATE MARRIAGE, EVEN IF THE CONCEPTION OF THE FIRST WAS NOT IN A STATE OF SANCTITY AND THE BIRTH WAS IN A STATE OF SANCTITY, AND THE SECOND WAS CONCEIVED AND BORN IN A STATE OF SANCTITY. AND SO IS THE LAW IN THE CASE OF A SLAVE GIRL WHOSE SONS CONVERTED WITH HER.

1. I:1: Illustrative case yielding the clarification of the Mishnah’s rule: When the sons of Yudan, the slave woman, were emancipated, R. Ahia b. Jacob permitted them to marry one another’s wives. We have learned in the Mishnah: The convert whose sons converted with her – they the sons neither perform the rite of removing the shoe nor enter into levirate marriage. Is not the operative consideration that they cannot marry the brother’s wife?
2. I:2: Said Raba, “As to what rabbis have said, an Egyptian has no legal father, do not suppose that that is because, being drunk on sexuality, they don’t know who the father is, and if they know, we take it into consideration. Rather, even if it is known we do not take it into consideration, because lo, in regard to twin brothers who originated in a single drop of semen that divided into two, still, it is stated in the final clause, they neither perform the rite of removing the shoe nor enter into levirate marriage. It follows that the All-Merciful has declared the Egyptians’ seed

to be utterly beyond responsible identification, as it is written, ‘Whose flesh is as the flesh of asses, and whose issue is like the issue of horses’ (Eze. 23:20).”

a. I:3: Gloss of a detail tangential to the exposition of the foregoing.

3. I:4: Continuation of I:2.

a. I:5: Gloss of the foregoing.

b. I:6: As above.

LXV. Mishnah-Tractate Yebamot 11:3

A. FIVE WOMEN EACH OF WHOM ALREADY HAS A SON AND THEN PRODUCED ANOTHER, WHOSE OTHER OFFSPRING BECAME CONFUSED WITH ONE ANOTHER – THEY GREW UP IN THIS STATE OF CONFUSION – AND MARRIED WIVES AND DIED –

FOUR OF THE SURVIVING BROTHERS, WHOSE MOTHERS ARE KNOWN PERFORM THE RITE OF REMOVING THE SHOE WITH ONE WIDOW, AND ONE OF THEM THE FIFTH ENTERS LEVIRATE MARRIAGE WITH HER. HE AND THREE OF THE BROTHERS ENTER INTO THE RITE OF REMOVING THE SHOE WITH ANOTHER, AND ONE OTHER ENTERS INTO LEVIRATE MARRIAGE WITH HER AND SO ON.

1. I:1: Four of the surviving brothers, whose mothers are known perform the rite of removing the shoe with one widow, and one of them enters levirate marriage with her: It is the rite of removing the shoe that must take place first of all, precisely, with the levirate union following; but the levirate union must not take place first, since one might thereby touch upon the possibility of violating the law against a levirate widow’s marriage with an outsider.

B. IT TURNS OUT THAT THERE ARE FOUR RITES OF REMOVING THE SHOE AND ONE LEVIRATE MARRIAGE FOR EACH OF THE SURVIVING WIDOWS.

1. II:1: It turns out that there are four rites of removing the shoe and one levirate marriage for each of the surviving widows: So what’s the point? The same brother who contracted the first levirate marriage is surely entitled to contract similar marriages with all the widows, as soon as the other four brothers performed the rite of removing the shoe.

2. II:2: Our rabbis have taught on Tannaite authority: If some of them were brothers and some not, those that are brothers perform the rite of removing the shoe, and those that are not brothers enter into levirate marriage (T. [Yeb. 12:3B-C](#)).

a. II:3: Gloss of the foregoing.

3. II:4: Continuation of II:2: If some of them were priests and some of them were not, the priests undergo the rite of removing the shoe The levirate marriage is forbidden to them because any one of them might happen to marry the widow who was not a sister-in-law to him but to one of the other brothers, and who, by the rite of removing the shoe with her brother-in-law, has become a woman who has performed the rite of removing the shoe, whom, like a divorcée, a priest may not marry., and those who were not priests may enter into levirate marriage. If some of them were priests and some brothers on the mother’s side, both classes enter

into the rite of removing the shoe but do not contract levirate marriage (T. **Yeb. 12:3D-G**).

4. II:5: Our rabbis have taught on Tannaite authority: There is he who by reason of doubt performs the rite of removing the shoe with his mother, by reason of doubt performs the rite of removing the shoe with his sister, by reason of doubt performs the rite of removing the shoe with his daughter. How so? His mother and another woman have two males – they went into hiding, where they had two male sons, and the offspring are confused by reason of lack of access to light – the first two went and married the mother of one another and died without offspring – this one performs the rite of removing the shoe with both of the widows, and that one performs the rite of removing the shoe with both of them. It turns out that this one performs the rite of removing the shoe by reason of doubt with his mother. What is the sort of case in which a man performs the rite of removing the shoe by reason of doubt with his sister? His mother and another woman – and they have two male offspring – they went into hiding and produced two female offspring, and they married the two brothers from the same father but not from the same mother – and the brothers died without offspring – this one performs the rite of removing the shoe with both of them, and that one performs the rite of removing the shoe with both of them. It turns out that, by reason of doubt, a man performs the rite of removing the shoe with his sister. What is the sort of case in which a man by reason of doubt performs the rite of removing the shoe with his daughter? His wife and another woman produced two female offspring in hiding, and the two were married to two brothers from the same father, and they died without offspring – he performs the rite of removing the shoe with both of them. It turns out that this man by reason of doubt performs the rite of removing the shoe with his daughter (T. **Yeb. 12:4-5**).

5. II:6: It has been taught on Tannaite authority: R. Meir would say, “There are a husband and a wife who may produce children belonging to five castes. How so? An Israelite man who bought a slave boy and a slave girl, and they have two children, and one of them converted – lo, 1 one is a proselyte and 2 one is a gentile. If their master immersed them for the sake of conversion by reason of slavery, and they then produced a son, then 3 the offspring is a slave. If the slave girl is freed and the slave boy had sexual relations with her and they produced a son, 4 the son is a mamzer. And if both of them are freed and they produced a son, then the son is 5 a freed slave” (T. **Qid. 5:11-12**).

a. II:7: Gloss of the foregoing: So what’s the point?

6. II:8: Our rabbis have taught on Tannaite authority: There is he who may sell his father so as to pay her marriage contract to his mother. How so? He who has a slave boy and a slave girl who produced a son – he freed the slave girl and married her and wrote over his property to her son – then it is he who sells his father to pay his mother her marriage contract (T. **Qid. 5:13**).

a. II:9: Gloss of the foregoing: So what’s the point?

LXVI. Mishnah-Tractate Yebamot 11:4-5

A. THE WOMAN WHOSE OFFSPRING WAS CONFUSED WITH THE OFFSPRING OF HER DAUGHTER-IN-LAW – THEY GREW UP IN A STATE OF CONFUSION, AND MARRIED WIVES AND DIED – THE SONS OF THE DAUGHTER-IN-LAW PERFORM THE RITE OF REMOVING THE SHOE AND DO NOT ENTER INTO LEVIRATE MARRIAGE, FOR IT IS A MATTER OF DOUBT CONCERNING WHETHER IT IS THE WIFE OF HIS BROTHER OR THE WIFE OF THE BROTHER OF HIS FATHER. AND THE SONS OF THE OLD LADY EITHER PERFORM THE RITE OF REMOVING THE SHOE OR ENTER INTO LEVIRATE MARRIAGE, FOR IT IS A MATTER OF DOUBT CONCERNING WHETHER IT IS THE WIFE OF HIS BROTHER OR THE WIFE OF THE SON OF HIS BROTHER.

IF THE VALID ONES DIED, THE SONS WHO WERE CONFUSED PERFORM THE RITE OF REMOVING THE SHOE AND DO NOT ENTER INTO LEVIRATE MARRIAGE WITH THE WIDOWS OF THE CHILDLESS SONS OF THE OLD LADY, FOR IT IS A MATTER OF DOUBT CONCERNING WHETHER IT IS THE WIFE OF HIS BROTHER OR HIS FATHER.

1. I:1: But are the others, because they were confused with these, invalid?

B. AND THE SONS OF THE DAUGHTER-IN-LAW – ONE OF THEM PERFORMS THE RITE OF REMOVING THE SHOE AND ONE ENTERS INTO LEVIRATE MARRIAGE WITH THE WIDOW.

1. II:1: It is the rite of removing the shoe that must take place first of all, precisely, with the levirate union following; but the levirate union must not take place first, since one might thereby touch upon the possibility of violating the law against a levirate widow's marriage with an outsider.

C. A PRIEST GIRL WHOSE OFFSPRING WAS CONFUSED WITH THE OFFSPRING OF HER SLAVE GIRL – (1) LO, THESE MEN EAT HEAVE-OFFERING.

(2) AND THEY TAKE AND DIVIDE A SINGLE SHARE AT THE THRESHING FLOOR.

1. III:1: ...a single share?! That's obvious!

2. III:2: Our Mishnah passage has been formulated in accord with him who says, A share of priestly rations is accorded to a slave only if his master is with him.

a. III:3: Secondary expansion of a detail of the foregoing.

I. III:4: Gloss of the foregoing.

II. III:5: As above.

3. III:6: Our rabbis have taught on Tannaite authority: There are ten classes of people to whom they do not pass out food in the status of priestly rations at the threshing floor, and these are they: deaf mutes, imbeciles, minors, people of doubtful sexual traits, androgynies, wives of priests and slaves of priests, uncircumcised priests, unclean priests, priests who marry women unfit for marriage into the priesthood. But as regards all of them, a householder may give them food in the status of priestly-offering from within his house, except in the case of unclean priests and those who marry women unfit for marriage into the priesthood (T. **Ter. 10:18**).

a. III:7: Gloss of the foregoing.

b. III:8: Continuation of the gloss of III:6.

4. III:9: Our rabbis have taught on Tannaite authority: To neither a slave nor a woman do people give a share in priestly rations at the threshing floors; but in a place in which a share is given, it is given to the woman first and she is sent away.

a. III:10: Gloss of the foregoing.

D. (3) AND THEY DO NOT CONTRACT UNCLEANNESS BY CONTACT WITH CORPSES OF THOSE WHOM PRIESTS ARE OBLIGATED TO BURY. (4) AND THEY DO NOT MARRY WIVES, WHETHER VALID OR INVALID FOR MARRIAGE INTO THE PRIESTHOOD.

IF THE CONFUSED CHILDREN GREW UP AND FREED ONE ANOTHER, (4) THEY MARRY WIVES SUITABLE FOR MARRIAGE INTO THE PRIESTHOOD. (3) AND THEY DO NOT BECOME UNCLEAN BY CONTACT WITH CORPSES. AND IF THEY BECOME UNCLEAN, THEY DO NOT INCUR FORTY STRIPES, (1) AND THEY DO NOT EAT HEAVE-OFFERING. AND IF THEY ATE IT, THEY DO NOT PAY BACK PRINCIPAL AND AN ADDED FIFTH. (2) AND THEY DO NOT TAKE A PORTION AT THE THRESHING FLOOR. BUT THEY SELL HEAVE-OFFERING. AND THE PROCEEDS ARE THEIRS. AND THEY DO NOT TAKE A SHARE IN THE HOLY THINGS OF THE SANCTUARY. AND THEY DO NOT GIVE THEM HOLY THINGS, BUT THEY DO NOT TAKE THEIR HOLY THINGS BACK FROM THEM. AND THEY ARE FREE FROM THE OBLIGATION TO GIVE THE SHOULDER, CHEEKS, AND MAW TO A PRIEST. AND THEIR FIRSTLING ANIMAL SHOULD BE PUT OUT TO PASTURE UNTIL IT SUFFERS A BLEMISH.

1. IV:1: Does that If...freed one another mean that is only if they wanted to do so, but if they did not want to do so, they don't have to emancipate one another? But why should that be the case? Then neither of them may marry either a slave or a free woman?

E. AND THEY APPLY TO THEM THE STRICT RULES OF THE PRIESTHOOD AND THE STRICT RULES PERTAINING TO ORDINARY ISRAELITES.

1. V:1: For what practical purpose is this law stated?

LXVII. Mishnah-Tractate Yebamot 11:6-7

A. SHE WHO DID NOT DELAY THREE MONTHS AFTER HER HUSBAND DIVORCED HER OR DIED AND REMARRIED AND GAVE BIRTH, AND IT IS NOT KNOWN WHETHER THE OFFSPRING IS NINE MONTHS OLD, BELONGING TO THE FORMER HUSBAND, OR SEVEN MONTHS OLD, BELONGING TO THE LATTER, IF SHE HAD SONS BY THE FIRST AND SONS BY THE SECOND –

THEY PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIDOW AND DO NOT ENTER INTO LEVIRATE MARRIAGE. AND SO, TOO, HE THE SON PERFORMS THE RITE OF REMOVING THE SHOE BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE IN RELATIONSHIP TO THEM CHILDREN OF THE TWO MARRIAGES.

IF HE HAD BROTHERS BY THE FIRST MARRIAGE AND BROTHERS BY THE SECOND, BUT NOT FROM THE SAME MOTHER – HE PERFORMS THE RITE OF REMOVING THE SHOE OR ENTERS INTO LEVIRATE MARRIAGE. BUT AS TO THEM, ONE OF THEM FROM ONE MARRIAGE PERFORMS THE RITE OF REMOVING THE SHOE, AND ONE OF THEM FROM THE OTHER MARRIAGE ENTERS INTO LEVIRATE MARRIAGE.

IF ONE OF THEM THE HUSBANDS WAS AN ISRAELITE AND ONE A PRIEST, HE OF MARRIES A WOMAN APPROPRIATE FOR MARRIAGE INTO THE PRIESTHOOD. HE DOES NOT BECOME UNCLEAN BY CONTACT WITH CORPSES. AND IF HE WAS MADE UNCLEAN, HE DOES NOT INCUR FORTY STRIPES. AND HE DOES NOT EAT HEAVE-OFFERING, IF HE ATE IT, HE DOES NOT PAY BACK THE PRINCIPAL AND ADDED FIFTH. AND HE DOES NOT TAKE A SHARE AT THE THRESHING FLOOR. BUT HE SELLS HIS OWN HEAVE-OFFERING, AND THE PROCEEDS ARE HIS. HE DOES NOT TAKE A SHARE IN THE HOLY THINGS OF THE SANCTUARY. AND THEY DO NOT GIVE HIM HOLY THINGS. BUT THEY DO NOT REMOVE HIS HOLY THINGS FROM HIS OWN POSSESSION. AND HE IS EXEMPT FROM THE REQUIREMENT TO GIVE THE PRIEST THE SHOULDER, CHEEKS, AND MAW. AND A FIRSTLING BELONGING TO HIM SHOULD BE PUT OUT TO PASTURE UNTIL IT IS BLEMISHED. AND THEY APPLY TO HIM THE STRICT RULES APPLICABLE TO THE PRIESTHOOD AND THE STRICT RULES APPLICABLE TO ISRAELITES.

1. I:1: It is the rite of removing the shoe that must take place first of all, precisely, with the levirate union following; but the levirate union must not take place first, since one might thereby touch upon the possibility of violating the law against a levirate widow's marriage with an outsider.

B. INDEPENDENT PROPOSITION, ANALYSIS OF WHICH UTILIZES THE MISHNAH-MATERIALS AT HAND

1. I:2: Said Samuel, "Ten priests who were standing together, and one of them wandered off and had sexual relations with someone – the offspring is in the status of a silenced one."

C. IF BOTH OF THEM A WERE PRIESTS, HE PERFORMS THE RITES OF MOURNING FOR THEM, AND THEY PERFORM THE RITES OF MOURNING FOR HIM. HE DOES NOT BECOME UNCLEAN FOR THEM, AND THEY DO NOT BECOME UNCLEAN FOR HIM. HE DOES NOT INHERIT THEM, BUT THEY DO INHERIT HIM. AND HE IS EXEMPT FOR THE TRANSGRESSION OF SMITING OR CURSING THIS ONE OR THAT ONE.

1. II:1: Our rabbis have taught on Tannaite authority: If one hit first of all a husband of his mother, then the other husband of the same woman she divorced the first husband and remarried quickly and turned out to be pregnant, and we do not know whether the child was a premature child of the second husband or a mature one of the first; the warning against injuring a parent as a capital offense (Lev. 21:15) is subject to doubt, since we do not know to which husband the law applied (Lazarus, Makkot 16B); or if he cursed this one and then went and cursed that one; or if he hit both of them simultaneously or cursed both of them simultaneously, he is liable. R. Judah says, "If he did so simultaneously, he is liable, but if it was sequentially, then he is exempt" (T. [Yeb. 12:7H-K](#)).

a. II:2: Gloss.

D. AND HE GOES UP TO THE TEMPLE FOR THE PRIESTLY WATCH OF THIS ONE AND OF THAT ONE. BUT HE DOES NOT TAKE A SHARE IN THE PRIESTLY DUES OF EITHER WATCH:

1. III:1: But if he does not receive a share, why should he go up?

E. IF BOTH OF THEM BELONGED TO A SINGLE PRIESTLY WATCH, THEN HE DOES TAKE A SINGLE PORTION IN THE SHARE OF THAT WATCH.

1. IV:1: What differentiates the case of two priestly watches, so that, in the one case he does not get a share, in the other he does? So when he comes to one watch, he is driven out, and when he comes to another watch, he is again driven out? Then even in the case of one watch, if he comes up with one family cohort, he is driven out, but when he goes with another, he is also driven out!

LXVIII. Mishnah-Tractate Yebamot 12:1-2B

A. THE PROPER WAY TO CARRY OUT THE RITE OF REMOVING THE SHOE IS BEFORE THREE JUDGES, AND EVEN THOUGH THE THREE OF THEM ARE LAYMEN IT IS VALID.

1. I:1: Since it is the fact that even three laymen are acceptable for this procedure, what need do I have for a reference to judges at all who obviously are acceptable?

a. I:2: Gloss of a Tannaite recapitulation in the foregoing.

l. I:3: Gloss of the gloss. Said Raba said R. Nahman, “The decided law: The rite of removing the shoe is done before three, since the Tannaite framer of the passage has presented the anonymous rule in that manner.”

2. I:4: Said Raba, “The judges have to assign a place for the rite: ‘Then his brother’s wife shall go up to the gate to the elders’ (Deu. 25: 7).”

a. I:5: Case.

b. I:6: Case.

c. I:7: Case.

d. I:8: Case.

3. I:9: Said Raba, “According to the law of the Torah, a proselyte may judge his fellow proselyte: ‘You shall certainly set him king in this context: judge over you whom the Lord your God shall choose: One from among your brethren shall you set as king over you’ (Deu. 17:15) – it is in particular in the context of setting one over you that he has to be one from among your brethren; but if it is a matter of judging a proselyte, a fellow proselyte will do. If his mother was an Israelite, he may sit in judgment even on an Israelite. As to the rite of removing the shoe, one may serve on the court only if both the father and the mother were born Israelites: ‘And his name shall be called in Israel’ (Deu. 25:10).”

B. IF THE WOMAN PERFORMED THE RITE OF REMOVING THE SHOE WITH A SLIPPER, HER PERFORMANCE OF REMOVING THE SHOE IS VALID.

1. II:1: Said Rabbah said R. Kahana said Rab, “Should Elijah come and announce, ‘People carry out with a slipper the rite of removing the shoe of the deceased childless brother to end the levirate connection,’ people would obey him. But if he announced, ‘People do not carry out with a sandal the rite of removing the shoe of the deceased childless brother to end the levirate connection,’ people would not obey him, for the people now commonly practice the rite with a sandal.” And R. Joseph said R. Kahana said Rab said, “Should Elijah come and announce, ‘People

do not carry out with a slipper the rite of removing the shoe of the deceased childless brother to end the levirate connection,' people would obey him. But if he announced, 'People do not carry out with a sandal the rite of removing the shoe of the deceased childless brother to end the levirate connection,' people would not obey him, for the people now commonly practice the rite with a sandal."

a. II:2: Tannaite recapitulation.

I. II:3: Gloss of the foregoing.

A. II:4: Concrete case.

5. II:5: Said R. Judah said Rab, "The moment at which the levirate widow is released for marriage to anyone of her choice is the instant at which the greater part of the heel of the sandal that the levir is wearing has been removed."

a. II:6: Gloss of the foregoing.

I. II:7: Secondary theoretical question, deriving from the foregoing.

7. II:8: Said R. Judah said Rab, "A levirate widow who drew up together with the deceased's brothers may marry one of them, and we do not take into account the possibility that she may have removed the shoe of one of them."

8. II:9: Said R. Judah said Rab, "With a shoe sown with flax the rite of removing the shoe is not carried out: 'And I shod you with seal skin' (Eze. 16:10) that is, something like leather, and the shoe used for the rite must then be wholly made of leather."

9. II:10: R. Eleazar asked Rab, "If the shoe was made of leather but the straps of animal hair?"

10. II:11: Said R. Kahana to Samuel, "How do we know that the meaning of the phrase, 'she will remove his shoe from off his foot' (Deu. 25: 9) means, 'taking it off'?"

a. II:12: Secondary expansion of the foregoing exegesis through an appended, free-standing story.

C. IF SHE DID IT WITH A FELT SOCK, HER PERFORMANCE OF REMOVING THE SHOE IS INVALID. IF SHE DID IT WITH A SANDAL WHICH HAS A HEEL, IT IS VALID. IF SHE DID IT WITH A SANDAL WHICH DOES NOT HAVE A HEEL, IT IS INVALID:

1. III:1: This bears the implication that a sock is not classified as a shoe, and so, too, we have learned in the Mishnah: He who takes up the heave-offering went in wearing neither a sleeved cloak, nor shoes, sandals, phylacteries, nor an amulet – lest in the coming year he lose all his money and people say about him, "Because of a transgression against the sheqel chamber did he lose his money." Or lest he get rich, and people say about him, "From the heave-offering of the sheqel chamber did he get rich." For a person must give no cause for suspicion to other people, just as he must give no cause for suspicion to the Omnipresent (M. **Sheq. 3:2D-G**).

a. III:2: Gloss of the Tannaite recapitulation.

b. III:3: As above.

c. III:4: As above.

d. III:5: As above.

e. III:6: As above.

D. IF THE STRAPS OF THE SANDAL WERE FASTENED BELOW THE KNEE, HER PERFORMANCE OF REMOVING THE SHOE IS VALID:

1. IV:1: A contrary formulation was raised in objection: When Scripture refers to “pilgrim festivals” using the word for “feet” (Exo. 23:14), it excludes from the requirement of coming up on the pilgrim festival a cripple who is stump legged. The leg is not regarded as a “foot,” contrary to the cited passage.

a. IV:2: Gloss.

E. IF THE STRAPS OF THE SANDAL WERE FASTENED ABOVE THE KNEE, IT IS INVALID.

1. V:1: Objected R. Kahana, “‘And against her afterbirth that comes out from between her feet’ (Deu. 28:57).” The area between the thighs is here called “between her feet.”

a. V:2: Gloss of a subordinated proof-text in the foregoing.

b. V:3: As above.

F. IF (1) SHE PERFORMED THE RITE OF REMOVING THE SHOE WITH A SANDAL WHICH DOES NOT BELONG TO HIM:

1. VI:1: Our rabbis have taught on Tannaite authority: “...pull the sandal off his foot”: I know only that the rule speaks of a sandal belonging to him. How on the basis of Scripture do I know that it is all right if the sandal belongs to someone else? Scripture says, “pull the sandal” – under any circumstances. If so, why does Scripture say, “his sandal”? It excludes the case of a large shoe, in which one cannot actually walk, or a small one, which does not cover the larger part of his foot, or a slipper lacking a heel. In such instances the act of removing the shoe is null (Sifré Deu. CCXCI:II.2).

a. VI:2: Illustrative case.

G. OR (2) WITH A SANDAL MADE OF WOOD: OR (3) WITH THE SANDAL FOR THE LEFT FOOT ON THE RIGHT FOOT, HER PERFORMANCE OF REMOVING THE SHOE IS VALID. IF (1) SHE PERFORMED THE RITE OF REMOVING THE SHOE WITH A SANDAL TOO LARGE IN WHICH NONETHELESS HE IS ABLE TO WALK ABOUT, OR (2) WITH ONE TOO SMALL WHICH NONETHELESS COVERS THE LARGER PART OF HIS FOOT, HER PERFORMANCE OF REMOVING THE SHOE IS VALID.

1. VII:1: What Tannaite authority stands behind this rule?

2. VII:2: Said R. Pappi in the name of Raba, “With a sandal that is shut up for inspection as to whether or not it is affected with the ailment described at Lev. 13-14, a rite of removing the shoe may not be carried out. But if one has done so, the rite is valid. A sandal that has been confirmed as afflicted with that ailment is invalid for use in the rite of removing the shoe, and if one has done so, the rite is invalid.”

3. VII:3: Said Raba, “The decided law is this: A levirate widow does not perform the rite of removing the shoe either with a sandal that has been shut up for

examination or one that has been confirmed as unclean or with one that has belonged to idolatry. And if she has done so with such a thing, her rite of removing the shoe is valid. As to a sandal that was actually offered to an idol or one that belongs to a wayward town or one that has been made for the honor of a dead elder, one should not perform the rite of removing the shoe, and if one has done so, the rite is invalid.”

a. VII:4: Said Rabina to R. Ashi, “What differentiates a sandal made in honor of a deceased elder? Is it because it was not made for walking? Then one made for the court for the purpose of performing this rite also has not been made for walking?”

LXIX. Mishnah-Tractate Yebamot 12:2C-F

A. IF SHE PERFORMED THE RITE OF REMOVING THE SHOE BY NIGHT, HER PERFORMANCE OF REMOVING THE SHOE IS VALID. R. ELIEZER INVALIDATES IT:

1. I:1: If she performed the rite of removing the shoe by night, her performance of removing the shoe is valid. R. Eliezer invalidates it: May we say that at issue here is the following: One authority takes the view that the disposition of lawsuits is treated as comparable to the disposition of cases involving the skin ailment of Lev. 13-14 Deu. 21: 5, both done by day, and the other authority takes the view that we do not treat as comparable the disposition of cases involving the skin ailment and those involving lawsuits?

a. I:2: Illustrative case.

B. IF SHE DID IT WITH THE LEFT SHOE, HER PERFORMANCE OF THE RITE OF REMOVING THE SHOE IS INVALID. R. ELIEZER VALIDATES IT.

1. II:1: What is the scriptural basis for the position of rabbis?

LXX. Mishnah-Tractate Yebamot 12:3-5

A. IF SHE REMOVED THE SHOE AND SPIT BUT DID NOT PRONOUNCE THE PRESCRIBED WORDS, HER PERFORMANCE OF REMOVING THE SHOE IS VALID. IF SHE PRONOUNCED THE PRESCRIBED WORDS AND SPIT BUT DID NOT REMOVE THE SHOE, HER PERFORMANCE OF REMOVING THE SHOE IS INVALID.

1. I:1: Said Raba, “Now that you have said that properly reciting the formula of the rite is not essential to the performance of the rite, it must follow that the rite performed by a man or a woman who cannot speak is valid.” But we have learned in the Mishnah: A deaf-mute boy with whom the rite of removing the shoe was carried out, a deaf-mute girl who performed the rite of removing the shoe, she who performs the rite of removing the shoe with a minor – her performance of removing the shoe is invalid. Now what can be the operative consideration here? Is it not that these cannot make the required declaration?

B. IF SHE REMOVED THE SHOE AND PRONOUNCED THE PRESCRIBED WORDS BUT DID NOT SPIT, R. ELIEZER SAYS, “HER PERFORMANCE OF REMOVING THE SHOE IS INVALID.” R. AQIBA SAYS, “HER PERFORMANCE OF REMOVING THE SHOE IS VALID.” SAID R. ELIEZER, “‘THUS WILL BE DONE’ (DEU. 25: 9) – ANYTHING

WHICH IS AN ACTUAL DEED IS ESSENTIAL TO THE PERFORMANCE OF THE RITE.” SAID TO HIM R. AQIBA, “IS THERE PROOF FROM THAT SCRIPTURE? ‘THUS WILL BE DONE TO THE MAN’ IS THE PERTINENT LANGUAGE, WHICH MEANS – ANYTHING WHICH IS A DEED DONE IN REGARD TO THE MAN IS ESSENTIAL.”

1. II:1: They sent word to the father of Samuel: “A deceased childless brother’s widow who spat before a court must carry out the rite of removing the shoe and may not enter into levirate marriage, even though the spitting was not part of a formal rite.”

a. II:2: Secondary test of the outcome of the foregoing analysis. And has R. Aqiba really taken the view that if she has performed the act of spitting, she is invalidated for levirate marriage? And has it not been taught on Tannaite authority

b. I:3: Continuation of the foregoing. And from the viewpoint of R. Aqiba, what differentiates spitting from making the proper declaration?

c. I:4: Continuation of the foregoing. There are those who lay matters out in this way:

I. I:5: Case.

A. I:6: Secondary extension of the foregoing.

B. I:7: As above.

C. I:8: As above.

2. II:9: They sent to the father of Samuel, “As to a levirate widow who spit blood, she may perform the rite of removing the shoe, because it is not possible that blood should not contain some bits of spit.”

C. A DEAF-MUTE BOY WITH WHOM THE RITE OF REMOVING THE SHOE WAS CARRIED OUT, A DEAF-MUTE GIRL WHO PERFORMED THE RITE OF REMOVING THE SHOE, SHE WHO PERFORMS THE RITE OF REMOVING THE SHOE WITH A MINOR – HER PERFORMANCE OF REMOVING THE SHOE IS INVALID.

1. III:1: Said R. Judah said Rab, “This represents the view of R. Meir, but sages say, ‘A minor’s rite of removing the shoe is simply null.’” His act is null, and therefore she is not forbidden even to the boy.

D. A MINOR GIRL WHO PERFORMED THE RITE OF REMOVING THE SHOE SHOULD PERFORM THE RITE OF REMOVING THE SHOE AGAIN WHEN SHE GROWS UP. IF SHE DID NOT PERFORM THE RITE OF REMOVING THE SHOE LATER ON, HER PERFORMANCE OF REMOVING THE SHOE IS INVALID.

1. IV:1: Said R. Judah said Rab, “This represents the view of R. Meir, for he has said, “‘Man’ is written in the pertinent passage, and we draw an analogy from the man to the woman.’ But sages say, “‘A man’ is written in the pertinent passage, and, as to a woman, whether adult or minor, her rite of removing the shoe is valid.”

a. IV:2: Gloss of the foregoing.

I. IV:3: As above.

2. IV:4: Said R. Ammi, “From the statement of the distinguished master we may learn: A minor may perform the rite of removing the shoe even when she is still a child.”

E. IF SHE PERFORMED THE RITE OF REMOVING THE SHOE BEFORE TWO JUDGES, OR BEFORE THREE, ONE OF WHOM TURNED OUT TO BE A RELATIVE OR OTHERWISE INVALID, HER PERFORMANCE OF REMOVING THE SHOE IS INVALID. R. SIMEON AND R. YOHANAN HASSANDLAR VALIDATE IT.

1. V:1: Said R. Joseph bar Minyumi said R. Nahman, “The decided law is not in accord with that pair.”

F. A CASE: A CERTAIN MAN PERFORMED REMOVING THE SHOE WITH HIS DECEASED CHILDLESS BROTHER’S WIDOW BY THEMSELVES IN PRISON. AND WHEN THE CASE CAME BEFORE R. AQIBA, HE VALIDATED THE RITE WITHOUT ANY VALID WITNESSES PRESENT.

1. VI:1: But if it happened privately, then how does anybody know about it?

2. VI:2: The question was raised: Was it the case that a certain man performed removing the shoe with his deceased childless brother’s widow by themselves outside, and then in prison the case came before R. Aqiba? Or perhaps a certain man performed removing the shoe with his deceased childless brother’s widow by themselves in prison?

3. VI:3: Our rabbis have taught on Tannaite authority: A rite of removing the shoe done under a false assumption is valid (T. **Yeb. 12:13A**).

a. VI:4: Illustrative case.

b. VI:5: Illustrative case.

4. VI:6: Our rabbis have taught on Tannaite authority: A rite of removing the shoe done under a false assumption is valid (T. **Yeb. 12:13A**). A writ of divorce issued under a false assumption is invalid. A rite of removing the shoe that is done under duress is invalid. A writ of divorce that is issued under duress is valid.

a. VI:7: Gloss of the foregoing.

5. VI:8: Said Raba said R. Sehora said R. Huna, “The judges perform the rite of removing the shoe for a woman, even if they do not know her. They execute the right of refusal for a woman, even if they do not know her (T. **Yeb. 12:14A-B**). Therefore the court is not to order the writing of a writ of divorce through the rite of removing the shoe unless they do know the parties to the document, nor a certification of the exercise of the right of refusal, unless they do know the parties to the document, for we take into account the possibility that a court may have made a mistake through lack of knowledge of the identity and circumstances of the parties.”

LXXI. Mishnah-Tractate Yebamot 12:6

A. THE PROPER WAY TO CARRY OUT THE RITE OF REMOVING THE SHOE IS AS FOLLOWS: HE AND HIS DECEASED CHILDLESS BROTHER’S WIDOW COME TO COURT. AND THEY OFFER HIM SUCH ADVICE AS IS APPROPRIATE FOR HIM, SINCE

IT SAYS, “THEN THE ELDERS OF THE CITY SHALL CALL HIM AND SPEAK TO HIM” (DEU. 25: 8). “AND SHE SHALL SAY, ‘MY HUSBAND’S BROTHER REFUSES TO RAISE UP FOR HIS BROTHER A NAME IN ISRAEL. HE WILL NOT PERFORM THE DUTY OF A HUSBAND’S BROTHER TO ME’” (DEU. 25: 7). “AND HE SAYS, ‘I DO NOT WANT TO TAKE HER’” (DEU. 25: 7). AND ALL OF THIS WAS SAID IN THE HOLY LANGUAGE OF HEBREW. “THEN HIS BROTHER’S WIFE COMES TO HIM IN THE PRESENCE OF THE ELDERS AND REMOVES HIS SHOE FROM HIS FOOT AND SPITS IN HIS FACE” (DEU. 25: 9) – SPIT WHICH IS VISIBLE TO THE JUDGES. “AND SHE ANSWERS AND SAYS, ‘SO SHALL IT BE DONE TO THE MAN WHO DOES NOT BUILD UP HIS BROTHER’S HOUSE.’” THUS FAR DID THEY PRONOUNCE THE WORDS OF SCRIPTURE. AND WHEN R. HYRCANUS PRONOUNCED THE WORDS OF SCRIPTURE UNDER THE TEREBINTH TREE IN KEFAR ETAM AND COMPLETED THE READING OF THE ENTIRE PERICOPE, THEY BECAME ACCUSTOMED TO COMPLETE THE ENTIRE PERICOPE

1. I:1: Said R. Judah, “The proper conduct of the rite of removing the shoe is that the woman makes her statement, then the man makes his statement, then the woman removes the shoe and spits and makes her statement.”

2. I:2: Said Abbaye, “He who pronounces aloud in the rite of removing the shoe the language of the writ of divorce effected by that rite should, when reading her part, not distinguish the word ‘not’ from its context, or the clause, ‘he will perform the duty of a husband’s brother to me’ from its context, since doing so would produce the sense, ‘he will perform the duty of a husband’s brother to me.’ Rather, he should read without interruption: ‘he will not perform....’ And he should not proclaim when reading for the levir the word ‘not’ distinct from its context, and the clause, ‘I want,’ distinct from its context, since this would bear the sense, ‘I want to take her,’ but he would read the clause without pause, ‘I do not wish to take her.’”

a. I:3: Gloss of an opinion in the foregoing.

3. I:4: Said Abbaye, “One who writes out a writ of divorce effected through the rite of removing the shoe should write out this language: ‘We read out for her from the verse, “my husband’s brother will not...,” to, “...will perform the duty of a husband’s brother to me,” and for him we read out from the language, “not...,” to “take her.” And we read out for her from, “so...,” to “him that has had his shoe drawn off.””

a. I:5: Concrete practice of an authority.

4. I:6: Said Abbaye, “If she spit and the wind took up the spit, she has done nothing at all. How come? We require that ‘she shall spit before his face’ (Deu. 25: 9). Therefore if he is tall and she is short, if the wind carried the spit, her act falls into the category of ‘before his face.’ If she was tall and he was short, we require that the spit fall down to the level of his face before it disappears.”

5. I:7: Said Raba, “If she ate garlic and then spit, or ate a clod of dirt and then spit, she has done nothing whatsoever. How come? We require that ‘she shall spit’ on her own account and not because something in her mouth causes her to want to spit it out.”

6. I:8: And said Raba, “The judges have to see the spit spurt from the mouth of the levirate widow: ‘Before the eyes of the elders...and spit’ (Deu. 25: 9).”

B. “AND HIS NAME SHALL BE CALLED IN ISRAEL: ‘THE HOUSE OF HIM WHO HAS HAD HIS SHOE REMOVED’” (DEU. 25: 9) – IT IS THE DUTY OF THE JUDGES, AND NOT THE DUTY OF THE DISCIPLES SO TO NAME HIM. R. JUDAH SAYS, “IT IS THE DUTY OF ALL BYSTANDERS TO SAY, ‘THE MAN WHOSE SHOE HAS BEEN REMOVED! THE MAN WHOSE SHOE HAS BEEN REMOVED! THE MAN WHOSE SHOE HAS BEEN REMOVED!’”

1. II:1: It has been taught on Tannaite authority: Said R. Judah, “Once we were in session before R. Tarfon, and a levirate woman came to perform the rite of removing the shoe, and he said to us, ‘All of you respond: “The man who has had his shoe removed” (Deu. 25:10)’” (T. **Yeb. 12:15F**).

LXXII. Mishnah-Tractate Yebamot 13:1

A. THE HOUSE OF SHAMMAI SAY, “ONLY GIRLS WHO ARE MERELY BETROTHED EXERCISE THE RIGHT OF REFUSAL.” AND THE HOUSE OF HILLEL SAY, “THOSE WHO ARE BETROTHED AND THOSE WHO ARE MARRIED.”

1. I:1: Said R. Judah said Samuel, “What is the operative consideration in the mind of the House of Shammai? It is because a stipulation may not be attached to a marriage, so if a girl who is married should exercise the right of refusal, people will come to maintain that a stipulation may be attached to a marriage.”

2. I:2: Rabbah and R. Joseph both say, “The operative consideration in the mind of the House of Shammai is that a man does not treat an act of sexual relations on his part as one of mere fornication.”

3. I:3: R. Pappa said, “The operative consideration in the mind of the House of Shammai is on account of the usufruct of the plucking property that belongs to the minor.”

4. I:4: Raba said, “This is the operative consideration of the House of Shammai: A man will not go to the trouble of making a banquet and then lose all he has spent.”

B. THE HOUSE OF SHAMMAI SAY, “THE RIGHT OF REFUSAL IS EXERCISED AGAINST THE HUSBAND, BUT NOT AGAINST THE LEVIR.” AND THE HOUSE OF HILLEL SAY, “AGAINST THE HUSBAND AND AGAINST THE LEVIR.”

1. II:1: Said R. Oshayya, “A girl may exercise the right of refusal to a connection effected by the levir’s act of bespeaking, but she may not exercise the right of refusal in regard to his levirate connection which can be cut only by the rite of removing the shoe.” Ulla said, “She may exercise the right of refusal even of the levirate bond. How come? By doing so all she is doing is uprooting the initial marriage to the deceased, and had he lived, she would have had every right to do that.”

2. II:2: Said Rab, “If a minor exercised the right of refusal against one of the levirs, she may not marry any of the others, a case comparable to the situation of one who has received a writ of divorce, namely: as the recipient of a writ of divorce may not marry any of the brothers as soon as she is forbidden one of them, so here, too,

there is no distinction.” And Samuel said, “If a minor exercised the right of refusal against one of the levirs, she may marry any of the others, and it is not comparable to the situation of one who has received a writ of divorce. For in that case, he took the action against her, but here, she took the action against him, saying, ‘I don’t like you and I don’t want you; you’re the one I find loathsome, but I like your fellow.’” R. Assi said, “If a minor exercised the right of refusal against one of the levirs, she may marry even him.”

C. THE HOUSE OF SHAMMAI SAY, “IT MUST BE EXERCISED ONLY IN HIS PRESENCE.” AND THE HOUSE OF HILLEL SAY, “IN HIS PRESENCE AND NOT IN HIS PRESENCE.”

1. III:1: It has been taught on Tannaite authority: Said the House of Hillel to the House of Shammai, “But isn’t there the case of Pishon, the Camel driver? His wife exercised the right of refusal in his absence.” Said the House of Shammai to the House of Hillel, “Pishon the Camel driver used a false measure using property of the wife that he had no right too, so they used a false measure against him.”

D. THE HOUSE OF SHAMMAI SAY, “IT MUST BE EXERCISED IN A COURT.” AND THE HOUSE OF HILLEL SAY, “IN A COURT AND NOT IN A COURT.”

1. IV:1: There we have learned in the Mishnah: The rite of removal of the shoe and the exercise of the right of refusal are done before three judges (M. **San. 1:3C**). Who is the Tannaite authority behind this unattributed rule?

E. SAID THE HOUSE OF HILLEL TO THE HOUSE OF SHAMMAI, “SHE MAY EXERCISE THE RIGHT OF REFUSAL WHILE SHE IS A MINOR, EVEN FOUR OR FIVE TIMES.” REPLIED TO THEM THE HOUSE OF SHAMMAI, “ISRAELITE GIRLS ARE NOT TO BE TOSSED AROUND LIKE SO MUCH OWNERLESS PROPERTY. BUT: SHE EXERCISES THE RIGHT OF REFUSAL AND WAITS UNTIL SHE REACHES MATURITY, OR SHE EXERCISES THE RIGHT OF REFUSAL AND REMARRIES FORTHWITH.”

1. V:1: But lo, she has already exercised the right of refusal once as a minor, why does she do it again after she has come of age? Said Samuel, “The meaning is, and waits until she reaches maturity, and then says, ‘I affirm my original exercise of the right of refusal.’”

LXXIII. Mishnah-Tractate Yebamot 13:2-3

A. WHO IS THE SORT OF GIRL WHO MUST EXERCISE THE RIGHT OF REFUSAL? ANY GIRL WHOSE MOTHER OR BROTHERS HAVE MARRIED HER OFF WITH HER KNOWLEDGE AND CONSENT. IF THEY MARRIED HER OFF WITHOUT HER KNOWLEDGE AND CONSENT, SHE DOES NOT HAVE TO EXERCISE THE RIGHT OF REFUSAL BUT SIMPLY LEAVES THE MAN:

1. I:1: Said R. Judah, and some say it has been set forth in a Tannaite statement: “At first they would write out a writ of divorce effected through the right of refusal (T. **Yeb. 13:1A-B**), in this language: ‘I don’t like him, I don’t want him, I don’t want to be married to him.’ But when people realized that the formula was too elaborate, they were concerned that people would confuse the document for a writ of divorce, so they formulated it as follows: ‘On such and such a day, Miss

So-and-so, the daughter of Mr. Such-and-such, exercised the right of refusal in our presence.”

2. I:2: Our rabbis have taught on Tannaite authority: What is the definition of an exercise of the right of refusal? If she said, “I don’t want So-and-so, my husband,” “I don’t want the betrothal that my mother and brothers have arranged for me.” More than this, said R. Judah: “Even if she was sitting in a palanquin and went to the one who betrothed her to him and said to him, ‘I don’t care for this man, Mr. So-and-so, my husband’ – there is no statement of refusal more effective than that.” More than this said R. Judah, “Even if the wedding guests were reclining in the house of her husband and she was standing and pouring wine for them but said to them, ‘I don’t want Mr. So-and-so, my husband,’ lo, this is a valid exercise of the right of refusal.” More than this said R. Yosé b. R. Judah, “Even if her husband sent her to the storekeeper to get something for him, and she said, ‘I don’t want Mr. So-and-so, my husband,’ you have no exercise of the right of refusal more effective than that” (T. **Yeb. 13:1F-K**).

B. R. HANINAH B. ANTIGONOS SAYS, “ANY CHILD WHO CANNOT KEEP WATCH OVER HER BETROTHAL GIFT DOES NOT HAVE TO EXERCISE THE RIGHT OF REFUSAL.”

1. II:1: Said R. Judah said Samuel, “The decided law accords with the position of R. Hanina b. Antigonos.”

2. II:2: A Tannaite statement: A minor who did not exercise the right of refusal but went and married herself off again – in the name of R. Judah b. Beterah they said, “her marriage itself constitutes her exercise of the right of refusal.”

3. II:3: The question was raised: If she betrothed herself, what is the law?

4. II:4: The question was raised: Did rabbis differ from R. Judah b. Beterah or not? If you choose to say that they differed, then was this only in regard to the betrothal or even in regard to marriage? And if you should prefer to maintain that they differed even in regard to marriage, the question is, Does the decided law concur with him or not? And if you should wish to conclude that the decided law concurs with him, then is this in regard to marriage or also in regard to betrothal?

5. II:5: Still, the question is to be asked: Is this a minor who, to begin with, was married, or was she only betrothed that no further act of exercise of the right of refusal was required?

C. R. ELIEZER SAYS, “THE DEED OF A MINOR IS NULL. BUT SHE IS DEEMED LIKE ONE WHO HAS BEEN SEDUCED. IF IT IS AN ISRAELITE GIRL WITH A PRIEST, SHE DOES NOT EAT HEAVE-OFFERING. IF IT IS A PRIEST GIRL WITH AN ISRAELITE, SHE CONTINUES TO EAT HEAVE-OFFERING.”

1. III:1: Said R. Judah said Samuel, “I have reviewed sages’ rulings from all sides, and I have found no one so consistent in his rulings regarding the minor girl as R. Eliezer (T. **Yeb. 13:4A**). For R. Eliezer has treated the minor girl as one taking a walk with him in his courtyard, who, when she rises from his bosom, immerses and may eat priestly rations in the evening” if her father is a priest and the husband an Israelite; she is not a wife in any aspect whatsoever.

2. III:2: It has been taught on Tannaite authority: R. Eliezer says, “The deed of a minor is null. Her husband has no right to keep anything she finds nor to keep her wages nor to remit her vows nor to inherit her estate, nor does he contract corpse uncleanness to bury her if he is a priest. The governing principle: She is not in the status of his wife for any purpose at all, though she has to exercise the right of refusal.” And R. Joshua says, “Her husband does have the right to keep anything she finds, to keep her wages, to remit her vows, and to inherit her estate, and he does contract corpse uncleanness to bury her if he is a priest. The governing principle: She is not in the status of his wife for any purpose at all, though she does get to leave him, if she chooses, through the exercise of the right of refusal” (T. **Yeb. 13:3C-K**). Said Rabbi, “I prefer the opinion of R. Eliezer over that of R. Joshua, because R. Eliezer is consistent in his rulings regarding the minor girl, and R. Joshua has made distinctions.”

a. III:3: Gloss of the foregoing.

D. R. ELIEZER B. JACOB SAYS, “ANY HINDRANCE IN THE MARRIAGE WHICH DERIVES FROM THE MAN – IT IS AS IF SHE IS HIS WIFE. AND ANY HINDRANCE IN THE MARRIAGE WHICH DOES NOT DERIVE FROM THE MAN – IT IS AS IF SHE IS NOT HIS WIFE.”

1. IV:1: What is the definition of a hindrance that derives from the man or a hindrance that does not derive from the man?

2. IV:2: Abbayye bar Abin and R. Hanina bar Abin both say, “If he gave her a writ of divorce, that is a hindrance that derives from the man. Therefore he is prohibited from marrying her kinswomen, and she is prohibited from marrying his kinsmen. And he has invalidated her for marriage into the priesthood. If she exercised the right of refusal, that is a hindrance that does not derive from the man. He is permitted to marry her kinswomen, and she is permitted to marry his kinsmen. And he has not invalidated her for marriage into the priesthood.”

LXXIV. Mishnah-Tractate Yebamot 13:4-5

A. SHE WHO EXERCISES THE RIGHT OF REFUSAL AGAINST A MAN – HE IS PERMITTED TO MARRY HER KINSWOMEN, AND SHE IS PERMITTED TO MARRY HIS KINSMEN. AND HE HAS NOT INVALIDATED HER FOR MARRIAGE INTO THE PRIESTHOOD. IF HE GAVE HER A WRIT OF DIVORCE, HE IS PROHIBITED FROM MARRYING HER KINSWOMEN, AND SHE IS PROHIBITED FROM MARRYING HIS KINSMEN. AND HE HAS INVALIDATED HER FOR MARRIAGE INTO THE PRIESTHOOD. IF HE (1) GAVE HER A WRIT OF DIVORCE AND (2) THEN TOOK HER BACK, IF THEN SHE (3) EXERCISED THE RIGHT OF REFUSAL AGAINST HIM AND (4) MARRIED SOMEONE ELSE, AND (5) WAS WIDOWED OR DIVORCED – SHE IS PERMITTED TO GO BACK TO HIM. IF SHE (3) EXERCISED THE RIGHT OF REFUSAL AND (2) HE TOOK HER BACK, IF HE THEN (1) GAVE HER A WRIT OF DIVORCE AND SHE (4) MARRIED SOMEONE ELSE AND (5) WAS WIDOWED OR DIVORCED, SHE IS PROHIBITED FROM GOING BACK TO HIM. THIS IS THE GENERAL RULE: IN A CASE OF A WRIT OF DIVORCE FOLLOWING THE EXERCISE OF THE RIGHT OF REFUSAL, SHE IS PROHIBITED FROM RETURNING TO HIM.

IN A CASE OF EXERCISE OF THE RIGHT OF REFUSAL AFTER A WRIT OF DIVORCE, SHE IS PERMITTED TO GO BACK TO HIM.

SHE WHO EXERCISES THE RIGHT OF REFUSAL AGAINST A MAN 1 AND WAS REMARRIED TO ANOTHER, WHO DIVORCED HER – AND WHO WENT AND WAS ASSIGNED TO YET A THIRD MAN, AND SHE EXERCISED THE RIGHT OF REFUSAL AGAINST HIM, AND WHO WENT AND WAS ASSIGNED TO YET A FOURTH, WHO DIVORCED HER, AND WHO WENT AND WAS ASSIGNED TO YET A FIFTH, AND SHE EXERCISED THE RIGHT OF REFUSAL AGAINST HIM – ANY OF THE MEN FROM WHOM SHE WENT FORTH WITH A WRIT OF DIVORCE, SHE IS PROHIBITED FROM GOING BACK TO HIM. AND ANY OF THE MEN FROM WHOM SHE WENT FORTH BY EXERCISING THE RIGHT OF REFUSAL – SHE IS PERMITTED TO GO BACK TO HIM.

1. I:1: In a case of exercise of the right of refusal after a writ of divorce, she is permitted to go back to him: Therefore the exercise of the right of refusal has the power to nullify the divorce. But by way of contradiction: She who exercises the right of refusal against a man – he is permitted to marry her kinswomen, and she is permitted to marry his kinsmen. And he has not invalidated her for marriage into the priesthood. If he gave her a writ of divorce, he is prohibited from marrying her kinswomen, and she is prohibited from marrying his kinsmen. And he has invalidated her for marriage into the priesthood. If he (1) gave her a writ of divorce and (2) then took her back, if then she (3) exercised the right of refusal against him and (4) married someone else, and (5) was widowed or divorced – she is permitted to go back to him. If she (3) exercised the right of refusal and (2) he took her back, if he then (1) gave her a writ of divorce and she (4) married someone else and (5) was widowed or divorced, she is prohibited from going back to him. It follows from this that the exercise of the right of refusal has not got the power to nullify the divorce.

a. I:2: Secondary analysis of the foregoing: What Tannaite authority stands behind the several clauses?

LXXV. Mishnah-Tractate Yebamot 13:6

A. HE WHO DIVORCES HIS WIFE AND TOOK HER BACK – IF HE DIES CHILDLESS, SHE IS PERMITTED TO A LEVIR. AND R. ELIEZER PROHIBITS HER FROM ENTERING LEVIRATE MARRIAGE WITH HER DECEASED, CHILDLESS HUSBAND’S BROTHER. AND SO: HE WHO DIVORCES AN ORPHAN NOT MARRIED OFF BY HER FATHER, SO WHOSE MARRIAGE IS NOT FIRM AND TOOK HER BACK – SHE IS PERMITTED TO THE LEVIR. AND R. ELIEZER PROHIBITS. A MINOR WHOSE FATHER MARRIED HER OFF AND WHO WAS DIVORCED IS DEEMED AN ORPHAN WHILE HER FATHER IS YET ALIVE. IF HE TOOK HER BACK, THE OPINION OF ALL PARTIES IS THAT SHE IS PROHIBITED TO THE LEVIR.

1. I:1: Said Ifa, “What is the operative consideration behind the position of R. Eliezer? It is because for one moment she was forbidden to him as a woman his brother has divorced.”

2. I:2: Raba asked R. Nahman, “What is the law concerning her co-wife?”

LXXVI. Mishnah-Tractate Yebamot 13:7

A. TWO BROTHERS MARRIED TO TWO SISTERS WHO ARE MINOR ORPHANS, AND THE HUSBAND OF ONE OF THEM DIED CHILDLESS – SHE THE WIDOW GOES FORTH WITHOUT LEVIRATE RITES ON THE COUNT OF BEING THE SISTER OF HIS WIFE. AND SO TWO DEAF-MUTES. AN ADULT AND A MINOR – THE HUSBAND OF THE MINOR DIED CHILDLESS – THE MINOR GOES FORTH ON GROUNDS OF BEING THE SISTER OF HIS WIFE. IF THE HUSBAND OF THE ADULT DIED CHILDLESS, R. ELIEZER SAYS, “THEY INSTRUCT THE MINOR TO EXERCISE THE RIGHT OF REFUSAL AGAINST HIM THE SURVIVING BROTHER, HER HUSBAND.”

1. I:1: But is it permitted to instruct a minor to exercise the right of refusal at all? And did not Bar Qappara teach as a Tannaite statement, “A person should always cleave to three things and avoid three things. A person should always cleave to three things: the rite of removing the shoe, making peace, and remitting vows; and avoid three things: the exercise of the right of refusal; bailments; and serving as a surety for loans.”

a. I:2: Gloss of the foregoing.

I. I:3: Gloss of the gloss.

B. RABBAN GAMALIEL SAYS, “IF SHE EXERCISES THE RIGHT OF REFUSAL, SHE EXERCISES THE RIGHT OF REFUSAL WITHOUT INSTRUCTION, AND IT IS VALID. BUT IF NOT, LET HER WAIT UNTIL SHE REACHES MATURITY. THEN THE OTHER ONE THE WIDOW, LATER ON GOES FORTH ON GROUNDS OF BEING THE SISTER OF HIS WIFE.”

R. JOSHUA SAYS, “WOE TO THE MAN ON ACCOUNT OF HIS WIFE, AND WOE TO THE MAN ON ACCOUNT OF THE WIFE OF HIS BROTHER! HE PUTS AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER WITH A RITE OF REMOVING THE SHOE.”

1. II:1: R. Eleazar asked Rab, “What is the operative consideration behind the ruling of Rabban Gamaliel? Is it because the betrothal of a minor remains suspended, and when she matures, the betrothal matures with her, even though the husband has not yet had sexual relations with her? As the validity of the original betrothal is thus made retrospective, the provisional levirate bond between the levir and the elder sister may be regarded as never having existed. Or is it that he maintains that, he who betroths the sister of his sister-in-law, the sister-in-law exempts her in that way but only in that way by the betrothal that took place when the minor had grown up, not the original betrothal, which is null, on account of which, only if there has been a sexual relation is the elder sister exempt from the levirate connection, but if not, she is not exempt?”

a. II:2: Gloss of a secondary analytical point in the foregoing.

b. II:3: Continuation of the foregoing.

2. II:4: Said R. Judah said Samuel, “The decided law accords with R. Eliezer.”

LXXVII. Mishnah-Tractate Yebamot 13:8

A. HE WHO WAS MARRIED TO TWO MINOR ORPHANS AND WHO DIED – THE ACT OF SEXUAL RELATIONS OR THE PERFORMANCE OF THE RITE OF REMOVING THE SHOE ON THE PART OF ONE OF THEM EXEMPTS HER CO-WIFE FROM THE LEVIRATE CONNECTION ALTOGETHER.

AND SO TWO DEAF-MUTES. HE WHO WAS MARRIED TO A MINOR AND A DEAF-MUTE – THE ACT OF SEXUAL RELATIONS ON THE PART OF ONE OF THEM DOES NOT EXEMPT HER CO-WIFE.

1. I:1: But is a deaf-mute woman permitted to participate in the rite of removing the shoe? And have we not learned in the Mishnah: A deaf-mute boy with whom the rite of removing the shoe was carried out, a deaf-mute girl who performed the rite of removing the shoe, she who performs the rite of removing the shoe with a minor – her performance of removing the shoe is invalid?

B. A WOMAN OF SOUND SENSES AND A DEAF-MUTE – THE ACT OF SEXUAL RELATIONS OF THE WOMAN OF SOUND SENSES EXEMPTS THE DEAF-MUTE. BUT THE ACT OF THE SEXUAL RELATIONS OF THE DEAF-MUTE DOES NOT EXEMPT THE WOMAN OF SOUND SENSES. AN ADULT AND A MINOR – THE ACT OF SEXUAL RELATIONS OF THE ADULT EXEMPTS THE MINOR. BUT THE ACT OF SEXUAL RELATIONS OF THE MINOR DOES NOT EXEMPT THE ADULT.

1. II:1: Said R. Nahman, “I came across R. Ada bar Ahbah and R. Hana, his son-in-law, in session in the marketplace of Pumbedita, and they were exchanging arguments, and stating: ‘Lo, we have learned in the Mishnah: He who was married to a minor and a deaf-mute – the act of sexual relations on the part of one of them does not exempt her co-wife. That is the case in which the widows became subject to the levirate connection with him the deceased brother through a brother of his who was of sound senses, since we do not know whether the deceased brother was more satisfied with the minor or with the deaf-mute.

a. II:2: Secondary analysis of the implications of a subordinate component of the foregoing.

LXXVIII. Mishnah-Tractate Yebamot 13:9-11

A. HE WHO WAS MARRIED TO TWO UNRELATED MINOR ORPHANS AND WHO DIED – THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE FIRST, AND THEN HE CAME AND HAD SEXUAL RELATIONS WITH THE SECOND – OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE SECOND – HE HAS NOT INVALIDATED THE FIRST FROM MARRIAGE WITH HIM. AND SO IN THE CASE OF TWO DEAF-MUTES. A MINOR AND A DEAF-MUTE – THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE MINOR, AND THEN HE CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE – OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE MINOR – HE HAS NOT INVALIDATED THE MINOR. IF THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE, AND THEN WENT AND HAD SEXUAL RELATIONS WITH THE MINOR, OR ANOTHER BROTHER

CAME AND HAD SEXUAL RELATIONS WITH THE MINOR – HE HAS INVALIDATED THE DEAF-MUTE.

A WOMAN OF SOUND SENSES AND A DEAF-MUTE – THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE WOMAN OF SOUND SENSES, THEN WENT AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE – OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE – HE HAS NOT INVALIDATED THE WOMAN OF SOUND SENSES. IF THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE, AND THEN WENT AND HAD SEXUAL RELATIONS WITH THE WOMAN OF SOUND SENSES, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE – HE HAS INVALIDATED THE DEAF-MUTE.

AN ADULT AND A MINOR – THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE ADULT, AND THEN WENT AND HAD SEXUAL RELATIONS WITH THE MINOR – OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE MINOR – HE HAS NOT INVALIDATED THE ADULT. IF THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE MINOR, AND THEN CAME AND HAD SEXUAL RELATIONS WITH THE ADULT – OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE ADULT – HE HAS INVALIDATED THE MINOR.

R. ELEAZAR SAYS, “THEY INSTRUCT THE MINOR TO EXERCISE THE RIGHT OF REFUSAL AGAINST HIM.”

1. I:1: Said R. Judah said Samuel, “The decided law is in accord with R. Eliezer.”

LXXIX. Mishnah-Tractate Yebamot 13:12-13

A. A MINOR LEVIR WHO HAD SEXUAL RELATIONS WITH A MINOR WIDOW OF A DECEASED, CHILDLESS BROTHER – THEY SHOULD GROW UP WITH ONE ANOTHER. IF A MINOR LEVIR HAD SEXUAL RELATIONS WITH AN ADULT WIDOW, SHE SHOULD RAISE HIM. THE DECEASED CHILDLESS BROTHER’S WIDOW WHO CLAIMED WITHIN THIRTY DAYS, “I HAVE NOT YET HAD SEXUAL RELATIONS WITH MY LEVIR” – THEY FORCE THE LEVIR TO PERFORM THE RITE OF REMOVING THE SHOE WITH HER.

1. I:1: A minor levir who had sexual relations with a minor widow of a deceased, childless brother – they should grow up with one another. If a minor levir had sexual relations with an adult widow, she should raise him: May we say that our Mishnah paragraph is not in accord with R. Meir, for it has been taught on Tannaite authority: “A minor male and a minor female do not go through the rite of removing the shoe and do not enter into levirate marriage,” the words of R. Meir.

a. I:2: Gloss of the pertinent proof-texts.

B. IF SHE SO CLAIMED AFTER THE THIRTY DAYS, THEY REQUEST FROM HIM THAT HE PERFORM THE RITE OF REMOVING THE SHOE FOR HER. SO LONG AS HE ADMITS HER CLAIM EVEN AFTER TWELVE MONTHS:

1. II:1: What authority takes the view that, for up to thirty days, a man may restrain himself from having sexual relations but not beyond that point?

C. THEY FORCE HIM TO PERFORM THE RITE OF REMOVING THE SHOE FOR HER.

1. III:1: Instead of forcing him to perform the rite of removing the shoe with her, why should we not force him to perform the levirate marriage deed with her?

a. III:2: Illustrative case.

2. III:3: Hon b. R. Nahman, asked R. Nahman, “What is the law as to her co-wife?”

D. SHE WHO VOWS AGAINST DERIVING BENEFIT FROM HER LEVIR – IF SHE DOES SO WHILE HER HUSBAND IS YET ALIVE, THEY FORCE HIM THE LEVIR, AFTER THE HUSBAND DIES WITHOUT OFFSPRING TO PERFORM THE RITE OF REMOVING THE SHOE WITH HER. IF SHE SO VOWS AFTER HER HUSBAND’S DEATH, THEY REQUEST FROM HIM THAT HE PERFORM THE RITE OF REMOVING THE SHOE FOR HER. AND IF THAT WAS HER VERY INTENTION, EVEN IF SHE TOOK THE VOW WHILE HER HUSBAND WAS YET ALIVE, THEY REQUEST HIM TO PERFORM THE RITE OF REMOVING THE SHOE FOR HER.

1. IV:1: There we have learned in the Mishnah: Aforetimes they did rule: Three sorts of women go forth and collect their marriage contract: (1) she who says, “I am unclean for you,” (2) “Heaven knows what is between you and me namely, your impotence,” (3) “I am removed from having sexual relations with all the Jews.” They reverted to rule – so that a woman should not covet someone else and spoil her relationship with her husband, but: (1) she who says, “I am unclean for you,” must bring proof for her claim. (2) She who says, “Heaven knows what is between you and me” – let them find a way to appease her. (3) She who says, “I am removed from all the Jews,” let him annul his share in the vow, so that she may have sexual relations with him, but let her be removed from all the other Jews (M. [Ned. 11:12](#)). The question was raised: She who says, “I am removed from all the Jews” – what is the law with regard to the levir? Has it entered her mind that the husband might die and she might fall before the levir, or is this not the case? Rab said, “The levir is not in the same classification as the husband.” Samuel said, “The levir, lo, he is in the same classification as the husband.”

LXXX. Mishnah-Tractate Yebamot 14:1-4

A. A DEAF-MUTE WHO MARRIED A WOMAN OF SOUND SENSES – OR A MAN OF SOUND SENSES WHO MARRIED A DEAF-MUTE – IF HE WANTED, HE PUTS HER AWAY. AND IF HE WANTED, HE CONFIRMS THE MARRIAGE. JUST AS HE MARRIES HER BY MEANS OF SIGN LANGUAGE, SO HE PUTS HER AWAY BY MEANS OF SIGN LANGUAGE. A MAN OF SOUND SENSES WHO MARRIED A WOMAN OF SOUND SENSES, AND THE WOMAN BECAME A DEAF-MUTE – IF HE WANTED, HE PUTS HER AWAY. AND IF HE WANTED, HE CONFIRMS THE MARRIAGE.

1. I:1: Said Rammi bar Hama, “What is the difference between the case of the deaf man or woman and that of an idiot, that for the former rabbis provided a valid marriage, while for the male or female idiot, rabbis did not provide a valid marriage? For it has been taught on Tannaite authority: An idiot or a minor who married and died – their wives are exempt from the requirement of performing the rite of removing the shoe (T. [Yeb. 11:11:K-L](#))?”

2. I:2: How do we know that a minor girl is entitled to a marriage settlement?
How do we know that a deaf woman is not entitled to a marriage settlement

a. I:3: Case.

3. I:4: Said R. Hiyya bar Ashi said Samuel, "On account of inadvertent sexual relations with the wife of a deaf man, liability for a suspensive guilt-offering is not incurred this marriage being invalid under the law of the Torah, but valid only by authority of rabbis, and the suspensive guilt-offering is presented only in a case that is subject to doubt."

a. I:5: Gloss of the foregoing analysis.

B. IF SHE BECAME AN IDIOT, HE MAY NOT PUT HER AWAY. IF HE WAS MADE A DEAF-MUTE OR BECAME AN IDIOT, HE MAY NEVER PUT HER AWAY.

1. II:1: Said R. Isaac, "In accord with the law of the Torah, an idiot woman may be divorced, since, in a parallel case, a woman of sound senses may be divorced even without her agreement. So how come it is said that she may never be divorced? So that people should not treat her like ownerless property and taken advantage of."

2. II:2: And what is the definition of the idiot treated here? If we say that she knows how to keep her writ of divorce and to take care of herself, will people treat her as ownerless property? Rather, it must be a woman who will not know how to keep her writ of divorce or to take care of herself.

C. SAID R. YOHANAN B. NURI, "ON WHAT ACCOUNT DOES A WOMAN WHO BECAME A DEAF-MUTE GO FORTH, BUT A MAN WHO BECAME A DEAF-MUTE DOES NOT PUT AWAY HIS WIFE BY A WRIT OF DIVORCE?" THEY SAID TO HIM TO YOHANAN B. NURI, "THE MAN WHO DIVORCES HIS WIFE IS NOT EQUIVALENT TO A WOMAN WHO RECEIVES A DIVORCE. FOR A WOMAN GOES FORTH WILLINGLY OR UNWILLINGLY. BUT A MAN PUTS HIS WIFE AWAY ONLY WILLINGLY."

1. III:1: The question was raised: In the mind of R. Yohanana b. Nuri, was it clear that a deaf man may not divorce his wife, so that his question only concerned the woman, or was he sure of the answer concerning why the woman may be divorced if she is deaf, but he wanted to know the reason behind the rule governing the man?

D. R. YOHANAN B. GUDGEDA TESTIFIED CONCERNING A DEAF-MUTE WHOSE FATHER MARRIED HER OFF, THAT SHE GOES FORTH WITH A WRIT OF DIVORCE. THEY SAID TO HIM TO YOHANAN B. NURI, "THIS, TOO, FOLLOWS THE SAME RULE."

TWO DEAF-MUTE BROTHERS MARRIED TO TWO DEAF-MUTE SISTERS – OR TWO SISTERS OF SOUND SENSES – OR TWO SISTERS, ONE A DEAF-MUTE AND THE OTHER OF SOUND SENSES – OR TWO DEAF-MUTE SISTERS MARRIED TO TWO BROTHERS OF SOUND SENSES – OR TO TWO DEAF-MUTE BROTHERS – OR TO TWO BROTHERS, ONE A DEAF-MUTE AND ONE OF SOUND SENSES – LO, THESE WOMEN ARE EXEMPT FROM THE RITE OF REMOVING THE SHOE AND LEVIRATE MARRIAGE. BUT IF THEY WERE UNRELATED TO ONE ANOTHER, THEY ENTER INTO MARRIAGE. AND IF THEY THE MEN IN THE SEVERAL CASES WANTED TO PUT THEM AWAY, THEY DO PUT THEM AWAY. TWO BROTHERS – ONE DEAF-MUTE AND THE OTHER OF SOUND SENSES –

MARRIED TO TWO SISTERS OF SOUND SENSES – THE DEAF-MUTE, HUSBAND OF A SISTER OF SOUND SENSES, DIED – WHAT SHOULD THE HUSBAND OF SOUND SENSES WHO IS MARRIED TO THE DEAF-MUTE DO? SHE THE DECEASED CHILDLESS BROTHER’S WIDOW SHOULD GO FORTH ON THE GROUNDS OF BEING THE SISTER OF HIS WIFE. IF THE HUSBAND OF SOUND SENSES OF A SISTER OF SOUND SENSES DIED, WHAT SHOULD THE DEAF-MUTE WHO IS HUSBAND OF THE SISTER OF SOUND SENSES DO? HE SHOULD PUT AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER IS PROHIBITED FOR MARRIAGE TO ANYBODY AT ALL FOR ALL TIME. TWO BROTHERS OF SOUND SENSES MARRIED TO TWO SISTERS, ONE OF THEM A DEAF-MUTE AND ONE OF THEM OF SOUND SENSES — THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE DIED – WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WIFE OF SOUND SENSES DO? SHE THE WIDOW SHOULD GO FORTH ON GROUNDS OF BEING THE SISTER OF HIS WIFE. IF THE HUSBAND OF SOUND SENSES MARRIED TO THE WIFE OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE DO? HE PUTS AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER WITH A RITE OF REMOVING THE SHOE. TWO BROTHERS, ONE OF THEM A DEAF-MUTE AND ONE OF SOUND SENSES MARRIED TO TWO SISTERS, ONE OF THEM A DEAF-MUTE AND ONE OF SOUND SENSES. IF THE DEAF-MUTE HUSBAND MARRIED TO THE DEAF-MUTE WIFE SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE SISTER OF SOUND SENSES DO? SHE THE WIDOW SHOULD GO FORTH BECAUSE OF BEING THE SISTER OF HIS WIFE. IF THE HUSBAND OF SOUND SENSES MARRIED TO THE WIFE OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE DEAF-MUTE HUSBAND MARRIED TO THE DEAF-MUTE SISTER DO? HE PUTS AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER IS PROHIBITED TO REMARRY FOR ALL TIME. TWO BROTHERS, ONE A DEAF-MUTE AND ONE OF SOUND SENSES, MARRIED TO TWO WOMEN, NOT RELATED TO ONE ANOTHER, OF SOUND SENSES – IF THE DEAF-MUTE HUSBAND OF THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES DO? HE EITHER PERFORMS THE RITE OF REMOVING THE SHOE OR TAKES THE WIDOW IN LEVIRATE MARRIAGE. IF THE HUSBAND OF SOUND SENSES OF THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE DEAF-MUTE HUSBAND OF THE WOMAN OF SOUND SENSES DO? HE MARRIES THE WIDOW AND DOES NOT PUT HER AWAY FOR ALL TIME. TWO BROTHERS OF SOUND SENSES MARRIED TO TWO WOMEN UNRELATED TO ONE ANOTHER, ONE OF SOUND SENSES AND ONE A DEAF-MUTE – IF THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE DIES, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES DO? HE SHOULD MARRY HER, AND IF HE WANTS TO PUT HER AWAY, HE PUTS HER AWAY. IF THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE WOMAN DO? HE EITHER PERFORMS THE RITE OF REMOVING THE SHOE OR ENTERS INTO LEVIRATE MARRIAGE. TWO BROTHERS, ONE A DEAF-MUTE AND ONE OF SOUND SENSES, MARRIED TO TWO WOMEN UNRELATED TO ONE ANOTHER, ONE A DEAF-MUTE AND ONE OF SOUND SENSES – IF THE DEAF-MUTE MARRIED TO THE DEAF-MUTE WOMAN SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES DO? HE SHOULD MARRY THE WIDOW,

BUT IF HE WANTS TO PUT HER AWAY, HE PUTS HER AWAY. IF THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE DEAF-MUTE MAN MARRIED TO THE DEAF-MUTE WOMAN DO? HE MARRIES HER AND DOES NOT PUT HER AWAY FOR ALL TIME.

1. IV:1: Said Raba, “From the testimony of R. Yohanan b. Gudgeda it follows that, if the husband said to witnesses, ‘See, this is a writ of divorce that I am handing over,’ and he said to her, ‘Receive this bond of indebtedness,’ lo, this woman is validly divorced. For has not R. Yohanan b. Gudgeda said that we do not require the woman’s knowledge and consent? So here, too, we do not require her knowledge and consent.”

a. IV:2: The principle of the foregoing, one may not be ordered to violate the law, but he is allowed to violate it without interference, is illustrated in a number of instances unrelated to the foregoing.

I. IV:3: A detail of the foregoing is examined, then the examination of cases is resumed, extended to those presented by the present Mishnah-unit.

LXXXI. Mishnah-Tractate Yebamot 15:1

A. THE WOMAN WHO WENT, SHE AND HER HUSBAND, OVERSEAS – THERE WAS PEACE BETWEEN HER AND HIM, AND THE WORLD WAS AT PEACE – AND SHE CAME AND SAID, “MY HUSBAND DIED” – SHE MAY REMARRY.”MY HUSBAND DIED” – SHE MAY ENTER INTO LEVIRATE MARRIAGE. IF THERE WAS PEACE BETWEEN HER AND HIM BUT WAR IN THE WORLD –

1. I:1: The Tannaite formulation encompasses there was peace between her and him because the intent was to go on to the language, strife between him and her. And the Tannaite formulation goes over the ground of and the world was at peace, because the intent was to go on to the language, but war in the world.

a. I:2: Said Raba, “What is the reason that if there is war in the world, the wife is not believed? Because she speaks out of conjecture: ‘Is it possible to imagine that all these people have been killed and he has escaped?’ And should you want to suppose that, since there is peace between him and her, she would wait until she saw the corpse, there might be times that he was struck by an arrow or spear, and she might think, he surely is dead, but someone may have put a salve on his wound and he might recover.”

I. I:3: Raba considered ruling, “Famine is not classified as equivalent to war. For in the former case she does not speak out of conjecture.”

II. I:4: As to the collapse of a house, lo, this is classified as equivalent to war, for here, too, the wife speaks out of conjecture.

2. I:5: The question was raised: if she is the one who produced the presumption that there was war in the world and she also said, “and he died in the war”, what is the law? Do we invoke the claim, Why should she bother to lie, for if she preferred, she could have said, “There was peace in the world”? Or perhaps, since

she is the one who has established the presumption that there was a war, she is speaking on the basis of conjecture, in which instance, the argument, Why should she bother to lie?, cannot come along and impair an established presumption?

a. I:6: A case.

3. I:7: The question was raised: What is the status of a single witness to the husband's death in time of war? Is the operative consideration that the single witness is believed because it is something that, if a lie, is likely to be exposed, so a person is not going to lie, and here, too, a person is not likely to lie? Perhaps, alternatively, the operative consideration that a single witness is believed is because the woman herself is going to make a careful inquiry, and only then will remarry. Here, therefore, the single witness would not be believed since in the present case, the woman will remarry without making careful inquiry.

a. I:8: A case.

b. I:9: Another case.

c. I:10: Another case.

I. I:11: Gloss of the case of I:8.

B. ...STRIFE BETWEEN HIM AND HER, BUT THE WORLD WAS AT PEACE – AND SHE CAME AND SAID, “MY HUSBAND DIED” – SHE IS NOT BELIEVED.

1. II:1: What is the definition of the situation where there is strife between him and her?

2. II:2: What is the operative consideration in the instance of strife between him and her?

3. II:3: The question was raised: “What is the standing of a single witness in a case in which there is strife? What is the reason that a single witness's testimony is accepted? It is because in such a matter, the truth will eventually come out, so he will not lie. Here, too, he will not lie. Or perhaps the basic consideration that a single witness is believed is because of the fact that the woman will undertake careful study of the question of whether or not the husband is alive before she goes ahead and remarries, but here, since there is strife in the marriage, she is not going to be all that careful before she remarries.”

C. R. JUDAH SAYS, “UNDER NO CIRCUMSTANCES IS SHE BELIEVED UNLESS SHE CAME IN TEARS, WITH HER GARMENTS TORN AS A SIGN OF MOURNING .” THEY SAID TO HIM, “ALL THE SAME ARE ONE WHO CRIES, WEARING TORN GARMENTS, AND ONE WHO DOES NOT CRY, WEARING NEAT GARMENTS – SHE MAY REMARRY UNDER THE STATED CIRCUMSTANCES.”

1. III:1: It has been taught on Tannaite authority: They said to R. Judah, “Then from your perspective, only a woman of sound senses may remarry, but an idiot may never remarry. But all the same are the one and the other; both may remarry.”

a. III:2: A case.

LXXXII. Mishnah-Tractate Yebamot 15:2

A. THE HOUSE OF HILLEL SAY, “WE HAVE HEARD THAT THE WOMAN’S TESTIMONY CONCERNING THE DEATH OF HER HUSBAND IS ACCEPTED ONLY IN A CASE IN WHICH SHE COMES BACK FROM THE GRAIN HARVEST AND IS IN THE SAME TERRITORY. AND THESE FACTS ARE IN ACCORD WITH A CASE WHICH ACTUALLY TOOK PLACE.” SAID TO THEM THE HOUSE OF SHAMMAI, “ALL THE SAME ARE ONE WHO COMES HOME FROM THE GRAIN HARVEST, AND THE ONE WHO COMES HOME FROM HARVESTING OLIVES, AND ONE WHO COMES FROM CUTTING GRAPES, AND ONE WHO COMES HOME FROM ONE PROVINCE TO ANOTHER –SAGES SPOKE ABOUT THE GRAIN HARVEST ONLY BECAUSE THAT IS COMMONPLACE.” THE HOUSE OF HILLEL REVERTED AND TAUGHT THE LAW IN ACCORD WITH THE OPINION OF THE HOUSE OF SHAMMAI.

1. I:1: It has been taught on Tannaite authority: Said the House of Shammai to the House of Hillel, “According to your view, I know the law only covering the grain harvest. How are we to know the rule governing the barley harvest? I know only the rule covering one’s cutting grain; about such activities as vintaging grapes, picking olives, harvesting dates, or packing figs, how shall we know the rule? But the case took place during the harvest, and the same rule pertains to all types of crops; here, too, the case took place in that particular province, but the same rule applies to all provinces.”

a. I:2: So what was the original incident?

b. I:3: May we say that R. Hanania b. Aqiba and rabbis differ on the same matter as that on which the House of Shammai and the House of Hillel differ?

I. I:4: Gloss of a detail of the foregoing.

LXXXIII. Mishnah-Tractate Yebamot 15:3

A. THE HOUSE OF SHAMMAI SAY, “SHE WHO TESTIFIES THAT HER HUSBAND HAS DIED REMARRIES AND COLLECTS HER MARRIAGE CONTRACT.” AND THE HOUSE OF HILLEL SAY, “SHE REMARRIES BUT DOES NOT COLLECT HER MARRIAGE CONTRACT.” THE HOUSE OF SHAMMAI SAID TO THEM, “YOU HAVE PERMITTED HER TO REMARRY, RELEASING THE STRICT PROHIBITION CONCERNING SEXUAL RELATIONS. WILL YOU NOT PERMIT HER TO COLLECT HER MARRIAGE CONTRACT, INVOKING THE LENIENT RULE CONCERNING MONEY?” THE HOUSE OF HILLEL SAID TO THEM, “WE FIND IN THE LAW THAT BROTHERS IN ANY EVENT DO NOT INHERIT THE ESTATE ON THE BASIS OF HER TESTIMONY SINCE TWO WITNESSES ARE REQUIRED (DEU. 19:15).” THE HOUSE OF SHAMMAI SAID TO THEM, “BUT SHALL WE NOT LEARN FROM THE DOCUMENT OF HER MARRIAGE CONTRACT WHICH HE WRITES OVER TO HER: ‘IF YOU ARE MARRIED TO SOMEONE ELSE, YOU ALSO MAY COLLECT WHAT IS HEREIN PROMISED IN WRITING FOR YOU’?” THE HOUSE OF HILLEL REVERTED AND TAUGHT THE LAW IN ACCORD WITH THE OPINION OF THE HOUSE OF SHAMMAI.

1. I:1: If she enters into levirate marriage, her levir takes over the inheritance coming to him in his late brother's estate on the strength of her testimony. For if rabbis have interpreted the language of the marriage contract, should we not interpret the language of the Torah: '...shall succeed in the name of his brother' (Deu. 25: 6) – and he has certainly succeeded."

2. I:2: Said R. Nahman, "If she came to court and said, 'My husband has died, so let me remarry,' they permit her to remarry and assign to her the settlement of the marriage contract. If she said, 'Pay me my marriage contract,' even as to remarrying, they grant no permission to her. Why not? Because it was with this collection of her marriage settlement in mind that she came to court."

3. I:3: The question was raised: If she said, "Permit me to remarry and pay off my marriage settlement," what is the law? Since she has made reference to her marriage settlement, is it with the marriage settlement in mind that she has come to court? Or perhaps she simply laid out before the court all the claims that she has?

LXXXIV. Mishnah-Tractate Yebamot 15:4A-C

A. ALL ARE BELIEVED TO TESTIFY IN HER BEHALF THAT HER HUSBAND HAS DIED, EXCEPT FOR (1) HER MOTHER-IN-LAW, (2) THE DAUGHTER OF HER MOTHER-IN-LAW, (3) HER COWIFE, (4) HER SISTER-IN-LAW WHO WILL ENTER LEVIRATE MARRIAGE IN CASE THE HUSBAND HAS DIED CHILDLESS, AND (5) THE DAUGHTER OF HER HUSBAND BY ANOTHER MARRIAGE. WHAT IS THE DIFFERENCE BETWEEN EVIDENCE FOR SEVERING A MARITAL RELATIONSHIP THROUGH A WRIT OF DIVORCE AND EVIDENCE FOR DOING SO THROUGH DEATH? THE WRITTEN DOCUMENT OF DIVORCE PROVES THE MATTER.

1. I:1: The question was raised: As to the testimony of the daughter of her father-in-law by another wife, not her mother-in-law, what is the law? The operative consideration for the exclusion of the testimony of the daughter of her mother-in-law is that there is in place a mother who hates her, so she also hates her, but here, there is no mother who hates her, while here, there is no mother to hate her. Or perhaps the operative consideration for the exclusion of the testimony of the daughter of her mother-in-law is that she thinks the other is wasting her mother's savings, but here, too, she believes that she is wasting the savings of her father-in-law. Therefore she hates her and is ineligible to testify.

2. I:2: Said R. Aha bar Avayya, "In the West they raised the question: What is the law in regard to a potential mother-in-law; the mother of the levir and stepmother of the husband of the woman in question, who might become her mother-in-law if her husband died childless and she had to contract levirate marriage with the levir? Does it enter her mind that the husband of the woman for whom she testifies might die without children, and she would thereby fall to the levir, so the future mother-in-law already hates her on that account, or is that not the case?"

LXXXV. Mishnah-Tractate Yebamot 15:4D-F

A. IF ONE WITNESS SAYS, “HE DIED,” AND SHE REMARRIED, AND THEN ANOTHER WITNESS COMES AND SAYS, “HE DID NOT DIE,” LO, THIS WOMAN DOES NOT GO FORTH FROM THE SECOND MARRIAGE.

1. I:1: The operative consideration is that she remarried; but if she had not remarried, she would not have been permitted to remarry. But has not Ulla said, “In any case in which the Torah has lent credence to the testimony of a single witness, lo, behold, it is as though there are two witnesses, and the evidence of one man who says the husband is not dead against the testimony of two is null?”

B. IF ONE WITNESS SAYS, “HE DIED,” AND TWO WITNESSES SAY, “HE DID NOT DIE,” THEN EVEN THOUGH SHE HAS REMARRIED, SHE GOES FORTH.

1. II:1: So what else is new? The statement of a single witness is null when there are two contrary witnesses.

C. TWO WITNESSES SAY, “HE DIED,” AND ONE WITNESS SAYS, “HE DID NOT DIE,” EVEN THOUGH SHE HAS NOT REMARRIED, SHE MAY REMARRY.

1. III:1: So what does this tell us?

LXXXVI. Mishnah-Tractate Yebamot 15:5

A. IF ONE WOMAN CO-WIFE SAYS, “HE DIED,” AND ONE CO-WIFE SAYS, “HE DID NOT DIE,” THIS ONE WHO SAYS, “HE DIED,” MAY REMARRY AND COLLECT HER MARRIAGE CONTRACT, AND THAT ONE WHO SAYS, “HE DID NOT DIE,” MAY NOT REMARRY AND MAY NOT COLLECT HER MARRIAGE CONTRACT.

1. I:1: If one woman co-wife says, “He died,” and one co-wife says, “He did not die,” this one who says, “He died,” may remarry and collect her marriage contract, and that one who says, “He did not die,” may not remarry and may not collect her marriage contract: The operative consideration that explains why the second woman may not marry is that she has said, “He did not die,” but if she had remained silent, she would be able to remarry. But it is the fact that a co-wife may not testify at all in regard to another co-wife! So why introduce the second woman’s situation at all?

B. IF ONE WOMAN SAYS, “HE DIED,” AND ONE SAYS, “HE WAS KILLED” – R. MEIR SAYS, “SINCE THEY CONTRADICT ONE ANOTHER IN DETAILS OF THEIR TESTIMONY, LO, THESE WOMEN MAY NOT REMARRY.” R. JUDAH AND R. SIMEON SAY, “SINCE THIS ONE AND THAT ONE ARE IN AGREEMENT THAT HE IS NOT ALIVE, THEY MAY REMARRY.” IF ONE WITNESS SAYS, “HE HAS DIED,” AND ONE WITNESS SAYS, “HE HAS NOT DIED,” OR A WOMAN SAYS, “HE HAS DIED,” AND A WOMAN SAYS, “HE HAS NOT DIED” – LO, THIS WOMAN MAY NOT REMARRY.

1. II:1: But R. Meir also should have introduced his dissent in the first clause as well where one woman contradicts the other!

LXXXVII. Mishnah-Tractate Yebamot 15:6-7D

A. A WOMAN WHO WENT, SHE AND HER HUSBAND, OVERSEAS, AND CAME AND SAID, “MY HUSBAND HAS DIED,” REMARRIES AND COLLECTS HER MARRIAGE CONTRACT BUT HER CO-WIFE IS PROHIBITED FROM REMARRYING, FOR A WOMAN IS NOT BELIEVED CONCERNING THE DEATH OF HER HUSBAND SO AS TO FREE HER CO-WIFE FROM THE MARITAL TIE. IF SHE THE CO-WIFE WAS AN ISRAELITE GIRL MARRIED TO A PRIEST, “SHE CONTINUES TO EAT HEAVE-OFFERING,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THIS IS NOT THE WAY TO REMOVE HER FROM THE TOILS OF TRANSGRESSION, UNLESS SHE IS BOTH PROHIBITED FROM REMARRYING AND PROHIBITED FROM EATING HEAVE-OFFERING.”

IF SHE SAID, “MY HUSBAND DIED AND AFTERWARD MY FATHER-IN-LAW DIED,” SHE MAY REMARRY AND COLLECT HER MARRIAGE CONTRACT. BUT HER MOTHER-IN-LAW IS PROHIBITED FROM DOING SO. IF SHE THE MOTHER-IN-LAW WAS A PRIEST GIRL MARRIED TO A PRIEST, “SHE CONTINUES TO EAT HEAVE-OFFERING,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THIS IS NOT THE WAY TO REMOVE HER FROM THE TOILS OF TRANSGRESSION, UNLESS SHE IS BOTH PROHIBITED FROM REMARRYING AND PROHIBITED FROM EATING HEAVE-OFFERING.”

1. I:1: Both cases were required , for if only the first had been stated, then it is in that particular case that R. Tarfon takes the position that he does, on account of the fact that the anguish affects the woman personally her co-wife has caused her to be deprived of marital relations; only then did Tarfon discredit the evidence of a rival, who might be moved by malice. But when it comes to her mother-in-law, in which case the grievance is generalized, I might say that he concurs with R. Aqiba. And if the matter had been stated only in the latter case, I might have supposed that it is there in particular that R. Aqiba takes the view that he does, but in the other, I might have supposed that he concurs with R. Tarfon. So both cases are required.

2. I:2: Said R. Judah said Samuel, “The decided law accords with the position of R. Tarfon.”

LXXXVIII. Mishnah-Tractate Yebamot 15:7E-M

A. IF A MAN BETROTHED ONE OF FIVE GIRLS AND IT IS NOT KNOWN WHICH ONE OF THEM HE BETROTHED, AND EACH ONE OF THEM SAYS, “ME DID HE BETROTH” – HE GIVES A WRIT OF DIVORCE TO EACH ONE OF THEM. “BUT HE LEAVES THE MARRIAGE CONTRACT AMONG THEM, AND TAKES HIS LEAVE,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THIS IS NOT THE WAY TO REMOVE HIM FROM THE TOILS OF TRANSGRESSION, UNLESS HE GIVES A WRIT OF DIVORCE AND PAYS OFF THE MARRIAGE CONTRACT TO EACH AND EVERY ONE OF THEM.” IF ONE STOLE FROM ONE OF FIVE MEN AND DOES NOT KNOW FROM WHICH ONE OF THEM HE STOLE, AND EACH ONE OF THEM SAYS, “FROM ME DID HE STEAL,” “HE LEAVES THAT WHICH HE STOLE AMONG THEM AND TAKES HIS LEAVE,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THIS IS NOT THE WAY TO REMOVE HIM FROM THE

TOILS OF TRANSGRESSION, UNLESS HE PAYS THE VALUE OF THAT WHICH WAS STOLEN TO EACH AND EVERY ONE OF THEM.”

1. I:1: Since the Tannaite formulation states, betrothed, but does not state, he had sexual relations, and likewise, since the Tannaite formulation states, stole, but does not state, purchased, one must ask whose authority is represented by our Mishnah statement? It can neither be the initial Tannaite authority to be cited presently nor R. Simeon b. Eleazar. For it has been taught on Tannaite authority: R. Simeon b. Eleazar says, “R. Tarfon and R. Aqiba did not dispute a case of a man who betrothed one of five girls and it is not known which of them he betrothed; he deposits the proceeds of the marriage contract among them and takes his leave. Concerning what case did they dispute? It was one in which he actually had had sexual relations. R. Tarfon says, ‘He leaves the proceeds of the marriage contract among them and takes his leave.’ R. Aqiba says, ‘He is quit only when he has paid the marriage contract owing to each one of them.’ And they did not dispute concerning a case in which he made a purchase from one of five people, and it is not known from which one of them he made the purchase, that he deposits the proceeds of the purchase among them and takes his leave. Concerning what did they dispute, concerning a case in which he stole the object from one of five persons, for R. Aqiba says, ‘He is quit only when he pays the value of the stolen object to each one of them’” (T. **Yeb. 14:2C-F**). Now since R. Simeon b. Eleazar makes reference to betrothing or purchasing and holds there is no dispute, it follows that the otherwise uncited initial authority has said there is a dispute in those cases. So who is the authority behind the formulation before us? It cannot be the initial Tannaite authority, for, if it were, the language of betrothal or purchase should be used, and it cannot be R. Simeon b. Eleazar, since if it were, the language of having had sexual relations or having stolen should be used.

LXXXIX. Mishnah-Tractate Yebamot 15:8-10

A. THE WOMAN WHO WENT, SHE AND HER HUSBAND, OVERSEAS, AND HER SON WAS WITH THEM – AND SHE CAME AND SAID, “MY HUSBAND DIED, AND AFTERWARD MY SON DIED” IS BELIEVED. IF SHE SAID, “MY SON DIED, AND AFTERWARD MY HUSBAND DIED,” SHE IS NOT BELIEVED. BUT THEY SCRUPLE ON ACCOUNT OF HER TESTIMONY, SO THAT SHE PERFORMS THE RITE OF REMOVING THE SHOE, BUT SHE DOES NOT ENTER INTO LEVIRATE MARRIAGE.

“A SON WAS GIVEN UNTO ME OVERSEAS,” AND, SHE SAID, “MY SON DIED, AND THEN MY HUSBAND DIED,” SHE IS BELIEVED. “MY HUSBAND DIED AND AFTERWARD MY SON DIED” – SHE IS NOT BELIEVED. BUT THEY SCRUPLE ON ACCOUNT OF HER TESTIMONY, SO THAT SHE PERFORMS THE RITE OF REMOVING THE SHOE, BUT SHE DOES NOT ENTER INTO LEVIRATE MARRIAGE.

“A LEVIRATE BROTHER-IN-LAW WAS GIVEN UNTO ME OVERSEAS,” AND, SHE SAID, “MY HUSBAND DIED, AND AFTERWARD MY LEVIRATE BROTHER-IN-LAW DIED” – “MY LEVIRATE BROTHER-IN-LAW DIED AND AFTERWARD MY HUSBAND DIED” – SHE IS BELIEVED. IF SHE WENT, SHE AND HER HUSBAND AND HER LEVIRATE BROTHER-IN-LAW, OVERSEAS, AND SHE SAID, “MY HUSBAND DIED AND AFTERWARD MY LEVIRATE BROTHER-IN-LAW DIED” – “MY LEVIRATE BROTHER-

IN-LAW DIED AND AFTERWARD MY HUSBAND DIED” – SHE IS NOT BELIEVED. FOR A WOMAN IS NOT BELIEVED TO TESTIFY, “MY LEVIRATE BROTHER-IN-LAW HAS DIED,” SO THAT SHE MAY REMARRY. NOR IS SHE BELIEVED TO TESTIFY, “MY SISTER HAS DIED,” SO THAT SHE MAY ENTER INTO HIS HER BROTHER-IN-LAW’S HOUSE. AND A MAN IS NOT BELIEVED TO SAY, “MY BROTHER HAS DIED,” SO THAT HE MAY ENTER INTO LEVIRATE MARRIAGE WITH HIS THE BROTHER’S WIFE. NOR IS HE BELIEVED TO TESTIFY, “MY WIFE DIED,” SO THAT HE MAY MARRY HER SISTER.

1. I:1: Raba raised this question to R. Nahman: “He who through an agent assigns title to his wife of a writ of divorce in a case in which he is childless, so there is the claim of a levir – what is the law? Since she loathes the levir, this represents an advantage to her, and an advantage may be gotten for someone in the person’s absence, or perhaps since there may be a situation in which she really likes the levir, it is a disadvantage for her, and a disadvantage may not be gotten for someone in the person’s absence?”

2. I:2: Said Rabina to Raba, “He who through an agent assigns title to his wife of a writ of divorce in a case in which there is strife in the marriage – what is the law? Since there is strife with him, this is only to her advantage? Or perhaps she prefers to have the sex one way or the other?”

XC. Mishnah-Tractate Yebamot 16:1

A. A WOMAN WHOSE HUSBAND AND CO-WIFE WENT OVERSEAS AND THEY CAME AND SAID TO HER, “YOUR HUSBAND HAS DIED”...

1. I:1: What is the sense of the emphasis on her co-wife thus, not her but, on the other hand, her co-wife?

B. ...SHOULD NOT REMARRY WITHOUT PERFORMING THE RITE OF REMOVING THE SHOE, OR ENTER INTO LEVIRATE MARRIAGE, UNTIL SHE ASCERTAINS WHETHER HER CO-WIFE IS PREGNANT. IF SHE HAD A MOTHER-IN-LAW, HOWEVER SHE DOES NOT HAVE TO SCRUPLE CONCERNING HER THE MOTHER-IN-LAW’S POSSIBLE PREGNANCY, WHICH MAY BRING FORTH A LEVIR, ON WHOM SHE THEN WOULD HAVE TO WAIT. AND IF SHE THE MOTHER-IN-LAW WENT AWAY FULL OF CHILD, SHE MUST SCRUPLE CONCERNING HER. R. JOSHUA SAYS, “SHE DOES NOT HAVE TO SCRUPLE CONCERNING HER.”

1. II:1: Now that is no problem understanding why she should not enter into levirate marriage, since her co-wife may be pregnant, so she would be in the position of infringing on the law against marrying a brother’s wife, which is based on the law of the Torah. But why can’t she marry an outsider to the family? Follow as the criterion the condition of most women, and most women conceive and bear children. So may we say that the ruling follows the position of R. Meir, who takes account of the condition of the minority?

2. II:2: ...should not remarry without performing the rite of removing the shoe, or enter into levirate marriage, until she ascertains whether her co-wife is pregnant: And is this forever?

XCI. Mishnah-Tractate Yebamot 16:2

A. TWO SISTERS-IN-LAW WIVES OF TWO BROTHERS – THIS ONE SAYS, “MY HUSBAND DIED” – AND THAT ONE SAYS, “MY HUSBAND DIED” – EACH BEING BELIEVED ABOUT HER OWN HUSBAND BUT NOT ABOUT THE MARITAL CONDITION OF THE OTHER, THIS ONE IS PROHIBITED ON ACCOUNT OF THE HUSBAND OF THAT ONE TO WHOM SHE IS BOUND IN A LEVIRATE CONNECTION, AND THAT ONE IS PROHIBITED ON ACCOUNT OF THE HUSBAND OF THIS ONE. IF THIS ONE HAS WITNESSES WHO TESTIFY INDEPENDENTLY THAT THE HUSBAND HAS DIED, AND THAT ONE DOES NOT HAVE WITNESSES – THE ONE WHO HAS WITNESSES IS PROHIBITED. AND THE ONE WHO DOES NOT HAVE WITNESSES IS PERMITTED. IF THIS ONE OF A HAS CHILDREN AND THAT ONE DOES NOT HAVE CHILDREN, THE ONE WHO HAS CHILDREN IS PERMITTED, AND THE ONE WHO DOES NOT HAVE CHILDREN IS PROHIBITED.

1. I:1: A Tannaite statement: If this one had witnesses and also children, and that one had no witnesses and no children. both of them are permitted to remarry the one with children is exempt from the levirate bond, the other one, because witnesses have testified that her levir is dead, and she is believed in regard to her own husband.

B. IF THEY ENTERED INTO LEVIRATE MARRIAGE AND THE LEVIRS DIED, THEY ARE PROHIBITED FROM REMARRYING. R. ELEAZAR SAYS, “SINCE THEY WERE PERMITTED TO MARRY THE LEVIRS WHO THEN DIED, THEY ARE PERMITTED TO MARRY ANYONE THEREAFTER.”

1. II:1: Asked Raba, “What is the operative consideration behind the ruling of R. Eleazar? Is it because he takes the view that a co-wife may give testimony concerning the situation of her colleague, or perhaps because she is not going to disrupt her situation her evidence here injures herself as well as the other woman; if the associate alone would suffer, the co-wife’s evidence is not accepted?”

XCII. Mishnah-Tractate Yebamot 16:3

A. THEY DERIVE TESTIMONY CONCERNING THE IDENTITY OF A CORPSE ONLY FROM THE APPEARANCE OF THE WHOLE FACE WITH THE NOSE:

1. I:1: Our rabbis have taught on Tannaite authority: The forehead without the face, or the face without the forehead, do not provide adequate evidence, unless the two of them are available along with the nose.

a. I:2: Case.

B. EVEN THOUGH THERE ARE SIGNS OF THE CORPSE’S IDENTITY ON HIS BODY OR GARMENTS. THEY DERIVE TESTIMONY THAT A MAN HAS DIED ONLY AFTER HE HAS ACTUALLY DIED AND HAS BEEN SEEN DEAD:

1. II:1: Does this then bear the implication that the validity of relying on identification marks does not derive from the law of the Torah? Then by way of a contradiction: If a messenger bearing a writ of divorce loses the writ and then finds

it tied up in a purse, money bag or ring, or if he found it among his household utensils, even long afterward, the writ is valid.

C. ...AND EVEN IF THEY THE WITNESSES SAW HIM MORTALLY WOUNDED, CRUCIFIED:

1. III:1: This implies that one whose arteries are cut may live? But by way of contradiction: A man does not convey uncleanness until his spirit goes forth, and even with his tendons cut, and even dying (M. **Oh. 1:6A-B**). So, while he does not convey uncleanness, he still cannot survive!

D. ...OR BEING EATEN BY A WILD BEAST.

1. IV:1: Said R. Judah said Samuel, “This has been repeated as a Tannaite statement only where the attack was not on a vital organ, but if it was on a vital organ, testimony may be given.”

2. IV:2: And said R. Judah said Samuel, “If one had cut on a person two organs the esophagus and trachea or the greater part thereof, and then he escaped, one may nonetheless give testimony that he has died” the wife may remarry, since he cannot have survived.

E. THEY GIVE TESTIMONY ABOUT THE IDENTITY OF A CORPSE ONLY DURING A PERIOD OF THREE DAYS AFTER DEATH.

R. JUDAH B. BABA SAYS, “DECAY IN CORPSES IS NOT ALIKE FOR ALL MEN, ALL PLACES, AND ALL TIMES.”

1. V:1: The question was raised: Was it the intent of R. Judah b. Baba to impose a lenient ruling in his dissenting view, or a strict one?

XCIH. Mishnah-Tractate Yebamot 16:4

A. IF HE FELL INTO A BODY OF WATER, WHETHER WITHIN SIGHT OF SHORE OR NOT WITHIN SIGHT OF SHORE – HIS WIFE IS PROHIBITED UNTIL THE CORPSE TURNS UP.

1. I:1: Our rabbis have taught on Tannaite authority: “If a man fell into water, whether it was within sight of shore or not, his wife is forbidden to remarry,” the words of R. Meir. And sages say, “If it was within sight of shore, the wife is permitted to remarry, but if into water beyond sight of shore, his wife is forbidden to remarry” the man might have been rescued at a point not visible from where the drowning occurred.

a. I:2: What is the definition of “within sight of shore”?

b. I:3: Illustrative case.

c. I:4: It has been taught on Tannaite authority: Said Rabbi, “There was the case of two men fishing with traps in the Jordan. One of them went into an underwater cave of fish. The sun set, so the man did not see the way out. The fellow waited for him long enough for him to have died through drowning, and then reported the matter in his home. At dawn, the sun came out, and the man, having been trapped in a cave, saw the way out

of the cave and came home and found a mourning party in his house” (Yeb. 14:6A-B).

I. I:5: Gloss of the foregoing.

II. I:6: As above.

d. I:7: Illustrative story.

e. I:8: Illustrative story.

2. I:9: Our rabbis have taught on Tannaite authority: If a man fell into a den of lions, people may not assume that he has died and testify in his regard that he has died. But if he fell into a ditch filled with snakes or scorpions people may assume that he has died and give testimony concerning him that he has died. Therefore the rule for snakes and scorpions should be the same (T. Yeb. 14:4A-B). R. Judah b. Betera says, “Even if it was into a pit filled with snakes and scorpions, they do not give evidence concerning him that he has died. We take account of the possibility that he may be a wizard” (T. Yeb. 14:4F).

3. I:10: Our rabbis have taught on Tannaite authority: If he fell into a heated furnace, they give testimony concerning him that he has died. If he fell into an oil vat or a wine vat, they give testimony concerning him. In the name of R. Aha, they said, “If it is one of oil, they give testimony concerning him, because it can cause fire. If it is one of wine, they do not give testimony concerning him, since it puts out fire” (T. Yeb. 14:4H-I).

B. SAID R. MEIR, M'SH B: “A CERTAIN PERSON FELL INTO A LARGE CISTERN, AND CAME UP ALIVE AFTER THREE DAYS.”

SAID R. YOSÉ, M'SH B: “A BLIND MAN WENT DOWN TO IMMERSE IN A CAVE, AND HIS GUIDE WENT DOWN AFTER HIM, AND THEY STAYED IN THE WATER LONG ENOUGH TO DROWN. SO THE SAGES PERMITTED THEIR WIVES TO MARRY.”

WSWB M'SH B: “A CERTAIN MAN IN ASYA WAS LET DOWN BY A ROPE INTO THE SEA, AND THEY DREW BACK UP ONLY HIS LEG. SAGES SAID, ‘IF THE RECOVERED PART INCLUDED FROM THE KNEE AND ABOVE, HIS WIFE MAY REMARRY. IF THE RECOVERED PART INCLUDED ONLY FROM THE KNEE AND BELOW, SHE MAY NOT REMARRY.’”

1. II:1: It has been taught on Tannaite authority: They said to R. Meir, “Proof cannot be adduced from miracles.”

a. II:2: What miracles? If I should say that he had neither eaten nor drunk, it is written in Scripture, “And fast for me, and do not eat or drink for three days” (Est. 4:16)!

2. II:3: Our rabbis have taught on Tannaite authority: There was the case involving the daughter of Nehunia, who was responsible for the digging of cisterns, ditches, and caves. She fell into a big hole, and they came and told R. Hanina b. Dosa. During the first hour, he said to them, “She is o.k.” During the second hour, he said to him, “She is o.k.” During the third hour, he said to him, “She has gotten out of the pit.”

XCIV. Mishnah-Tractate Yebamot 16:5

A. EVEN IF ONE HEARD THE WOMEN SAYING, “SO-AND-SO HAS DIED,” IT IS SUFFICIENT FOR HIM TO GO AND TESTIFY IN COURT THAT SO-AND-SO HAS DIED. R. JUDAH SAYS, “EVEN IF HE HEARD CHILDREN SAYING, ‘LO, WE’RE ON OUR WAY TO LAMENT AND BURY MR. SO-AND-SO,’ THAT SUFFICES, WHETHER ONE INTENDED OR DID NOT INTEND TO GIVE TESTIMONY.”

1. I:1: R. Judah says, “Even if he heard children saying, ‘Lo, we’re on our way to lament and bury Mr. So-and-so,’ that suffices”: but maybe they didn’t go?

B. R. JUDAH B. BABA SAYS, “IN THE CASE OF AN ISRAELITE, THIS IS VALID ONLY IF HE INTENDED TO GIVE TESTIMONY.

AND IN THE CASE OF A GENTILE, IF HE INTENDED TO GIVE TESTIMONY, HIS TESTIMONY IS NOT VALID.”

1. II:1: Said R. Judah said Samuel, “That is taught only in a case in which the gentile intended to permit the wife to remarry, but if he intended merely to give evidence as to what had happened, without any further motive, his testimony is valid.”

a. II:2: So how do we know the difference?

l. II:3: Recapitulation of the foregoing.

b. II:4: Case.

c. II:5: Case.

l. II:6: Gloss of the foregoing.

d. II:7: Case.

e. II:8: Case.

XCV. Mishnah-Tractate Yebamot 16:6

A. THEY GIVE TESTIMONY ABOUT THE IDENTITY OF A CORPSE WHICH THEY HAVE SEEN BY THE LIGHT OF A CANDLE OR BY THE LIGHT OF THE MOON. AND THEY PERMIT A WOMAN TO REMARRY ON THE EVIDENCE OF AN ECHO WHICH IS HEARD TO SAY THAT HER HUSBAND HAS DIED. M’S H B: A CERTAIN PERSON STOOD ON TOP OF A MOUNTAIN AND SAID, “MR. SO-AND-SO, THE SON OF SO-AND-SO, OF SUCH-AND-SUCH A PLACE, HAS DIED.”

1. I:1: Said Rabbah bar Samuel, “A Tannaite statement: the House of Shammai say, ‘They do not permit a woman to remarry on the evidence of an echo which is heard to say that her husband has died.’ And the House of Hillel say, ‘They do permit a woman to remarry on the evidence of an echo which is heard to say that her husband has died.’”

B. AND THEY WENT BUT DID NOT FIND ANYONE THERE. AND THEY NONETHELESS PERMITTED HIS WIFE TO REMARRY. SWB M’S H B: IN SALMON, A CERTAIN PERSON SAID, “I AM MR. SO-AND-SO, THE SON OF MR. SO-AND-SO. A SNAKE HAS

BITTEN ME, AND LO, I AM DYING.” AND THEY WENT, AND WHILE THEY DID NOT RECOGNIZE HIM, THEY PERMITTED HIS WIFE TO REMARRY.

1. II:1: So maybe it was a demon?

XCVI. Mishnah-Tractate Yebamot 16:7A-K

A. SAID R. AQIBA, “WHEN I WENT DOWN TO NEHARDEA TO INTERCALATE THE YEAR, NEHEMIAH OF BET DELI CAME UPON ME. HE SAID TO ME, ‘I HEARD THAT ONLY R. JUDAH B. BABA PERMITS A WIFE IN THE LAND OF ISRAEL TO REMARRY ON THE EVIDENCE OF A SINGLE WITNESS TO HER HUSBAND’S DEATH.’ I STATED TO HIM, ‘THAT IS INDEED SO.’ HE SAID TO ME, ‘TELL THEM IN MY NAME – ‘YOU KNOW THAT THE COUNTRY IS ALIVE WITH RAVAGING BANDS – ‘I HAVE A TRADITION FROM RABBAN GAMALIEL THE ELDER THAT: ‘THEY PERMIT A WIFE TO REMARRY ON THE TESTIMONY OF A SINGLE WITNESS TO HER HUSBAND’S DEATH.’ AND WHEN I CAME AND LAID THE MATTERS OUT BEFORE RABBAN GAMALIEL, HE WAS OVERJOYED AT MY REPORT AND SAID, “WE NOW HAVE FOUND A PAIR FOR R. JUDAH B. BABA.’ AND IN THE SAME DISCOURSE RABBAN GAMALIEL RECALLED THAT MEN WERE SLAIN AT TEL ARZA, AND RABBAN GAMALIEL THE ELDER PERMITTED THEIR WIVES TO REMARRY ON THE EVIDENCE OF A SINGLE WITNESS.” AND THEY CONFIRMED IN THE PRACTICE OF PERMITTING THE WIFE TO REMARRY ON THE EVIDENCE OF A SINGLE WITNESS, ON THE EVIDENCE OF A SLAVE, ON THE EVIDENCE OF A WOMAN, ON THE EVIDENCE OF A SLAVE GIRL. R. ELIEZER AND R. JOSHUA SAY, “THEY DO NOT PERMIT A WOMAN TO REMARRY ON THE EVIDENCE OF A SINGLE WITNESS.” R. AQIBA SAYS, “NOT ON THE EVIDENCE OF A WOMAN VS. NOR ON THE EVIDENCE OF A SLAVE, NOR ON THE EVIDENCE OF A SLAVE GIRL NOR ON THE EVIDENCE OF RELATIVES.”

1. I:1: Does R. Aqiba then take the view that on the testimony of a woman, a wife is not permitted to marry again? Has it not been taught on Tannaite authority: R. Simeon b. Eleazar says in the name of R. Aqiba, “A woman is believed to present her own writ of divorce, on the strength of an argument a fortiori: If women, whom rabbis have said are not believed to give testimony that their husbands have died, are believed to present their own writs of divorce, this one, who is believed to testify that her husband has died, surely should be believed to bring her own writ of divorce”? So the woman of whom rabbis spoke is not believed, but any other woman is believed.

XCVII. Mishnah-Tractate Yebamot 16:7L-R

A. THEY SAID TO HIM, M’S H B: “THE LEVITES WENT TO SOAR, THE DATE TOWN, AND ONE OF THEM GOT SICK ON THE ROAD, AND THEY LEFT HIM IN AN INN. AND UPON THEIR RETURN, THEY SAID TO THE INN HOSTESS, ‘WHERE IS OUR BUDDY?’” SHE SAID TO THEM, ‘HE DIED, AND I BURIED HIM.’ AND THEY PERMITTED HIS WIFE TO REMARRY ON THE STRENGTH OF HER EVIDENCE.”

THEY SAID TO HIM, “AND SHOULD NOT A PRIEST GIRL BE EQUIVALENT TO AN INN HOSTESS?”

HE SAID TO THEM, “WHEN SHE THE PRIEST GIRL WILL BE AN INN HOSTESS, SHE WILL BE BELIEVED. THE INN HOSTESS HAD PRODUCED FOR THEM HIS STAFF, HIS POUCH, AND THE TORAH SCROLL WHICH HE HAD HAD IN HAND.”

1. I:1: And should not a priest girl be equivalent to an inn hostess: So what's wrong with the innkeeper that makes her inferior to the priest girl? Said R. Kahana, “The incident took place with a gentile innkeeper, who was speaking in all innocence: ‘This is the staff, this is the bag, and this is the grave where I buried him.’

2. I:2: Our rabbis have taught on Tannaite authority: There was a case of someone who came to give testimony in behalf of a woman before R. Tarfon. He said to him, “My son, how do you know testimony pertinent to this woman's situation?” He said, “He and I were walking along together, and a gang of thugs ran after us, so he took the branch of an olive, pulled it off, and with it forced the thugs back. I said to him, ‘Lion, thanks!’ ‘How did you know that my name is Lion? That's just what they call me in my home town: Yohanan b. R. Jonathan, lion of Kefar Shiyayya.’ After a while he got sick and died.” n the strength of this testimony, R. Tarfon permitted the wife to remarry.

a. I:3: But doesn't R. Tarfon maintain that inquiry and examination in such cases are required?

B. CONCLUDING HOMILY

1. I:4: Said R. Eleazar said R. Hanina, “Disciples of sages make peace abundant in the world, as it is said, ‘And all your children shall be taught by the Lord, and great will be the peace of your children.’ “Do not read the letters that spell ‘your children’ as though that is their meaning, but rather, read them to say, ‘those who build you.’”

Points of Structure

1. DOES BABYLONIAN TALMUD-TRACTATE YEBAMOT FOLLOW A COHERENT OUTLINE GOVERNED BY A CONSISTENT RULES?

The tractate is organized as a commentary to the Mishnah-tractate of the same name. While some compositions are formed around interests other than those dictated by the work of Mishnah-exegesis, few large-scale composites are put together for a purpose other than that of Mishnah-exegesis, or the amplification of said exegesis.

2. WHAT ARE THE SALIENT TRAITS OF ITS STRUCTURE?

The tractate's framers rarely wander far from the program of the Mishnah. Once they have worked out the explanation of its words and phrases, the identification of the authorities behind anonymous statements, and the provision of scriptural foundations for some of the Mishnah's rules, they turn to the second-layer study of the law. This may involve an inquiry into the premises of the detailed rules, or it may concern how a given principle of law in general is illuminated by the particular rule at hand. But when engaged in Mishnah-exegesis, the framers of the overall structure of the Talmud-tractate have not brought a large-scale and systematic set of such abstract principles; these occur episodically and rarely systematically for more than two or three Mishnah-rules at a time.

3. WHAT IS THE RATIONALITY OF THE STRUCTURE?

In light of what has been said, little needs to be added concerning the principles of order and reason that govern the layout of the tractate and the selection of the compositions and even composites that comprise its contents. However fragmentary a piece of writing may appear to be, it finds its natural place within a given composition; and however truncated a composition may seem, it discovers its natural locus within a composite; and nearly all composites relate to one another through the sentences or paragraphs of the Mishnah; that alone is what holds them together.

4. WHERE ARE THE POINTS OF IRRATIONALITY IN THE STRUCTURE?

What is irrational then is what does not relate to the work of Mishnah-exegesis, either directly or indirectly.

Points of System

1. DOES THE BABYLONIAN TALMUD-TRACTATE YEBAMOT SERVE ONLY AS A REPRESENTATION OF THE MISHNAH-TRACTATE OF THE SAME NAME?

As we have found in the tractates that have already been examined, so in the case of Yebamot, passages of the Mishnah receive no comment. These follow no pattern, and no theory of how framers of the Talmud selected for exegesis a given passage but determined that another should be neglected comes to mind. In addition, some few composites ignore the Mishnah altogether. These we now address.

2. HOW DO THE TOPICAL COMPOSITES FIT INTO THE TALMUD-TRACTATE AND WHAT DO THEY CONTRIBUTE THAT THE MISHNAH-TRACTATE OF THE SAME NAME WOULD LACK WITHOUT THEM?

I present the account in three sections. On the left hand margin are important propositional composites that do not address the Mishnah's propositions but do affect them. At the right are the composites that complement the Mishnah's statements with topically relevant amplifications or that carry forward the Mishnah's principle to new data. Finally, I underline and also position in the center column large composites that strike me as entirely out of phase with the Mishnah, lacking all point of contact, whether topical or in principle or even theme, broadly construed. Identifying these items and distinguishing them from those on the right hand margin involve a measure of subjectivity, and for that reason, I have tried to impose the most rigorous and narrowest possible definition of what is both free-standing and also affective of the rest. In the center I give those utterly anomalous composites that ignore the principle of propositional or at least topical cogency altogether.

XXXII.B: Composite on the
Marriage-Rules Governing A Slave

XXXII.C: Composite on
Conversion in General

XLI:C, E: Topical Appendix
on Wives and Marriage

XLI:D: Composite of Further
Teachings Attributed to Eleazar

LV:B:Topical Appendix on
the Disposition of the Tithes

LXIII:C.Riddles of Consanguinity

LXVII:B: Independent Proposition,
Analysis of Which Utilizes
the Mishnah-Materials at Hand

The two items of XXXII extend the coverage of the Mishnah's rule, the former by taking account of the fact that slaves are part of the marriage-system, and latter by introducing the further fact that slaves are converted to Judaism as part of the process of acquisition. The Mishnah has not attended to these classes of persons, and the Talmud has insisted that

they too come under consideration. The number, all the more so, the proportion, of free-standing composites prove negligible. Apart from a handful of topical appendices, and two odd composites of a quite familiar type — rare in any tractate — the entirety of Bavli Yebamot takes shape around the Mishnah or around secondary expansion of Mishnah-commentary and amplification.

3. CAN WE STATE WHAT THE COMPILERS OF THIS DOCUMENT PROPOSE TO ACCOMPLISH IN PRODUCING THIS COMPLETE, ORGANIZED PIECE OF WRITING?

This large and in many ways profound and rich Talmud-tractate, full of important intellectual initiatives, serves in only a single way, and that is, as a commentary to the Mishnah-tractate of the same name. It has no other purpose, and that one purpose governs throughout. A search for an account of the other-than-Mishnaic components of the Rabbinic structure and system could well bypass this tractate, since, in its form and its program, it bears the character of a recapitulation of the Mishnah's ideas, within the Mishnah's framework. And yet — the fact that the entire Talmud imposes upon the Mishnah its rhetoric, its logic, and its program, one that hardly accepts the programmatic limitations of the Mishnah's program contradicts this now-established fact and raises a profound issue of its own. The law of the Mishnah has been given more than a reprise; the framers have not merely clarified but have reshaped and deepened the received law of treated in the three components of the Mishnah-tractate. So, while everything appears to be the same, in fact, much has changed, as we move from the Mishnah into the writing that purports to do little more than, assigning the Mishnah a privileged standing, recapitulates the Mishnah's own statements in a clearer way than in the original.

If, as one major tractate after another informs us, the Talmud is a commentary to the Mishnah and little more than that, then how do we account for the character of not the parts but the whole: the fact that, in the aftermath of the Talmud, the Mishnah would never be the same and would utterly loses its distinctive and independent voice within the natural sounds of the Talmud's own melody.