

# VIII.

---

## BAVLI YEBAMOT CHAPTER EIGHT

### FOLIOS 70A-84A

#### 8:1-2E

##### 8:1

- A. The uncircumcised [priest] and all unclean [priests] do not eat food in the status of priestly rations [Lev. 22:4-6].
- B. Their wives and slaves do eat food in the status of priestly rations.
- C. One with crushed testicles or whose penis is cut off (Deu. 23: 2)
- D. they and their slaves do eat food in the status of priestly rations.
- E. Their wives do not eat food in the status of priestly rations.
- F. 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.

#### 8:2A-E

- A. Who is he who has crushed testicles?
- B. Any one whose testicles are crushed, and even one of them.
- C. And one whose penis is cut off?
- D. Any whose sexual organ is cut off.
- E. But if so much as a hair thread of the crown remained, he is valid [to eat food in the status of priestly rations].

- I.1** A. [The uncircumcised priest]: *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.”

B. 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].”

**I.2.** A. A master has said: “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.”

B. *But is the clause “sojourner and hired hand” available for exegetical purposes? For if it is not free for that purpose, one can raise the following challenge: the distinctive trait of the Passover offering, accounting for the rule at hand, is that people are liable on its account for the considerations of not rendering the offering an abomination by reason of the priest’s improper attitude expressed during the act of slaughter to eat the meat at the wrong time or place, of not eating the left-over meat, and of not eating the meat in a condition of uncleanness [but food in the status of priestly rations is not subject to these considerations and therefore should not be subject to the restriction that an uncircumcised man may not eat it]!*

C. *It is free for the purpose for which it is used.*

D. *Which of the two words, sojourner or hired hand, is available? If it is that in respect to food in the status of priestly rations, it is in fact required to make its own point, as has been taught on Tannaite authority: “One word refers to a Hebrew slave acquired permanently, the other to one purchased for six years [at Lev. 22:10: “a slave purchased in perpetuity belonging to a priest or a slave purchased for six years shall not eat of the Holy Thing”]. If Scripture had referred to the former and not the latter, I would reason, if a slave acquired permanently may not eat Holy Things, how much more so is one acquired only for six years forbidden to do so! And if that were so, I would say, the former word refers to a slave purchased for a limited period, but one acquired in perpetuity may eat. So the word that refers to the slave purchased for a period of six years comes along and illuminates the meaning of the word for the one purchased in perpetuity, by contrast to the one purchased for a period of six years — and neither one may eat.”*

E. *So it must be the reference to “sojourner and hired hand” with regard to the Passover lamb that is free for the present purpose. For in the context of the Passover lamb, what could the meaning of the reference to “sojourner and hired hand” that the All-Merciful has stated? If we should say that this means literally the sojourner and hired hand, merely because someone is a sojourner or a hired hand, does that make him exempt from the requirement of the Passover offering? Lo, we have it as an established fact with reference to food in the status of priestly rations that a person in that classification is not permitted to eat food in the*

*status of priestly rations even though the master is a priest. [70B] So that proves that the master does not acquire title to his person [but only to his labor]. And, it follows, the language at hand must be set forth for the purpose of the deduction we have drawn from it.*

- F. *But is the cited language not available for one aspect only [that is, in the context of the Passover lamb], while we have heard that R. Eleazar has said, "If a clause is available in one aspect alone, then, while an analogy may be drawn, still, it is permitted to raise objections to such a proof" [and objections have already been raised].*
- G. *Since the cited language is not required for their own sense, assign one of them to the task of establishing the law [food in the status of priestly rations] in regard to which inference is to be drawn [an uncircumcised man may not eat it], and assign the other to the law from which the inference is to be drawn [namely, the rule governing the Passover offering], so that the analogy based on the verbal intersection is available in both of the necessary aspects.*
- H. *What about the proposition: just as the person who has suffered a bereavement but not yet buried his dead is forbidden to eat the Passover offering, so such a person is forbidden to eat food in the status of priestly rations?*
- I. *Said R. Yosé bar Hanina, "Said Scripture, '...no non-priest...:' I spoke to you concerning non-priests, but not concerning a priest who is in the status of one who has suffered a bereavement but not yet buried his dead."*
- J. *How about: "...I spoke to you concerning non-priests, but not concerning a man who is uncircumcised"?*
- K. *Lo, "sojourner and hired hand" is written!*
- L. *How come 'you exclude the one with burial duties but include the uncircumcised one'?*
- M. *It stands to reason that the condition of uncircumcision should be encompassed by the law, for lo, such a one is characterized by not having done a required deed, not having done a deed affecting one's own body, by exposure to the penalty of extirpation, in connection with a law that was in force before the Act of Speech [at Sinai], and by the fact that if one's male children and slaves are not circumcised, he cannot eat the Passover lamb.*
- N. *On the contrary, the condition of having suffered a bereavement but not yet having buried one's dead should be encompassed by the law, for lo, he is liable to do so moment by moment, liability pertains to males as well as females, and no one has the power to free oneself of the cause [since the cause of the situation is not something someone can control]!*
- O. *The former considerations are more numerous.*
  - P. *Raba said, "Even if those were not more numerous considerations, you still could not have maintained that we should exclude the condition of uncircumcision, which is stated explicitly with regard to the Passover lamb, while deducing from it the rule governing the rule governing him who has suffered a bereavement and not yet buried his dead, since the exclusion from the rite of the Passover*

*lamb for a person of that classification itself derived from the rule governing tithe!"*

- Q. *How about the following [based on the verbal analogy now established]: just as the uncircumcision of one's sons and slaves prevent one from eating the Passover lamb, so should the uncircumcision of one's sons or slaves prevent one from eating food in the status of priestly rations?*
- R. Said Scripture, "When you have circumcised him, then he shall eat of it" (Exo. 12:44) — the uncircumcision of his sons and slaves prevent him from eating the Passover lamb, but the uncircumcision of one's sons and slaves do not prevent him from eating food in the status of priestly rations.
- S. *If so, how about this:* "But no uncircumcised person shall eat thereof" (Exo. 12:48) — he may not eat "thereof" alone, but he may eat food in the status of priestly rations?
- T. Lo, it is written, "A sojourner and a hired hand"!
- U. *So how come [you take that route, and not the contrary-indicated one]?*
- V. *It stands to reason that one's own condition of uncircumcision should be encompassed by the law, for lo, such is a deed affecting one's own body and it is subject to the penalty of extirpation.*
- W. *On the contrary, the circumcision of one's sons and slaves should have been excluded, for lo, he is liable to do so moment by moment.*
- X. *The former considerations are more numerous. But if you prefer, I shall say, even if they were not more numerous, your proposal would not make sense, for is there anything that is not prevented by one's own condition of uncircumcision but is prevented by the uncircumcision of a third party?*

- I.3.** A. *Now that you have said that "of it" serves for an exposition, what is the use of the clause, "of it" in the phrase "No outsider shall eat of it" (Exo. 12:43)?*
- B. With respect to "it" **[71A]** apostasy disqualifies, but apostasy does not disqualify someone from eating tithe.
- C. *And what is the use of the clause, "of it" in the phrase, "But no uncircumcised person shall eat of it" (Exo. 12:48)?*
- D. "Of it" he may not eat, but he may eat unleavened bread and bitter herbs.
- E. *And it was necessary to make explicit reference to both classifications of persons. For if the All-Merciful had made reference only to the uncircumcised of flesh, I might have supposed that that is because that trait is repulsive, but uncircumcision of the heart, which is not physically repulsive, would not disqualify a person.*
- F. *And if the All-Merciful had made reference only to the uncircumcised of heart, I might have supposed that that is because the heart is not directed toward Heaven [so an improper intentionality spoils the cultic act], but as for one who is uncircumcised in the flesh, whose heart is toward Heaven [since there is a valid reason for his not being circumcised, e.g., fear for his survival], I might have supposed that such a one is not disqualified.*
- G. *So it was necessary to make reference to both classifications of persons.*

**I.4.** A. Why was it necessary for Scripture to use the language “of it” two times [Exo. 12: 9, 10]?

B. *It is in accord with what Rabbah said R. Isaac said.*

**I.5.** A. The master has said: “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].”

B. *But might I not say that it serves to encompass under the law the person who has suffered a bereavement but not yet buried his dead?*

C. Said R. Yosé bar Hanina, “Said Scripture, ‘...no non-priest...’ I spoke to you concerning non-priests, but not concerning a priest who is in the status of one who has suffered a bereavement but not yet buried his dead.”

D. *How about: “...I spoke to you concerning non-priests, but not concerning a man who is uncircumcised”?*

E. *Lo, “whatsoever man” (Lev. 22: 4) is written [including the uncircumcised man under the prohibition Slotki]!*

F. *How come ‘you exclude the one with burial duties but include the uncircumcised one]?*

G. *It stands to reason that the condition of uncircumcision should be encompassed by the law, for lo, such a one is characterized by not having done a required deed, not having done a deed affecting one’s own body, by exposure to the penalty of extirpation, in connection with a law that was in force before the Act of Speech [at Sinai], and by the fact that if one’s male children and slaves are not circumcised, he cannot eat the Passover lamb.*

H. *On the contrary, the condition of having suffered a bereavement but not yet having buried one’s dead should be encompassed by the law, for lo, he is liable to do so moment by moment, liability pertains to males as well as females, and no one has the power to free oneself of the cause [since the cause of the situation is not something someone can control]!*

I. *The former considerations are more numerous.*

J. *Raba said, “Even if those were not more numerous considerations, you still could not have maintained your position. For Scripture has said, “whatsoever man” (Lev. 22:4. Now what consideration is that that applies to a man but not a woman? It can only be uncircumcision.”*

**I.6.** A. *And as to R. Aqiba, how does he interpret the language, “a sojourner and a hired hand” (Lev. 22:10)?*

B. Said R. Shemayya, “These encompass [under the rule not to eat of the Passover lamb] a circumcised Arab and a circumcised Gibeonite.”

C. *But are these classes of persons ever regarded as circumcise anyhow? Lo, we have learned in the Mishnah: [If he said,] “Qonam if I derive benefit from the uncircumcised,” — he is permitted [to derive benefit] from uncircumcised Israelites but prohibited [from deriving benefit] from circumcised gentiles. “Qonam if I derive benefit from the circumcised” — he is prohibited [to derive benefit from circumcised gentiles. For the word “uncircumcised” is*

used only as a name for gentiles, as it is written, “For all the nations are uncircumcised, and the whole house of Israel is uncircumcised at heart” (Jer. 9:26). And it says, “This uncircumcised Philistine (1Sa. 17:36). And it says, “Lest the daughters of the Philistines rejoice, lest the daughters of the uncircumcised triumph” (1Sa. 1:20) [M. Ned. 3:11G-K].

- D. *Rather, the clause speaks of a convert who has been circumcised but not yet immersed [and he may not eat of the Passover offering prior to immersion] and an infant that was born circumcised, in the assumption that it is necessary to draw from him a drop of blood for the covenant.*
- E. *And R. Eliezer [who does not exclude these classes of persons from eating the Passover lamb] is consisted with his positions held elsewhere, for he has said, “A proselyte who has been circumcised but not immersed is a perfectly valid proselyte,” and he further maintains that an infant born circumcised does not have to have a drop of blood drawn as a mark of the covenant.*
- F. *And how does R. Eliezer interpret the language, “What man soever”?*
- G. *The Torah speaks in accord with ordinary usage.*
- I.7.** A. *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?”*
- B. *Said R. Zira, “Come and hear: I know only the consideration, in respect to eating of the Passover offering, governing the circumcision of the male children at the time of the preparation of the Passover offering and slaves at the time of eating it. How do I know that the same restriction applies in regard to the one category as applies to the other, reciprocally? Scripture states, ‘then’ ‘then’ [at Exo. 12:44 and Exo. 12:48] serving to establish a verbal analogy between the one and the other. Now there is no problem in finding a case in which one will have his servants at the time of eating the meat but not at the time of preparing it, in particular, for instance, if he had bought them in the interval. But how can I imagine a case in which he has his sons at the time of eating the meat but not at the time of preparing it? It could surely be only in a case in which they were born between the time of preparing the offering and that of eating it. And that would then prove that uncircumcision prior to the point at which one is to be circumcised still puts one into the category of uncircumcision.”*
- C. *Said Rabbah, “But do you really suppose so? The All-Merciful has said, ‘Let all his males be circumcised and let him come near and keep it’ (Exo. 12:48) — but this one [the infant] is not yet subject to being circumcised at all! [So the verse at hand cannot have referred to the case under discussion.]”*
- D. *Rather, here with what sort of a case do we deal? It is one in which the son has recovered from a fever [when the lamb was being prepared, so could not be circumcised then, but now he is subject to being circumcised, at the time the lamb is being eaten].*
- E. *Well, then, give him seven days to recover, for said Samuel, “Once a fever has left the child, he is given seven full days of recovery.”*



- F. We deal with a case in which we have already given him seven full days of recovery.
- G. *Well, then, he should have circumcised him in the morning* [prior to the time of preparing the passover lamb, and since this was not done, the child was uncircumcised not only during the time of eating but also during the time of preparation, so what need was there for a verse to include the prohibition of eating the Passover lamb while such a child remained uncircumcised when the preparation that must precede the eating is already forbidden (Slotki)]!
- H. *We require [71B] a full period of seven days [inclusive of twenty-four hour days, so he could not have been circumcised in the morning]!*
- I. *But did not Luda'ah present as a Tannaite statement: "The day on which a child recovers is like the day on which he was born"? Does this not mean, just as on the day of his birth, we do not require a full period of twenty-four hours [to count that part of the day as a whole day], so as to the day of his recovery, we do not require a full period of twenty-four hours?*
- J. *No, the day of his recovery is more important than the day of his birth, for, in regard to the day of his birth no full twenty-four hour period is required [since circumcision may be performed at any hour of the eighth day of a child's birth, without regard to the hour at which he was born], but in regard to the day of his recovery, a full period of twenty-four hours is necessary.*
- K. *[As to the problem of how a child can be unfit for circumcision at the time the lamb is prepared but fit at the time of eating,] said R. Papa, "For instance, if he had an eye-ache and got better in the interval." [At the time of preparation the child was not fit for circumcision, at the time of eating, he was fit.]"*
- L. Raba said, "For instance, if his father and mother were in prison."
- M. R. Kahana b. R. Nehemiah said, "For example, he was born with concealed sexual traits but in the interval was operated on and found to be a male."
- N. R. Sherabayya said, "For example, if he put out his head from the forechamber of the uterus" [seven days before Passover evening, but was born on Passover evening between the time of preparing the lamb and the time of eating it; he is deemed to have been born when he put out his head, so is obligated to circumcision as soon as he emerged (Slotki)].
- O. *But would such an infant survive? And has it not been taught on Tannaite authority: "To what may the foetus be likened in the mother's womb? To a writing tablet that is folded up. Its hands are resting on its two temples, its two elbows on its two legs, its two heels against its buttocks. Its head lies between its knees. Its mouth is shut. Its navel is open. It eats what the mother eats and drinks what the mother drinks but does not excrete, for if it did, it would kill the mother. When it comes forth to the world's breathing space, what is closed is opened, and what is open is closed, for otherwise it could not live for even a single hour"?*
- P. *Here with what sort of a case do we deal? It is one in which the heat of the fever nourished him.*
- Q. *Whose fever? If I should say, his own fever, then he should be allowed a full seven days!*

R. *The mother's fever sustained him. And if you prefer, I shall say that the statement that the child will not survive pertains only to a case in which the child does not cry. But if it cries, it will undoubtedly survive.*

**I.8.** A. 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.*"

B. *But maybe they didn't prepare the Passover offering?*

C. *Don't let the thought enter your mind, for it has been written, "And they kept the Passover" (Jos. 5:10).*

D. *Objected Mar Zutra, "But maybe it was a passover offering presented in a state of uncleanness?"*

E. *Said to him R. Ashi, "It has been stated explicitly in a Tannaite formulation: 'They circumcised themselves, immersed, and prepared their passover offering in a state of cultic cleanness.'"*

**I.9.** A. 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 (Slotki)]."

B. *But maybe that instruction pertained only to those who had not been circumcised, for it is written, "And all the people who came out were circumcised, but the people who were born in the wilderness were not" (Jos. 5: 5)?*

C. *If so, why say "again"? It must refer to uncovering the corona.*

D. *If so, why "a second time" [if this was the first time]?*

E. *To treat as comparable the end of the circumcision to the start of it: just as starting the circumcision is required if one is to eat of the Passover lamb, so the end of the circumcision is required if one is to eat the Passover lamb, as we have learned in the Mishnah: **These are the shreds [of the foreskin, if they remain] which render the circumcision invalid: flesh which covers the greater part of the corona — and such a one does not eat priestly rations [M. Shab. 19:6A-C].** Said Rabina, and some say, R. Jeremiah bar Abba, said Rab, "Flesh that covers the greater part of the height of the corona."*

**I.10.** A. *How come they were not circumcised in the wilderness?*

B. *If you want, I shall say, because of the exhaustion of their wanderings, [72A], and if you prefer, I shall say, because the north wind did not blow on them, for it has been taught on Tannaite authority: During all those forty years that the Israelites were in the wilderness, the north wind did not blow on them.*



- C. *How come? If you want, I shall say because they were regarded with displeasure, and if you want, I shall say, so as not to scatter the clouds of glory.*
- D. *Said R. Pappa, "Therefore on a cloudy day or a day on which the south wind blows, we do not perform a circumcision or have a bleeding. But at this time, when many people ignore these precautions, 'the Lord preserves the simple' (Psa. 116: 6)."*

**I.11.** A. *Our rabbis have taught on Tannaite authority:*

- B. All those forty years that the Israelites were in the wilderness, there was not a day on which the north wind did not blow at midnight: "And it came to pass at midnight, the Lord smote all the firstborn" (Exo. 12:29).
- C. *What conclusion is to be drawn?*
- D. *In this way we are informed that the consideration of "a time of favor" is principal.*

**I.12.** A. 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."

- B. ***An objection was raised: A circumcision in which the prepuce is drawn forward to cover up the corona must be done over [T. Shab. 15:9].***
- C. *That is only on the authority of rabbis.*
- D. *And as to him who raised the objection, how come he thought he had a valid objection to raise?*
- E. *He misunderstood the final clause:*
- F. **R. Judah says, "He should not be recircumcised, because of the danger involved in doing so."**
- G. **They said to him, "But were not many people circumcised in the time of Ben Koziba, and they produced sons and daughters, since it says, 'circumcising, he shall be circumcised' (Gen. 17:13) — even a hundred times, and it says, 'My covenant has he destroyed' (Gen. 17:15) — to encompass the one who has his prepuce drawn forward."**
- H. *What's the point of, and it says?*
- I. *If you should say that the language, "circumcising, he shall be circumcised" (Gen. 17:13) refers only to the shreds that invalidate a rite of circumcision, come and take note: "My covenant has he destroyed" (Gen. 17:15) — to encompass the one who has his prepuce drawn forward.*
- J. *Now the person who raised the objection supposed that, since the Talmud has invoked a verse of Scripture, the rule is based on the authority of the Torah, but that is not the case. It is based on the authority of rabbis, and the verse of Scripture serves as a mere pretext.*
- K. ***An objection was raised: A person whose sexual organs are not clearly defined may not eat food in the status of priestly rations, but his wives and children do. A person who has his prepuce drawn forward, and one born circumcised, lo, these may eat that food. A person bearing the gender-traits***

of both sexes may eat food in the status of priestly rations, but may not eat Holy Things. A person with unclear gender-traits does not eat food in the status of priestly rations or Holy Things [T. **Yeb. 10:2J-M**]. *Now in any event the Tannaite formulation states: A person who has his prepuce drawn forward and one born circumcised, lo, these may eat that food! Is this not a refutation of the allegation of R. Huna?*

L. *This indeed is a refutation of the allegation of R. Huna.*

**I.13.** A. A master has said, “A person whose sexual organs are not clearly defined may not eat food in the status of priestly rations, but his wives and children do:”

B. *So how in the world would a person lacking clearly defined sexual traits get a wife for himself anyhow? If it should be proposed that it was through betrothal, for it has been taught on Tannaite authority: A person lacking clearly defined sexual traits who effect an act of betrothal — his act of betrothal is valid. If he was betrothed, his act of being betrothed is valid [T. **Yeb. 11:1A-B**], I might say that this ruling applies to yield a more strict result but not a more lenient result [that is, to allow such a person to eat food in the status of priestly rations by reason of the betrothal]! He may well be a woman, and a woman may not betroth a woman!*

C. Said Abbaye, “It involves a case in which his testicles can be discerned externally.”

D. *Raba said, “What is the meaning of ‘his women’? His mother.”*

E. *If it’s merely his mother, that’s obvious!*

F. *What might you otherwise have supposed? Only one who can procreate bestows the right to eat food in the status of priestly rations, but one who cannot procreate does not bestow that privilege. So we are informed that even a person such as this may do so.*

G. *Come and take note: A person with unclear gender-traits does not eat food in the status of priestly rations or Holy Things. Now, from the perspective of Abbaye, that poses no problem, since the first clause speaks of a person who is certainly not circumcised, and the present one speaks of one whose status as to circumcision is subject to doubt. But from Raba’s perspective, why speak of the person with unclear gender-traits in the concluding clause?*

H. *What is the meaning of the person with unclear gender-traits? It is, an uncircumcised person [since the word bears the meaning of “closed up,” as in the foreskin].*

I. *Well, if someone whose status as to circumcision is in doubt may not eat food in the status of priestly rations, is it possible that someone who beyond doubt is uncircumcised is permitted to eat priestly rations?*

J. *The formulation is aimed at spelling out the reason for the ruling, namely: what is the reason that a person of unclear gender traits does not eat food in the status of priestly rations? It is because he is a person who may or may not be uncircumcised, and an uncircumcised person does not eat food in the status of priestly rations or Holy Things.*

- K. *May we say that we deal with what is subject to Tannaite conflict? A person who has his prepuce drawn forward, one who was born circumcised, one who converted after having been circumcised, an infant whose time has passed for circumcision, and all others who are to be circumcised, encompassing someone who has two foreskins, are circumcised only by day. R. Eleazar b. R. Simeon says, "If they are circumcised at the right time, [72B] they are to be circumcised only by day; if their time has passed, they circumcise them whether by day or by night" [T. Shab. 15:9F-G]. Is this then not what is at issue between them? [The anonymous Tannaite authority] takes the view that circumcising one who has his prepuce drawn forward rests on the requirement of the Torah, and [Eleazar b. R. Simeon] maintains that doing so rests only on the opinion of scribes [and so permits it to be done at night too]. [Slotki: would Huna's ruling agree with the view of one Tannaite authority only?]*
- L. *Is this really how you understand matters? Now is there any authority who takes the view that the obligation to circumcise a child whose proper time for circumcision has passed rests only on the authority of rabbis? [That is manifestly absurd.] Both this party and that party concur that the circumcision of a person who has his prepuce brought forward derives from the authority of a rabbi, and the duty to circumcise a boy the proper time of whose circumcision has passed rests on the authority of the Torah. But here, then, what is at issue? One authority takes the view that the "and" in the clause, "and in the day" is to be expounded Lev. 12:3: "and in the eighth day the flesh of his foreskin shall be circumcised" [and the "and" means that even one that takes place after the proper time must be done in the day time only, with the man with the prepuce pulled forward treated as comparable to the baby], and the other authority takes the view that the "and" in the clause, "and in the day" is not to be expounded.*
- M. *That is in line with the following: R. Yohanan was in session and expounding, "Sacrificial meat that was left over" at the proper time [on the third day, Lev. 7:17] may be burned in the daytime only, but if that is not done at the proper time, it may be burned either by day or by night."*
- N. *Objected R. Eleazar to R. Yohanan, "I have in hand only that a child the circumcision of whom takes place on the eighth day must be circumcised by day; how do I know that a child whose circumcision takes place on the ninth, tenth, eleventh, or twelfth days is also included? 'And in the day' is stated, and even one who ordinarily does not expound the 'and' does base an exposition on the combination of the 'and' and the 'the [of 'and the left-over,' Lev. 7:17, both of them being superfluous]."* [Slotki: this proves that even when burning takes place after the proper time it must be done in the daytime. How then could Yohanan state in the case of meat left over after its proper time, that it may be burned by day or by night?]

- O. *He shut up.*
- P. After he went out, said R. Yohanan to R. Simeon b. Laqish, "I saw the son of Pedat [that is, Eleazar] sitting and expounding the Torah as though he were Moses in the name of the Almighty."
- Q. *Said to him R. Simeon b. Laqish, "In fact, it really is a Tannaite formulation anyhow."*
- R. *"Where is it set forth as a Tannaite formulation?"*
- S. *"In the Torah of the Priests [Sifra]."*
- T. *He went out, repeated it as Tannaite teaching for three days, and draw conclusions and proposed deductions from it for three months."*

- I.14.** A. 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]."
- B. But the operative trait of the one who has immersed on the self-same day and awaits sunset for the completion of his rite of purification is that he may eat tithe.
  - C. *Yeah, so who's talking about eating anyhow? We're talking about touching!* if one who has immersed on the self-same day and awaits sunset for the completion of his rite of purification may not touch food in the status of priestly rations but may get involved with burning the red cow to make purification water, how much the more so may a person who is uncircumcised be permitted to touch food in the status of priestly rations!
  - D. *So too it has been taught on Tannaite authority:* An uncircumcised person who sprinkled purification-water — his act of sprinkling is valid. And there was a concrete case and sages declared his act of sprinkling to be valid.
  - E. *An objection was raised:* **A person whose sexual status is not clear who mixed the purification waters and ashes — his act of doing so is unfit, because he is in the status of one who might need to be circumcised, and the uncircumcised person is unfit for mixing. An androgyne who mixed — his act of mixing is valid. R. Judah declares it invalid, because it is a matter of doubt whether he might be woman, and a woman is unfit for mixing purification ashes and water [T. Par. 5:7D-F]. So in any event the Tannaite formulation states, the uncircumcised person and one who may or may not be uncircumcised is unfit for mixing.**
  - F. *Said R. Joseph, "This Tannaite formulation derives from the Tannaite authority of the household of R. Aqiba, who treats the uncircumcised person as equivalent to an unclean person, as has been taught on Tannaite authority:* R. Aqiba said, "What man soever" (Lev. 22: 4) encompasses also an uncircumcised man."
  - G. *Said Raba, "I was in session before R. Joseph and I presented this problem: the Tannaite authority should not have failed to state, 'the uncircumcised and the unclean,' and one would certainly have proposed forthwith that the authority is R. Aqiba!"* [Slotki: since the uncircumcised is always omitted, it follows that, with the exception of the case of the red cow, he does not have the same status as the

unclean; so how can it be said that according to Aqiba, the uncircumcised may not touch food in the status of priestly rations?]

- H. *But doesn't he [list the two side by side]? Lo, it is taught as a Tannaite statement: The uncircumcised and the unclean are exempt from making an appearance at festivals!*
- I. *There the operative consideration is special, namely, he is disgusting [an uncircumcised man would be a revolting spectacle in the Temple, so this is a particular case, and has no proof to offer as to whether he is in other matters classified as no different from the unclean person].*
- J. *[Judah and rabbis on the matter of the androgynous woman] are consistent with positions taken elsewhere, for it has been taught on Tannaite authority: All [classifications of persons] are suitable to mix [the ashes and the water], except for a deaf-mute, an imbecile, and a minor. R. Judah declares a minor valid, but invalidates a woman and a person who exhibits the sexual characteristics of both sexes [M. Par. 5:4].*
- K. *What is the operative consideration behind the position of rabbis?*
- L. *It is written, "And for the unclean they shall take the ashes of the burning of the purification from sin" (Num. 19:17) — those who are invalid to collect the ashes of the red cow are invalid to mix the water and ashes, and those who are valid for collecting the ashes [including women] are also valid for doing the mixing.*
- M. *And R. Judah will say to you, "If so, Scripture should have said, 'and he shall take.' [The singular would have been used as was used in connection with collecting the ashes, Num. 19: 9]. Why say, 'and they shall take'? To show that there are those who are ineligible in connection with the one procedure [minors] who are valid in the other"*
- N. *Then why shouldn't a woman be eligible too?*
- O. *"shall he put" (Num. 19:17), but not "shall she put."*
- P. *And rabbis?*
- Q. *If Scripture had written, "he shall take" and "shall he put," I might have supposed that only one person may take and only one person may put, so the All-Merciful used the plural, "and they shall take." And had the All-Merciful written, "and they shall take" and also "they shall put," I might have supposed that two must take and two must put, so the All-Merciful wrote, "and they shall take" and "shall he put," showing that even if two take and one puts, it's fine.*
- R. **[73A]** *"And the clean person shall sprinkle upon the unclean" (Num. 19:19) — since "clean" is mentioned, it must follow that he is unclean in some way, so it is taught that a person who has immersed on the selfsame day and awaits sunset for the completion of the purification rite is valid to participate in the rite of preparing the purification-water.*

**I.15.** A. 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?"*

- B. *He said to them, "You have learned in the Mishnah: **Priestly rations and firstfruits — (1) [non-priests] are liable on their account [to suffer the] death [penalty, if they eat them intentionally], or [for restoring the principal and an] added fifth [if they eat them unintentionally. (2) And [they] are forbidden [as food] to commoners [non-priests]. (3) And they are the property of the priests . (4) And they are neutralized [they become deconsecrated when mixed with unconsecrated produce] in [a ratio of] one [part of priestly rations or firstfruits] to one hundred [parts of unconsecrated produce]. (5) And [before they may be eaten], they require washing of the hands, and [in the case of one who has contracted uncleanness and immersed on that same day], the setting of the sun. Lo, these [are restrictions which apply] to priestly rations and to firstfruits but [which do] not [apply] to tithes [M. Bik. 2:1]. But if it were so [that the uncircumcised man is permitted to eat second tithe], it should have been stated here: The uncircumcised man is forbidden to eat firstfruits, which is not the case with tithe."***
- C. *But maybe the Tannaite authority behind the passage has set the matter forth as a Tannaite statement but omitted items relevant to it [not presenting an exhaustive catalogue of differences.*
- D. *Well, if he left things out, then what else did he leave out?*
- E. *He omitted items that can have go into the concluding clause, for, while it is stated: **There are [restrictions which apply] to [second] tithe and to firstfruits which [do] not [apply] to priestly rations. For [second] tithe and firstfruits (1) require bringing [to the] place [Jerusalem]; (2) and they require [the recitation of the appropriate) confession; (3) and they are prohibited [for consumption] by a mourner [whose dead relative has not yet been buried; Deu.26:14, M. M.S. 5:8]. R. Simeon permits [such mourners to eat firstfruits]. (4) And they are subject to [the law of] removal [Deu. 26:12ff., M. M.S. 5:6]. R. Simeon exempts [firstfruits from the law of removal. [(5) And in Jerusalem if they are mixed with unconsecrated produce] in any portion, they still are forbidden for consumption [M. Or. 2:1], (6) and in Jerusalem if they are used as seed, that which grows from them is prohibited for consumption, [and this prohibition applies] also to commoners in the case of firstfruits and to cattle [in the case of second tithe]. R. Simeon permits the consumption, by commoners or cattle, of that which is mixed in Jerusalem with second tithe or firstfruits and that which grows in Jerusalem from second tithe or firstfruits. Lo, these are restrictions which apply] to second] tithe and to firstfruits which do not apply to priestly rations] [M. Bik. 2:2]. But the further rules, that firstfruits may not be burned up, even if they are unclean, [73B] and that the one who eats them while they are unclean is flogged, and that these laws do not apply to produce in the status of priestly***



rations, have not been included in the Tannaite formulation, *hence the Tannaite authority has left other things out besides the present item.*

**I.16. A. and they are prohibited [for consumption] by a mourner whose dead relative has not yet been buried;.. R. Simeon permits [such mourners to eat firstfruits]:**

B. *What is the scriptural source for these positions?*

C. “You may not eat within your gates the tithe of your grain or of your wine or of your oil or the firstlings of the herd nor the offering of your hand” (Deu. 12:17), and a master has said, “...the offering of your hand’ refers to firstfruits,” and, in the cited verse, firstfruits thus are treated as comparable to tithe: just as tithe may not be eaten by one who has suffered a bereavement but not yet buried his dead, so firstfruits are forbidden to such a person.

D. And R. Simeon?

E. *The All-Merciful has classified them as priestly rations:* just as priestly rations are permitted to a priest who has suffered a bereavement but not yet buried his dead, so firstfruits are permitted to such a person.

**I.17. A. And they are subject to [the law of] removal. R. Simeon exempts firstfruits from the law of removal:**

B. One master compares firstfruits to tithe, the other does not.

**I.18. A. ...firstfruits may not be burned up, even if they are unclean, and that the one who eats them while they are unclean is flogged:**

B. *What is the scriptural source for this position [that one is liable for eating second tithe in a state of uncleanness]?*

C. *It is in line with that which has been taught on Tannaite authority:*

D. **R. Simeon says, “I have not cleared out any of it while I was unclean’ (Deu. 26:13-14): Not at a point at which I was unclean and the portion of the crop was clean, nor at a time at which I was clean and the designated part of the crop was unclean” [Sifré Deu. CCCIII:VIII.2].**

E. *And where do we find an admonition against eating it?*

F. I don’t know.

G. *Indeed! The prohibition of eating Holy Things when one is personally unclean is stated quite explicitly:* “The soul that touches any such unclean things shall be unclean until the evening and shall not eat of the Holy Things until he wash his body in water” (Lev. 22: 6)!

H. *I meant, how do we know from Scripture that there is an admonition against eating it when it itself is unclean?*

I. As it is written, “You may not eat it within your gates” (Deu. 12:17), and further, “In your gates the unclean and the clean may eat together, as the gazelle and the hart” (Deu. 15:21-22). *And it has been taught by a Tannaite authority of the household of R. Ishmael:* “Even the unclean and the clean persons may eat together in a single dish, and we do not take account of the possibility of the one making the other unclean,” *and Scripture has said that what is permitted elsewhere, in the case of the blemished firstling, for the unclean and the clean*

*person to eat together, is not permitted here, in the case of second tithe, [which may not be eaten if it is in contact with something unclean].*

**I.19.** A. and that these laws do not apply to produce in the status of priestly rations:

- B. *How on the basis of Scripture do we know this?*
- C. Said R. Abbahu said R. Yohanan, “Said Scripture, ‘Neither have I burned of it when unclean’ (Deu. 26:14) — you may not burn of it, but you may burn oil in the status of priestly rations that has become unclean.”
- D. But might one say: you may not burn of it, but you may burn oil in the status of Holy Things that has become unclean?
- E. Does the opposite of that proposition not derive from an argument a fortiori, namely: if of tithe, which is less weighty, the Torah has said, “Neither have I burned of it when unclean” (Deu. 26:14), Holy Things, which is the more weighty, surely should be subject to the same rule!
- F. *If so, why not same the same thing of food in the status of priestly rations on the basis of an argument a fortiori!*
- G. *But “of it” is stated!*
- H. *So what makes you prefer one route rather than the other?*
- I. *It stands to reason not to exclude food in the status of Holy Things, for the restrictions apply to it involving what is rendered abominable by the officiating priest’s improper intention at the time of slaughtering the animal to eat the meat or burn the sacrificial parts at the wrong time or place, not to eat what is left over, to preserve the holiness of the sacrifice, sacrilege, the penalty of extirpation, and the prohibition to a priest who has suffered a bereavement and not yet buried his dead.*
- J. *To the contrary, food in the status of priestly rations should not be excluded, since to it pertain the considerations of the death penalty, the added fifth, the impossibility of redemption, and the prohibition to non-priests.*
- K. *The former are more numerous, and, if you prefer, I shall say that the consideration of extirpation as the penalty outweighs everything else.*

**I.20.** A. and that the one who eats them while they are unclean is flogged, and that these laws do not apply to produce in the status of priestly rations:

- B. *It is flogging that is then not administered, but a prohibition still is in force [not to eat priestly rations that are unclean]. What is the source of that rule?*
- C. Said Scripture, “You shall it eat within your gates” (Deu. 15:22) — “it” may be eaten, but nothing else [that is, not food in the status of priestly rations], and a negative commandment deriving from a positive one has the force of a positive commandment [and violation is not penalized by flogging].

**I.21.** A. [Cf. 15.C-D: *But maybe the Tannaite authority behind the passage has set the matter forth as a Tannaite statement but omitted items relevant to it [not presenting an exhaustive catalogue of differences. Well, if he left things out, then what else did he leave out? ] said R. Ashi, “From the opening clause as well, there is evidence that the Tannaite authority set forth items but omitted other, relevant ones, in the formulation: [74A] The requirement to designate food for priestly rations and firstfruits pertains to all of the years of the septennial cycle [not*

only the first, second, fourth, and fifth, as is the case for second tithe]; the produce is not subject to redemption; and this does not apply to second tithe.

B. *That is decisive evidence.*

**I.22.** A. [Reverting to our question, 15.A: What is the law as to an uncircumcised person's eating second tithe?] *come and take note:* if shreds of the corona of the penis remain that would render circumcision invalid, the man may not eat food in the status of priestly rations, the Passover offering, Holy Things, or tithe. *Now does this not refer to tithe of grain?*

B. *No, it refers to tithe of the herd.*

C. *But tithe of the herd is no different from Holy Things!*

D. *Even within your reasoning, have we not repeated as the Tannaite formulation, the Passover Lamb, and yet Holy Things also are encompassed [which are the same thing]!*

E. *Yes, but it was necessary to make reference to both the Passover lamb and Holy Things, for if the Passover lamb had been mentioned alone, I might have supposed that he may not eat that because Scripture explicitly refers to the Passover lamb, but as to Holy Things, I might not have said that the prohibition pertains there as well. And if the Tannaite authority had spoken of Holy Things alone, I might have thought that when the passage had referred to Holy Things, it meant only the Passover lamb. [So both items had to be made explicit.] But what need to I have to make reference to the tithe of the herd!*

F. *Rather, "tithe" speaks of first tithe, in accord with the position of R. Meir, who takes the view that first tithe may not be given to non-priests [and also to uncircumcised persons].*

G. *Come and take note of what R. Hiyya bar Rab of Difti set forth as a Tannaite statement: An uncircumcised man is forbidden to eat both tithes. Does this not refer to tithe of grain and tithe of the herd?*

H. *Here too "tithe" speaks of first tithe, in accord with the position of R. Meir, who takes the view that first tithe may not be given to non-priests [and also to uncircumcised persons].*

I. *Come and take note:* A person who has suffered a bereavement but not yet buried his dead is forbidden to eat tithe but permitted to eat produce in the status of priestly rations and to get involved in the preparation of the ashes of the red cow; one who has immersed on the self-same day and awaits sunset to complete his purification rite is forbidden to eat food in the status of priestly rations but permitted to get involved in the preparation of the ashes of the red cow; one whose atonement rite is not yet complete is forbidden to get involved in the preparation of the ashes of the red cow but permitted to eat food in the status of priestly rations and tithe. *Now if it were the fact that the uncircumcised man is permitted to eat second tithe, the formulation should include the following:* the uncircumcised person is forbidden to eat food in the status of priestly rations but permitted to get involved in the preparation of the ashes of the red cow and also to eat tithe!

J. *Lo, this Tannaite formulation derives from the household of R. Aqiba, who encompasses under the category of uncleanness the uncircumcised man [and he*

may not get involved in preparation the ashes of the red cow], as has been taught on Tannaite authority: “Any man soever” (Lev. 22: 4) includes the uncircumcised.

**I.23.** A. *And who is the Tannaite authority who differs from R. Aqiba?*

- B. *It is the Tannaite authority representing R. Joseph the Babylonian, for it has been taught on Tannaite authority:*
- C. *If the red cow [Num. 19] has been burned by a bereaved priest or one who has not completed his atonement rite, it is still fit.*
- D. *Joseph the Babylonian said, “If a bereaved priest did so, it is fit, but if one who has not yet completed his atonement rites does it, it is unfit.”*

**I.24.** A. *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. *Is the phrase available for a deduction? For it it is not available [and hence unanswerable, being a decree of Scripture], one may raise this question of the analogy: the distinguishing characteristic of the Passover lamb, is that liability is incurred on its account because of rendering the animal an abomination by an improper attitude on the part of the officiating priest, by reason of left-over, and by reason of uncleanness.*

C. *Which component is left available for the present purpose?*

D. *Said Raba said R. Isaac, “The word ‘of it’ is written in the context of the Passover offering three times [Exo. 12: 9,10], one required for the Passover lamb itself [‘you shall not eat of it raw’], one for the analogy [to second tithe], and as to the third, from the perspective of him who takes the view that Scripture [in saying ‘you shall burn that which remains with fire,’ Exo. 12:10] wanted a positive commandment to follow a negative one [‘you shall let nothing thereof remain,’ Exo. 12:10] [Slotki: in order to exempt the transgressor from the penalty of flogging], ‘of it’ was written a second time [Exo. 12:10] because ‘remnant’ was written [Slotki: a second time. 12:10], and from the perspective of him who holds that repeating ‘until the morning’ (Exo. 12:10) was to allow a second morning for the burning, ‘of it’ was written a second time because ‘until the morning’ had to be written a second time. Furthermore, in connection with tithe, ‘of it’ was written three times; one for its own purpose, one for that which R. Abbahu said in the name of R. Yohanan, and the third for what R. Simeon b. Laqish said.”*

E. *For said R. Simeon b. Laqish said R. Samayya, “How on the basis of Scripture do we know concerning second tithe that has been made unclean that it is permitted to use it for anointing? As it is said, ‘Nor have I given thereof for the dead’ (Deu. 26:24) — it is for the dead that I have not given it, but I have given it for use by a living person in the same as as for the dead. And what is it that*

may serve equally for the living and for the dead? You must say, it is anointing.”

- F. *Objected Mar Zutra, “But might I not say that it is to purchase with it a bier and shrouds for the dead?” [Slotki: and not to anointing; the deduction would be that though unclean tithe may not be exchanged for money wherewith to buy the requirements of the dead, it being unfit as food, it may be exchanged for the purpose of buying anything for the living.]*
- G. Said R. Huna b. R. Joshua, “‘of it’ means, of the tithe itself” [Slotki: not with the money for which it was exchanged].
- H. R. Ashi said, “‘I have not given’ (Deu. 26:14) is parallel to ‘I have not eat’ (Deu. 26:14) — just as in regard to eating, it refers to the tithe itself, so here also in regard to giving, it refers to the tithe itself.”
- I. *Nonetheless, the “of it” is free in only a single direction [regarding the Passover lamb, for the usages in the discussion of tithe are required for other purposes]!*
- J. *The analogy poses no problem to him who maintains that one may make a deduction under such conditions, and the deduction may not be challenged; but from the perspective of him who says that the deduction under such conditions may be drawn but also may be refuted, what is to be said [Slotki: in view of the objection that the Passover lamb is subject to restrictions that do not apply to second tithe]?*
- K. *The deduction of R. Abbahu [on the basis of one of the ‘of it’s] may be derived from what R. Nahman said Rabbah bar Abbuha said, for said R. Nahman said Rabbah bar Abbuha, “‘And I, behold, I have given you the charge of my heave-offerings’ (Num. 18: 8) — Scripture speaks of heave-offering in two classifications, that which is clean and that which is unclean, and Scripture has said, ‘It shall be yours, even for burning under your dish.’”*

## **II.1 A. and all unclean [priests] do not eat food in the status of priestly rations:**

- B. *What is the scriptural source for this rule?*
- C. Said R. Yohanan in the name of R. Ishmael, “Said Scripture, ‘What man so ever of the seed of Aaron is afflicted with the skin ailment or has an issue’ (Lev. 22: 4). Now what is the rule that pertains equally to all the seed of Aaron [males and females alike]? **[74B]** It can only be food in the status of priestly rations.”
- D. *But maybe it refers to the meat of the breast and shoulder [given to the priesthood when a peace offering is slaughtered, which both males and females of the priestly caste may eat]?*
- E. These are not permitted to a woman who reverts [from the home of the husband to the home of the father, who may eat food in the status of priestly rations but may not eat the meat of the breast and shoulder of the peace offering].

- F. But a priest's daughter who has been profaned [by birth as a result of sexual relations between her mother and an inappropriate male] may not eat food in the status of priestly rations?
- G. *But such a person is no longer classified as "the seed of Aaron" either!*
- II.2.** A. *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. *Perish the thought! For a Tannaite authority of the household of R. Ishmael [stated], "Scripture speaks of a person afflicted with flux-uncleanness who has produced two issues and a person afflicted with the skin ailment who has been shut up for observation [Lev. 13: 4ff.], cases that are comparable to one who is unclean by corpse-uncleanness; just as in the case of one unclean with corpse-uncleanness is not liable to present an atonement offering, so these are not liable to present an atonement offering [but only a confirmed sufferer of the skin ailment or a person afflicted with flux uncleanness who has produced three fluxes, after purification, must do so].*
- C. *But why not say: [that sunset alone, without presentation of an offering, completes the purification of the unclean so far as their eating food in the status of priestly rations is concerned (Slotki)] pertains only to those who in any event are not require to bring an atonement offering, but for those who are required to present an atonement offering, the rite of purification is not complete until the atonement offering has been presented! And furthermore, as to that which we have learned in the Mishnah: **And lo, he is one who has immersed [on the selfsame day]: he eats [second] tithe. [Once] his sun has set: he eats priestly rations. [Once] he has brought his atonement offering [on the eighth day], he eats holy things [M. Neg. 14:3D-H] — how on the basis of Scripture do we know all this?***
- D. Said Raba said R. Hisda, "There are three verses of Scripture that pertain: 'And shall not eat of the holy things unless he bathe his flesh in water' (Lev. 22: 6), meaning, if he bathed he is clean; 'and when the sun is down, he shall be clean, and afterwards he may eat of the holy things' (Lev. 22: 6); and 'and the priest shall make atonement for her, and she shall be clean' (Lev. 12: 8). How are these to be held together? The first speaks of second tithe, the second to food in the status of priestly rations, and the third to Holy Things."
- E. *Might I reverse the rules?*
- F. *It stands to reason that food in the status of priestly rations should be subject to more severe restrictions, since mishandling it brings the death penalty; it involves the added fifth; it cannot be redeemed; and it is forbidden to non-priests.*
- G. *To the contrary; second tithe should be subject to a more severe regulation, since it must be brought to the appointed place, Jerusalem, is subject to the recitation of the confession, is forbidden to one who has suffered a bereavement but not yet buried his dead, may not be burned even when unclean, involves the penalty of flogging for eating it when unclean, and involves the law of removal.*
- H. *Nonetheless, wherever the death penalty is involved, there is the most severe restriction of all.*



- I. *Raba said, "Were the death penalty not involved, you could not say so [and food in the status of priestly rations, bathing suffices, for tithe, waiting for sunset should be required (Slotki)], for Scripture has said, 'soul' (Lev. 22: 6). Now what is it that is equally available for every person? You have to say that it is tithe."*
- J. *Still, [that purification for eating food in the status of priestly rations suffices even before the atonement sacrifice is presented] would apply only to one who is not subject to the requirement of an atonement offering [e.g., the two cases at hand, the person afflicted with the skin ailment who has been shut up for observation, the person afflicted with flux after only two attacks], but where someone is subject to presenting an atonement offering, he should be permitted to eat that classification of produce only after presenting that atonement offering?*
- K. Said Abbaye, "There are two relevant verses of Scripture in regard to a woman after childbirth [who has to present an atonement offering before she is purified:] 'until the days of her purification are fulfilled' (Lev. 12: 4), meaning, as soon as her days are fulfilled, she is clean; and also, 'and the priest shall make atonement for her and she shall be clean' (Lev. 12: 8). How reconcile the two? The former speaks of food in the status of priestly rations, the latter, Holy Things."
- L. *Might I reverse the rules?*
- M. *It is more reasonable to suppose that Holy Things are subject to the more severe regulation, since Holy Things are subject also to the considerations of for the restrictions apply to it involving what is rendered abominable by the officiating priest's improper intention at the time of slaughtering the animal to eat the meat or burn the sacrificial parts at the wrong time or place, not to eat what is left over, to preserve the holiness of the sacrifice, sacrilege, the penalty of extirpation, and the prohibition to a priest who has suffered a bereavement and not yet buried his dead.*
- N. *To the contrary, food in the status of priestly rations should not be excluded, since to it pertain the considerations of the death penalty, the added fifth, the impossibility of redemption, and the prohibition to non-priests.*
- O. *The former are more numerous, and, if you prefer, I shall say that the consideration of extirpation as the penalty outweighs everything else.*
- P. *Raba said, "Were the death penalty not involved, you could not say so [and food in the status of priestly rations, bathing suffices, for tithe, waiting for sunset should be required (Slotki)], for Scripture has said, 'And the priest shall make atonement for her and she shall be clean' (Lev. 12: 8), meaning, up to that point she was unclean. Now if this spoke of Holy Things, then the verse 'and the flesh that touches any unclean thing shall not be eaten' (Lev. 7:19) should apply. So it must be inferred that [Lev. 12: 4] speaks of food in the status of priestly rations."*
- Q. *Objected R. Shisha b. R. Idi, "But can you maintain that the verse at hand [Lev. 12: 4] speaks of food in the status of priestly rations? Has it not been taught on Tannaite authority: "'Speak to the children of Israel: if a woman conceives and bears a male child...she shall bring..." (Lev. 12: 2ff.) — on the basis of this statement, I know only that the requirement to bring an offering which is eaten applies to the children of Israel. How do I know that it applies also to a woman convert and to a slave-girl? Scripture states, "if a woman" — [thus, of any sort]. Now if it should enter your mind that at issue were food in the status of*

*priestly rations, then do proselyte women or emancipated slave-women eat food in the status of priestly rations?!"*

- R. *Said Raba, "But don't they? [75A] And has it not been stated in Scripture, 'She shall touch no Holy Things'—which includes food in the status of priestly rations. Rather, Scripture has dealt with a number of distinct topics [each rule applying to a given class of persons (Slotki)].*
- S. *Then what need do I have for three distinct verses of Scripture [Lev. 22:4, 7, 22:4] in regard to food in the status of priestly rations anyhow?*
- T. *All three are required. For if the rules governing food in the status of priestly rations were deduced only from "until he be clean" (Lev. 22: 4), I might not have known how he was to become clean, so the All-Merciful had to say, "And when the sun has set, he shall be clean" (Lev. 22: 7). And if the All-Merciful had written only, "And when the sun has set, he shall be clean" (Lev. 22: 7), I might have supposed that such a person was not required to bring an atonement offering; but if someone had to bring an atonement offering, he would not be clean until he presented his atonement offering; thus the All-Merciful had to say, "Until...be fulfilled" (Lev. 12: 4). And if Scripture had said only, "Until...be fulfilled" (Lev. 12: 4), I might have supposed that one might become cultically clean without immersion. So the All-Merciful said, "until he be clean" (Lev. 22: 4).*

**II.3.** A. *And to the Tannaite authority who rejects that which is set forth as a Tannaite statement by the household of R. Ishmael, and who holds that [Lev. 22: 4] speaks of a person afflicted with flux uncleanness who has had three attacks of flux, and a person afflicted with the skin ailment who has been confirmed as unclean, and that the deduction from "until he be clean" pertains to bringing the atonement offering, what need is there for two verses of Scripture [Lev. 22: 8, 22: 4] in regard to Holy Things?*

- B. *Both are necessary. For had the All-Merciful addressed only the case of the woman after childbirth, one might have supposed that the law applies to her alone, because she is unclean for a long time, but not to one afflicted with flux uncleanness. And had the All-Merciful written only with respect to the one afflicted with flux uncleanness, I might have supposed that the law pertains to him in particular since his uncleanness does not come to an end on its own [but only after the fluxes stop], but that is not the case with the woman after childbirth. So both references were required.*

**II.4.** A. *[Since Lev. 22: 7 makes cleanness depend on sunset,] what need is there for the statement, "It must be put into water and it shall be unclean until evening" (Lev. 11:32) [where cleanness depends on sunset, not only on immersion]?*

- B. *Said R. Zira, "It pertains to transmission of uncleanness through contact." [Slotki: before sunset on the day of purification the unclean utensil may not be permitted to touch food in the status of priestly rations, and the same applies to the one who has immersed on the self-same day and awaits sunset for the completion of his purification rite. This could not have been deduced from Lev. 22: 7, which speaks of eating, not touch or contact.]"*

- C. For it has been taught on Tannaite authority: “It shall be unclean” (Lev. 11:32) — might one suppose that this refers to all levels of sanctification [both food in the status of priestly rations and second tithe]?
- D. Scripture states, “and it shall be clean” (Lev. 11:32).
- E. How so?
- F. The one [clean] speaks of [cleanness in respect to] second tithe, the other [unclean] speaks of [uncleanness in respect to] food in the status of priestly rations.
- G. *Maybe I should reverse matters?*
- H. *It is more reasonable not to do so, for just as eating food in the status of priestly rations is subject to more stringent rules than eating food in the status of tithe, so also contact with food in the status of priestly rations is subject to a higher degree of sensitivity to uncleanness [hence, more severe restrictions] than food in the status of tithing.*
- I. *And if you prefer, I shall say, the prohibition against contact with food in the status of priestly ration on the part of a person who has immersed on the self-same day and awaits sunset derives from the following: “She shall touch no Holy Thing” (Lev. 12: 4) — this is an admonition not to eat [Holy Things].*
- J. Or perhaps it is only an admonition against contact with Holy Things?
- K. Scripture states, “She shall not touch any Holy Things nor come into the sanctuary” (Lev. 12: 4) — [Scripture thereby treats as analogous entering the sanctuary and touching the Holy Things. Just as transgression against the sanctuary involves the death penalty, so transgression against Holy Things involves the death penalty, but in regard to mere contact, there is no death penalty. *The reason that eating is covered by language that refers to contact is to indicate that just as contact is forbidden so eating is forbidden [to one who is in the status of having immersed and waiting sunset for the completion of the rite of purification].*

**III.1 A. 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:**

- B. *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?*
- C. Said R. Eleazar, “It is subject to dispute, and the rule here represents the position of R. Eleazar and R. Simeon.” **[A high priest should not marry a widow, whether this is a woman widowed out of betrothal or widowed out of marriage. 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 (M. 6:4A-D).]**
- D. *Said R. Yohanan, “It may even speak in behalf of R. Meir. But this case is exceptional, for the woman has already had the right to eat food of that status.”*

[Slotki: before the husband was disabled; she is not to be deprived of a privilege she had been enjoying though she may not be entitled to new privileges.]

- E. *And R. Eleazar maintains that we do not invoke the principle, she is not to be deprived of a privilege she had been enjoying, for if you do not concur, then an Israelite girl who married a priest whose husband died should continue to eat food in that status, on the grounds that she is not to be deprived of a privilege she had been enjoying.*
- F. *And R. Yohanan?*
- G. *In that case the possession exercised over her by the husband has come to an end, but here, has the husband's right of possession come to an end?*

**IV.1 A. Who is he who has crushed testicles? Any one whose testicles are crushed, and even one of them.**

- B. *Our rabbis have taught on Tannaite authority:*
- C. **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.**
- D. **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].**
- E. *Can you say that such a man is a natural-born eunuch?*
- F. *Rather, say: falls into the classification of one who is a eunuch by nature and and is fit.*

**IV.2. A. Will one with punctured testicles not father children? And lo, there was the case of a man who climbed a palm-tree [75B] and a thorn pierced his testicles, so his semen exuded like a thread of pus, and still, he fathered children!**

- B. *Lo, Samuel sent word to Rab, "You'd better investigate the parentage of his children — whose are they!"*

**IV.3. A. Said R. Judah said Samuel, "One whose testicles are injured by nature is valid."**

- B. *Said Raba, "That's why Scripture classifies him as 'who is wounded' (Deu. 23: 2), and not, 'the wounded.'"*

**IV.4. A. In a Tannaite formulation it is repeated:**

- B. *"He who is wounded...shall not enter" (Deu. 23: 2), and further, "A mamzer shall not enter" (Deu. 23: 3).*
- C. *Just as the latter is the work of human beings, so the former must be such as was injured by human action.*

**IV.5. A. Said Raba, "'Wounded' (Deu. 23: 2) applies to all, 'crushed' (Deu. 23: 2) applies to all, 'cut off' applies to all [the sexual organs:**

- B. *"'Wounded' (Deu. 23: 2): that is to say, if it is the penis, the testicles, or the ducts that were wounded;*
- C. *"'crushed' (Deu. 23: 2): that is to say, if it is the penis, the testicles, or the ducts that were crushed;*
- D. *"'cut off.' that is to say, if it is the penis, the testicles, or the ducts that were cut off."*

- IV.6.** A. *Said one of the rabbis to Raba, "How do we know that 'wounded' refers to an injury to the genitals? Maybe it refers to the head?"*
- B. *He said to him, "There is no specification of the number of generations [that may not enter the assembly of the Lord, contrary to the discussion of the mamzer, the ammonite, and the Moabite], it must follow that reference is made to the genitals."*
- C. *"But perhaps the reason that there is no specification of the number of generations is that he himself may not enter the assembly, but his son and grandson may do so?"*
- D. *"It is comparable to the case of him whose penis is chopped off; just as at that point reference is made to the genitals, so the present case must involve the genitals."*
- E. *"And how do we know that one whose penis has been cut off refers to the genitals? Maybe it's the lips [which pour out spit, comparable to an ejaculation]?"*
- F. *"What is written is a word deriving from the root for 'to pour out,' meaning, 'at the spot where it discharges'" [Slotki: spittle does not flow out of the mouth].*
- G. *"So maybe the reference is to the nose?"*
- H. *"'Cut at the organ that discharges' is not written, but rather, 'a cut organ that discharges,' meaning, an organ which, if cut, yields a discharge, but if not cut, does not yield a discharge, then excluding the nose, which one way or the other yields a discharge."*

**IV.7.** A. *In a Tannaite formulation it is repeated:*

- B. *"He who is wounded in his testicles shall not enter" (Deu. 23: 2), and further, "A mamzer shall not enter" (Deu. 23: 3).*
- C. *Just as the latter refers to the result of genital action, so too does the former deal with the genitals.*

**IV.8.** A. *If there was a puncture beginning below the head of the penis and ending [Slotki: by sloping upwards towards the body] at the other end of it above the head —*

- B. *R. Hiyya bar Abba considered declared the man valid for entry into the congregation.*
- C. *Said to him R. Assi, "This is what R. Joshua b. Levi said: 'Any perforation of any size in the corona invalidates entry into the congregation.'"*

**V.1** A. **But if so much as a hairbreadth of the crown remained, he is valid [to eat food in the status of priestly rations]:**

- B. *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?"*
- C. *Said Rabbah Tosefaah to Rabina, "The **hairbreadth** of which they have spoken extends over the greater part, and toward the head" [which is nearer the body (Slotki)].*

- V.2.** A. Said R. Huna, “If it is cut away like a reed pen, it is valid. If it is cut away like a gutter [Slotki: 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.*”
- B. 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.*”
- C. Said Raba, “*The position of R. Huna is more logical, namely, in the latter instance, the air can penetrate, in the former, it cannot. For as to the consideration of friction, [Slotki:] it is only like a bung in a cask.*” [Slotki: though the bung is cut away at its lower end, it nevertheless closes the hole with its upper part, which comes in contact with the sides of the bung hole; the contact produced by the upper part of the membrum is sufficient for the generation of the heat required for fertilization.]
- D. Said Rabina to Maremar, “*This is what Mar Zutra said in the name of R. Pappa: ‘The decided law is that, whether the corona is cut away like a reed pen or a gutter, the circumcision is valid.’*”
- E. But he raised this question: “Must the cut be below or even above the corona?”
- F. It is obvious that it may be even above it, for if it were below, the man would be held fit even if the entire penis there were cut off.
- G. But Rabina had in mind [in presenting so gross a question] only to test Maremar.
- V.3.** A. There was a case in Mata Mehassayya [where the cut was in the shape of a gutter (Slotki)], and R. Ashi had the corona cut in the shape of a reed pen and declared the man fit.
- V.4.** A. There was a case in Pumbedita where a semen duct was blocked, and the semen came out through the urinal duct. R. Bibi bar Abbaye considered declaring the man fit. Said R. Pappi to him, “Is it because [76A] you are weaklings that you say weak things? If the semen passes through its proper duct, it fertilizes, but if it does not pass through the proper duct, it will not fertilize.”
- V.5.** A. 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.”
- B. Raba reflected on this ruling: “So where is the hole? If I say that the hole is below the corona, well, the man would remain fit even if it were cut off. Rather, it must be in the corona itself.”
- V.6.** A. So too it has been stated:
- B. Said R. Mari b. Mar said Mar Uqba said Samuel, “If there had been a hole in the corona itself 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.”
- V.7.** A. Raba b. Rabbah sent word to R. Joseph, “May our lord instruct us how we should act in practice?”



- B. *He sent word to him, "We bring warm barley bread and put it on the anus, so he will ejaculate, and we can examine him."*
- C. *Said Abbaye, "So is everybody the same as our father, Jacob, concerning whom it is written, 'My might and the first fruits of my strength' (Gen. 49: 3) [speaking of Reuben], because he had never before experienced ejaculation?" [Slotki: other people are not so saintly, why should an elaborate test be necessary in ordinary cases?]*
- D. *Rather said Abbaye, "We wave colored garments before him [which are sexually stimulating, and he will ejaculate, and we can examine the process]."*
- E. *Said Raba, "So is everybody as oversexed as Barzillai the Gileadite [whose sexual libido we may imagine for ourselves]?"*
- F. *Rather, the answer we gave to begin with is better [back to the warm dough on the anus, that'll do it].*

**V.8.** A. *Our rabbis have taught on Tannaite authority:*

- B. **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].**

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

- B. *It is meant to exclude a case in which a membrane forms on the lungs because of a wound; that is a case that cannot be regarded as a proper membrane [since it may burst, the lungs are wounded, an animal suffering from such a membrane is unfit for Israelite consumption].*

**V.10.** A. R. Idi bar Abin sent word to Abaye, "How are we to act in practice [in closing up the hole in a penis]?"

- B. *"We bring a grain of barley and tear the spot, rub in tallow, get a big ant for this purpose and let it bite in, and then cut off its head [and it stays there and fills the hole]. And it has to be a grain of barley, because an iron tool will inflame the spot. And this is done only with a small hole, a big one will peel off."*

**V.11.** A. Said Rabbah b. R. Huna, "He who urines through two spots is invalid."

- B. *Said Raba, "The decided law accords with neither the son nor the father. As to the son, it is what we just said. As to the father: said R. Huna, 'Lesbians are invalid for marriage into the priesthood.' [Disagreeing with Huna:] even in accord with the position of R. Eleazar, who has said, 'An unattached male who had sexual relations with an unattached female not for the sake of matrimony has made her a whore,' that pertains only to a man, but as to a woman, it is mere obscenity."*

## 8:2F-H

- F. **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.**
- G. **They are prohibited only from coming into the congregation,**
- H. **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).**

- I.1** A. *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 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?”*
- B. *Said to him R. Sheshet, “You have learned as a Tannaite formulation: an Israelite whose testicles are crushed is permitted to marry a Netinah [=female descendant of the Gibeonites who deceived Joshua (Jos. 9: 3ff), assigned the task of cutting wood and carrying water for the congregation and the altar]. Now, as a matter of fact, if you maintain that he remains in his condition of sanctification, then we should invoke here the verse, ‘neither shall you make marriages with them’ (Deu. 7: 3)!”*
- C. *Said Raba, “But is the operative consideration there [with respect to a marriage between a fit or disabled Israelite and a Netinah [=descendant of the Gibeonites who deceived Joshua (Jos. 9: 3ff), assigned the task of cutting wood and carrying water for the congregation and the altar] the question of sanctification at all? It is the possibility that the offspring of the union might go on to worship idols. But that would apply only when the women of Deu. 7: 3 were still idolators. But if they converted, they are permitted to marry Israelites, and it is rabbis who invoked a precautionary decree of forbidding marriage to them [the Netinah, the idolatress]. Now the precautionary decree of rabbis pertained only to those who could produce offspring,<sup>1</sup> but not those who could not.” [Slotki: this is the reason that a disabled Israelite may marry a Netinah, and that has no implications for the case of the priest.]*
- D. *[If the issue is the possibility of fathering children,] then what about a mamzer, who can produce children? Is he too forbidden [to marry a Netinah, by reason of rabbis’ precautionary decree]? Then what about that which we have learned in the Mishnah: **Converts, freed slaves, mamzers, Netins, “silenced ones,” and foundlings are permitted to marry among one another [M. Qid. 4:1D]!***
- E. *Rather, when rabbis made their precautionary decree, it concerned only those that were fit, not those that were unfit [that is, those listed at Deu. 23: 2f.].*
- F. *Raba retracted and said, “What I said is nothing. When they are still gentiles, the marriages are invalid; when they have converted, the marriages become valid” [Slotki: so Deu. 7: 3 pertains to proselytes, and the operative consideration is the Israelite’s sanctity; the Netinah was not forbidden to the disabled Israelite, so the disabled man, priest or Israelite, does lose his sanctity].*
- G. *Objected R. Joseph, ““And Solomon became the son-in-law of the king of Egypt through marriage to the daughter of Pharaoh’ (1Ki. 3: 1).”*
- H. *He converted her.*
- I. *But lo, they didn’t accept converts in the time of David or Solomon.*
- J. *Yeah, but the operative consideration was that the proselytes wanted to get a job with the king! **[76B]** And a woman of such status had no need to convert in order to get a job!*
- K. *Then draw the conclusion [that the marriage with a forbidden woman is valid] because she was an Egyptian of the first generation [Slotki: who is forbidden to*

marry into the congregation of Israel; only the third generation is permitted, Deu. 23: 9]. *And should you say, those Egyptians of the time of Moses were gone, and these are others [to whom the prohibition does not apply], has it not been taught on Tannaite authority: Said R. Judah, “Benjamin, an Egyptian proselyte, was my colleague among the disciples of R. Aqiba. Said Benjamin, ‘I am an Egyptian proselyte of the first generation, and I married an Egyptian proselyte of the first generation. Lo, I am planning to arrange a marriage for my son with a woman who is the daughter of an Egyptian proselyte woman, thus of the second generation, so that the son of my son will be permitted to enter into the congregation”* [T. Qid. 5:4G-H]. [So the Egyptians of the present day are the same ones of times past.]?

- L. *Said R. Pappa, “Are we supposed to submit to Solomon? Solomon never got married. Is it not written concerning him: ‘Of the nations concerning which the Lord said to the children of Israel, You shall not go among them, neither shall they come among you, for surely they will turn away your heart after their gods, Solomon did cleave unto them in love’ (2Ki. 11: 2)?”*
- M. *Then we have a problem with “And Solomon became the son-in-law of the king of Egypt through marriage to the daughter of Pharaoh”(1Ki. 3: 1)!*
- N. *It was on account of the enormous ardor with which he loved her that Scripture regards it as though he had married her.*
  - O. *Said Rabina to R. Ashi, “But lo, we have learned in the Mishnah: **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! So they are forbidden to marry a Netinah!**”*
  - P. *He said to him, “Then how about what follows: **They are prohibited only from coming into the congregation?** It follows that they are permitted to marry a Netinah. In fact, from this formulation of the Mishnah, no conclusions are to be drawn.”*

### 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.**
- B. **But their women are permitted forthwith.**
- C. **The Egyptian and the Edomite are prohibited only for three generations,**
- D. **all the same being males and females.**
- E. **R. Simeon permits the females forthwith.**
- F. **Said R. Simeon, “It is an argument a fortiori:**
- G. **“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?”**

H. 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.”

I. He said to them, “Not so! I state a rule of law.”

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

B. Said R. Yohanan, “Said Scripture, ‘And when Saul saw David go forth against the Philistine, he said to Abner, captain of the host: Abner, whose son is this youth? And Abner said, As your soul lives, o King, I cannot tell’ (1Sa. 17:55).”

C. *But didn’t Saul know him? Surely it is written, “And he loved him greatly and he became his armor bearer’ (1Sa. 16:21). Rather, he was asking about the father.*

D. *But didn’t he know the father? ‘And is it not written: “And the man was an old man in the days of Saul, stricken in years among them”’(1Sa. 17:12), and said Rab, or some say, R. Abba, said, “This referred to the father of David, who came in with an army and went out with an army.” So this is what Saul meant: “Whether he derives from Peretz, or whether he derives from Zerah. If he derives from Peretz, he will be king, for a king may exercise the right of eminent domain and none can stop him [M. San. 2:4B]. Whether he derives from Zerah, he will be will be only an eminent authority.”*

C. *How come he said to him, “Make inquiries concerning him”?*

D. *Because it is written, “And Saul dressed David with his clothing” (1Sa. 17:38), because he was the same size, and concerning Saul it is written, “From his shoulders upward he WAS taller than any of the people” (1Sa. 9: 2).*

E. Said Doeg the Edomite to Saul, “Rather than asking concerning him whether or not he is worthy of the throne, ask whether he is worthy even of entering the community of Israel or not.”

F. *“How come?”*

G. *“Because he comes from Ruth the Moabite.”*

H. *Said Abner to Doeg, “We have learned as a Tannaite statement: [Invalid are] ‘An Ammonite’? (Deu. 23:40, and not a female Ammonite, ‘a Moabite’ and not a female Moabite.”*

I. *“Well, in that case [since women are not covered by the prohibition], how about accepting the offspring of not a mamzer but at least of a female mamzer?”*

J. *“What is written is mamzer, meaning, any objectionable person [without regard to gender].”*

K. *“So does the reference to Egyptian [at Deu. 23: 8) exclude Egyptian women?”*

L. *“That case is different, for Scripture spells out the consideration involved: ‘Because they did not meet you with bread and water’ (Deu. 23: 5) — it is customary for men to go out and meet travels, not for women.”*

M. *“Well, the men should have met the men, but the women should have met the women.”*

N. *He shut up.*

O. *“Thereupon the king said [to Doeg], Ask whose son this boy is” (1Sa. 17:56).*

P. *Elsewhere he calls him a youth but here he calls him a boy?*

Q. *This is what he said to him, “There is a law that you have missed. Go and ask in the school house.”*

- R. He asked. They said to him, “[Invalid are] ‘An Ammonite’? (Deu. 23:40, and not a female Ammonite, ‘a Moabite’ and not a female Moabite.””
- S. **[77A]** *But when Doeg laid before him all of these objections [that we have now spelled out], they fell silent.*
- T. *He wanted to make a public declaration against David [as the son of a Moabite woman, unfit in line with Deu. 23: 4]. Forthwith: “now Amaza was the son of a man named Ithna the Israelite who went in to Abigail, daughter of Nahash” (2Sa. 17:25). But elsewhere: “Jether the Ishmaelite” (1Ch. 2:17). Said Raba, “This teaches that he strapped on his sword like Ishmael and said, ‘Whoever will not obey this law will be stabbed with this sword: ‘so have I received as a tradition from the court of Samuel of Ramah: “[Invalid are] ‘An Ammonite’? (Deu. 23:40, and not a female Ammonite, ‘a Moabite’ and not a female Moabite.”””*
- U. But is he credible? Did not R. Abba say Rab said, “Any disciple of a sage who teaches a law, if the teaching is prior to an actual case, is listened to, but if not, is not listened to.”
- V. *This is an exceptional case, for lo, Samuel and his court were still alive.*
- W. *One way or the other, the challenge of his questions remains!*
- Y. *This is the explanation: “All glorious is the king’s daughter within” (Psa. 45:14) — in the West they say, and some say, R. Isaac said, “Said Scripture, ‘And they said to him, where is Sarah your wife, and he answered, Behold in the tent’ (Gen. 18: 9).” [Sarah did not go out and receive the guests whom Abraham was entertaining in the open (Slotki)].*

**I.2.** A. *This dispute accords with the following conflict among Tannaite formulations:*

- B. “[Invalid are] ‘An Ammonite’? (Deu. 23:40, and not a female Ammonite, ‘a Moabite’ and not a female Moabite,” the words of R. Judah.
- C. R. Simeon said, ““Because they did not meet you with bread and water’ (Deu. 23: 5) — it is customary for men to go out and meet travels, not for women.”

**I.3.** A. Raba offered the following interpretation of Scripture: “What is the meaning of the verse, ‘You have loosed my bonds’ (Psa. 116:16)?

- B. “Said David before the Holy One, blessed be he, ‘Lord of the world, there were two chains that were tied on to me, and you loosened them: Ruth the Moabitess and Naamah the Ammonitess.””

**I.4.** A. Raba offered the following interpretation of Scripture: “What is the meaning of the verse, ‘Many things have you done, Lord my God, even your wondrous works, and your thoughts toward us’ (Psa. 40: 6)?

- B. “What is written is not ‘toward me’ but ‘toward us’ — this teaches that Rehoboam sat on David’s lap, and David said to him, ‘Those two verses of Scripture [Gen. 18:9, Psa. 45:14, allowing Ammonite and Moabite women to enter the congregation of Israel] were these two verses said.”

**I.5.** A. Raba offered the following interpretation of Scripture: “What is the meaning of the verse, ‘Then I said, L I have come with the roll of a book that is prescribed for me’ (Psa. 40: 8)?

- B. “Said David, ‘I have come to the throne only now, but I didn’t know that in the roll of the book it was already [from Abraham’s time] written in my regard: ‘that are found’ (Gen. 19:15) [speaking of Lot’s daughters, the ancestresses of Ammon and Moab (Slotki)], and here, ‘I have found David my servant; with my holy oil have I anointed him’ (Psa. 89:21).”

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

**I.7.** A. *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. *“It derives from the case of a high priest married to a widow.”* [Slotki: as the daughter of a high priest who is forbidden to marry a widow is ineligible to marry a priest, so is the daughter of an Ammonite proselyte.]
- C. “But what differentiates the marriage between a high priest and a widow is that the act of sexual relations is a transgression [which is not the case of a marriage between an Ammonite and an Ammonitess].”
- D. “The case of the marriage by a profaned priest with an Israelite woman [which is no transgression, but which produces offspring ineligible to marry into the priesthood] proves the contrary.”
- E. “But the trait that marks the profaned priest is that he was born in sin [as the offspring of a prohibited marriage, and that is not the case with the Ammonite convert, so the one cannot be inferred from the other (Slotki)].”
- F. “So we’re going around in circles: the indicative trait of this one is not the same as the indicative trait of that, and the indicative trait of that one is not the same as the indicative trait of this one. But what they have in common is that neither one of them is comparable to the bulk of the assembly, and the daughter of each of them is invalid, so in this case too, which is not comparable to the bulk of the congregation, the daughter should be unfit.”
- G. “But the indicative trait these have in common is that in both instances there is an aspect of transgression [Slotki: the daughter of the high priest was born in sin, since the marriage of her parents was forbidden, and the daughter of a priest of spoiled status, the birth of the father was in sin; in the case of the Ammonite proselyte, however, neither the daughter nor the father was born in sin, so how can this case be inferred from the two others? And thus the question remains, what need was there for Yohanan to teach the redundant case of the daughter of an Ammonite proselyte?]
- H. *“But were you then speaking of an Ammonite that married an Israelite woman, indicating that even though the act of sexual relations was a transgression, the daughter is eligible?”*



- I. *He said to him, "Yes, since when Rabin came, he said R. Yohanan [said], 'The daughter of an Ammonite convert and the daughter of an Egyptian of the second generation — R. Yohanan said, 'She is valid.' R. Simeon b. Laqish said, 'She is invalid.'*
- J. *"R. Simeon b. Laqish said, 'She is invalid:' he invokes the analogy of the high pries married to a widow.*
- K. *"R. Yohanan said, 'She is valid:' [77B] for R. Zakkai set forth as a Tannaite formulation before R. Yohanan, "'But a virgin of his own people shall he take to wife" (Lev. 21:14) — encompasses a woman who is basically a proselyte, who is valid for marriage into the priesthood.' [Yohanan] said to him, 'I repeat it in the following terms: Instead of saying 'his people,' the verse says, 'of his people,' meaning, a virgin who descends from two peoples is included,' while you state only 'a woman who is basically a proselyte,' and no others!' But what is meant by 'two peoples'? If I say it refers to an Ammonite man who married an Ammonite woman, and that this bears the sense of 'two peoples' because the males fall into the category of those who are forbidden, the females, into the category of those whoa re permitted, then that is pretty much the same as a woman who is basically a proselyte. So it must refer to an Ammonite man who married an Israelite woman."* [Slotki: thus it is proved that in Yohanan's view such a case is eligible.]
- L. *And there are those who say, "He said to him, "I repeat it in the following terms: Instead of saying 'his people,' the verse says, 'of his people,' meaning, a virgin who descends from two peoples is included,' and from a people made up of two groups of people, while you state only 'a woman who is basically a proselyte.'"*
- M. *Now in accord with this version of his reply, how do we know that the daughter of an Egyptian of the second generation [married to an Israelite, thus in a forbidden marriage] is eligible to marry a priest? And should you say that he invokes the analogy of an Ammonite married to the daughter of an Israelite, well, that case is different, since Ammonite women are eligible [but Egyptian women are forbidden for three generations, like the men]!*
- N. *An Egyptian of the second generation married to an Egyptian woman of the second generation will prove the contrary [Slotki: his daughter, in the third generation, is permitted, although she belongs to the Egyptian people, of which the male and female is equally forbidden; as this latter restriction is no bar in this case, it should form no bar in the case of an Egyptian of the second generation married to the daughter of an Israelite].*
- O. *But the Egyptian of the second generation married to an Egyptian woman of the second generation is exceptional, since the act of sexual relations in no way constitutes a transgression.*
- P. *An Ammonite who married the daughter of an Israelite will prove the contrary, and so we are going around in circles.*
- Q. *Said R. Joseph, "[Slotki: the ruling permitting the daughter of an Ammonite convert who married the daughter of an Israelite] is in line with what I have heard R. Judah saying, "'his people," rather than "of his people,"" but then I didn't understand what he meant."*

- R. *When R. Samuel bar Judah came, he said, "This is what [Zakkai] repeated before [Yohanan]: 'An Ammonite woman is eligible, her son born of an Ammonite is ineligible, her daughter born of an Ammonite is eligible. Under what circumstances? In the case of a male and female Ammonite who converted. But her daughter born of an Ammonite is not eligible.'"*
- S. *He said to him, "Go out and repeat as a Tannaite formulation outside what you have said, namely, 'an Ammonite woman is eligible,' for 'Ammonite' excludes the female Ammonite. That 'her son born of an Ammonite is ineligible' is also quite sound, for he is merely an Ammonite. But when you say, 'her daughter who was born of an Ammonite is eligible,' for what purpose can this be? If I say that it pertains to entering the assembly, if her mother is eligible, what need is there to say that she is eligible? So the issue must be eligibility to marry a priest. But then what about the statement: Under what circumstances? In the case of a male and female Ammonite who converted. But her daughter born of an Ammonite is not eligible? And what can be meant by her daughter born of an Ammonite? If I should say that it is an Ammonite married to an Ammonite [converted before the daughter was born], then that's what was covered by the language, 'a woman who is basically a proselyte. So it must refer to an Ammonite who married the daughter of an Israelite' [Slotki: the daughter being ineligible because of the forbidden marriage of her parents]."*
- T. *He said to him, "Go out and recite this outside" [Slotki: in such a case also the daughter is eligible as deduced from the expression, "of his people' Lev. 21:14) instead of "his people."]*

**II.1 A. The Egyptian and the Edomite 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:"**

- B. *So what's the answer?*
- C. *Said Rabbah bar bar Hannah said R. Yohanan, "It is because one may say: the case of consanguineous relatives prove the contrary, for the prohibition in those cases pertains only to the third generation [upwards and downwards but applies to both males and females [as in the cases of Egyptians and Edomites].*
- D. *What characterizes the forbidden consanguineous relations is that the penalty of extirpation applies [but it doesn't apply here].*
- E. *The mamzer will prove the contrary [in that males and females are equally prohibited, but extirpation does not apply to those who have sexual relations with a mamzer].*

- F. The distinguished trait of the mamzer is that he is unworthy of entering the congregation for all time.
- G. The case of consanguineous relations then proves the contrary.
- H. So we are going around in circles: the indicative trait of this one is not the same as the indicative trait of that, and the indicative trait of that one is not the same as the indicative trait of this one. But what they have in common is that males and females are equally forbidden. So we encompass the Egyptian man and woman so that, in their case too, both males and females are equally forbidden.
- I. But the real shared trait is that in both cases there is an aspect of extirpation [Slotki: even in the case of the mamzer, extirpation is involved as the penalty of his parents for the action that was the origin of his birth; in the case of the Egyptian and Edomite there is no aspect whatsoever involving this penalty; the latter cannot be deduced from the others].
- J. *And rabbis [who object to Simeon]?*
- K. *They derive the prohibition of the females from the case of the priest of profaned genealogy, who is the offspring between those who by sexual relations have violated a positive commandment [a high priest married a woman who had been seduced, contrary to Lev. 21:14], and in line with the position of R. Eliezer b. Jacob [who deems such a child one of tainted priestly genealogy; thus it has been proved that even where extirpation is not involved, both males and females are covered by the prohibition, so with Egyptians and Edomites (Slotki)].*
- L. *Then what's the force of the **Not so?***
- M. *This is what he said to them, "For my part, I don't go along with R. Eliezer b. Jacob [Slotki: the offspring of a union between those who thereby violate a positive commandment is not regarded as tainted vis a vis the priesthood]. But according to you, who concur with R. Eliezer b. Jacob, I say to you, **I state a rule of law.**"*

## **II.2.** A. *It has been taught on Tannaite authority:*

- B. 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."

## **II.3.** A. *Our rabbis have taught on Tannaite authority:*

- B. "'sons' (Deu. 23: 9) — but not daughters," the words of R. Simeon.
- C. 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]."

## **II.4.** A. 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,' [78A] *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? (Slotki).]

- B. *Well, maybe he violated the law and married an Israelite or an Egyptian convert.*
- C. *Scripture would never have used the language “when” [when speaking of the possibility of a violation of the law].*
- D. *Well, there’s the case of the mamzer, [Slotki: the assumption of a mamzer’s birth is dependent on the possibility that someone will commit an offence], and yet Scripture used just that language!*
- E. *When it comes to a prohibition, Scripture uses the language of “when,” but it would not use the language, “when,” if the upshot were a remission of the law [that the third generation may enter the congregation].*
- F. *Well, there’s the case of someone who remarried a woman whom he has divorced after she married someone else, and that is a case of a “when” leading to a remission, and Scripture discussed it.*
- G. *Yeah, but there the main point still is the prohibition [Slotki: that is, the ineligibility of the woman herself; the eligibility of the children is only indirectly arrived at by deduction].*

**II.5.** A. *Our rabbis have taught on Tannaite authority:*

- B. If Scripture uses “sons” (Deu. 23: 9), then why use “generations” (Deu. 23: 9) [“the sons that are born...generation...”] and if the language is generations, why also sons?
- C. 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.
- D. 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].
- E. “Unto them” (Deu. 23: 9) — count from them.
- F. “Unto them” — follow the status of those ineligible among them [Slotki: 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].

**II.6.** A. *And it was necessary for Scripture to use the language “unto them” (Deu. 23: 9), and it was also necessary for Scripture to write, “that are born” (Deu. 23: 9). For if Scripture had written only “that are born,” I might have supposed that the counting of the generations begins with the children, so the All-Merciful said, “unto them.” And if the All-Merciful had said only, “unto them,” I might have supposed that when a pregnant Egyptian woman converted, she and her child are counted as only one generation, so the All-Merciful specified, “that are born.”*

- B. *And it was necessary to write “unto them” here, and “unto him” in the case of the mamzer. For if the All-Merciful had used that language only here [in regard to the Egyptian], I might have supposed that the restriction [Slotki: ineligibility of either of the parents makes the child ineligible] applies only here, because the child has descended from an invalid union, but not to a mamzer, since he is not descended from invalid seed. And had the All-Merciful made that statement in*

regard to a mamzer, I might have supposed that the restriction applies only to him, because he is invalid for entry into the assembly for all time, but in this case it would not have applied. So both statements had to be made.

- II.7.** A. 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.*
- B. *Objected R. Joseph: “R. Tarfon says, “Mamzerim can be purified [from the taint of bastardy]. How so? A mamzer who married a slave girl — the offspring is a slave girl. [If] he then freed him, the son turns out to be a free man” [M. Qid. 2:13A-D]. Therefore he takes the view that we assign the child to the mother’s genealogy.”*
- C. “That case is exceptional, for said Scripture, ‘The wife and her children shall be her master’s’ (Exo. 21: 4).”
- D. *Objected Raba, “Said R. Judah, ‘Benjamin, an Egyptian proselyte, was my colleague among the disciples of R. Aqiba. Said Benjamin, “I am an Egyptian proselyte of the first generation, and I married an Egyptian proselyte of the first generation. Lo, I am planning to arrange a marriage for my son with a woman who is the daughter of an Egyptian proselyte woman, thus of the second generation, so that the son of my son will be permitted to enter into the congregation”’ [T. Qid. 5:4G-H]. Now if you maintain that we assign the status of the child to the father, he could have married a woman even of the first generation.”*
- E. *Lo, said to R. Yohanan to the Tannaite authority: “Formulate the Tannaite statement as: a woman of the first generation.”*
- II.8.** A. *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.”*
- B. *Said to him Abbaye, “Well, what about what R. Yohanan said: [If] one has designated as a sin offering a pregnant beast and it gave birth, if he wanted, with the best itself he attains atonement, if he wants, with its offspring he attains atonement. Now if you take the position that the embryo is not deemed equivalent to the mother’s thigh, then he would be in the position of having designated two animals to serve as sin offerings as security [so that if one is lost, the other can be used], and said R. Oshaia, ‘He who designated two animals as sin offerings as security may attain atonement through one of them, and the second is put out to pasture.’ But if you maintain that the embryo is deemed equivalent to the mother’s thigh, then it is in the class of the offspring of a beast designated as a sin-offering, and the offspring of a beast designated as a sin-offering is left to die.”*
- C. *He remained silent.*
- D. *He said to him, “But maybe the other ruling [assigning the Egyptian offspring to the mother] is exceptional [from other cases, where the child is assigned to the father], since it is written, ‘that are born,’ so that Scripture invoked the issue of birth as determinative?”*

- E. *He said to him, "Brains! I saw your head among the pillars when R. Yohanan reported this tradition in just so many words: the determinative consideration is that it is written, 'that are born,' so that Scripture invoked the issue of birth as determinative. But in general, the child is assigned the status of the father."*
- II.9.** A. *Then what about that which Raba said, "A pregnant gentile who converted — her offspring does not require immersion." [If the child is not regarded as part of the mother,] now why does he not require immersion? If you say that the operative consideration is what R. Isaac said, for said R. Isaac, "As a matter of the law of the Torah, interposition of hair as to the larger part [when a single hair is knotted] of which one objects is classified as an interposition, but one to which one does not object is not classified as an interposition" [78B] lo, said R. Kahana, "This applies only to the greater part, but when the whole of it is effected, it really does interpose," [so why doesn't the child have to be immersed when born]?*
- B. *The case of the embryo is exceptional, for at this time, it is where it is because of its natural growth.*
- II.10.** A. *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."*
- B. *"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]," for it has been taught on Tannaite authority:*
- C. *How do we know that, in the case of one among all the nations of the land who had sexual relations with a Canaanite woman and produced a son from her, you are permitted to purchase the offspring as a slave?*
- D. *Scripture says, "Moreover of the children of the strangers that sojourn among you, of them you shall buy" (Lev. 25:45).*
- E. *Is it possible to take the view that if, further, a Canaanite male had sexual relations with a woman belonging to any of the nations and produced a son from her, you are permitted to purchase the offspring as a slave?*
- F. *Scripture says, "Which they have begotten in your land" (Lev. 25:45), meaning, [you shall purchase slaves] of those that are born in your land, and not of those who are resident aliens in your land.*
- H. *"When they have converted, follow the status of the more tainted of the two nations of which the parents derive." under what circumstances? If we say that it is an Egyptian who married an Ammonite woman, then how could we speak of "the more tainted of the two," when Scripture is explicit, "An Ammonite" but not a female Ammonite?*
- I. *Rather, it is an Ammonite man who married an Egyptian woman. If the offspring is male, it is assigned to the Ammonite [and can never enter the congregation, were he assigned to the mother, he could have entered after the third generation]; if it is a female, she is assigned the status of her Egyptian mother.*



## 8:3J-K

**J. 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,**

**K. all the same being males and females.**

**I.1** A. 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*” [Slotki: since in the case of the mamzer, the prohibition of the first gen generations is explicitly stated and includes both men and women, whereas the prohibition after ten generations in the case if 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].

B. *But we have learned in the Mishnah: 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.*

C. *That’s no problem, the one statement [Simeon b. Laqish’s] speaks in accord with the one who says, when we draw a deduction, it pertains throughout, and the other statement [our Mishnah’s] accords with him who has said a deduction is restricted to its original terms. [That is to say, the words used for establishing this analogy based on verbal correspondence are available for this particular purpose and no other.]*

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

B. He said to them, “Would that I had the opportunity to declare pure even a third generation!”

C. *Therefore he takes the view that a mamzer-family does not survive.*

D. And so said R., Huna, “*A mamzer-family does not survive.*”

E. *But lo, we have learned in the Mishnah: Mamzerim are prohibited, and the prohibition concerning them is forever!*

F. *Said R. Zira, “This has been explained to me by R. Judah: if they are known for what they are, they survive, but if they are not known for what they are, they do not survive. If partly known and partly unknown, they survive for just three generations, no more.”*

**I.3.** A. *There was someone who lived in the neighborhood of R Ammi, who announced that he was a mamzer. As he went around weeping, [the rabbi] said to him, “I have given you life.”*

**II.1.** [Supply:...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:] 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).”

- B. *How come he issued a decree against them?*
- C. *Because it is written, “And there was a famine in the time of David for three years consecutively” (2Sa. 21: 1).*
- D. In the first year he said to them, “Is it possible that there are idolators among you? For it is written, ‘And serve other gods and worship them...and he will shut up the heaven so that there will be no rain’ (Deu. 11:16-17).”
- E. They investigated and found none.
- F. In the second year he said to them, “Is it possible that there are sinners among you? For it is written, ‘Therefore the showers have been withheld and there has been no latter rain yet you had a harlot’s forehead’ (Jer. 3: 3).”
- G. They investigated and found none.
- H. In the third year he said to them, “Is it possible that there are among you people who pledge to charity in public but don’t pay up? For it is written, ‘As vapors and wind without rain, so is he who boasts himself of a false gift’ (Pro. 25:14).”
- I. They investigated and found none.
- J. He said, “Well, then, I alone must be at fault.” Forthwith: “He sought the face of the Lord” (2Sa. 21: 1).

**I.2.** A. [“He sought the face of the Lord” (2Sa. 21: 1):] *What does this mean?*

- B. Said R. Simeon b. Laqish, “He consulted the Urim and Tummim.”
- C. *How do we know that?*
- D. *Said R. Eleazar, “We draw an analogy through two usages of the word ‘face of,’ here, in which it is written, ‘And David sought the face of the Lord’ (2Sa. 21: 1), and elsewhere: ‘Who shall inquire for him by the judgment of the Urim before the face of the Lord’ (Num. 27:21).”*

**I.3.** A. “And the Lord said, ‘It is on account of Saul and his bloody house, because he put the Gibeonites to death’ (2Sa. 21: 1):

- B. “On account of Saul.” because he was not given a proper lamentation.
- C. “and his bloody house, because he put the Gibeonites to death.” Now where do we find that Saul killed the Gibeonites? Rather, since he put to death Nob, the city of the priests, who were providing the Gibeonites with water and food, Scripture treats it as though he had killed them.

**I.4.** A. *Now is there a complaint both for Saul, because he was not given a proper lamentation, and also for the Gibeonites, whom he himself had put to death?*

B. Quite so, for said R. Simeon b. Laqish, “What is the meaning of the verse of Scripture: ‘Seek the Lord, all you humble of the earth, that have executed his ordinance’ (Zep. 2: 3)? Where there is his ordinance [his judgment, for Saul’s guilt (Slotki)] there also is his ‘executions’ [Slotki: read: his work, that is, Saul’s good deeds].”

**I.5.** A. *Said David, “In respect to Saul, [79A] twelve months of the first year [of mourning] have already passed, and it is not appropriate to conduct a lamentation. In regard to the Netinim, call them and let us conciliate them.”*

B. And the king summoned the Gibeonites and said to them, ‘What shall I do for you, and how shall I make atonement, that you may bless the inheritance of the Lord?’ And the Gibeonites said to him, ‘It is not a matter of silver or gild between us and Saul or his house, nor is it for us to put any man...let seven men of his sons be delivered to us and we shall hang them up unto the Lord’” (2Sa. 21: 2-4, 6).

C. *He tried to appease them, but there were not to be appeased. So he said to them, “Three traits characterize this nation: they are merciful, modest, and generous:*

D. “Merciful: ‘And show you mercy and have compassion upon you and multiply you’ (Deu. 13:18).

E. “Modest: ‘That his fear may be before you’ (Exo. 20:17).

F. “Generous: ‘That he may command his children and his household’ (Gen. 18:19).

G. “Any one who exhibits these three qualities is fit to cleave unto this nation.”

**I.6.** A. “But the king took the two sons of Rizpah, daughter of Aiah, whom she bore to Saul, Armoni and Mephibosheth, and the five sons of Michael, daughter of Saul, whom she bore to Adriel son of Barzillai the Meholathite” (2Sa. 21: 8):

B. *Why these in particular?*

C. Said R. Huna, “He brought all of them past the ark. Any whom the ark held on to was assign to death, and any whom the ark did not hold on to was assigned to life.”

D. *Objected R. Hana bar Qattina:* ““But the king spared Mephibosheth son of Jonathan son of Saul’ (2Sa. 21: 7)!”

E. He did not pass him by the ark.

F. So did he show favoritism?

G. Rather: he passed him by the ark, and it held on to him, but he sought mercy for him and the ark released him.

H. *So still:* there was favoritism!

I. Rather: he sought mercy that the ark not hold on to him.

- J. *Anyhow, it is written*, “The fathers shall not be put to death for the children nor the children for the fathers” (Deu. 24:16) [so why kill Saul’s sons for what he did]?
  - K. Said R. Hiyya bar Abba said R. Yohanan, “It is better that a single jot of the Torah be rooted out of its place than that the Name of heaven be disgraced in public [by not penalizing the crime committed against the Gibeonites].”
- I.7.**
- A. “And Rizpah the daughter of Aiah took sackcloth and spread it for her upon the rock, from the beginning of harvest until water was poured upon them from heaven, and she allowed neither the birds of the air to rest on them by day nor the beast of the field by night” (2Sa. 21:10):
  - B. *But lo, it is written*, “His body shall not remain all night upon the tree” (Deu. 21:23)!
  - C. Said R. Yohanan in the name of R. Simeon b. Yehosedeq, “It is better that a single jot of the Torah be rooted out of its place so that the Name of heaven be sanctified in public.
  - D. “For bypassers were saying, ‘What sort of men are these?’
  - E. “‘These are princes.’
  - F. “‘And what did they do?’
  - G. “‘They laid hands on converts who are drawn [to the Lord].’
  - H. “They said, ‘You have no nation that is more worthy of being joined than this one. For if that is how princes are treated, then how much the more ordinary fellows! And if that is how proselytes drawn [to the Lord] are treated, how much the more so Israelites!’”
  - I. Forthwith a hundred and fifty thousand joined Israel: “And Solomon had threescore and ten thousand that bore burdens, and fourscore thousand that were hewers in the mountain” (1Ki. 5:29).
  - J. *Couldn’t these have been Israelites?*
  - K. *Forget it!* “But of the children of Israel did Solomon make no bond-servants” (1Ki. 9:22).
  - L. *Maybe it was [Slotki:] mere public service?*
  - M. Rather: “And Solomon numbered all the strangers that were in the land of Israel...and they turned out a hundred and fifty thousand...and he set three score and ten thousand of them to bear burdens and four score thousand to be hewers in the mountains” (2Ch. 2:16-17).
- I.8.**
- A. 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)!
  - B. *Moses made the decree concerning that generation, but David made the decree for all generations.*
  - C. Still, Joshua made the decree against them: “And Joshua made them that day hewers of wood and drawers of water for the congregation and for the altar of the Lord” (Jos. 9:27).
  - D., Joshua made the decree for the time that the house of the sanctuary stood, David made the decree for the time during which the house of the sanctuary did not stand.

- I.9.** A. [79B] 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?”
- B. *That differs from what R. Hiyya bar Abba said, for said R. Hiyya bar Abba said R. Yohanan, “The part of the congregation is eternally forbidden, but the part of the altar for the time the house of the sanctuary is standing is forbidden, but when the house of the sanctuary is not standing, is released.”*

**8:4-5**

**8:4**

- A. Said R. Joshua, “I have heard that:
- B. “The eunuch performs the rite of removing the shoe, and they perform the rite of removing the shoe with his wife.
- C. “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.
- D. “And I cannot explain [the conflict between the two sayings].”
- E. Said R. Aqiba, “I shall explain [the conflict between the two sayings].
- F. “A eunuch castrated by man performs the rite of removing the shoe, and they perform the rite of removing the shoe with his wife,
- G. “because there was a time in which he was valid [as a husband].
- H. “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,
- I. “because there was never a time in which he was valid”
- J. R. Eliezer says, “Not so, but:
- K. “A eunuch by nature performs the rite of removing the shoe, and they perform the rite of removing the shoe with his wife,
- L. “because he may be healed.
- M. “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,
- N. “because he may never be healed.”
- O. 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 —
- P. thus confirming the opinion of R. Aqiba.

**8:5**

- A. A eunuch does not perform the rite of removing the shoe and does not enter into levirate marriage.
- B. And so: a sterile woman does not perform the rite of removing the shoe and is not taken in levirate marriage.
- C. 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].

- D. [If] he had sexual relations with her, he has rendered her invalid [for marriage into the priesthood],
- E. for it is an act of sexual relations of the character of fornication.
- F. And so: a sterile woman with whom the brothers have performed the rite of removing the shoe —
- G. they have not rendered her invalid [for marriage into the priesthood].
- H. [If] they had sexual relations with her, they have rendered her invalid [for marriage into the priesthood],
- I. for it is an act of sexual relations of the character of fornication.

- I.1 A. **[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. *Said R. Ammi, "Here with what sort of a case do we deal? It is one in which his brother [the deceased childless brother of the eunuch] was married to a convert, and R. Aqiba concurs with R. Yosé, who has said, 'The congregation of proselytes is not classified as a congregation' [for marital purposes [so she is permitted to the eunuch, and they conduct the rite of removing the shoe]."*
- C. *If so, then he should have every right to enter into levirate marriage too [so why only the rite of removing the shoe]?"*
- D. *True enough, but since R. Joshua said, "The eunuch performs the rite of removing the shoe," he too said, "The eunuch performs the rite of removing the shoe." A close reading of the Mishnah-language also yields the same inference, for the Tannaite formulation reads: **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.***
- E. *That is decisive.*
- F. *Objected Rabbah, "A man who has damaged testicles, one whose penis has been cut off, a eunuch by human action, and a man past having sexual relations may either enter into the rite of removing the shoe or consummate a levirate marriage. Under what circumstances? If any of these died and left wives and surviving brothers, and if the surviving brothers went and bespoke the wife, gave her a writ of divorce, or performed a rite of removing the shoe, what they have done is valid; if they had sexual relations with them, the widows become their wives. If the brothers died, and the listed classifications of injured males went and bespoke the wife, gave her a writ of divorce, or performed a rite of removing the shoe, what they have done is valid; if they had sexual relations with them, the widows become their wives, but the maimed persons may not retain them, since it is said, 'He that is wounded in*



the testicles or has his penis cut off shall not enter into the assembly of the Lord' (Deu. 21: 2) [T. Yeb. 11:2A-Q]. *Therefore we are dealing with members of the assembly [so how are we dealing with women proselytes, who are not in the assembly]?"*

- G. Rather, said Rabbah, "It is a case in which the widow fell to his lot and then he was injured" [Slotki: since the obligation arose while the man was still in a state of potency, the rite of removing the shoe is necessary and valid].
- H. *Said to him Abbaye, "Well, then, why not have the prohibition against the marriage to a person with injured testicles override the positive commandment of entering into levirate marriage? Have we not learned in the Mishnah: 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 goes forth on grounds of being the sister of [his] wife' [M. Yeb. 13:7J-K]? Therefore in such a case as this the prohibition of marrying the wife's sister comes along and sets aside the levirate marriage. Here too, why not have the prohibition against the marriage to a person with injured testicles override the positive commandment of entering into levirate marriage?"*
- J. *Rather, said R. Joseph, "This Tannaite authority takes the view of the Tannaite authority of the household of R. Aqiba, who has said, "The issue of a union that is subject to the penalty for violating a negative commandment by reason of consanguinity is deemed a mamzer; but the offspring of a union that is subject merely to the penalty of violating a negative commandment is no mamzer."* [Slotki: there is a distinction between the two classes of trespass that are subject to the penalty of negative precepts: cases due to consanguinity and other cases; the former are subject to the restrictions of those liable to extirpation, the latter not; maimed persons belong to the latter class and are consequently subject to the levirate law.]
- K. *Here too "To raise up unto his brother a name" (Deu. 25: 7) is to be invoked, but surely the eunuch is not capable of getting it up [so why is he subject to the rite of removing the shoe]?"*
- L. *Said Raba, "If so, there is no woman that is valid to enter into levirate marriage if the husband was not a eunuch by nature at least for a while before he died [the widow would then be exempt from the rite of the removal of the shoe, so would any widow ever be subject to the rite]? [Slotki: a person's former capacity for propagation is taken into consideration even though that capacity was subsequently lost.]*
- M. *In regard to the position of R. Eliezer [who holds that the man-made eunuch does not submit to the rite of removing the shoe, even though prior to the castration he was able to get it up], Raba's solution to the problem would present a valid objection!*
- N. *[Where before death one is impotent], that is debility that set in [in general, which is not the same as an act of castration].*

**II.1** A. [...a eunuch by nature:] *what is a eunuch by nature?*

- B. Said R. Isaac bar Joseph said R. Yohanan, "It is any **[80A]** who has never experienced a single moment of validity" [but was born sterile].
- C. *So how do we know?*
- D. Said Abbayye, "It is any who when he urinates forms no arch."
- E. *What's the cause for sterility at birth?*
- F. *Because the mother did her baking at noon [adding to the heat of the day, and the heat baked out the embryo's genitals] or strong strong beer.*
- G. Said R. Joseph, "That is the kind of eunuch of whom I heard Ammi say, 'It is any that was afflicted from birth,' and I didn't know what he meant."
- H. *But maybe he got better in the interim?*
- I. *If he was afflicted at the start and at the end of life, we don't take account of what might be in the middle.*
- J. Objected R. Mari, "**R. Hanina b. Antigonus says, 'They examine it three times in eighty days' [M. Bekh. 6:3D].**"
- K. *We take account of the condition of a single limb, but we do not take account of the condition of the whole of the body.*

- III.1** A. **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:"**
- B. *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].*[Slotki: 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].
  - C. Said R. Ammi bar Diqui said Samuel, "R. Eliezer retracted."
  - D. *The question was raised: which of the two opinions did he retract?*
  - E. *Come and take note of what has been taught on Tannaite authority: R. Eliezer says, "A eunuch by nature enters into the levirate rate and his wife is subject to the levirate rite, for so are cases of that kind healed in Alexandria, Egypt." [He retracted his opinion in M. Nid.]*
  - F. *R. Eleazar says, "He never retracted, and when that statement was made [in regard to the age of the male at twenty, of the female, at eighteen, in regard to the*

*two Houses, respectively], it had to do with the imposition of penalties [the point at which males and females are subject to adult penalties].”*

**III.2.** A. *It has been stated:*

- B. 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 —
- C. Rab said, “He is treated as retrospectively a eunuch.” [Slotki: 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].
- D. 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].
- E. *Objected* R. Joseph to Rab[‘s position that a girl who later on was found to be a eunuch is regarded as having been one and therefore also of age from the moment she turned twelve years and a day (Slotki)], “From the perspective of R. Meir [who does not obligate one who seduces a minor to pay the fine of Deu. 22:29], a barren would should collect a fine.” [Slotki: the seducer is exempt from the fine on the ground that, since she did not produce the required pubic hairs, she is regarded as the time as a minor; but she should get a fine because, since it is later established that she was sterile, she should be regarded as having been sterile and also of age retrospectively.]
- F. *Said to him Abbaye*, “From her minority she passes into adolescence” [the former is twelve years and a day, the latter, twelve and a half and a day; in the intervening age a girl is a maiden, and that is when she gets the fine; during that period she would be entitled to the fine; the sterile woman comes of age retrospectively as Rab said, but she assumes the status of the adolescent woman who is not entitled to the fine].
- G. *He said to him*, “*May all such excellent statements be stated in my name. For it has been taught on Tannaite authority:* A eunuch is not tried under the law of the stubborn and recalcitrant son, because a stubborn and recalcitrant son is tried only if he has produced the pubic hair; and a woman who is barren is not tried under the law of a betrothed damsel [Deu. 22:23], because from her minority she passes into adolescence.”

**III.3.** A. 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.” [Slotki: 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.]

- B. *But is a child born at the age of eight months after conception ever going to live? And has it not been taught on Tannaite authority: A child born at eight months old is classified as a stone and may not be carried on the Sabbath, though his*

mother may bend over him and give him suck [80B] for the sake of her health [T. **Shab. 15:5D-F**]?

- C. *Here with what sort of case do we deal? It is one in which the marks of viability [such as hair and nails] have not yet developed [but if they have, it may be viable]. For it has been taught on Tannaite authority: **What is the definition of a child born after eight months of pregnancy? Any that has not come to term. Rabbi says, “The symptoms are discernible in him: his fingernails and hair are not fully grown” [T. **Shab. 15:7A-C**]. So the operative consideration is that they have not developed, but if they had developed, we should have assumed that the child had been born at seven months of term, but the birth was somewhat delayed.***
- D. *Now with reference to the decision made by Raba Tosefaah in the instance of a woman whose husband had gone overseas and stayed a full year, and he declared the offspring legitimate — in accord with whose opinion did he make that ruling? In accord with Rabbi, who said, the birth may be delayed? [Slotki: would he agree with an individual against the majority?]*
- E. *Well, since there is also Rabban Simeon b. Gamaliel, who has said, “The birth may be delayed,” he acted in accord with the majority. For it has been stated as a Tannaite formulation: Rabban Simeon b. Gamaliel says, “Any human offspring that lasts for thirty days is not classified as a miscarriage.”*

**III.4.** A. *Our rabbis have taught on Tannaite authority:*

- B. **What is the definition of a eunuch by nature?**
- C. **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.**
- D. **And what are his characteristics?**
- E. **Any who has no beard and whose skin is smooth and not hairy.**
- F. **Rabban Simeon b. Gamaliel says in the name of R. Judah b. Yair, “Any whose urine does not produce a froth.”**
- G. **And some say, “Any whose urine is sour.”**
- H. **And some say, “Any whose semen is watery.”**
- I. **And some say, “Any who urinates without producing an arch.”**
- J. **And others say, “Any who bathes in cold water in the rainy season and whose flesh does not steam.”**
- K. **And R. Simeon b. Eleazar says, “Any whose voice croaks, so one cannot tell whether it is male or female.”**
- L. **What is the definition of a sterile woman?**
- M. **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.**
- N. **What are the indications? Any who has no breasts and whose hair is abnormal and who finds sexual relations painful.**
- O. **Rabban Simeon b. Gamaliel says, “Any who has no mons veneris like other women.”**

- P. **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].**

**III.5.** A. *It has been stated:*

- B. As to the indications of a eunuch —
- C. R. Huna said, “They are deemed indicative only if all of them are present.”
- D. R. Yohanan said, “Even if one of them was present.”
- E. *In a case in which he produced two hairs, all concur that all symptoms are required; where there is a dispute it is a case in which two pubic hairs are not produced.*
- F. *And in regard to that which Rabbah bar Abbuha said to rabbis, “Examine R. Nathman to see whether his body steams, and if it does, I will let him marry my daughter,” in accord with whose position did he make that statement? In accord with R. Huna?*
- G. *No, R. Nahman had some stray hairs here and there.*

**IV.1** A. **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.**

- B. *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.”*

**V.1** A. **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:**

- B. *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. [81A] 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”?*
- C. *Not at all, the same law applies even in the case of someone else’s having sexual relations with her. But since the opening clause referred to the levir himself, the closing clause also was formulated in terms of the levir. [But the language is not exclusionary.]*

**VI.1** A. **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:**

- B. *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?*
- C. *It is surely not in accord with R. Judah's view, for has not R. Judah said, "Sexual relations with a barren woman are regarded as harlotry."*

## 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.**
  - 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."**
  - 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."**
  - D. **A person bearing traits of both sexes marries but is not taken in marriage.**
  - E. **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 [Lev. 20:13]."**
- I.1** 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:]** *Yeah, so what else is new?*
- B. *Well, what might you otherwise have supposed? If one can procreate, he confers the right to eat such food, and if he cannot, then he does not? So we are informed that that is not the rule.*
- II.1** A. **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:"**
- B. *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]."*
  - C. *R. Yohanan says, "He also confers upon her the right to eat the breast and shoulder."*
  - D. *Now from the perspective of R. Simeon b. Laqish, what makes the right to eat the breast and shoulder different? It is because these derive from the law of the Torah? So the priest's right to eat the breast and shoulder also derives from the law of the Torah!*
  - E. *Here with what situation do we deal? It is with the eating of food in the status of priestly rations at the present time [after the destruction of the Temple], which is only on the authority of rabbis.*
  - F. *But when the house of the sanctuary is standing, what is the law? Food in the status of priestly rations may not be eaten by the wife of a person exhibiting the sexual traits of both genders.*
  - G. *Well, then, instead of formulating the Tannaite statement as, [A priest who bore sexual traits of both genders who married an Israelite girl feeds her food in the status of priestly rations] but he does not confer upon her the right to eat the breast and shoulder, it would make more sense to set matters forth as a single*



*statement, namely, Under what circumstances? In the matter of food in the status of priestly rations which derives from the authority of rabbis. [That would then yield the corollary:] But as to food in the status of priestly rations when setting it apart for the priests derives from the authority of the Torah, that is not the case.*

- H. *But that's just what was intended, namely: when he confers on her the right to eat priestly rations, it is at this time, when such rations are separated only on the authority of rabbis, but he does not confer on her the right to eat priestly rations at the time at which the law governing the breast and thigh is in force, even in connection with priestly rations on the authority of rabbis, lest he turn out to feed her food in the status of priestly rations that is separated on the authority of the Torah [Slotki: that which is given from grain, wine, and oil].*
- I. R. Yohanan says, "He also confers upon her the right to eat the breast and shoulder."
- J. *Said R. Yohanan to R. Simeon b. Laqish, "Do you maintain that separating food in the status of priestly rations is only based on rabbinical authority?"*
- K. *He said to him, "Indeed so. For I repeat the following formulation: A cake of figs is neutralized among other cakes of figs. [If a cake of figs in the status of priestly rations was mixed up with a hundred secular cakes of figs, the whole mixture is permitted; neutralization would not take place if separating the cake of figs for the priests at this time were based on the law of the Torah.]"*
- L. He said to him, "So don't I repeat: 'A piece...among pieces is neutralized'? [An unclean piece of an animal presenting as a sin-offering that was mixed up with a hundred clean pieces is neutralized, and here the authority of the Torah is in play, so neutralization pertains even though the governing rule is that of the Torah]. You maintain that the correct reading of the Mishnah-paragraph that follows is, 'Any objects that one sells by counting them out,' but in fact it is, 'Whatever one sells by counting out'" [which is limited; 'any objects' cover more things than 'that which,' and according to the former reading, neutralization is not permitted where things are so valuable that they are sold not in bulk but in units; accord to the latter reading, neutralization is permitted in all cases except where units are of such high value that they are sold only by counting one by one; now, since cakes of figs are not sold in units, they may be neutralized even though the separation of priestly rations derives from the law of the Torah (Slotki)].

## **II.2.** A. *To what is reference made in the foregoing?*

- B. *It is to that which we have learned in the Mishnah: Whoever had bunches of fenugreek that are [prohibited under the laws of] diverse kinds in a vineyard — [the bunches] must be burned. [If the bunches] were mixed with other [permitted bunches] — "All must be burned," [81B] the words of R. Meir. And sages say, "They are neutralized in [a ratio of] one [forbidden bunch] to two hundred [permitted bunches]" [M. **Orl. 3:6**]. For R. Meir would say, "Whatever normally is counted [when being sold] renders [other food mixed with it] sanctified [forbidden, so that all of the food in the mixture must be burned]." But sages say, "Only six foods render [other foods] sanctified. And Aqiba says, "Seven [foods render others forbidden]." And these are they [sages' six foods]: (1) nuts from Perekh, (2)*

pomegranates from Baddan, (3) sealed jars [containing forbidden wine], (4) beet shoots, (5) cabbage stalks and (6) Greek gourds. R. Aqiba says, “Also (7) loaves [of bread] of a householder.” To those [among these items] to which the [restrictions of] fruit of a tree for the first three years after planting are applicable, the [restrictions of] fruit of a tree for the first three years after planting [apply]. To that to which the prohibition of diverse kinds in a vineyard is applicable, the prohibition of diverse kinds in a vineyard [applies] [M. [Orl. 3:7](#)]. Now R. Yohanan takes the view that the language we have learned to recite in this context is, **that which is normally counted**, and R. Simeon b. Laqish holds that the correct reading is, **Whatever normally is counted**.

- C. *What is the formulation in connection with a piece [of meat]?*
- D. *It is that which has been taught on Tannaite authority:* A piece of meat of a sin offering that was unclean that was confused with a hundred pieces of meat of sin offering that were clean, and so too, a piece of show bread that was unclean that was mixed up with a hundred pieces of show bread that were clean is neutralized. R. Judah says, “It is not neutralized.” But a piece of meat of sin offering that was clean that was confused with a hundred pieces of meat in the status of secular food that were clean, and so a piece of show bread that was clean that was confused with a hundred pieces of unconsecrated bread that were clean — all parties maintain that they are not neutralized. *In any event, the opening clause maintains that neutralization [here, in a case in which the authority of the Torah, not merely that of rabbis, governs] does take place* [Slotki: though these objects are sometimes sold in units; this proves that Yohanan is right when he says, ‘that which one usually counts out..., so how can Simeon b. Laqish maintain that the reading is, ‘whatever one counts out’?]
- E. Said R. Hiyya b. R. Huna, “Reference is made to a case in which it was crushed [and no longer sold in units but in bulk (Slotki)].
- F. *If so, then what can possibly explain the position of R. Judah?*
- G. **[82A]** R. Judah is consistent with his principles, for he has said, “Where there is a confusion between things of the same species, then there is no nullification.”
- H. *Then if the mixture had not been crushed, what would have been the rule? That neutralization does not take place? In that case, instead of framing matters as,* But a piece of meat of sin offering that was clean that was confused with a hundred pieces of meat in the status of secular food that were clean is not neutralized, *the passage should have read a single formulation [without a dispute], namely: under what circumstances? If it was crushed. But if it was not crushed, neutralization does not take place.*
- I. *He preferred to formulate matters in terms of a mixture of clean things with other clean things of a different status* [Slotki: to indicate that even in such a case, where the law of neutralization might have been expected to apply, the mixture remains forbidden].

- J. *[Since he has explained the passage to speak of a crushed piece], how does R. Simeon b. Laqish differentiate between the initial clause and the final clause?* [Slotki: in either case the piece of pentateuchally forbidden; as neutralization takes place in the case of the first clause owing to the insignificant value of the piece, neutralization should also take place, for the same reason, in the case of the final clause.]
- K. Said R. Shisha b. R. Idi, “The opening clause refers to uncleanness affecting liquids, which derives from the authority of rabbis [e.g., the crushed mixed was in contact with a utensil that had touched unclean liquid; by the law of the Torah, unclean liquid does not make a utensil unclean]. The concluding clause refers to uncleanness that is based on the law of the Torah.” [Slotki: food forbidden by the law of the Torah if mixed with other food of the same status cannot be neutralized, even if sold in bulk.]
- L. *Then what about uncleanness imparted by a dead creeping thing [which is based on the law of the Torah]? Would there be no neutralization? Then how come the concluding clause states:* But a piece of meat of sin offering that was clean that was confused with a hundred pieces of meat in the status of secular food that were clean is not neutralized? *Rather, formulate matters as a unanimous agreement in a single statement:* under what circumstances? In the case of uncleanness transmitted by liquid; but as to uncleanness transmitted by a dead creeping thing, that is not the case.
- M. *He preferred to formulate matters in terms of a mixture of clean things with other clean things of a different status* [Slotki: to indicate that even in such a case, where the law of neutralization might have been expected to apply, the mixture remains forbidden].
- N. [Responding to J], Rabbah said, “It is because the opening clause deals with a prohibition deriving from a negative commandment [eating holy meat that is unclean], while the concluding clause deals with a prohibition that involves the penalty of extirpation” [Slotki: if the crushed mixture with consecrated meat were neutralized and treated as unconsecrated, it might be eaten by an unclean person, who would incur the penalty of extirpation for eating holy meat when unclean, so Lev. 7:20].
- O. *But lo, it is Rabbah himself who has said, “In any case in which the prohibition derives from the Torah, there is no differentiating a prohibition that concerns a negative commandment and one that bears the penalty of extirpation”!*

P. *That's a problem.*

Q. [Responding to J], R. Ashi said, "The operative consideration in the concluding clause is that holy food falls into the classification of something that under the proper conditions may be treated as permitted, and whatever falls into that classification mixed with even a thousand times its own volume is not neutralized. [Normally, a certain proportion of unconsecrated produce may neutralize a much smaller volume of consecrated produce with which it is mixed. But that principle does not pertain if what is consecrated may be released from its status of consecration in some way other than through neutralization.]"

R. *What R. Ashi says is a pure fabrication, for to whom would the mixture ever be permitted? If to the priest, it's already forbidden to him anyhow, and if to an Israelite, it's already forbidden to him anyhow! So what R. Ashi says is a pure fabrication!*

S. *Anyhow, does R. Yohanan really take the position that separating priestly rations at this time derives from the authority of the Torah? And lo, it has been taught on Tannaite authority: if there were before him two bins, one of priestly rations and one of unconsecrated produce, and before them were two seahs of produce in separate containers, one of priestly rations and one of unconsecrated produce, and the produce fell from each of the small containers, but it is not known whether it fell from this one into that one, or from that one into this one [so we do not know which produce was mixed with which] these are permitted, for lo, I say, "Priestly rations fell into priestly rations, unconsecrated produce fell into unconsecrated produce" [T. Ter. 65:18A-D].* In this connection said R. Simeon b. Laqish, "But that is the rule only if the unconsecrated produce was greater in volume than the produce in the status of priestly rations." But R. Yohanan said, "Even though the unconsecrated produce was no greater in volume than the produce in the status of priestly rations." *Now from the perspective of R. Simeon b. Laqish, that makes sense, since he holds the view that when we deal with food that is forbidden on authority of rabbis, to permit it, we must have a larger volume of the permitted food. But from the perspective of R. Yohanan, this is surely a problem [since separating food in the status of priestly rations done now that the Temple is destroyed remains on the authority of the Torah, so how could such an assumption be made in the case of a prohibition which is on the authority of rabbis?]*

T. *Now to whom is this ruling assigned? It belongs to rabbis [Slotki: who hold that separating priestly rations at this time is on the basis of the authority of rabbis], [82B] but I personally maintain that the*

*view of R. Yosé is correct.* [Yosé stated in our Mishnah-paragraph that the androgyne may confer on his wife the right to eat food in the status of priestly rations; it was in reference to this that Yohanan stated that he may also confer the right to eat the breast and shoulder, which are pentateuchally ordained, since separating priestly rations at this time in Yosé's view also rests on the authority of the Pentateuch.] *For it has been taught in the document, Seder Olam, as a Tannaite statement:*

- U. "...which your fathers possessed, and which you shall possess" (Deu. 30: 5) —
- V. [the duplicated verb, possess, refers] to a first act of possession and a second act of possession that the Israelites will have, but they will have no need for a third act of possession [Slotki: since the second sanctification remained valid for all time; as the land remained sacred, the Pentateuchal obligation of separating heave offering also obviously remained in force].
- W. *And said R. Yohanan, "Who is the Tannaite authority behind Seder Olam? It is R. Yosé."*
- X. *And does R. Yohanan take the view that, in accord with the authority of rabbis, to effect neutralization we do not maintain that an excess of permitted over prohibited produce is required [that is, even if the unconsecrated produce were no more than the priestly rations, it is permitted because in the case of rabbinical prohibitions, neutralization is effected by the mere accident of the mixing of consecrated with unconsecrated produce, even though the latter did not form the larger part]? And lo, we have learned in the Mishnah: [If] an immersion pool contained exactly forty seahs, and one put in a seah and took out a seah — lo, this is fit [M. Miq. 7:2N].* And said R. Judah bar Shila said R. Assi said R. Yohanan, 'The rule applies up to the greater part of the immersion pool.'" [Freedman, *Zebahim* 22A: any liquid other than water can sometimes make up the requisite volume and sometimes not. If the immersion pool contains thirty nine seahs of proper liquid and another is added of a different liquid, it is not valid; but if it contains forty and then a different liquid is added and then a seah of water is removed, it remains fit, for it had been fit without the added seah, and this is then nullified in the rest and the immersion pool remains fit. Judah says that it remains fit even if in this way one removes up to, but not including, the greater part of the water. But if one has a quarter log of water, adds a little of another liquid, and then removes the same quantity, it is not fit, because a quarter log of water is too little for the other liquid to lose its identity in it.] *Does this not mean that the greater part must remain?* [Slotki: seah after seah of unsuitable liquid may be added and an equal quantity of the mixture may be successively removed until only a minimum of twenty-one seahs of suitable water remain in the bath; should

there remain less, so that the suitable liquid no longer represents the greater part of the mixture, the pool would become unfit; this unsuitability of certainly liquids in an immersion pool being only a rabbinical provision proves that according to Yohanan an excess is required even in the case of rabbinical ordinances].

- Y. *No, the meaning is, the greater part must not be removed* [Slotki: if only half of the suitable water remained, the unsuitable liquid is neutralized, no excess being required]. *And if you prefer, I shall say, [the case of heave offering] differs, since we may invoke the principle, "I assume...."*
- Z. *We have learned in the Mishnah: **A person bearing traits of both sexes marries [that is, quite normally and properly] [but is not taken in marriage].*** [Slotki: then he should be regarded as a proper male and should confer on his wife the right to eat the breast and shoulder, contrary to Simeon b. Laqish's inference.]
- AA. *Repeat it as: if ...he married.*
- BB. *Yeah, but the Mishnah says very clearly: **marries***
- CC. *Well, then, even in accord with your conception of matters, what is the sense of **but is not taken in marriage**?! Rather, just as **may not be married** refers to an act that has already been done, so also **may marry** refers to an act that has already been done.*
- DD. *Say: no, **may marry** means the act is permitted, but **may not be married** means, even if the act was already done!*
- EE. *But lo, it is formulated at the end as the Tannaite statement: **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"**! So it must follow that the initial Tannaite authority of the passage is in doubt on this point.*
- FF. *Whether with respect to this authority or that authority, the matter was entirely clear. At issue between them is only the question of the penalty of stoning and whether it is incurred on account of sexual relations with either one of the two organs that he has [the female or the male, since he possesses both anus and vagina]. The one authority [the initial one] takes the view that one is put to death through stoning for having had sexual relations with him or her through either of the two sexual organs he or she has, and the other one takes the view that stoning is incurred only if the sexual relations is through the male organ alone.*

**II.3.** A. Said Rab, [83A] *"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. 2:7FF]."*



- B. *To the contrary, the cited external Tannaite statement cannot stand before our Mishnah-paragraph!*
- C. *Since in this context R. Yosé abandoned his colleague [Simeon], it follows that he retracted [from the view he expressed in the Mishnah and struck out on his own account].*
- D. *And Samuel said, "The external Tannaite statement cannot stand before our Mishnah-paragraph."*
- E. *To the contrary, our Mishnah-paragraph cannot stand before the cited external Tannaite statement, for lo, we have heard it as a tradition regarding Samuel that he takes account of the position of an individual [minority, as against a majority, when it is the stricter of the two positions].*
- F. *That is the case only if our Mishnah's ruling is not thereby uprooted, but if our Mishnah's ruling is thereby uprooted, he does not take account of that individual opinion.*

**II.4.** A. *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]."*

- B. *in the matter of the androgyne: as we have now said.*
- C. *and grafting, as we have learned in the Mishnah: They do not (1) plant [a tree], (2) sink [a vine into the ground so that it emerges nearby as an independent plant], or (3) graft [one branch to another] in the year preceding the Sabbatical within thirty days of the New Year. And if one (1) planted [a tree], (2) sank [a vine into the ground], or (3) grafted [one branch to another] within thirty days of the beginning of the Sabbatical year, one must uproot [that which was planted, sunk or grafted so as to rectify the transgression which he has committed]. R. Judah says, "All grafting that does not take root within three days will not take root." R. Yosé and R. Simeon say, "Within two weeks" [M. [Sheb. 2:6A-E](#)]. And said R. Nahman said Rabbah bar Abbuha, "In the opinion of him who says, 'thirty days,' thirty and thirty are required [the last thirty days of the sixth year are regarded as part of the seventh year, so to permit the plant, it must have taken root prior to these last thirty days (Slotki)]. In the opinion of him who says, 'three days,' three and thirty; in the opinion of him who said, 'two weeks,' two weeks and thirty days are required."*
- D. *...and Samuel said, "In regard to a woman in protracted labor and in regard to the sanctification and prohibition of crops:"*
- E. *In regard to a woman in protracted labor, as we have learned in the Mishnah: A woman in labor is deemed to be a menstruant. [If] a woman was in hard travail for three days during the eleven days, and [if] she enjoyed a respite for twenty-four hours and [then] gave birth lo, this one is one who has given birth as a Zabah [while in the status of one who has a flux] ,” the words of R. Eliezer. R. Joshua says, “A night and a day, like the eve of the Sabbath and its day.” For she has had relief from the pain and not from the blood. And how long is her protracted labor? R. Meir says, “Even forty or fifty days.” R. Judah*

says, "Sufficient for her is her [ninth] month." R. Yosé and R. Simeon say, "Hard labor continues no longer than for two weeks" [M. **Nid. 4:4-5**].

- F. *and prohibition of crops, as we have learned in the Mishnah: He who trains his vine over the grain of his neighbor, lo, this one has sanctified [the grain underneath the vines] and is liable for its replacement. R. Yosé and R. Simeon say, [83B] "A man does not sanctify something which is not his own." Said R. Yosé, "M'SH B: One sowed his own vineyard in the Seventh Year, and the case came before R. Aqiba, and he said, 'A man does not sanctify something which is not his own'" [M. **Kil 7:4-5**].*

**II.5.** A. *The question was raised: [having omitted reference to the issue at hand], as to an androgyne, what did Samuel say?*

B. *Come and take note: for said Samuel to R. Anan, "The external Tannaite statement cannot stand before our Mishnah-paragraph."*

C. *As to drafting, what did Samuel rule?*

D. *Come and take note: for said Samuel to R. Anan, "Repeat the passage as the Tannaite formulation in accord with him who has said, 'Three and thirty.'"*

E. *As to protracted labor, what did Rab rule?*

F. *Who knows?*

G. *As to prohibition of crops, what is Rab's position?*

H. *Said R. Joseph, "Come and take note, for said R. Huna said Rab, 'The decided law is not in accord with R. Yosé.'"*

I. *Said Abbaye [to Joseph], "Why rely on that formulation [Huna's]?, rely rather on what R. Adda said in the name of Rab: 'The decided law is in accord with R. Yosé!'"*

J. *"Say: who is represented by the attribution, "the household of Rab"? It is R. Huna, and it is R. Huna who said, 'The decided law is not in accord with R. Yosé.'"*

**III.1** A. 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:"

B. *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?"*

C. R. Judah would say to you, "They'd better look into the origin of his children."

**III.2.** A. *It has been taught on Tannaite authority:*

B. 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**].

- C. *But is it the fact, then, that in every case in which the skin is torn open, he turns out to be a male and never a female? [Is the sole uncertainty that he may be a eunuch by nature, but not that he may be a woman?]*
- D. *What we are dealing with is that there are two possibilities, first, that his skin may be torn open and it will turn out that he is female; second, even if he is indeed a male, it is possible that he is a eunuch by nature.*
- E. *What difference does it make?*
- F. Said Raba, “*At issue is disqualifying the woman where there are suitable brothers, and performing the rite of removing the shoe where there are no suitable brothers*” [if there are other suitable brothers and the person of undefined sexual traits releases the deceased childless brother’s wife by a rite of removing the shoe, in the view of Judah, his action is null; the other brothers are free to carry out the same rite or to enter into levirate marriage; Yosé will hold that, since we have doubt lest the man be a eunuch by nature, the action of the surviving brother, the one without definite sexual characteristics, disqualifies the widow for the brothers, since the act of removing the shoe may have been a valid one, and none of the brothers then may marry her. If there are no other suitable brothers except this one who lacks defined sexual traits, then from Judah’s perspective, the widow is released without a rite of removing the shoe, for we treat the surviving brother as certainly a eunuch; according to Yosé, a rite of removing the shoe is necessary, since he may not be a eunuch. When Yosé denies the man the rite to go through the rite of removing the shoe, there is where there are other suitable brothers (Miller & Simon, *Bekhorot* 42B)].

- III.3.** A. 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].”
- B. *An objection was raised: 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. Under what circumstances? When he had sexual relations at the place of the male genitals. But if he had sexual relations at the place of the female genitals, he is exempt’* [T. [Yeb. 10:2A-P](#)].”
  - C. *He takes the view that has been expressed by the following Tannaite authority, for it has been set forth as a Tannaite statement: R. Simai says, “For an androgyne, one incurs the death penalty through stoning for having had sexual relations through either of his organs [anus, vagina].”*
  - D. *What is the scriptural evidence behind the ruling of R. Simai?*
  - E. *Said Raba, “Bar Hammeduri explained it to me in this way: “And you shall not lie with a male as well as with womankind” (Lev. 18:22) — what is the kind of male that can have two sorts of sexual relations? It must be the androgyne.”*
  - F. *And rabbis?*
  - G. *Even though he can have sexual relations in more than a single way, still, it is written, “With a male” (Lev. 18:22).*

- H. *And how then do rabbis derive the rule governing sexual relations with an ordinary male?*
- I. From the augmentative “and.”
- J. *And whence do they derive the prohibition of anal intercourse with a woman?*
- K. *From the reference to “and a woman” (Lev. 18:22).*

**III.4.** A. Said R. Shizbi said R. Hisda, “Not in all aspects does R. Eliezer maintain that an androgyne is no different from an ordinary male. For if you were to say that he does, then such a beast that was an androgyne would be fit for consecration [in the case of a counterpart among animals].”

B. *And how on the strength of Scripture do we know that an androgyne animal may not be consecrated for use on the altar?*

C. *It is in line with that which has been taught on Tannaite authority:*

D. One that has been subjected to bestiality, one that has been set aside for idolatry, one that has actually been worshipped. or used as a harlot’s hire or the price of selling a harlot or a bird of unclear sexual traits and a hermaphrodite — all these make garments unclean when the meat from such a bird is located within the esophagus [as does the carrion of a clean bird.

E. R. Eliezer says, “A beast of unclear sexual traits and a hermaphrodite do not impart uncleanness to clothing when they are located in the esophagus.” For R. Eliezer would say, “In any passage of Scripture in which it is stated, ‘male and female,’ you must exclude from the list a bird of unclear sexual traits and a hermaphrodite. But with reference to fowl, since Scripture never raises the issue of ‘male or female’ in that case, you need not exclude the bird of unclear sexual traits and a hermaphrodite from such a list.”

F. *Said R. Nahman bar Isaac, “So too we have in hand a Tannaite formulation:* R. Eliezer says, “The hybrid, terefah-beast, and a beast born of caesarean section, a beast of unclear sexual traits, and a beast bearing the traits of both genders are not to be consecrated and do not impart consecration.” And in this connection said Samuel, “They do not become consecrated in a transaction of substitution, and they do not impart consecration in a transaction of substitution.”

G. *That proves it.*

**IV.1** A. 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 [Lev. 20:13]:”

B. *It has been taught on Tannaite authority:*

C. 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 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.’”**