

# VI.

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## BAVLI YEBAMOT CHAPTER SIX

### FOLIOS 53A-66A

6:1-2

6:1

- A. He who has sexual relations with his deceased childless brother's widow —
- B. whether inadvertently or deliberately,
- C. whether under constraint or willingly —
- D. even if he does so inadvertently and she deliberately,
- E. he deliberately and she inadvertently —
- F. he under constraint and she not under constraint,
- G. she under constraint and he not under constraint —
- H. all the same being the one who merely partially opens [uncovers the vaginal] and the one who completes [entry therein] —
- I. has acquired [his sister-in-law as his levirate wife].
- J. And there is no distinction between one sort of sexual act and some other.

6:2

- A. And so:
- B. he who has sexual relations with any one of all the forbidden degrees which are listed in the Torah, or with any of those invalid [for sexual relations with him] —
- C. for example (1) a widow to a high priest, (2) a divorcée or a woman who has performed the rite of removing the shoe with an ordinary priest, (3) a mamzeret or a Temple slave-female with an Israelite, and (4) Israelite woman with a mamzer or a Netin —
- D. has rendered her invalid [to marry a priest or, if she is a priest's daughter, to eat heave offering].
- E. And there is no distinction between one sort of sexual act and some other
- I.1** A. [...even if he does so inadvertently and she deliberately:] *what is the meaning of even?*

- B. *The sense is “it goes without saying,” namely: it is not necessary to say that that is the rule if he does the deed inadvertently but she intends thereby to carry out the religious duty, or whether he does it deliberately, but she intends thereby to carry out the religious duty, but even if he does it inadvertently and she does it deliberately, in which case neither of them intends to carry out the religious duty, even under such circumstance he has acquired her as his levirate wife.*

**I.2.** A. *R. Hiyya formulated the Tannaite statement as follows: “Even if both of them acted inadvertently, or both deliberately, or both under constraint.”*

- B. **Both of them acted inadvertently**, *to which our Mishnah-paragraph makes references — what sort of a case can be in mind? If I should say that it is a case in which gentiles forced them so he had sexual relations with her, has not Raba said, “There is no such thing as constraint when it comes to sexual relations, since a hard-on is invariably willful”? Rather, is it when they were asleep? But has not R. Judah said, [54A] “If one has sexual relations while asleep, he has not acquired possession of his deceased childless brother’s widow”? So it must be by accident. But has not Rabbah said, “If someone fell from the roof and hit a woman inserting his erect penis in her, he is liable on Four Counts; if it was his deceased childless brother’s widow [and in falling, he had sexual relations with her], he has not acquired her as his levirate wife; he is liable for the compensation to injury done her, pain, medical expenses, and time lost from work, but not for humiliation”? Rather, it is a case in which, for example, he had the intention of having sexual relations with his wife but his deceased childless brother’s widow grabbed him so he had sexual relations with her.*
- C. *Both under constraint: the household of R. Hiyya [said], “What sort of a case is involved here? For example, he had the intention of having sexual relations with his wife, but gentiles grabbed them and stuck them together, so he had sexual relations with her.*

**I.3.** A. *What is the foundation of Scripture for this ruling?*

- B. *It is in line with that which our rabbis have taught on Tannaite authority: “Her levirate husband will have sexual relations with her” — as a matter of religious duty.*
- C. *Another interpretation of “Her levirate husband will have sexual relations with her:” **whether inadvertently or deliberately, whether under constraint or willingly.***
- D. *But lo, the cited language has already been utilized to show that it is a commandment?*
- E. *That it is a commandment derives from the phrase, “And if the man does not want...” (Deu. 25: 7), meaning, if he wants, he enters into levirate marriage. Then the other clause serves to show: **whether inadvertently or deliberately, whether under constraint or willingly.***

**I.4.** A. *It has further been taught on Tannaite authority:*

- B. *“Her levirate husband will have sexual relations with her” — through vaginal intercourse. “...and take her” (Deu. 25: 5) — through anal intercourse.*

- C. “And enter into levirate marriage with her” (Deu. 25: 5) — only the act of sexual relations consummates the marriage with her, but the transfer of money or a deed does not consummate the marriage with her.
- D. “and perform the duty of the husband’s brother unto her” (Deu. 25: 4) — even against her will.

**I.5.** A. The master has said: “Her levirate husband will have sexual relations with her” — **whether inadvertently or deliberately, whether under constraint or willingly.**

- B. *But lo, the cited language has already been utilized to show that it is through vaginal intercourse.*
- C. *That derives from the language, “to raise up unto his brother a name” (Deu. 25: 7) — only through sexual relations that result in a name’s being raised up. That leaves the other verse of Scripture: “Her levirate husband will have sexual relations with her” — whether inadvertently or deliberately, whether under constraint or willingly.*

**I.6.** A. *Reverting to the body of the prior text:*

- B. Said R. Judah, “If one has sexual relations while asleep, he has not acquired possession of his deceased childless brother’s widow” —
- C. *for said Scripture, “Her husband’s brother shall go in unto her” (Deu. 25: 5) — only if he has the intention of doing so through a deliberate act of sexual relations.*
- D. *But has it not been taught on Tannaite authority: whether he was awake or asleep?*
- E. *Say: whether she was awake or asleep.*
- F. *But has it not been taught on Tannaite authority: whether he was awake or asleep, whether she was awake or asleep?*
- G. *Here with what situation do we deal? It is with one who was drowsy.*
- H. *What can be the definition of one who was drowsy?*
- I. *Said R. Ashi, “Sleeping but not sleeping, awake and not awake. If they call him, he answers, but he does not know how to answer, but when he is reminded of something, he can remember it.”*

**I.7.** A. *Reverting to the body of the prior text:*

- B. Said Rabbah, “If someone fell from the roof and hit a woman inserting his erect penis in her, he is liable on four counts; if it was his deceased childless brother’s widow [and in falling, he had sexual relations with her], he has not acquired her as his levirate wife; he is liable for the compensation to injury done her, pain, medical expenses, and time lost from work, but not for humiliation.”
- C. *For a master has said, “One is liable only if he has insulted the person he intended to insult.”*

**I.8.** A. Said Raba, “If he had the intention of ejaculating against the wall but ejaculated into his deceased childless brother’s widow, he has not acquired her as his wife; if it was to ejaculate into a cow but ejaculated into his deceased childless brother’s widow, he has acquired her as his wife, *for lo, in any event, he had the intentionality of ejaculating as an act of sexual relations.*”

- II.1 A. all the same being the one who merely partially opens [uncovers the vagina] and the one who completes [entry therein]:**
- B. Said Ulla, “What evidence is there in Scripture that the the first stage in sexual relations [**‘merely partially uncovers the vagina’**] is regarded as a sexual action [and forbidden in the case of consanguineous relations]? **‘...and uncovers her nakedness; he has made naked her mountain, [and she has uncovered the fountain of her blood]:’** Scripture so indicates that the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse.
- C. **“I only know that in connection with the menstrual taboo the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse. How do I know that that is the case in all other acts of sexual congress that are prohibited?**
- D. *“And should you say, let us draw an analogy from the case of the menstruating woman, the distinctive quality is this: if that rule applies to the menstruating woman, who produces uncleanness for the one with whom she has sexual relations, [it is on that account that the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse,] but will you say the same in connection with other forbidden acts of sexual congress, in which there is no such consideration, and on that account the law does not treat one who uncovers nakedness as equivalent to one who completes the act of intercourse?”*
- E. **“Rather, the proof derives from the case of ‘the brother’s wife [cf. Sifra 210. Parashat Qedoshim Pereq 12. CXX:I.2]:’ ‘and if a man shall take his brother’s wife, she is a menstruant’ (Lev. 20:21). But is it the fact that the brother’s wife is always menstruating? Rather, she is like one that is a menstruant. Just as in the case of the menstruant, the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse, so in the case of the brother’s wife, the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse.”**
- F. But what distinguishes the brother’s wife is that it is in the brother’s power to increase the number of his wives, *since, he he wants, he can go on betrothing as many as a thousand [but the number of consanguineous relatives forbidden from birth, for instance, mother, sister, daughter] he cannot increase!*
- G. Rather, proof derives from the case of the father’s sister and the mother’s sister, for Scripture states, “You shall not uncover the nakedness of your mother’s sister or of your father’s sister, for he has made naked his near of kin” (Lev. 20:19).
- H. *But one may raise this objection:* the distinctive trait of the father’s sister and the mother’s sister is that it is a prohibition that comes about on its own. [Sifra proceeds:] **Lo, you then construct a generative analogy between two otherwise not comparable cases, for the indicative traits of the menstruating woman are not the same as the indicative traits of the sister of the father, and the indicative traits of the sister of the father are not the same as the indicative traits of the menstruating woman. But what they have in common is that they constituted prohibited sexual connections, on account of which, for a deliberate violation of the law one is liable to the penalty of extirpation,**

and for the inadvertent violation of the law, to a sin-offering, and in these cases the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse. So in the case of all sexual connection, on account of which, for a deliberate violation of the law one is liable to the penalty of extirpation, and for the inadvertent violation of the law, to a sin-offering, the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse].

- I. *Well, if it does not derive from a single case, then derive it from two?*
- J. *Which two? Should it be derived from the brother's wife and the father's sister and the mother's sister? These have the distinctive trait that they are forbidden because of relationship [Slotki: no proof would then be available that the same prohibition is applicable to sexual relations with any married woman who is neither a relative from birth nor related by marriage].*
- K. *Rather, derive the generative analogy from the cases of the menstruating woman, the sister of the father, and the sister of the mother.*
- L. *Well, what these have as a distinctive trait is that it is a prohibition that comes about on its own [from birth]. Derive the generative analogy then from the case of the menstruant and the brother's wife, since there is no objection that can be raised in this context.*
- M. *Objected R. Aha b. R. Iqa, "But the cases of the menstruating woman and the wife of the brother are distinctive, in that these cannot be permitted in marriage during the lifetime of the one who causes them to be forbidden. But can you say the same of the husband's wife, who can be permitted during the lifetime of the one who causes them to be prohibited [e.g., by divorce]?"*
- N. *Said R. Aha of Difti to Rabina, "Are the menstruating woman and the brother's wife forbidden to marry only during the lifetime of the one who is responsible for their being prohibited but permitted after he dies? The menstruating woman [54B] depends on the days of menstruation. The wife of the brother's being permitted depends on whether or not she has children. Rather, this is the right question: the distinctive traits of the menstruating woman and the brother's wife are that what causes them to be forbidden does not cause them to be permitted [the menstruating woman is forbidden for a certain number of days, the brother's wife is forbidden if she has children, so on what basis is the first stage of sexual contact forbidden in the case of consanguineous unions?] Will you say the same of the man's wife, in which case the one who prohibits the union can also permit it?"*
- O. *Rather, said R. Jonah, and some say, R. Huna b. R. Joshua, "Said Scripture, 'For whosoever shall do any of these abominations shall be cut off' (Lev. 18:29) — all forbidden relatives thus are treated as comparable to menstruating woman. So just as in the case of the menstruating woman, the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse], so in the case of all other consanguineous relationships, the law treats one who uncovers nakedness as equivalent to one who completes the act of intercourse]."*

**II.2.** *A. Then [with such a universal proof,] what need did I have to make reference in particular to the menstruant when Scripture speaks of the brother's wife?*

- B. *It is in line with what R. Huna said, for said R. Huna, “Whence in the Torah do I find an allusion to the law of the deceased childless brother’s widow?”*
- C. *Whence in the Torah do I find an allusion to the law of the deceased childless brother’s widow?! Lo, it is written in so many words, “Her husband’s brother shall go in unto her” (Deu. 25: 5).*
- D. *Rather, “Whence in the Torah do I find the allusion to the fact that the woman who is a candidate to be the deceased childless brother’s widow [if the husband dies without issue] is forbidden while her husband is alive [to marry her husband’s brother, even if the husband divorces her]?”*
- E. *Lo, that is a matter of pure reason, for since the All-Merciful has said that after the death of her husband she may be forbidden, it follows that during the life of her husband she is forbidden.*
- F. *But perhaps the point is that after the death of her husband it becomes a religious duty to marry the surviving brother, but during the lifetime of her husband [if he divorces her] it is at any rate an option? Or, also, after the death of her husband, it may be died, but not during the lifetime of her husband, but, since it is a negative commandment deriving from a positive one, it is classed as merely a positive commandment [not subject to extirpation, so where in the Torah do we know that the penalty is extirpation]?*
- G. *Scripture has said, “and if a man shall take his brother’s wife, she is a menstruant” (Lev. 20:21).— but is she always menstruating? Rather, she is like a menstruant, meaning, just as a menstruant is permitted after her period but during the period she is forbidden under the penalty of extirpation, so the brother’s wife, though permitted afterward, during the lifetime of the husband is forbidden under penalty of extirpation.*

**II.3.** A. *And [with such a universal proof,] what need did I have to make reference in particular to the first stage in the context of the father’s sister or the mother’s sister?*

- B. *It is in line with what Rabina asked Raba: “As to him who commits the first stage of sexual relations with a male, what is the law?”*
- C. *What is the law? He who commits the first stage of sexual relations with a male falls into the category of the verse of Scripture, “...with mankind as with womankind” (Lev. 18:20)*
- D. *But as to one who commits the first stage of sexual relations with a beast, what is the law?*
- E. *He said to him, “Since [Freeman, Sanhedrin 55A:] the culpability of the first stage of incest, which is explicitly stated with reference to one’s paternal or maternal aunt, is redundant there, for it is likened to the first state of intercourse with a menstruating woman, apply its teaching to the first stage of bestiality [as being punishable]. [Freedman, p. 372-3, n.6: In respect of one’s paternal or maternal aunt, Scripture states, ‘And you shall not uncover the nakedness of your mother’s sister or of your father’s sister, for he uncovers his near kin’ (Lev. 20:19). The word for ‘he uncovers’ is understood as meaning the first stage of sexual intercourse, and this verse teaches that this is a culpable offense. But this teaching is superfluous, for in the preceding verse the same is taught of a*



*menstruating woman, which serves as a model for all forbidden human sexual intercourse. Hence the teaching, being redundant, here is applied to the first stage of bestiality.]”*

- F. *Now since sexual relations with a beast constitute a crime punishable by death at the hands of a court, why should Scripture treat the commission of the first stage of such an act as subject to liability to extirpation? [That is the punishment for sexual relations with an aunt.] It should rather have been stated with respect to crimes punishable by death at the hand of a court, so that one might derive liability to the death penalty in a court from a crime which is likewise subject to the death liability.*
- G. *Since the entire verse at hand [Lev. 20:19, on sexual relations with an aunt] is stated for the purpose of deriving new rulings, another such derivation is included in the verse.*

**II.4.** A. *What is the exposition that yields a new ruling here?*

- B. *It is in accord with that which has been taught on Tannaite authority:*
- C. *“You shall not uncover the nakedness of your father’s sister” (Lev. 18:12) — whether the paternal or maternal sister.*
- D. *You say, whether the paternal or maternal sister, but maybe that is not the case, but it is only when she is paternal but not maternal [does the prohibition apply]. And that is a logical conclusion to draw. Here Scripture has declared liability, and Scripture has further declared liability in the case of his sister. Just as the prohibition pertains to the sister whether on the father’s side or the mother’s side, so the rule applies whether it is on the father’s side or the mother’s side.*
- E. *But take this route: one is liability in this case and is also liable in the case of his aunt: just as the aunt is forbidden only on the father’s side but not on the mother’s side, so here too, the prohibition is on the father’s side but not on the mother’s side.*
- F. *Let us then see to which alternative our case is comparable: we should draw an analogy from a prohibition that comes about on its own to a prohibition that comes about on its own, and let proof not be presented from the case of his aunt, which is not a prohibition that comes about on its own [but because of her marriage with the father’s brother].*
- G. *Or take this route: draw analogies from the relatives of the father for cases involving relatives of the father, but let not proof be drawn from the case of his own aunt!*
- H. *Accordingly, Scripture is required to state: “You shall not uncover the nakedness of your father’s sister” (Lev. 18:12) — whether the paternal or maternal sister. And further, “you shall not uncover the nakedness of your mother’s sister,” — whether the paternal or maternal sister.*

**II.5.** A. *What need do I have for Scripture to make the statement concerning both the father’s sister and the mother’s sister?*

- B. *Said R. Abbahu, “Both were required. For if the All-Merciful had made the statement pertaining to the sister of the father, who is subject to a legally recognized genealogy [via the father], I would*

*have assumed that the prohibition applies to her alone, because of that legal genealogy, but not to the sister of the mother. And if the All-Merciful had made that statement in regard to the mother's sister alone, I might have supposed that it applied to her alone, because her relationship is a certain one, but not to the father's sister [for certainty as to genealogy is solely on the mother's side]. Hence both were required."*

- II.6.** A. *And how come the Tannaite authority here is so certain that the aunt is the one on the father's side but not on the mother's side [that is, the wife of the father's paternal brother]?*
- B. *Said Raba, "It derives from a verbal analogy established by the common appearance in the pertinent passages of the word 'his uncle,' namely: here we find a reference to 'he has uncovered his uncle's nakedness' (Lev. 20:20), and there, 'or his uncle or his uncle's son may redeem him' (Lev. 25:49). Just as there it is the paternal, not the maternal one, so here too it the husband of his aunt must be his paternal, not his maternal uncle.*
- C. *"And how in that other passage do we know the fact that it is the paternal uncle?*
- D. *"Said Scripture, 'Of his family may redeem him' (Lev. 25:49) — and it is only the family of the father that is called family, but the family of the mother is not called family."*
- E. *But we have learned in the Mishnah: [If] they said to him, "Your wife has died," and he married her sister by the same father, [and they reported that] she died and he married her sister from the same mother, [and they reported that] she died and he married her sister from the same father, [and they reported that] she died, and he married her sister from the same mother — and it turns out that all of them are alive — he is permitted [to continue in marriage] with the first, the third, and the fifth, and they exempt their co-wives. But he is prohibited [to continue in marriage] with the second and the fourth, and sexual relations [of the levir] with one of them does not exempt her co-wife. And if he had intercourse with the second after the [actual] death of the first, he is permitted [to remain married to] the second and the fourth, and they exempt their co-wives. And he is prohibited [to remain married to] the third and the fifth. And sexual relations with one of them does not exempt her co-wife [M. Yeb. 10:5]. [55A] Therefore, it follows, the wife's sister, whether paternal or maternal, is forbidden. [Slotki: the third, the maternal sister of the second, is permitted only on account of the illegality of the marriage of the second, but is forbidden where the marriage with the second is legal.]*

**II.7.** A. How do we know [that the sister of his wife, whether on her father's side or on her mother's side, is forbidden]?



- B. The prohibition derives from the prohibition of his sister: just as the sister is forbidden, whether on the father's or the mother's side, so here too, it is whether she is a paternal or maternal sister of the wife.
- C. But why not derive the rule by analogy to his aunt: just as the aunt is forbidden if she is a paternal but not a maternal aunt, so here too the prohibition applies to the paternal, not the maternal connection?
- D. *It stands to reason that the governing analogy should derive from his sister, for we derive analogies from relatives of the man himself to cover other relatives of the man himself.*
- E. *To the contrary! Derive it from his aunt, for a relationship that is brought about through betrothal should yield the governing analogy for a relationship brought about through betrothal.*
- F. *We derive the rule from the governing analogy of the wife of the brother, for she represents a relationship that is brought about through betrothal and a relationship that involves the man himself, both.*

**II.8.** A. How do we know that the brother's wife herself is forbidden?

- B. *It is in line with that which has been taught on Tannaite authority:*
- C. "You shall not uncover the nakedness of your brother's wife" (Lev. 18:16) — whether it is on the father's side or the mother's side.
- D. You say, whether it is on the father's side or the mother's side. But perhaps it is only on the father's side but not on the mother's side.
- E. The proposition I have advanced is a matter of logic, namely: liability pertains here, and liability pertains in the case of his sister. Just as in the case of the sister, liability is incurred whether it is on the father's side or the mother's side, so here, liability is incurred whether it is on the father's side or the mother's side.
- F. But why not take this route: liability is incurred here, and liability is incurred in the case of his aunt. Just as in the case of his aunt, liability is incurred for his aunt on his father's side but not on his mother's side, so here too, liability is incurred for his aunt on his father's side but not on his mother's side.
- G. Let us see which is the generative analogy. We should derive an analogy for the case of relatives of him himself from the rule governing relatives of him himself, but the case of his aunt should not provide the governing analogy, since she is related via the father.
- H. Or take this route: we should derive the governing analogy from a relationship that is attained through betrothal for a relationship that is attained through betrothal, but let the rule governing his sister pertain, for that is a prohibition that comes about on its own.
- I. Accordingly, Scripture is required to state, "You shall not uncover the nakedness of your brother's wife" (Lev. 18:16) — whether it is on the father's side or the mother's side.
- J. *But might one say that both this as well as that portion of the cited verse speak of the wife of a brother on the father's side, the one speaking of the brother's wife who had children while the brother was alive, the other, the brother's wife who had no children while the brother was alive?*

- K. *The case of the one who had no children during the lifetime of the husband derives from what R. Huna said.*
- L. *Might one say that both parts of the cited verse speak of the wife of the brother on the father's side, the one speaking of a brother's wife who had children during the lifetime of her husband, the other, of a brother's wife who had children after the lifetime of her husband?*
- M. *To deal with the case of the one who had children after the death of her husband there is no further verse of Scripture required, since the All-Merciful has said that the one who had no children is permitted, so it is self-evident that the one who had children is forbidden.*
- N. *But perhaps if she had no children she is forbidden to the world at large but permitted only to the levir, while if she had children she is permitted to the world at large and also permitted to the levir? Or, if she had no children it is a religious duty, if she had children it is an option [to marry the brother]? Or, further, while the levir may marry her if she has no children, and may not marry her if she does, yet, since the prohibition is a negative commandment deriving from a positive one, it is classified as merely a positive religious duty?*
- O. *That is why it was necessary for Scripture to state, "He has uncovered his brother's nakedness" (Lev. 20:21).*
- P. *But might one say that the wife of the brother on the mother's side is the same as the wife of the brother on the father's side, and just as the wife of the brother on the father's side is permitted after the death of the husband [if he has died without children], so the wife of the brother on the mother's side is permitted after the death of the childless husband?*
- Q. *Scripture says, "She is" (Lev. 18:16), meaning, she remains in her prior status [forbidden in his lifetime and after his death as well].*

**II.9.** A. *How come Scripture had to specify the penalty of extirpation for having sexual relations with one's sister [since it is covered by Lev. 18:29]?*

- B. *It is in line with what R. Yohanan, for said R. Yohanan, "If one has committed all of the offenses listed in a single spell of unawareness, he is liable on each count." And from the perspective of R. Isaac, who has said, "All liabilities to extirpation were encompassed in a single general rule, and why was the penalty of extirpation for intercourse with the sister singled out? To indicate that he is subject to the liability of extirpation, not flogging."*
- C. *And how on the basis of Scripture do we know that liability is incurred on every single count even though all were done in a single spell of unawareness?*
- D. *It derives from the statement, "and unto a woman...as long as she is unclean by her uncleanness" (Lev. 18:19) — one is liable on the count of every single such woman.*

**II.10.** A. *How come Scripture had to specify the penalty of having no children in the case of sexual relations with one's aunt, "They shall be childless" (Lev. 20:21) [that is, extirpation]?*

- B. *The answer accords with what Rabbah said, for Rabbah contrasted verses of Scripture as follows: "'They shall be childless' (Lev. 20:21), and further, 'They*

shall die childless' (Lev. 20:20). How so? If he has children, he will bury them; if he doesn't have children, he shall go childless."

- C. *And it was necessary to write both "They shall be childless" and also "They shall die childless." For if the All-Merciful had written that they shall be childless, I might have supposed that that spoke of children prior to the offence, but as to those born thereafter, that would not apply, so Scripture wrote that they shall die childless. And if the All-Merciful had said that they shall die childless, I might have supposed that that refers to those born after the offence but not to those born prior, so both verses were required.*

**II.11.** A. *How on the basis of Scripture do we know that the first stage of sexual relations [uncovering the organ] as it pertains to those liable on account of violating negative commandments?*

- B. *It is because Scripture has revealed the matter articulately in the case of the designated bond maid [Lev. 19:21], so that, in her case, the consummation of the sexual act represents the point at which liability for violating the law is incurred, and from that case it may be inferred that for all others subject to penalties for violating negative commandments, the first stage of sexual relations [uncovering the organ] constitutes an action sufficient to represent a violation of the law.*
- C. *To the contrary! Since Scripture has made it articulate that the first stage in the case of those subject to the penalty of extirpation suffices, it may follow that, for those who are guilty of violating a negative commandment, only the actual consummation of sexual relations serves as a sufficient offence!*
- D. Said R. Ashi, "If that were the intent, then Scripture could as well have fallen silent concerning the case of the designated handmaid." [Slotki: since the second stage was specifically postulated in her case, it follows that with all the others, the first stage by itself constitutes the offence.]

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

- B. The proof derives from the verbal analogy established by the presence of the word "take as a wife" in the two pertinent verses [Lev. 20:17, Lev. 21: 7, involving intercourse with one's sister, and involving priests' marrying those whom they are told not to marry].

**II.13.** A. *How do we know that that is the case for those who are subject to liability for violating an affirmative commandment?*

- B. **[55B]** It derives from the verbal analogy established by the use in two passages of the word "come" [Deu. 23: 3 deals with a case that is forbidden by a negative commandment and one that is forbidden by a positive commandment (Deu. 23: 9) and whose penalty is extirpation (Slotki)].

**II.14.** A. *How do we know that a levirate widow is forbidden to the world at large?*

- B. *If the answer is to accord with him who says that it is a negative commandment, then it is in the class of all negative commandments; and if it is to accord with him who says it is a positive commandment, then the rules governing the positive commandment pertain.*

- C. *Rather, how on the basis of Scripture do we know that the first stage in sexual relations pertains to the sexual relationship between the levirate widow and the levir?*
- D. It derives from the verbal analogy established by the use in two passages of the word “come.”

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

- B. The proof derives from the verbal analogy established by the presence of the word “take as a wife” in the two pertinent verses [Deu. 24: 1].

**II.16.** A. *Said Raba, “Why was it necessary for Scripture to make reference to ‘carnal’ with respect to the designated bondswoman [Lev. 19:20], a married woman [Lev. 18:20], and a woman accused of adultery [Num. 5:13]?”*

- B. *“As to the designated bondswoman, it is as we just have said.*
- C. *“As to the married woman, it is to exclude liability for having sexual relations with a flaccid penis.”*
- D. *That answer poses no problem to him who says that one who has sexual relations with a consanguineous relative with a flaccid penis is exempt from liability; but in the view of him who maintains that he is liable, what is to be said?*
- E. *“Rather: excluding one who has sexual relations with a [consanguineous relative’s] corpse. For it might have entered your mind to suppose that since after death, she still is called ‘his kin,’ he should be guilty for having sexual relations with her as a corpse as much as he would be with a married woman. So we are informed that that is not the case.*
- F. *“And as to a woman accused of adultery [Num. 5:13], it is in line with that which has been taught on Tannaite authority.”*
- G. When Scripture says, “sexual relations,” it serves to exclude the case of some other form of relationship.
- H. What might this other form of relationship be?
- I. Said R. Sheshet, “It excludes a case in which the husband has issued an expression of jealousy covering unnatural sexual relations.”
- J. Said Raba to him, “Unnatural sexual relations are covered under the phrase, ‘As lying [of many kinds] with womankind’ (Lev. 18:22) [the sense being unnatural intercourse as well].”
- K. Rather, said Raba, “It covers a case in which the expression of jealousy covered sexual relations through contact with other limbs [even without coition].”
- L. Said to him Abayye, “This constitutes common obscenity [not adultery], and has the All-Merciful really prohibited common obscenity [under the strict rules at hand]?”
- M. Rather, said Abayye, “It serves to exclude a case in which the expression of jealousy covered kissing [embracing].”
- N. That view is suitable for the one who said that sexual contact involves actual entry of the crown of the penis into the vagina, but merely embracing is null. On that account, Scripture must come along and prove that kissing is excluded.

- O. But in the view of him who has said, sexual contact involves even kissing, what is there to be said? [Why does Scripture make the inclusion explicit?]
- P. Ultimately, we deal with a case in which the expression of jealousy involved sexual contact between bodies [without coition].
- Q. What might you have maintained? The matter depends upon the husband's objection [to such conduct], in the view of the All-Merciful, and the husband most certainly objects.
- R. So we are informed [that that reasoning is not acceptable, and the phrase "sexual relations" serves to exclude the sort of conduct at hand.]

**II.17.** A. Said Samuel, "The first stage in sexual relations involves kissing. The matter may be compared to the case of someone who puts his finger on his mouth; it is not possible that he won't press the flesh."

**II.18.** A. *When Rabbah bar bar Hannah came*, he said R. Yohanan [said], "In the case of the designated bondwoman, consummation of sexual relations is constituted by inserting the crown of the penis into the vagina."

B. *Objected R. Sheshet*, "'Carnally' (Lev. 19:20) refers only to intercourse that involves friction [achieved through pumping up and down]. *Is this not with the shank of the penis?*"

C. No, it can be just with the crown of the penis.

**II.19.** A. *When R. Dimi came*, he said R. Yohanan [said], "The first stage in sexual relations inserting the crown of the penis into the vagina."

B. *They said to him*, "Lo, Rabbah bar bar Hannah didn't say so?"

C. *He said to them*, "Either he's a liar or I am."

**II.20.** A. *When Rabin came*, he said R. Yohanan [said], "The first stage in sexual relations inserting the crown of the penis into the vagina."

B. *He most certainly differs with Rabbah bar bar Hannah. But does he differ with Samuel?*

C. *No, the entire process from kissing until inserting the crown of the penis into the vagina is classified as the first stage.*

**II.21.** A. *When R. Samuel bar Judah came*, he said R. Yohanan [said], "The first stage in sexual relations inserting the crown of the penis into the vagina. The conclusion of the act of sexual relations is at the stage of actual consummation. **[56A]** In any other aspect, all we have is kissing, and one is exempt on her account."

B. *He certainly differs from Samuel.*

**II.22.** A. **all the same being the one who merely partially opens [uncovers the vagina] and the one who completes [entry therein] — has acquired [his sister-in-law as his levirate wife]:**

B. *To what extent has he effected acquisition?*

C. Rab said, "He has effected acquisition for all purposes."

D. And Samuel said, "He has effected acquisition only in regard to those matters that are pertinent in context, namely, inheriting the estate of his brother and exempting her from levirate marriage" [Slotki: the first stage of sexual relations having the same validity as actual marriage].

- D. *If she became subject to the levir at the stage of a fully-consummated marriage, all parties concur that, if the levir was a priest, she may eat priestly rations, since she was eating such rations before the death of her husband. Where there is a dispute it is where she fell to the levir at the stage of betrothal.*
- E. Rab said, "She may eat priestly rations, for lo, the All-Merciful has extended the rule of cohabitation to encompass that done in error, treating it as tantamount to having been done willfully."
- F. Samuel said, "When the All-Merciful extends the law of cohabitation to cover that done in error, treating it as though done willfully, it is only to put the levir into the status of the husband, but not to give him more power than the husband." [Slotki: he can confer upon the sister-in-law the same rights that the husband did, so if she was married and entitled to eat priestly rations, he may confer upon her this privilege; but if the husband's priesthood did not entitle her to eat priestly rations when they were betrothed but only after marriage, the levir cannot confer that privilege upon her].
- G. *And Samuel is consistent with theories expressed elsewhere, for said*  
R. Nahman said Samuel, "In any case in which the husband confers the right to eat priestly rations, the levir confers the right to eat priestly rations, and in any case in which the husband does not confer the right to eat priestly rations, the levir also does not confer the right to eat priestly rations."
- H. *An objection was raised: An Israelite woman of sound senses who was betrothed to a priest of sound senses, who did not suffice to consummate the marriage with her before becoming a deaf-mute, may not eat priestly rations. If he died and she fell to the levir who himself was a deaf-mute, she may eat priestly rations, and in this regard, the power of the levir is greater than that of the husband. Now to Rab this statement poses no problem, but to Samuel isn't it a contradiction?*
- I. Samuel will say to you, "Well, read it this way: [An Israelite woman of sound senses who was betrothed to a priest of sound senses,] who did not suffice to consummate the marriage with her before becoming a deaf-mute, may not eat priestly rations. If he consummated the marriage and then turned into a deaf-mute, she may eat priestly rations. If he died and she fell to the levir who himself was a deaf-mute, she may eat priestly rations.
- J. *Then what is the meaning of the language, and in this regard, the power of the levir is greater than that of the husband?*
- K. While if the husband to begin with had been a deaf-mute, she would not have been permitted to eat priestly rations, if the levir had been a deaf-mute to begin with, she may continue to eat priestly rations.
- L. *And there are those who state the dispute in the following terms: if the husband died so that she fell to the levir, all parties concur that she does not eat priestly rations, for lo, she did not eat them in the lifetime of the husband. Where there is a dispute, it is when she fell to the levir at the stage of a fully consummated marriage.*
- M. Rab said, "She may eat priestly rations, for lo, she was eating them to begin with."



- N. *Samuel said, "She may not eat priestly rations, for lo, when the All-Merciful extends the law of cohabitation to cover that done in error, treating it as though done willfully, it is only in regard to those matters that are pertinent in context, [namely, inheriting the estate of his brother and exempting her from levirate marriage], but not to any other matters."*
- O. But has not R. Nahman said Samuel said, "In any case in which the husband confers the right to eat priestly rations, the levir confers the right to eat priestly rations, and in any case in which the husband does not confer the right to eat priestly rations, the levir also does not confer the right to eat priestly rations"?
- P. *Read it as follows: "In any case in which the husband's act of sexual relations confers the right to eat priestly rations, the levir's act of sexual relations confers the right to eat priestly rations, and in any case in which the husband's act of sexual relations does not confer the right to eat priestly rations, the levir's of sexual relations also does not confer the right to eat priestly rations."*
- Q. *An objection was raised: An Israelite woman of sound senses who was betrothed to a priest of sound senses, who did not suffice to consummate the marriage with her before becoming a deaf-mute, may not eat priestly rations. If he died and she fell to the levir who himself was a deaf-mute, she may eat priestly rations, and in this regard, the power of the levir is greater than that of the husband. Now to Rab he can work matters out as he did to begin with. But isn't it a problem for Samuel?*
- R. *Yes, it's a problem for Samuel.*

**II.23.** A. *Our rabbis have taught on Tannaite authority:*

- B. An Israelite woman of sound senses who was betrothed to a priest of sound senses, who did not suffice to consummate the marriage with her before becoming a deaf-mute, may not eat priestly rations.
- C. If a child was born to her, she may eat priestly rations.
- D. If the offspring died —
- E. R. Nathan says, "She may eat priestly rations."
- F. And sages say, "She may not eat priestly rations."

**II.24.** A. *What is the operative consideration behind the position of R. Nathan?*

- B. *Said Rabbah, "Since she was already eating priestly rations [she continues to do so]."*
- C. *Said to him Abbayye, "Well, what about the following: if an Israelite woman was married to a priest, who died [childless], she should continue to have the right to eat priestly rations, for she was already doing so! [But that is not the case.] Rather, as soon as the husband died, his sanctity [which had conferred on her the right to eat priestly rations] is taken away from her, and here too, as soon as the offspring died, the sanctity is taken away from her."*
- D. *Rather, said R. Joseph, "R. Nathan takes the view that the consummation of a marriage with a deaf-mute confers the right to eat priestly rations, and we do not make a precautionary decree covering the consummated*

*marriage of a deaf-mute on account of the betrothal of a deaf-mute [which does not confer that right].”*

- E. *Said to him Abbaye, “If that were the operative consideration, then what need do I have for the detail, If a child was born to her, she may eat priestly rations?”*
- F. *It is on account of the position of rabbis.*
- G. *Then let R. Nathan stipulate his disagreement at the first clause [Slotki: where the woman is prohibited to eat priestly rations even after the marriage].*
- H. *He left off differing from rabbis until they had completed their entire statement, and then he went and entered his disagreement.*
- I. *If so, then the passage should have been set forth in the following Tannaite formulation: if the offspring died, she does not eat priestly rations. R. Nathan says, “She does eat priestly rations.”*
- J. *That’s a problem.*

**III.1 A. And so: he who has sexual relations with any one of all the forbidden degrees which are listed in the Torah, or with any of those invalid [for sexual relations with him]:**

- B. *Said R. Amram, “This statement was made to us by R. Sheshet, [56B] and we found it illuminating in respect to our Mishnah-paragraph: An Israelite’s wife [a priest’s daughter, who when her husband dies once more is permitted to eat heave offering] who was raped, even though she is permitted to return to her husband, is invalid for marriage into the priesthood. And a Tannaite authority taught along the same lines: **And so: he who has sexual relations with any one of all the forbidden degrees which are listed in the Torah, or with any of those invalid [for sexual relations with him] — for example (1) a widow to a high priest, (2) a divorcée or a woman who has performed the rite of removing the shoe with an ordinary priest, (3) a mamzeret or a Temple slave-female with an Israelite, and (4) Israelite woman with a mamzer or a Netin — has rendered her invalid [to marry a priest or, if she is a priest’s daughter, to eat heave offering]. And there is no distinction between one sort of sexual act and some other. Now what is the meaning of and so? Does this not mean, whether inadvertently or deliberately, whether under constraint or willingly? And yet it is stated, has rendered her invalid [to marry a priest or, if she is a priest’s daughter, to eat heave offering]!”***
- C. *No, what is the sense of, And so? It refers to the one who merely partially opens [uncovers the vaginal].*
- D. *Now with whom is this act done? If we should say that it refers to the consanguineous relations, then that would imply that the case of the consanguineous relations derives by analogy from that of the deceased childless brother’s widow [for the law covering the latter then applies to the former]. But, to the contrary, the fact is that the law governing the deceased childless brother’s widow derives by analogy from the consanguineous relations, since the generative case of the prohibition of sexual relations in the first stage is set forth in Scripture in particular in the context of forbidden relatives!*

- F. *Rather, what is the sense of, **And so?** It refers to anal intercourse with consanguineous relatives.*
- G. *To the contrary! the generative rule covering sexual relations with a woman is set forth in Scripture in the context of the consanguineous relations.*
- H. *Rather, what is the sense of, **And so?** It refers to anal intercourse with those who are forbidden merely by a negative commandment from having sexual relations with the man.*

- III.2.** A. Said Rabbah, “An priest’s wife who was raped, — her husband is flogged on her account on the ground of having sexual relations with a whore [for the act, whether done willingly or under constraint, forbids her from marrying a priest, in line with Lev. 21:7].”
- B. *On grounds of having sexual relations with a whore, but not on grounds of having sexual relations in a state of uncleanness?*
  - C. *Say: also on grounds of having sexual relations with a whore.*
  - D. *Objected R. Zira, “‘And she be not seized’ (Num. 5:13) — then she is forbidden. Lo, if she had been seized, she would have been permitted. But there is another class of women who even though she has been seized, she is still forbidden. And who is that? It is the wife of a priest. And a negative commandment that derives from a positive one is classified as a positive one [and is not penalized by flogging, so how can Rabbah order a flogging here]?”*
  - E. Said Rabbah, “All married woman [whether raped or seduced] were classified as whores, and when Scripture treated the matter in detail, it was with reference to the wife of an Israelite alone. Thus in her case, ‘And she be not seized’ (Num. 5:13) — then she is forbidden. Lo, if she had been seized, she would have been permitted. *But from that statement, it follows, that the wife of a priest remains as is and is forbidden.*”
  - F. *There are those who state the matter in the following terms: Said Rabbah, “An priest’s wife who was raped, — her husband is flogged on her account on the ground of uncleanness.”*
  - G. *On grounds of uncleanness but not on grounds of having sexual relations with a whore?*
  - H. *Then it follows that in the case of a rape, we do not classify the woman as a whore.*
  - I. *Objected R. Zira, “‘And she be not seized’ (Num. 5:13) — then she is forbidden. Lo, if she had been seized, she would have been permitted. But there is another class of women who even though she has been seized, she is still forbidden. And who is that? It is the wife of a priest. And a negative commandment that derives from a positive one is classified as a positive one.”*
  - J. Said Rabbah, “All married woman [whether raped or seduced] were within the classification ‘after that she is defiled’ (Deu. 24: 4). But when Scripture treated the matter in detail, it was with reference to the wife of an Israelite alone. Thus in her case, ‘And she be not seized’ (Num. 5:13) — then she is forbidden. Lo, if she had been seized, she would have been permitted. *But from that statement, it follows, that the wife of a priest remains as is and is forbidden.*”

- A. [If it is a marriage between] a widow and a high priest, [between] a divorcée or a woman who has performed the rite of removing the shoe and an ordinary priest —
- B. from the time of the betrothal, they should not eat heave offering.
- C. R. Eleazar and R. Simeon declare [her] valid [to continue to do so until the marriage is consummated].
- D. [If] they were widowed or divorced —
- E. [if this is a severance of] the fully consummated marriage, they remain invalid [for eating heave offering].
- F. [If this is a severance of] betrothal, they are valid [once more to eat heave offering or to marry a priest].

**I.1** A. *It has been taught on Tannaite authority:*

- B. Said R. Meir, “It is a matter of an argument a fortiori: if a betrothal that is permissible does not confer the right to eat priestly rations, a betrothal that is a transgression all the more so should not confer that right!”
- C. They said to him, “Not at all. If you have stated that rule in connection with a betrothal that is lawful, in which case the man may never confer the right to eat priestly rations [being an Israelite, who cannot eat the rations or confer the right to eat them], will you say the same in the case of a betrothal that constitutes a transgression [by a priest], in which case he does have the right to confer the power to eat priestly rations under other circumstances?”

**II.1** A. **[R. Eleazar and R. Simeon declare [her] valid [to continue to do so until the marriage is consummated]:]** *Said R. Eleazar said R. Oshaia, “In the case of a priest with damaged testicles who betrothed an Israelite woman, we come to the dispute of R. Meir and R. Eleazar and R. Simeon. In the view of R. Meir, who has said that just as a woman who is awaiting an act of sexual relations that is invalid on the strength of the law of the Torah, may not eat priestly rations, lo, this one also may not do so. In the view of R. Eleazar and R. Simeon, who take the view that a woman who is awaiting an act of sexual relations that is invalid on the strength of the law of the Torah, may [continue to] eat priestly rations, [57A] this one likewise may continue to do so.”*

- B. *But why does this necessarily follow? Perhaps R. Eleazar and R. Simeon take the position that they do in that case only because he has the power to confer the right to eat priestly rations in a different context, but here, in which instance he does not have the power to confer the right to eat priestly rations in a different context, they might not take the same view. And should you say that, here too, he does, after all, have the power to confer such a right on the daughter of converts, lo, that very question did R. Yohanan present to R. Oshaia, and he did not give him an answer to it!*

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

- B. Abbaye said, “[The priest with damaged testicles has the power to confer on the betrothed woman the right to eat priestly rations] because he can confer on his wife [married prior to the injury] the right to do so, so long as he does not have

sexual relations with her.” [Slotki: he may confer the right where the betrothal was unlawful, so long as the woman is not profaned by him through marriage.]

- C. Raba said, “[The priest with damaged testicles has the power to confer on the betrothed woman the right to eat priestly rations] because he can confer on his Canaanite bondsmen and bondwomen.” [Slotki: since he may confer the privilege in that case, he may also confer it on the woman he betrothed.]
- D. *Abbayye did not concur with Raba, because the rule governing the acquisition of a woman is to be derived from a rule governing the acquisition of a woman, but we do not derive the rule governing the acquisition of a woman from the rule governing the acquisition of a slave.*
- E. *And Raba did not concur with Abbayye, because he holds that the case at hand is exceptional, since the woman has already had the right to eat priestly rations [before the man’s testicles were injured, so there is no proof for a case in which the man’s testicles had been damaged].*
- F. *And Abbayye?*
- G. *We do not invoke the argument, since the woman has already had the right to eat priestly rations [before the man’s testicles were injured, for if you do not concur that we do not, then in the case of an Israelite woman who married a priest who died, she should continue to eat food in the status of priestly rations, for she was already doing so [and that is contrary to the law of the Torah].*
- H. *And Raba?*
- I. *In that case, the man’s possession of the woman has been removed, but here, the man’s possession of the woman has not been removed.*

### **II.3.** A. Reverting to the body of the prior discussion:

- B. R. Yohanan asked R. Oshaia, “A priestly with damaged testicles who married the daughter of proselytes — what is the law as to his conferring upon her the right to eat heave offering?”
- C. *He shut up and said nothing in reply.*
- D. *In the end, another major authority came by and asked him another question, which he answered quite nicely.*
- E. *Who was that major authority?*
- F. *It was R. Simeon b. Laqish.*
- G. *Said R. Judah the Patriarch to R. Oshaia, “So wasn’t R. Yohanan also an eminent authority?”*
- H. *He said to him, “But he presented a problem that had no solution.”*
- I. *In accord with whose position [did R. Yohanan frame his question]? If it was in accord with R. Judah, then, whether or not the priest with damaged testicles retains his status of consecration, still the Israelite woman cannot eat priestly rations. For if he retains his consecration, still she may not eat priestly rations, since a master [Judah] 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 he does not retain his status of consecration, she still may not eat priestly rations, since it has been said that the assembly of proselytes is classified as an assembly [into which*

*an incapacitated person may not enter]. And if it was in accord with the position of R. Yosé that he framed his question, then, whether or not the priest with damaged testicles retains his status of consecration, she may eat priestly rations. For if he retains his status of consecration, she eats priestly rations, for lo, he has said, "Also in the case of a proselyte who married a proselyte woman, his daughter is valid for marriage into the priesthood." And if he does not retain his status of consecration, she still eats priestly rations, for lo, he has said, "The assembly of proselytes is not classified as an assembly." So he must have framed his question within the position of the following Tannaite authority, for we have learned in the Mishnah: **R. Eliezer b. Jacob says, "A woman who is the daughter of proselytes may not marry a priest, unless her mother was an Israelite" [M. Bik. 1:5A-B]. And this is the force of his question: has he added to her eligibility so that she is entitled to eat priestly rations** [that is, where her mother was an Israelite, is she only enabled to marry a priest, but not regarded as a proper Israelite so as to be included "in the assembly of the Lord" so as to be forbidden to one who is incapacitated (Slotki)]? *Or has her status as to sanctification also been increased* [Slotki: and she is thus included in the assembly and forbidden to marry one incapacitated] *and consequently she is not permitted to eat [having entered into a forbidden marriage]?**

J. *Come and take note: when R. Aha bar Hinena came from the south, he came and brought with him a Tannaite formulation as follows: "How on the basis of Scripture do we know that if a priest with injured testicles married the daughter of proselytes, he confers upon her the right to eat priestly rations? 'But if a priest buy any soul, the purchase of his money' (Lev. 22:11) — he may eat of it." Now in accord with which authority has this formulation been worked out? If we say that it is in accord with R. Judah, has he not said, "Whether or not the priest with damaged testicles retains his status of consecration, still the Israelite woman cannot eat priestly rations"? And if it is in accord with R. Yosé, then what does he need for a verse of Scripture to prove his point? Surely [Yosé] has stated, "Whether or not he retains his status of consecration, she is permitted to eat such food"! So it must accord with the view of R. Eliezer, and that bears the implication that he has added to her eligibility so that she is entitled to eat priestly rations."*

K. *That is decisive.*

#### **II.4. A. It has been stated:**

- B. Rab said, **[57B]** "The consummation of the marriage through sexual relations [without a prior form of betrothal] constitutes an act of acquisition with women otherwise ineligible to marry." [Slotki: whom one is not permitted otherwise to marry, e.g., a widow and a high priest or a divorcée and a common priest].
- C. And Samuel said, "The consummation of the marriage through sexual relations [without a prior form of betrothal] does not constitute an act of acquisition with women otherwise ineligible to marry."
- D. Said Samuel, "But Abba [Rab] concurs with me in the case of a girl less than three years and a day in age, since she is not subject to a valid act of sexual relations, so she also is not subject to a valid act of sexual relations in connection with consummation of a marriage."



- E. *Said Raba, "So we too have learned that rule as a Tannaite statement: A girl three years and one day old is betrothed by intercourse. And if a levir has had intercourse with her, he has acquired her. And they are liable on her account because of the law [prohibiting intercourse with] a married woman. And she imparts uncleanness to him who has intercourse with her [when she is menstruating] to convey uncleanness to the lower as to the upper layer. [If] she was married to a priest, she eats heave offering. [If] one of those who are unfit [for marriage] has intercourse with her, he has rendered her unfit to marry into the priesthood. [If one of all those who are forbidden in the Torah to have intercourse with her did so, they are put to death on her account. But she is free of responsibility. If she is younger than that age, intercourse with her is like putting a finger in the eye] [M. Nid. 5:4]. So if she is younger than three years and a day, she is not rendered unfit through sexual relations, and she also is not rendered unfit through the consummation of the marriage through sexual relations either."*
- F. *That is the correct inference.*

- II.5.** A. Said R. Ammi bar Hama, "With the issue of whether or not the consummation of the marriage through sexual relations [without a prior form of betrothal] constitutes an act of acquisition with women otherwise ineligible to marry, we have come to the dispute between R. Meir and R. Eleazar and R. Simeon. **[58A]** *In the opinion of R. Meir, who maintains that betrothal renders the woman ineligible, then the consummation of the marriage through sexual relations [without a prior form of betrothal] also constitutes an act of acquisition with women otherwise ineligible to marry. In the view of R. Eleazar and R. Simeon, who hold that betrothal does not render the woman ineligible, then the consummation of the marriage through sexual relations [without a prior form of betrothal] also does not constitute an act of acquisition with women otherwise ineligible to marry.*"
- B. *But why should that be the case? Perhaps R. Meir took the view that he did in that case only in the matter of an act of betrothal, through which acquisition of the woman is brought about, but not in regard to the consummation of the marriage through sexual relations, in which instance right of possession is not effect. Or perhaps R. Eleazar and R. Simeon take the view that they do in that case only, with regard to betrothal, since it does not verge on an act of sexual relations, but as to the act of consummating the marriage through an act of sexual relations, perhaps they do not take that position at all.*
- C. *Rather, if there is anything to say [in regard to Ammi bar Hama's statement] it would concern the dispute of the following Tannaite formulations, for it has been taught on Tannaite authority:*
- D. *If this classification or that, namely, eligible or ineligible women, were married to a priest, or if they entered into the bridal chamber but did not have sexual relations, they are supported by his property and they may eat food in the status of priestly rations. The language, or if they entered into the bridal chamber, implies that they were actually married [Slotki:*

otherwise both expressions would refer to the same classes, but this meaning is impossible, in view of the fact that after actual marriage it is unanimously agreed that the woman is ineligible to eat priestly rations]. *Therefore it is to be inferred that the meaning is, for example, when they entered the bridal canopy without having had sexual relations. And yet it is stated, they are supported by his property and they may eat food in the status of priestly rations.*

- E. R. Ishmael b. R. Yohanan b. Beroqah says, “Any woman who receives the right to eat priestly rations by reason of her having had sexual relations with the priest — her entering into the marriage canopy also confers upon her the right of eating priestly rations, and any woman who does not receive the right to eat priestly rations by reason of her having had sexual relations with the priest — her entering into the marriage canopy also does not confer upon her the right of eating priestly rations.” [Slotki: if she was the daughter of an Israelite; as the bridal chamber and cohabitation are in this case placed on the same level, it follows that in the case of the daughter of a priest also, if she loses her right to eat priestly ration by cohabitation, she also loses it by entry into the bridal chamber; thus it has been shown that the question referred to by Ammi bar Hama is subject to dispute between the anonymous statement and Ishmael b. R. Yohanan b. Beroqa.]
- F. *But why does that necessarily follow? Perhaps R. Ishmael b. R. Yohanan b. Beroqa accords with the thinking of R. Meir, who takes the view that betrothal by itself does not confer the right upon a woman to eat food in the status of priestly rations!*
- G. *Then as to the statement, any woman who does not receive the right to eat priestly rations by reason of her having had sexual relations with the priest — her entering into the marriage canopy also does not confer upon her the right of eating priestly rations, what it should say, rather, is any woman who does not receive the right to eat priestly rations by reason of her having had sexual relations with the priest — her token of betrothal also does not confer upon her the right of eating priestly rations! But perhaps just as the initial Tannaite ruling spoke of the bridal chamber, the latter one also spoke of the bridal chamber?*

**II.6.** A. Said R. Amram, “This statement was made to us by R. Sheshet, and we found it illuminating in respect to our Mishnah-paragraph: The bridal chamber effects acquisition of women otherwise ineligible for betrothal.’ And a Tannaite formulation of the same rule, in support of the foregoing, is as follows: **To what does she say, Amen, Amen?...**”**Amen that I have not gone aside while betrothed, married, awaiting levirate marriage, or wholly taken in Levirate marriage**” [M. **Sot. 2:5A-D**]. Now as this reference to her having been betrothed, what can it possibly mean? If we say that he expressed his warning of jealous to her when she was betrothed, and then she went aside with the alleged lover, and is now made to drink the bitter water while still betrothed, then is a woman who has been merely betrothed required to undergo the ordeal of drinking the bitter water as a woman accused of adultery? Lo, we have learned in the

*Mishnah: A betrothed girl and a deceased childless brother's widow awaiting levirate marriage neither undergo the ordeal of drinking the bitter water nor receive a marriage contract, since it is written, "When a wife, being subject to her husband, goes astray" (Num. 5:29) — excluding the betrothed girl and the deceased childless brother's widow awaiting levirate marriage [M. Sot. 4:1A-C]. And if it is proposed that she was warned when betrothed, then went aside with the alleged lover, and now has to drink that she has been married, do the waters test her under these conditions? Has it not been taught on Tannaite authority: "And the man shall be free from iniquity, and the woman shall bear her iniquity" (Num. 5:31). [The sense of the foregoing verse of Scripture is that] when the man is free of transgression, the water puts his wife to the test, [and] if the man is not free of transgression, the water does not put his wife to the test? Rather, he must have acquired possession of her when she was betrothed and she went aside with the alleged paramour and then she entered into the marriage canopy but did not have sexual relations. And it is therefore to be inferred that the marriage canopy does effect possession for women otherwise invalid for marriage."*

- B. *Said Raba, "Do you really think that that statement lacks its problems? Lo, when R. Aha bar Hanina came from the South, he came and brought the following Tannaite formulation with him: "'Besides your husband' (Num. 5:20) — [thus the rite applies] to a case when the sexual relations with the husband have taken place prior to the sexual relations with the lover [thus, once the marriage has been consummated, not at the stage of betrothal], and [it follows] not when the sexual relations with the lover have taken place before the sexual relations with the husband."*
- C. *Said Rami bar Hama, "You would find an appropriate case when the betrothed husband had had sexual relations with the girl while she was yet in her father's house."*
- D. *"And, along these same lines, you would find such a case [58B] with the deceased childless brother's widow, should the levir have sexual relations with her while she is yet in her father-in-law's house [where she was living after her husband died]."*
- E. *But in such a case can you call her a deceased childless brother's widow awaiting levirate marriage? [In what way is she waiting for the consummation of the marriage? [By the act of sexual relations, the levir] has made her his wife in every respect!]*
- F. *For has not Rab stated, "He [through his act of sexual relations] has acquired her [as his wife] for all purposes."*
- G. *The case accords with Samuel, who has said, "He has acquired her only for those aspects of the relationship that are listed in the pericope [at Deu. 25: 5-10, e.g., to inherit the brother's estate and to avoid the ceremony of removing the shoe]."*
- H. *But is it not the fact that this serves only to sustain the position of Rab [Slotki: who against Samuel's view maintains that the bridal chamber does effect possession of otherwise ineligible women]? Lo, said Rab,m "It does acquire the woman for all purposes."*

- I. *Here with what sort of a case do we deal? It is one in which he performed an act of bespeaking with her, and it represents the position of the House of Shammai who maintain that an act of bespeaking effects acquisition in all respects.*
- J. *If so, how would she differ from a betrothed woman?*
- K. And from your perspective, are not the cases of the woman who has been wed and the woman who has been taken by the levir one and the same status? Rather, “a married woman” refers to one’s own wife, and “one taken by the levir” refers to that of someone else. Here too, “betrothed” means his own, and “a woman awaiting the decision of the levir” refers to his brother’s widow, whom he married.
- L. *R. Pappa said, “The passage cited by R. Sheshet accords with the Tannaite authority behind that which has been taught on Tannaite authority: They do not make an expression of jealousy to a betrothed girl so as to impose the ordeal of drinking the water on her while she is yet betrothed, but they do make an expression of jealousy to her when she is betrothed so as to be able later on to administer the ordeal of drinking the water on her when she is fully married.”*
- M. R. Nahman bar Isaac said, “That is through an oath that is implicit [but not a direct oath as to the prior period].”

**II.7.** A. *R. Hanina sent word in the name of R. Yohanan, “He who carries out an act of bespeaking to his deceased childless brother’s wife while he has a living brother disqualifies her from eating food in the status of heave offering [until the marriage is consummated] even if he is in the priestly caste and she is a daughter of a priest [so that she can eat the food in her own right if she is free of the marital bond, and he can confer that right as well]. Now in accord with which authority is this statement made? Should we say that it accords with the position of R. Meir? Well, perhaps R. Meir took the position that one who is subject to illegitimate act of sexual relations may not eat food in the status of priestly rations so far as the law of the Torah, but did he take that position when the law that prohibits doing so is merely on the authority of rabbis? And should we then suppose that the statement is made within the position of R. Eleazar and R. Simeon? But then, if eating food in the status of priestly rations is allowed to a woman who is subject to have sexual relations that are forbidden on the strength of the Torah, do we have to say that that is the same for one who is forbidden on the strength of rabbis’ ruling?”*

- B. *When Rabin came, he said, “If the levirate brother undertook an act of bespeaking with his deceased childless brother’s widow, all parties concur that she may eat food in the status of priestly rations [Yohanan and Simeon b. Laqish]. Where they differ is a case in which he gave her a writ of divorce. [The levir, a priest, gave the widow, daughter of a priest, such a writ; by the authority of rabbis, she may not marry that levir, but by the law of the Torah, she is still in the status of one who is subject to having sexual relations with him; so she is awaiting sexual relations that are forbidden by rabbis]. If he has a brother that is of impaired status in regard to the priesthood, all parties concur that she may not eat priestly rations. The dispute concerns only a case in which he gave her a writ of divorce. R. Yohanan said, ‘She may eat priestly rations.’ R. Simeon b. Laqish said, ‘She may not eat priestly rations. R. Yohanan said, ‘She may eat priestly rations. Even in the opinion of R. Meir, who maintains that she may not eat priestly rations, that is the case for a*

woman who is awaiting sexual relations that are invalid by the law of the Torah, but so far as awaiting such relations invalid by the ruling of rabbis, she may eat priestly rations.’ R. Simeon b. Laqish said, ‘She may not eat priestly rations. Even in the view of R. Eleazar and R. Simeon, who maintain that she may eat priestly rations, that is the case in which there is someone who can confer that right elsewhere [if not to her], but in this case, he has no right to confer the privilege elsewhere [if not to her].’ And if you should say here too he has that right when she returns to the house of her father, who was a priest, one who returns to the father’s house has severed her connection with him and has resumed her relationship with her father’s house, while this one remains subject to the levirate connection with him [since the letter of divorce has not served that connection.]”

- III.1 A. [If] they were widowed or divorced — [if this is a severance of ] the marriage, they remain invalid [for eating heave offering]:**
- B. *R. Hiyya bar Joseph asked Samuel, “If a high priest betrothed a minor and she reached maturity while subject to the betrothal with him, [59A] what is the law? Is the operative criterion the marriage or the betrothal?”*
- C. *He said to him, “You already have learned the following Tannaite formulation: [If] they were widowed or divorced — [if this is a severance of] the fully consummated marriage, they remain invalid [for eating heave offering]. [If this is a severance of] betrothal, they are valid [once more to eat heave offering or to marry a priest].” [In regard to those ineligible to marry priests, marriage is the operative consideration; if the marriage were not taken into consideration, a widow who was betrothed to a high priest would be ineligible after his death. (Slotki)].*
- D. *He said to him, “As to declaring the woman one who has been profaned [and ineligible for marriage into the priesthood] I have no question at all, for it is the act of sexual relations that renders her profaned for marriage into the priesthood. Where I have a problem, it has to do with the phrase, ‘and he shall take a wife in her virginity’ (Lev. 21:13). What is meant by ‘taking’? Is it at the stage of betrothal, or is it at the stage of a fully consummated marriage, that we require him to take a virgin?”*
- E. *He said to him, “This too you have learned as a Tannaite statement: [If] he betrothed a widow and then was appointed high priest, he may consummate the marriage [M. 6:4E].”*
- F. *But that case is exceptional, for it is written in that context, “and he shall take a wife.”*
- G. *Here too wife is written.*
- H. *It means, one not two. How come? In the case of the one wife [the minor who came of age], her body has changed, in the case of the other, her body has not changed [so the former is a different person, the latter not].*

## 6:4A-D

- A. A high priest should not marry a widow, whether this is a woman widowed out of betrothal or widowed out of marriage.
- B. And he should not marry a pubescent [girl, that is, one aged twelve and a half].
- C. R. Eleazar and R. Simeon declare [it] valid [for him to marry a pubescent girl].
- D. He should not marry a girl who has lost her virginity by reason of a blow from a piece of wood.

**I.1** A. *Our rabbis have taught on Tannaite authority:*

- B. “A widow shall he not take” (Lev. 21:14) — whether widowed at the stage of betrothal or widowed at the stage of a fully consummated marriage.
- C. *Yeah, so what else is new?*
- D. *What might you otherwise have imagined? That we draw an analogy for the meaning of “widow” [at Lev. 21:14] from the meaning of the word “widow” in the case of Tamar [at Gen. 38:11]. Just as in that case it was widowhood from a fully consummated marriage, so here too that is the same meaning. So we are informed that that is not the case.*
- E. *But maybe that is the case?*
- F. It would be parallel to the matter of a divorcée. Just as the priest may not marry a divorcée whether at the stage of betrothal or a fully consummated marriage, so the high priest may not marry a widow, whether at the stage of betrothal or a fully consummated marriage.

**II.1** A. **And he should not marry a pubescent [girl, that is, one aged twelve and a half]:**

- B. *Our rabbis have taught on Tannaite authority:*
- C. “‘And he shall take a wife in her virginity’ (Lev. 21:13) — thus excluding a pubescent girl, whose virginity has come to an end,” the words of R. Meir.
- D. R. Eleazar and R. Simeon permit him to marry a pubescent girl.
- E. *What is at stake in this dispute?*
- F. *R. Meir takes the view that the meaning of “virgin” standing on its own can extend to one who retains a component of her virginity, but “her virginity” encompasses only one who retains all of her virginity [excluding the pubescent girl]; “in her virginity” covers only a case in which a prior act of sexual relations with her took place vaginally but not anally.*
- G. *R. Eleazar and R. Simeon maintain that “virgin” means, without flaw; “her virginity” means, one who retains only a component of her virginity; “in her virginity” covers only the one whose entire virginity is intact, without regard to whether any prior act of sexual relations was vaginal or anal.*

**II.2.** A. Said R. Judah said Rab, “If a girl has had anal intercourse, she is invalid for marriage into the [high] priesthood.”

- B. *Objected Raba*, “‘And she shall be his wife’ (Deu. 22:29) — that speaks of a woman suitable for marriage to him, excluding a widow to a high priest, a divorcée or a woman who has undergone the rite of removing the shoe to a common priest.



*Now how shall we imagine the conditions of the rape? If it is vaginal intercourse, why refer to her being a widow, when the prohibition would be based on the fact that she had had sexual relations anyhow? So isn't it because there was anal intercourse, and the sole reason that the woman is forbidden is that she is a widow [59B] and not because she has had sexual relations [so anal intercourse is irrelevant]!"*

- C. *Lo, who is the authority behind that formulation? It is R. Meir. But Rab concurs with R. Eleazar.*
- D. *If Rab concurs with R. Eleazar, then why fasten on the detail that she has had sexual relations [in explanation of why she is prohibited], when you could as well infer that fact from the classification of the woman as a whore [whom an ordinary priest may not marry, not only a high priest]? For lo, said R. Eleazar, "If an unattached male had sexual relations with an unattached female, not for the purpose of establishing a marital bond, he has made her into a whore."*
- E. *Said R. Joseph, "[Rab's reference to prior sexual relations was necessary (Slotki)] to deal with a case in which she had sexual relations with an animal. In that case, the consideration of prior sexual relations does pertain, but the consideration of her having been made into a whore does not pertain."*
- F. *Said to him Abbaye, "Well, which way are you going? If she has had sexual relations, then she is classified as a whore, and if she has not had sexual relations, she cannot be classified as a woman who has had sexual relations anyhow. And if you wish to reply, this case runs parallel to a woman who has been wounded [and so lost her virginity, even though she is no whore], then the same disqualification should pertain to anal intercourse [Slotki: if injury to the anus is subject to the same restrictions as injury to the hymen], so you are not going to find any woman suitable for marriage to a high priest, since there is hardly one who somehow or other has not been injured by a splinter!"*
- G. *Rather, said R. Zira, "[Slotki: Rab's reason of prior sexual relations is necessary] to cover a case of a girl who has exercised the right of refusal." [Slotki: anal intercourse with her by her husband places the minor in the status of one who has had sexual relations, but not in that of a whore, while her refusal to continue the marriage beyond puberty does not give her the status of a divorcée or widow; hence the necessity for Rab's statement that such a minor also is forbidden to marry a high priest.]*

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

B. *So too it has been taught on Tannaite authority: If a woman had sexual relations with one who was not a man, even though she is subject to the death penalty through stoning, she is valid for marriage into the priesthood."*

**II.4.** A. *When R. Dimi came, he said, "There was a case in Haitalu, of a young girl sweeping out the house, and a village dog had sexual relations with her dogpatch style, and Rabbi declared her valid for marriage into the priesthood."*

B. *Said Samuel, "For marriage to a high priest."*

C. *So in the time of Rabbi was there a high priest?*

D. *Rather: [what he said was,] "suitable for marriage to a high priest."*

**II.5.** A. Said Raba of Parzaqayya to R. Ashi, “What is the basis of Scripture for the rabbis’ saying: ‘the category of whore does not apply to sexual relations with an animal’?”

B. He said to him, “‘You shall not bring the fee paid to a whore or the price paid for a dog’ (Deu. 23:19), *and yet we have learned in the Mishnah: The hire [rental fee] of a dog and the price of a prostitute, lo, they are permitted, since it is said, ‘Even both these [two]’ (Deu. 23:19) — but not four [M. Tem. 6:3E-G].*”

**II.6.** A. *Our rabbis have taught on Tannaite authority:*

B. A woman whom a high priest himself has raped or seduced he may not marry. If he married her, after the fact the marriage is valid.

C. A woman whom a third party has raped or seduced he shall not marry. And if he married her —

D. R. Eliezer b. Jacob says, “The offspring is profaned [and not permitted to marry into the priesthood if a female, or not a valid priest if a male].”

E. And sages say, “The offspring is perfectly valid.”

**II.7.** A. “If he married her, after the fact the marriage is valid.”

B. said R. Huna said Rab, “But he has to put her out with a writ of divorce.”

C. *So what’s the point of saying, If he married her, after the fact the marriage is valid?*

D. Said R. Aha bar Jacob, “It is to indicate [60A] that he does not have to pay the fine [Exo. 22:16] in the case of a woman he has seduced.”

E. *R. Gebihah of Be Ketil repeated this tradition before R. Ashi. He said to him, “Lo, both Rab and R. Yohanan say, ‘A high priest may not marry a pubescent girl or one deflowered by an accident, but if he married her, the marriage is valid.’ Therefore in the end, she may remain with him, because in any event she would have become pubescent and ultimately would have been deflowered through sexual relations with him. Here too, she should be permitted to live with him because in the end she would have been deflowered by sexual relations with him.”*

F. *So that’s a problem.*

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

B. Said Rab, “The decided law accords with the position of R. Eliezer b. Jacob.”

C. And so said R. Giddal in the name of Rab, “The decided law accords with the position of R. Eliezer b. Jacob.”

D. *There are those who say: “Said R. Huna said Rab, ‘What is the operative consideration in the mind of R. Eliezer b. Jacob? He concurs with R. Eleazar [“If an unattached male had sexual relations with an unattached female, not for the purpose of establishing a marital bond, he has made her into a whore”].”*

E. *But does he really agree with him? And lo, we have it as an established fact: The Mishnah-teaching of R. Eliezer b. Jacob while merely a qab in volume is nonetheless pure, while in this case, said R. Amram said Rab, “The law does not accord with R. Eleazar.”*

F. *So that’s a problem.*

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

B. *“What is the scriptural basis for the position of R. Eliezer b. Jacob? ‘A widow or one divorced or a profaned woman or a harlot — these he shall not take, but a virgin...’ (Lev. 21:14), followed by, ‘And he shall not profane his seed among his people’ (Lev. 21:15), covering all classes just now listed.*

C. *“And rabbis? The word ‘these’ breaks up the context [Slotki: thus separating those subject to the penalty of a negative commandment from those who are subject to the penalty of a positive commandment, and the profanation applies only to the former].*

D. *“And R. Eliezer b. Jacob said, ““These” excludes the menstruant [with whom a priest has sexual relations].”*

**II.10.** A. *In accord with which authority is that following, which is taught on Tannaite authority:*

B. *Only the offspring of ‘these’ [at Lev. 21:14] are regarded as profaned priests, but the offspring of a menstruant is not a profaned priest?*

C. *In accord with whom? It is in accord with R. Eliezer b. Jacob of course!*

D. *But then from R. Eliezer b. Jacob, “these” ought to have been written at the end [thus encompassing all of the items on the list]!*

E. *So that’s a problem.*

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

B. *For one’s sister who has been betrothed —*

C. *R. Meir and R. Judah say, “A priest contracts corpse uncleanness to bury her [since she is still part of his household, not having been transferred out of the family through a consummated marriage].”*

D. *R. Yosé and R. Simeon say, “A priest does not contract uncleanness to bury her.”*

E. *As to a sister who has been raped or seduced, all parties concur that he may not contract corpse uncleanness.*

F. *As to one who has lost her virginity through a splinter —*

G. *“He does not contract uncleanness on her account,” the words of R. Simeon.*

H. *For R. Simeon would say, “If the sister is suitable for marriage to a high priest, he may contract uncleanness for her, but if she is not suitable for marriage to a high priest, he may not contract uncleanness on her account.”*

- I. And as to a pubescent sister, every party to the discussion maintains that he contracts corpse uncleanness to bury her.

**II.12.** A. *What is the scriptural basis for the position of R. Meir and R. Judah?*

- B. *This is how they read the pertinent verse of Scripture: “‘And for his sister a virgin’ (Lev. 21: 3) — that phrase excludes one who has been raped or seduced. Might I then exclude also one who has lost her virginity because of a splinter? It is said, ‘who has no husband,’ meaning, one who has been given her present condition by a human being, then excluding this one, whose present condition has not been given to her by a human being. ‘Who is near’ excludes a sister who is betrothed. ‘to him’ includes a sister who is pubescent.”*
- C. *So what do I need a verse of Scripture to deal with the pubescent one? Did not R. Meir say, “‘virgin’ refers to one who retains some components of her virginity [and that would cover a pubescent one]”?*
- D. *It was necessary to produce a scriptural proof. For it might have entered your mind to suppose that we should derive the rule governing a “virgin” at Lev. 21: 3 from the meaning of the same word elsewhere [at Deu. 22:28, dealing with a rape]. Then, just as in that latter passage, what is under discussion is only a girl of twelve and a half, so here too it would refer to a girl of twelve and a half. So we are informed that the rule here is not the same.*
- E. *And what is the scriptural basis for the position of R. Yosé and R. Simeon?*
- F. *This is how they read the pertinent verse of Scripture: “‘And for his sister a virgin’ (Lev. 21: 3) — that phrase excludes one who has been raped or seduced and one who has lost her virginity because of a splinter. ‘who has no husband,’ meaning, one who has been betrothed. ‘Who is near’ excludes a sister who is betrothed and divorced. ‘to him’ includes a sister who is pubescent.”*
- G. **[60B]** *But lo, said R. Simeon, “If the sister is suitable for marriage to a high priest, he may contract uncleanness for her, but if she is not suitable for marriage to a high priest, he may not contract uncleanness on her account”!*
- H. *[Contracting corpse uncleanness for a family member by a common priest] is exceptional, for the All-Merciful has encompassed her with the language “near.”*
- I. *If so, then one injured by a splinter should be included too!*
- J. *“near” means one, not two.*
- K. *How come the distinction?*
- L. *To the body of this one, something concrete has been done, while to the body of that one, nothing concrete has been done.*
- M. *Now since R. Yosé’s partner [Simeon, who concurs with him on the betrothed sister] has abandoned him here [not being mentioned], we may draw the inference that, so far as the sister who has been wounded by a splinter, he concurs with R. Meir [that the priest*

*may contract corpse uncleanness for her]. Then on what basis in Scripture?*

- N. "...that has had no man."
- O. *But an inference has already been drawn from this verse clause!*
- P. *[Excluding the betrothed sister] derives from "that has had no," and permission to marry the sister wounded by a splinter derives from "man."*
- Q. "unto him..." — encompasses a pubescent sister.
- R. But has not R. Simeon said, "'virgin' means, 'a complete virgin'"?
- S. *The exegetical basis for his view there derives from here, on the basis of the following: since "unto him" is needed to include one who is pubescent, "virgin" must imply a perfect and unflawed virgin.*

**II.13.** A. *It has been taught on Tannaite authority:*

- B. R. Simeon b. Yohai says, "A convert who converted at the age of less than three years and a day may marry into the priesthood, as it is said, 'But all the female children who have not known man by lying with him keep alive for yourselves' (Num. 31:18), and Phineas [a priest] was certainly among them."
- C. *And rabbis?*
- D. They may be kept alive as slave-boys and slave-girls.
- E. *If it is so [that Num. 31:18 speaks of marriage, as Simeon maintains], then a girl who converted even from three years and a day onward should be permitted [so long as she has not had sexual relations]!*
- F. *The answer accords with what R. Huna said, for R. Huna contrasted verses of Scripture as follows: "'Kill every woman who has known man by lying with him' (Num. 31:17), but if she has not known a man, keep her alive; from which it follows that children are kept alive whether or not they have known a man; but it is written, 'But all the female children who have not known man by lying with him keep alive for yourselves' (Num. 31:18) — but if they have known a man, don't keep them alive. It must follow that Scripture speaks of a woman who is fit for sexual relations [which is from three years and a day]."*

**II.14.** A. *So too it has been taught on Tannaite authority:*

- B. "But all the female children who have not known man by lying with him keep alive for yourselves" (Num. 31:18) — Scripture speaks of a woman who is fit for sexual relations [which is from three years and a day].
- C. You say that Scripture speaks of a woman who is fit for sexual relations [which is from three years and a day]. But perhaps that is not the case, but rather, Scripture speaks of one who has actually had sexual relations?
- D. Since Scripture has said, "But all the female children who have not known man by lying with him," it obviously must speak of one who can have sexual relations [not only one who has had sexual relations alone].

**II.15.** A. *How did they know who had and who hadn't had?*

- B. Said R. Huna bar Bizna said R. Simeon the Pious, "They passed them before the priestly frontplate [Exo. 28:36ff.]. If the face of a woman paled,

it was clear that she was fit for sexual relations; if not, it was clear that she was not fit for sexual relations.”

**II.16.** A. Said R. Nahman, “A mark of having transgressed is dropsy.”

**II.17.** A. Along these same lines you say:

- B. “And they found among the inhabitants of Jabesh-gilead four hundred young virgins, who had not known man by lying with him” (Jud. 21:12) —
- C. *How did they know who had and who hadn’t had?*
- D. Said R. Kahana, “They set them down on the mouth of a wine-cask. Through any girl who had had sexual relations, the odor of the cask penetrated, but through a virgin it didn’t penetrate.”
- E. *Why not have them walk by the priestly frontplate?*
- F. Said R. Kahana b. R. Nathan, “‘For acceptance’ is written in that regard [at Exo. 28:38], not for a penalty.”
- G. So would that consideration not have pertained at Midian?
- H. Said R. Ashi, “‘for them’ is written, meaning, ‘for them is acceptance, not punishment; for gentiles, however it serves even for punishment.’”

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

- B. *Said R. Zira to R. Jacob bar Idi, “Did you hear this said explicitly, or have you inferred that fact?”*
- C. *What would have been the inference?*
- D. For said R. Joshua b. Levi, “There was a town in the Land of Israel, against the legitimacy of the residents of which a bad name circulated, so Rabbi sent out R. Romanus, who examined the case, and he found in that town a girl who was the daughter of a proselyte, who had converted at under three years and a day [married to a priest], and Rabbi declared her fit to remain wed to the priest.”
- E. *[Jacob bar Idi] replied to him, “I heard him say so explicitly. But what difference would it have made if I had deducted it by inference?”*
- F. *“Maybe that case is exceptional, for, since the priest had married the girl, there was the fact of the marriage to consider. For lo, both Rab and R. Yohanan have said, ‘A priest should not marry a pubescent girl or one wounded by a splinter, but if he was married to her, he may stay with her.’”*
- G. *“But [that objection to the comparison would have been incorrect, for how are these parallel anyhow? There it is correct to let them stay wed, since she would ultimately become pubescent while with him, and she would ultimately lose her virginity while married to him; but here she would ultimately become a whore if she remained with him.”*
- H. R. Safra repeated the matter in such a way as to say that he had reached the conclusion by inference, but, having proposed the difficult in the comparison, he himself answered it along the same lines.



- II.19.** A. *There was a priest who married a convert who had converted at the age of less than three years and a day. Said to him R. Nahman bar Isaac, "What's going on"?*
- B. He said to him, "It is because said R. Jacob bar Idi said R. Joshua b. Levi, "The decided law accords with the position of R. Simeon b. Yohai."
- C. *He said to him, "Go and divorce her, or I'll pull R. Jacob bar Idi out of your ear."*

**II.20.** A. *It has been taught on Tannaite authority:*

- B. And so did R. Simeon b. Yohai say, **[61A]** "Dirt from the graves of gentiles do not impart corpse uncleanness in a tent: 'You are my sheep, the sheep of my pasture, are men' (Eze. 34:31) — [for the purpose of cultic uncleanness] you are classified as men, but gentiles are not classified as men."
- C. *An objection was raised:* "and the persons were sixteen thousand" (Num. 31:40) [Midianites, who are gentiles, are here classified as human beings]!
- D. This is because of the cattle [to which the Midianites are contrasted].
- E. "Wherein are more than one hundred twenty thousand persons who do not know their right hand from their left" (Jon. 4:11)!
- F. This is because of the cattle [to which the Ninevites are contrasted].
- G. "Whoever has killed any person and whoever has touched any slain, purify yourselves" (Num. 31:19) [so the corpses of gentiles are cultically unclean]!
- F. *Some Israelites may have been killed too.*
- G. *And rabbis [who reject Simeon's view]?*
- H. "There does not lack one man of us" (Num. 31:49) [which means there were no Israelite corpses].
- I. And R. Simeon b. Yohai?
- J. "There does not lack one man of us" (Num. 31:49) [refers to] transgression.
- K. *Rabina said, "While Scripture excluded gentiles from the classification of uncleanness so far as conveying uncleanness through gentile corpse matter in a tent, on the count of the text, 'When a man dies in a tent' (Num. 19:14), did Scripture also exclude gentiles from the status of cultic uncleanness conveyed not through overshadowing in a tent but through their being touched or carried? [Gentile corpses do convey corpse-uncleanness through these media.]"*

### 6:4E-H

- E. [If] he betrothed a widow and then was appointed high priest, he may consummate the marriage.
- F. **M'SH B: Joshua b. Gamla betrothed Martha, daughter of Baytus. Then the king appointed him high priest. He married her.**

- G. A woman awaiting marriage with her levirate brother-in-law who came [for that purpose] before an ordinary priest, and then he [the eligible brother-in-law] was appointed high priest —
- H. even though he has bespoken her, lo, this one should not consummate the marriage.

**I.1** A. *Our rabbis have taught on Tannaite authority:*

- B. How on the basis of Scripture do we know that [if] he betrothed a widow and then was appointed high priest, he may consummate the marriage?
- C. Scripture states, “Shall he take to wife” (Lev. 21:14).
- D. *If so, the same should apply to a woman awaiting marriage to the levir?*
- E. Scripture speaks of “wife,” not “deceased childless brother’s widow.”

**II.1** A. **M’S H B: Joshua b. Gamla betrothed Martha, daughter of Baytus. Then the king appointed him high priest. He married her:**

- B. **Then the king appointed him high priest**, but the priests did not nominate him [as was the usual procedure]?
- C. *Said R. Joseph, “I see here some sort of conspiracy, for said R. Assi, ‘A huge basket of denars did Marta, daughter of Boethus, present to King Yannai, before he appointed Joshua b. Gamala among the high priests.’”*

## 6:4I

**I. A high priest whose brother died, performs the rite of removing the shoe and does not enter into levirate marriage [with the surviving sister-in-law].**

- I.1** A. *Does the framer of the passage present so decisively the rule that there is no distinction between widowhood at the stage of betrothal and widowhood at the stage of marriage? Now with respect to widowhood at the stage of marriage, we have the case of a conflict between an affirmative and a negative commandment, and a negative commandment is not set aside by an affirmative one. But as to the case of widowhood at the stage of betrothal, let the affirmative commandment come and set aside the negative commandment!*
- B. *It is a precautionary decree against the initial act of sexual relations on account of subsequent such actions [which would be forbidden, not being required for the levirate union].*

## 6:5

- A. **An ordinary priest should not marry a sterile woman, unless he already has a wife and children.**
- B. **R. Judah says, “Even though he has a wife and children, he should not marry a sterile woman,**
- C. **“because she is the whore (Lev. 21: 7) referred to in the Torah.”**
- D. **And sages say, “The category of whore applies only to the woman who has converted or to the woman who has been freed from slavery [because of their prior status], and to the woman who has undergone licentious sexual relations.”**

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

B. *He said to him, "It is because he wanted to insert into the Tannaite formulation the further clause: R. Judah says, [61B] 'Even though he has a wife and children, he should not marry a sterile woman, because she is the whore (Lev. 21: 7) referred to in the Torah.' Since only priests are subject to that consideration but Israelites are not, only priest was mentioned in the opening clause."*

C. *Said R. Huna, "What is the scriptural basis for the position of R. Judah? 'And they shall eat and not have enough, and they shall commit harlotry but shall not increase' (Hos. 4:10) — any sexual relations that are not aimed at producing children are nothing more than fornication."*

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

B. *R. Eliezer says, "A priest should not marry a minor."*

**I.3.** A. *Said R. Hisda to Rabbah, "Go, study this matter carefully, because this evening, R. Huna will ask you questions about it."*

B. *He left and looked into the matter [and determined]: "R. Eliezer concurs with R. Meir and he also concurs with R. Judah. He concurs with R. Meir, who takes account of exceptional cases [a minor might be sterile (Slotki)], and he concurs with R. Judah, who maintains that sexual relations with a woman who cannot conceive are regarded as fornication."*

C. *But does he really concur with R. Meir? And has it not been taught on Tannaite authority:*

D. *"A minor male and a minor female do not go through the rite of removing the shoe and do not enter into Levirate marriage," the words of R. Meir.*

E. *They said to R. Meir, "You have made a perfectly valid statement that they do not carry out the rite of removing the shoe. Scripture refers in the pertinent passage to 'a man,' and we draw an analogy from the woman to the man. But what is the reason that they do not enter into levirate marriage?"*

F. *He said to them, "In the case of a minor male, he may turn out to be a eunuch [and so the levirate marriage retroactively will be proven to be null, since he cannot produce a child with his deceased childless brother's widow], and in the case of a minor female, she may turn out to be barren, so in these two cases they will turn out to override the law against incest [that otherwise would apply to such marriage] not by reason of a religious duty to do so."*

G. *But it has also been taught on Tannaite authority: "A minor may enter into levirate marriage but may not perform the rite of removing the shoe," the words of R. Eliezer.*

- H. *And does he really concur with R. Judah, who maintains that sexual relations with a woman who cannot conceive are regarded as fornication? And has it not been taught on Tannaite authority:*
- I. *“...a whore...” (Lev. 21: 7) is just what the name says [namely], a faithless wife],” the words of R. Eliezer.*
- J. *R. Aqiba says, “...a whore...” (Lev. 21: 7) refers to a prostitute.”*
- K. *R. Matya b. Heresh says, “Even if her husband went along to impose upon her the ordeal of the bitter water, but had sexual relations with her on the road, he has made her a whore.”*
- L. *R. Judah says, “A whore in context refers to a barren woman.”*
- M. *And sages say, “A whore is only a female convert, a freed slave-girl, or any woman who has fornicated.”*
- N. *R. Eleazar says, “If an unattached male had sexual relations with an unattached female, not for the purpose of establishing a marital bond, he has made her into a whore.”*
- O. *[Explaining how Eliezer can concur with Judah,] said R. Ada bar Ahbah, “Here we deal with the case of a high priest. For at what point does he acquire her as his wife? It is only when she matures. But by that point, she has already entered the category of a woman who has had sexual relations [that is to say, with the high priest himself].”*
- P. *Said Raba, “What empty-headed stupidity! If her father had arranged for her betrothal, it is from that moment that the high priest will have acquired possession of her. And if she had arranged for her own betrothal, lo, this [ruling that the high priest may not marry her (Slotki)] represents the position of R. Eliezer and not that of rabbis.”*
- Q. *Rather, said Raba, “In point of fact we deal with a common priest. But we take account of the possibility that while she is living with him, she may be seduced [by someone else].”*
- R. *If that’s what is in play, then the same consideration applies to an Israelite [not only to a priest’s marriage with a minor]!*
- S. *Seducing a minor is regarded as [statutory] rape, and a raped woman may be married to an Israelite [but not to a priest, and that accounts for Eliezer’s speaking only of a priest].*
- T. *R. Pappa said, “[Eliezer] speaks of a high priest, and it stands for that which has been taught on Tannaite authority by the following Tannaite statement: “...virgin...” (Lev. 21:14) — might one assume that the passage refers to a minor? Scripture states, “...a wife....” Scripture states, “...wife....” Now if it had been stated alone, that is, “wife,” but not “virgin,” I might have supposed that this refers to one who is pubescent. Hence “virgin” is stated. How so? It must be a girl who has passed her minority but not yet reached pubescence.” [Slotki: a minor is thus forbidden, and Eliezer’s ruling is based on the Torah.]*
- U. *R. Nahman bar Isaac said, “The statement represents the following Tannaite statement, for it has been taught on Tannaite authority: “...virgin...” (Lev. 21:14) — the sole*

sense of that word is young woman [a girl from twelve years to twelve and a half years]. And so Scripture says, “And the young girl was very fair to look upon, a virgin” (Gen. 24:16).”

- I.4.** A. “R. Eleazar says, ‘If an unattached male had sexual relations with an unattached female, not for the purpose of establishing a marital bond, he has made her into a whore:’”
- B. Said R. Amram, “The decided law does not accord with R. Eleazar.”

## 6:6

- A. A man should not give up having sexual relations unless he has children.**
- B. The House of Shammai say, “Two boys.”**
- C. And the House of Hillel say, “A boy and a girl,**
- D. “since it is said, Male and female he created them (Gen. 5: 2).”**

- I.1** A. *Lo, if he has children, he may then give up having sexual relations, but he may not give up living with a woman. This supports what R. Nahman said Samuel said, “Even though a man has any number of children, he still may not live without a woman: ‘It is not good for man to be alone’ (Gen. 2:18).”*
- B. *Others say: “Lo, if he has children, he may then give up having sexual relations, and he may also give up living with a woman. May we say this refutes what R. Nahman said Samuel said, [‘Even though a man has any number of children, he still may not live without a woman: “It is not good for man to be alone” (Gen. 2:18)’]?”*
- C. Not at all. If he has no children, he must marry a woman who can produce children. If he has children, he may marry a woman who cannot produce children.
- D. *So what difference does it make?*
- E. Whether or not he may sell a scroll of the Torah in order to produce children.

## **II.1** A. The House of Shammai say, “Two boys:”

- B. *What is the scriptural foundation for the position of the House of Shammai?*
- C. *They derive the governing analogy from the case of Moses: “The sons of Moses: Gershom and Eliezer” (1Ch. 23:15).*
- D. *And the House of Hillel?*
- E. *They derive the governing analogy from the case of the creation of the world.*
- F. *So why should the House of Shammai not also derive the governing analogy from the case of the creation of the world?*
- G. An analogy for what is possible is not to be derived **[62A]** from a case of what is impossible.
- H. *So why should the House of Shammai not also derive the governing analogy from the case of Moses?*
- I. *They will say to you, “Moses did this only on his own volition.” For it has been taught on Tannaite authority:*

J. There were three things that Moses did only on his own volition, and God concurred with what Moses had decided: going celibate [even without having had a daughter], breaking the tables, and adding one day [to the period of sanctification prior to revelation, Exo. 19:10, 19:15].

**II.2.** A. “going celibate [even without having had a daughter]:”

B. *What was the exposition of Scripture that he set forth?*

C. *He thought along these lines:* if concerning the Israelites, with whom the Presence of God spoke for only a single moment, and that was at a specified time, the Torah has said, “do not come near a woman,” then I, who am singled out for divine speech at any time, and no particular time has been set for me, all the more so should do so — and God concurred with what Moses had decided: “Go say to them, Return you to your tents [wives], but as for you, stand you here by me” (Deu. 5:27-8).

**II.3.** A. “breaking the tables:”

B. *What was the exposition of Scripture that he set forth?*

C. *He thought along these lines:* if concerning the Passover lamb, only one of six hundred and thirteen commandments, the Torah has said, “No outsider shall eat thereof,” then how much the more so should this apply to the whole of the Torah, when all of the Israelites have betrayed it! — and God concurred with what Moses had decided: “which you did break” (Exo. 34: 1), concerning which said R. Simeon b. Laqish, “Said the Holy one blessed be he to Moses, ‘Well done for breaking them!’”

**II.4.** A. “and adding one day [to the period of sanctification prior to revelation, Exo. 19:10, 19:15]:”

B. *What was the exposition of Scripture that he set forth?*

C. *He thought along these lines:* it is written, “And sanctify themselves today and tomorrow” (Exo. 19:10) — today must be like tomorrow. Just as tomorrow means the prior night, so today must encompass the prior night. *But since the prior night applying to today has already gone by, it must follow that there are two days exclusive of today to be observed* — and God concurred with what Moses had decided, *for the Presence of God did not alight before the Sabbath.* [Slotki: the sanctification began on Wednesday, they observed all of Thursday and Friday, and the Presence descended on the Sabbath, the third of the two complete days, as Moses expected, disregarding the first day, which was incomplete].

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

**II.6.** A. *Said R. Huna, “What is the scriptural basis adduced by R. Nathan for the position of the House of Shammai? ‘And again she bore his brother Abel’ (Gen. 4: 2), with the word ‘again’ implying ‘Abel and his sister, Cain and his sister. And it is also written, ‘For God has appointed me another seed instead of Abel, for Cain slew him.’ (Gen. 4:25).”*



- B. *And rabbis?*
- C. *That was just a way of expressing thanks.*

**II.7.** A. *It has further been taught on Tannaite authority:*

- B. R. Nathan says, "The House of Shammai say, 'A son and a daughter.' And the House of Hillel say, 'Either a son or a daughter.'"

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

**II.9.** A. *It has been stated:*

- B. If someone had children while he was a gentile and he converted —
- C. R. Yohanan said, "He has already fulfilled the obligation to be fruitful and multiply."
- D. R. Simeon b. Laqish says, "He has not already fulfilled the obligation to be fruitful and multiply."
- E. R. Yohanan said, "He has already fulfilled the obligation to be fruitful and multiply:" *for lo, he already has children.*
- F. R. Simeon b. Laqish says, "He has not already fulfilled the obligation to be fruitful and multiply:" *for lo, a proselyte is classified as a newborn baby.*
- G. *And both follow already-established lines of thought, for it has been stated:*
- H. If a man had children while he was a gentile and then he converted —
- I. R. Yohanan says, "He does not produce a firstborn as to inheritance."
- J. R. Simeon b. Laqish says, "He does produce a firstborn as to inheritance."
- K. R. Yohanan says, "He does not produce a firstborn as to inheritance:" *for lo the father has already produced "the beginning of his strength."*
- L. R. Simeon b. Laqish says, "He does produce a firstborn as to inheritance:" *for lo, a proselyte is classified as a newborn baby.*
- M. *And it was necessary to present both examples of their dispute [since one cannot have reliably been inferred from the other]. For had the dispute been stated only with reference to the first topic, it would have been specifically in that context that R. Yohanan took the view that he did, since even before he converted, the man was obligated to engage in being fruitful. and multiplying, but as to inheritance, since the children of the proselyte prior to his conversion are not heirs, he might have been supposed to concur with R. Simeon b. Laqish. And if it were only for the second dispute, one might have supposed that only in that case R. Simeon b. Laqish took the position that he did, because, when the man was a gentile, his children were not his legal heirs, but in this case, I might say that he concurs with R. Yohanan. So it was necessary to state the dispute in both contexts.*

- N. R. Yohanan objected to R. Simeon b. Laqish: “‘At that time Merodach-baladan son of Baladan king of Babylonia’ (2Ki. 20:12) [so the offspring of a gentile is described as a son (Slotki)].”
- O. *He said to him, “When they are gentiles, they possess valid genealogy, but when the convert, they no longer possess any prior valid genealogy.”*

- II.10.** A. Said Rab, “All concur that a slave has no valid genealogy whatsoever: ‘Stay here with the ass’ (Gen. 22: 5) — people who are classified along with the ass [which has no genealogy and is merely chattel].”
- B. *An objection was raised: “Now Ziba had fifteen sons and twenty slaves” (2Sa. 9:10) [Slotki: Ziba was a slave and yet is said to have had sons].*
- C. Said R. Aha bar Jacob, “Like a young bullock.”
- D. *If so, say that here too [at 2Ki. 20:12]!*
- E. *That case is exceptional, because the various sons are specified along with his name and his father’s name, while here the names of the sons are not specified. If you prefer, I shall say, “Gentiles are elsewhere assigned to their father and their father’s father: ‘And king Asa sent them to Ben Hadad, son of Tabrimmon, son of Hezion, king of Aram, who dwelled in Damascus, saying...’ (1Ki. 15:18).”*

**II.11.** A. *It has been stated:*

- B. If someone had children but they died,
- C. R. Huna said, “He still has carried out the obligation to be fruitful and multiply.”
- D. R. Yohanan said, “He has not carried out that obligation.”
- E. R. Huna said, “He still has carried out the obligation to be fruitful and multiply,” *on account of that which R. Assi said, for said R. Assi, “The son of David will come only after all of the souls in the body [Slotki: the region inhabited by the souls of the unborn] have been exhausted, since it is said, ‘For the spirit that unwraps itself is from me’ (Isa. 57:16)” [Slotki: this being the reason for the duty of propagation, the duty is fulfilled as soon as a child is born, that is, as soon as his soul has left the region of ‘the body’ without regard to whether he survives or not].*
- F. R. Yohanan said, “He has not carried out that obligation,” *for we require that he carry out the verse, “He formed it to be inhabited” (Isa. 45:18), and he has not done so.*
- G. **[62B]** *An objection was raised: grandchildren, lo, they fall into the classification of children.*
- H. *When that was set forth as a Tannaite statement, it was with regard to completing what is owing. [Slotki: if a man had only one son, he is exempt from the duty of propagation if his son then had a daughter; if he once had a male and a female who died, he is in any case exempt.]*
- I. **An objection was raised: grandchildren, lo, they fall into the classification of children. If one of them died or if one of them turned out to be sterile, one**

**has not completed the obligation of being fruitful and multiplying [T. Yeb. 8:4B-C].** *Is that not a refutation of the position of R. Huna?*

J. *Yup.*

**II.12.** A. "...grandchildren, lo, they fall into the classification of children."

B. *Abbayye considered saying, "A grandson stands in for a son, a granddaughter for a daughter, and assuredly a grandson for a daughter, but not a granddaughter for a son."*

C. *Said to him Raba, "'He formed it to be inhabited' (Isa. 45:18) is what we require, and he has done it."*

D. *Anyhow, both parties concur that two children of one gender do not suffice.*

E. *So they don't, don't they? But didn't rabbis say to R. Sheshet, "Marry a wife and have children," and he said to them, "My daughters' children are mine"?*

F. *There he was just putting them down, for R. Sheshet was really impotent, on account of sitting through the long speeches of R. Huna.*

**II.13.** A. *Said Rabbah to Raba bar Mari, "Whence the source of what rabbis say, namely, 'Grandchildren, lo, they fall into the classification of children'? Should I say that it is in line with this verse, 'The daughters are my daughters and the children are my children' (Gen. 31:43)? Then would the same be assigned to the verse, 'and the flocks are my flocks' (Gen. 31:43)? Rather the sense is, 'which you have acquired from me.' Rather, the evidence derives from these verses: 'And afterwards Hezron went to the daughter of Machir the father of Gilead, and she bore him Segub' (1Ch. 2:21), 'Out of Machir came lawgivers' (Jud. 5:14), 'Judah is my lawgiver' (Psa. 60: 9)" [Slotki: lawgivers were descendants of Judah; Machir is a descendant of Manasseh, so he could not have been the paternal, but only the maternal ancestor of the lawgivers that descended from him; the lawgivers were thus the offspring of the union mentioned in 1Ch. 2:21, between Hezron, descendant of Judah, and a daughter of Machir; this then proves that the sons of one's daughter are also regarded as one's own sons].*

**II.14.** A. [**A man should not give up having sexual relations unless he has children** — *Lo, if he has children, he may then give up having sexual relations:*] *our Mishnah [as just now interpreted] cannot accord with the position of R. Joshua, for it has been taught on Tannaite authority:*

B. R. Joshua says, "If a man married a wife when young, he should marry a wife when old, if he begot children when young, he should beget children when old: 'For you do not know which will prosper, the one or the other, or perhaps both of them will survive, and they shall both turn out well. In the morning sow your seed and in the evening keep it up (Qoh. 11: 6).'"

C. R. Aqiba says, "If a man has studied the Torah in his youth, he should study it also when he gets old, and if he has raised up disciples in youth, he should raise up more disciples in your old age, 'for you do not know which will prosper, whether this or that, or whether they both shall alike be good' (Qoh. 11: 6)."

**II.15.** A. They said: R. Aqiba had twelve thousand pairs of disciples, living from Gabbath to Antipatris. All of them died in a single season. Why? Because they did not treat one another with respect. The world was desolated, until R. Aqiba along to our masters who are in the South and taught them: R. Meir, R. Judah, R. Yosé, R. Simeon, R. Eleazar b. Shammua. And they are the ones who raised up the Torah at that time.

**II.16.** A. *A Tannaite statement:* all of them died between Passover and Pentecost.”

**II.17.** A. Said R. Hamam bar Abba, and some say, R. Hiyya bar Abin, “All of them died a horrible death.”

B. *What was it?*

C. Said R. Nahman, “Croup.”

**II.18.** A. Said R. Mattena, “The decided law accords with R. Joshua.”

### **Topical Appendix on Wives and Marriage**

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

B. “Joy: ‘and you shall rejoice, you and your house’ (Deu. 14:26).

C. “Blessing: ‘to cause a blessing to rest on your house’ (Eze. 44:30).

D. “Goodness: ‘it is not good that man should be alone’ (Gen. 2:18).”

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

B. without Torah: “Is it that I have no help in me and that sound wisdom is driven entirely out of me” (Job. 6:13).

C. without a wall of refuge: “A woman shall form a wall about a man” (Jer. 31:22).

**II.21.** A. Raba bar Ulla said, “Without peace:

B. ““and you shall know that your tent is in peace, and you shall visit your habitation and shall miss nothing’ (Job. 5:24).”

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

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

B. *Does that proposition derive from this verse? Is it not from the following:* “And your desire shall be to your husband” (Gen. 3:16) teaches that a woman lusts for her husband just at the moment that he is going off on a trip.

C. Said R. Joseph, “That formulation was required only to deal with the time near her menstrual period.”

D. How near?

E. Said Raba, “Twelve hours.”

F. *That is the case when the journey is optional, but when it is a matter of carrying out a commandment, people are preoccupied.*

**II.24.** A. *Our rabbis have taught on Tannaite authority:*

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

**II.25.** A. *Our rabbis have taught on Tannaite authority:*

B. He who loves his neighbors, he who draws his relatives near, he who marries his sister’s daughter, [63A] and he who lends a sela to a poor person when he needs it —

C. concerning such a person Scripture says, “Then you will call, and the Lord will answer” (Isa. 58: 9).

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

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

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

B. Others say, “R. Eleazar contrasted: ‘it is written as though it could be read, “to strike him, but it is read as, “a help meet for him” If he enjoys favor, she is meet for him, if not, she is his punishment.”

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

B. He said to him, “If a man brings home wheat, does he chew it? If he brings home flax, does he wear flax? Doesn’t she bring light to his eyes and set him on his feet?”

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

### **Composite of Further Teachings Attributed to Eleazar**

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

B. “And in you shall all the families of the earth.” even the other families on the earth enjoy blessings only on account of Israel.

- C. “All the nations of the earth” (Gen. 18:18): even the ships that sail from Gaul to Spain are blessed only on account of Israel.
- II.32.** A. And further said R. Eleazar, “All craftsmen are destined to go into labor on the earth: ‘And all that handle the oar, the mariners, and all the pilots of the sea, shall come down from their ships; they shall stand upon the land’ (Eze. 27:29).”
- II.33.** A. And further said R. Eleazar, “You have no craft that is more menial than working on the land: ‘And they shall come down’ (Eze. 27:29).”
- II.34.** A. *R. Eleazar once saw a piece of ground that was ploughed widthwise. He said, “If you were ploughed lengthwise too, you’d yield a still better crop.”*
- B. *Rab once went a field of growing corn. Saying them swaying, he said to them, “Sway all you want, commerce is more profitable.”*
- II.35.** A. *Said Raba, “A hundred zuz in commerce — meat and wine on the table every day; a hundred zuz in land — salt and vegetables. And not only so, but it makes him sleep on the ground and gets him involved in contention.”*
- II.36.** A. *Said R. Pappa, “Sow but don’t buy grain in the market, even if the price is the same. Sell out what you own to avoid cheapen yourself. That applies to mattresses but not a cloak, since you might not always find a good one again. Repair a hole and avoid expensive repairs; repair a house and you won’t have to rebuild; for whoever gets involved in construction is impoverished. Buy land promptly. Choose a wife deliberately. Marry below yourself by a step, climb up a step in selecting your best man.”*
- II.37.** A. Said R. Eleazar bar Abina, “Punishment comes upon the world only for the sake of Israel: ‘I have cut off nations, their corners are desolate, I have made their streets waste’ (Zep. 3: 6) followed by ‘I said, Surely you will fear me, you will accept correction’ (Zep. 3: 6).”

### **Continuation of the Topical Appendix on Wives and Marriage**

- II.38.** A. *Rab was taking leave of R. Hiyya. He said to him, “May the All-Merciful shield you from something worse than death.”*
- B. *“And is there anything that is worth than death?”*
- C. *He went out and found the verse: “And I find more bitter than death the woman” (Qoh. 7:26).*
- II.39.** A. *Rab was tormented by his wife. When he said to her, “Make me lentils,” she made him small peas, “Small peas,” she made him lentils. When his son, Hiyya, matured., he passed on his father’s orders in reverse [so he asked for peas if the father wanted lentils].*
- B. *He said to him, “Golly, your mother’s coming up in the world.”*
- C. *He said to him, “I’m the one who passed on your orders in reverse.”*
- D. *He said to him, “That’s what people say: ‘Your own offspring will teach you right thinking.’ But you shouldn’t do that any more: ‘They have taught their tongue to speak lies, they wear themselves’ (Jer. 9: 4).”*



**II.40.** A. R. Hiyya was tormented by his wife. Still, when he found something nice, he wrapped it in his scarf and brought it to her. Said to him Rab, “Yeah, but she’s always pecking away at you!”

B. He said to him, “It’s enough for us that they raise our children and save us [63B] from sin.”

**II.41.** A. R. Judah was reciting to his son R. Isaac the verse, “And I find more bitter than death the woman” (Qoh. 7:26).

B. He said to him, “Give me a for instance.”

C. He said to him, “For instance, your very own momma-san.”

D. But isn’t it so that R. Judah repeated on Tannaite authority to his son, R. Isaac, “A man finds true serenity only with his first wife, as it is said, ‘Let your fountain be blessed and have joy of the wife of your youth’ (Pro. 5:18).”

E. He said to him, “Such as whom?”

F. He said to him, “Such as your mother.”

G. She was easy to anger but easy to appease with a good word.

**II.42.** A. What is the definition of a bad wife?

B. Said Abbaye, “It is one who ‘serves him a tray of food’ when her ‘mouth’ is ready for him too.”

C. Raba said, “It is one who ‘serves him a tray of food’ and then turns her back on him.”

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

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

**II.45.** A. Said Raba, “As to a bad wife, it is a religious duty to divorce her: ‘Cast out the scoffer and contention will go out, yes, strife and shame will cease’ (Pro. 22:10).”

**II.46.** A. Raba further stated, “A bad wife with a weighty marriage-settlement — put a co-wife at her side: *‘By her partner, not by a thorn.’*”

B. Raba further stated, “A bad wife is as hard as a stormy day: ‘A continual dropping in a very rainy day and a contentious woman are alike’ (Pro. 27:15).”

**II.47.** A. Raba further stated, “Come and see how good is a good wife and how bad is a bad wife. How good is a good wife: ‘Who finds a wife finds a great good’ (Pro. 18:22). If Scripture speaks of the woman herself, then how good is a good wife whom Scripture praises! If Scripture speaks of the Torah, then how good is a good wife, with whom the Torah is to be compared.

B. “and how bad is a bad wife: ‘And I find more bitter than death the woman’ (Qoh. 7:26): If Scripture speaks of the woman herself, then how dreadful is a bad wife whom Scripture condemns! If Scripture speaks of Gehenna, then how bad is a bad wife, with whom Gehenna is to be compared!”

**II.48.** A. “Behold I will bring upon them evil, which they shall not be able to evade” (Jer. 11:11) — said R. Nahman said Rabbah bar Abbuha, “This refers to a bad wife with a weighty marriage settlement.”

**II.49.** A. “The Lord has delivered me into their hands against whom I am not able to stand: (Lam. 1:14) — said R. Hisda said Mar Uqba bar Hiyya, “This refers to a bad wife with a weighty marriage settlement.”

B. In the West they say, “This refers to one who completely depends upon his own cash to buy food [owning no land to provide his meals].”

**II.50.** A. “Your sons and daughters shall be given to another people” (Deu. 38:32) — said R. Hanan bar Raba said Rab, “This refers to the father’s wife [stepmother to his children].”

**II.51.** A. “I will provoke them with a vile nation” (Deu. 32:21) — said R. Hanan bar Raba said Rab, “This refers to a bad wife with a weighty marriage-settlement.”

B. R. Eliezer says, “This refers to the *minim*: ‘The fool has said in his heart, there is no God’ (Psa. 14: 1).”

C. *In a Tannaite formulation it is stated:* This refers to the people of Barbary and of Mauretania, who walk around naked in the streets. There is nothing more abominable and disgusting before the Omnipresent than someone who walks around naked in the streets.

D. R. Yohanan said, “This refers to the Magi.”

**II.52.** A. *They told R. Yohanan, “The Magi have come to Babylonia.” He reeled and fell.*

B. *They said to him, “They take bribes.”*

C. *He cheered up and took his seat again.*

**II.53.** A. They made decrees on three counts: they made a decree concerning meat [that parts of every animal that was slaughtered had to be offered on their altar]; this was on account of the neglect by Israelites of handing over to their own priesthood the gifts that were owing to the priests from all beasts that were slaughtered;

B. they made a decree against baths; this was on account of the neglect by Israelites of the religious requirement of immersion;

C. *they dug up the dead [not permitting burial];* this was because Jews took part in the celebration of their festivals: “Then shall the hand of the Lord be against you and against your fathers” (1Sa. 12:15).

D. Said Rabbah bar Samuel, “*This refers to digging up corpses*, for a master has said, ‘On account of the sins of the living are the dead exhumed.’”

**II.54.** A. Said Raba to Rabbah bar Mari, “It is written, ‘They shall not be gathered nor be buried, they shall be for dung upon the face of the earth’ (Jer. 8: 2), and further, ‘And death shall be preferable to life’ (Jer. 8:32)!”

B. He said to him, “‘Death shall be preferable’ for the wicked, so that they may not live in this world but will sin and fall into Gehenna.”

**II.55.** A. It is written in the book of Ben Sira:

- B. “A good woman is a good gift, who will be put into the bosom of a God-fearing man. A bad woman is a plague for her husband. *What is his remedy?* Let him drive her from his house and be healed from what is plaguing him.
- C. “A lovely wife — happy is her husband. The number of his days is doubled.
- D. “Keep your eyes from a woman of charm, lest you be taken in her trap. Do not turn to her husband to drink wine with him, or strong drink, for through the looks of a beautiful woman many have been slain, and numerous are those who have been slain by her.
- E. “Many are the blows with which a peddler is smitten [for dealing with women]. Those who make it a habit of committing fornication are like a spark that lights the ember. As a cage is full of birds, so are their houses full of deceit” (Jer. 5:27).
- F. “Many are the wounds of a peddler, which lead him into temptation, like a spark that lights a coal.
- G. “As a cage is full of birds, so whorehouses are full of deceit.
- H. “‘Do not worry about tomorrow’s sorrow,’ ‘For you do not know what a day may bring forth’ (Pro. 27: 1). Perhaps tomorrow you will no longer exist and it will turn out that you will worry about a world that is not yours.
- I. “Keep large numbers of people away from your house, and do not let just anybody into your house.
- J. “Let many people ask how you are, but reveal your secret to one out of a thousand.”

**II.56.** A. Said R. Assi, “The son of David will come only after all of the souls in the body: ‘For the spirit that wraps itself is from me, and the souls that I have made’ (Isa. 57:16).”

**II.57.** A. *It has been taught on Tannaite authority:*

- B. R. Eliezer says, “Anybody who does not get busy with being fruitful and multiplying is as though he shed blood: ‘whoever sheds man’s blood by man shall his blood be shed’ (Gen. 9: 6) followed by, ‘and you, be fruitful and multiply’ (Gen. 9: 7).”
- C. R. Jacob says, “It is as though he diminished the divine form: ‘For in the image of God made he man’ (Gen. 9: 6) followed by ‘and you, be fruitful and multiply’ (Gen. 9: 7).”
- D. Ben Azzai says, “It is as though he shed blood and diminished the divine form: ‘and you, be fruitful and multiply’ (Gen. 9: 7).”
- E. They said to Ben Azzai, “There are some talk a good game and play a good game, play a good game but don’t talk a good game, but you talk a good game and don’t play at all.”
- F. He said to him, “What am I supposed to do? For my soul lusts only after the Torah. So let the world be kept going by others.”

**II.58.** A. *It has further been taught on Tannaite authority:*

- B. R. Eliezer says, “Anybody who does not get busy with being fruitful and multiplying is as though he shed blood: ‘whoever sheds man’s blood by man shall his blood be shed’ (Gen. 9: 6) followed by, ‘and you, be fruitful and multiply’ (Gen. 9: 7).”

- C. R. Eleazar b. Azariah says, “It is as though he diminished the divine form: ‘For in the image of God made he man’ (Gen. 9: 6) followed by ‘and you, be fruitful and multiply’ (Gen. 9: 7).”
- D. Ben Azzai says, “It is as though he shed blood and diminished the divine form: ‘and you, be fruitful and multiply’ (Gen. 9: 7).”
- E. They said to Ben Azzai, “There are some talk a good game and play a good game, play a good game but don’t talk a good game, but you talk a good game and don’t play at all.”
- F. He said to him, “What am I supposed to do? For my soul lusts only after the Torah. So let the world be kept going by others.”

**II.59.** *A. Our rabbis have taught on Tannaite authority:*

- B. “And when it rested, he said, Return O Lord to the tens of thousands and thousands of Israel” (Num. 10:36) — **[64A]** this teaches you that the Presence of God comes to rest on Israel only if there are two thousand and two tens of thousands. If they lacked one, and someone did not engaging in being fruitful and multiplying, will that one not turn out to cause the Presence of God to remove from Israel?
- C. Abba Hanan said in the name of R. Eliezer, “He is liable to the death penalty: ‘and they [Nadab and Abihu] had no children’ (Num. 3: 4). So if they had children, they would not have died.”
- D. Others say, “He causes the Presence of God to remove from Israel: ‘to be a God to you and to your children after you’ (Gen. 17: 7) — where there is ‘children after you’ the Presence of God comes to rest, but where there is no ‘children after you,’ among whom will it come to rest? Among trees or stones?”

**6:6E-H**

- E. [If] a man married a woman and lived with her for ten years and she did not give birth, he has no right to desist from having sexual relations with her.**
- F. [If] he divorced her, she is permitted to marry someone else.**
- G. The second husband is allowed to live with her for ten years.**
- H. And if she miscarried, she counts the ten years from the time that she miscarried.**

**I.1** *A. Our rabbis have taught on Tannaite authority:*

- B. **[If] a man married a woman and lived with her for ten years and she did not give birth, he should divorce her and pay off her marriage settlement, lest he not enjoy the divine favor of producing children with her. And even though there is no proof for that proposition, there is at least scriptural indication for it: “At the end of ten years of Abraham’s dwelling in the land of Canaan” (Gen. 16: 3), which serves to teach you that living abroad does not count [T. Yeb. 8:5A-F].**
- C. Therefore if he or she fell ill, or both of them, or if the two of them were imprisoned, these do not count.

**I.2.** *A. Said Raba to R. Nahman, “Why not derive the same fact from the case of Isaac, in which case it is written: ‘And Isaac was forty years old when he took Rebecca’*

(Gen. 25:20), ‘And Isaac was threescore years old when she bore them’ (Gen. 25:26) [so he waited twenty years].”

- B. He said to him, “Isaac was barren” [Slotki: and knowing that he was at fault, he waited ten years longer than Abraham].
- C. *If so, Abraham too was barren [and ought to have waited an additional ten years]!*
- D. *The verse [concerning Isaac’s age when he had children] is needed in accord with R. Hiyya bar Abba, for said R. Hiyya bar Abba said R. Yohanan, “How come the years of Ishmael are reckoned at all? It is so as to figure out by them the years of Jacob.” [Slotki: and for the same reason it is necessary to give the age of Isaac, and no other deduction is to be made from the same verse.]*

**I.3.** A. Said R. Isaac, “Our father Isaac was barren: ‘And Isaac entreated the Lord opposite his wife’ (Gen. 25:21) — not in behalf of his wife, but opposite, teaching that both of them were barren.”

- B. *If so, instead of saying, “And the Lord let himself be entreated of him” (Gen. 25:21) would be less appropriate than, “And the Lord let himself be entreated of them”!*
- C. It is because a prayer for a righteous person who is the son of a righteous person is not the same thing as a prayer for a righteous person who is the offspring of a wicked person [Bethuel].

**I.4.** A. Said R. Isaac, “How come our patriarchs were barren? It is because the Holy One, blessed be he, lusts after the prayers of the righteous.”

**I.5.** A. Said R. Isaac, “For what are the prayers of the righteous to be compared to a pitchfork [a word that uses the same consonants as the word, entreated]? Just as a pitchfork turns sheaves of grain from one position to another, so the prayer of the righteous person changes the attitude of the Holy One, blessed be he, from one of anger to one of compassion.”

**I.6.** A. Said R. Ammi, “Abraham and Sarah possessed unclear sexual traits: ‘Look unto the rock whence [64B] you were hewn and to the hole of the pit whence you were dug’ (Isa. 51: 1), followed by, ‘Look unto Abraham your father and to Sarah who bore you’ (Isa. 51: 2).”

**I.7.** A. Said R. Nahman said Rabbah bar Abbuha, “Our mother Sarah was barren: ‘And Sarai was barren, she had no child’ (Gen. 11:30) — she didn’t even have a womb.”

- I.8.** A. [for ten years:] said R. Judah b. R. Samuel bar Shilat in the name of Rab, “That limit was placed only upon the early generations, who had a lot of years to live, but as to the latter-day generations, who don’t have a lot of years to live, two and a half years is the limit, corresponding to three periods of pregnancy.”
- B. Rabbah said R. Nahman [said], “Three years, corresponding to three moments of remembrance, for a master has said, ‘Sarah, Rachel, and Hannah [Gen. 11:30, 29:31, 1Sa. 1:2] all were remembered on the New Year.”

**I.9.** A. Said Rabbah, “These encompassing rules are null. For note: who ordained our Mishnah-paragraph? It is Rabbi, and lo, the length of a lifetime was already cut

down by the time of David: 'The days of our years are three score years and ten' (Psa. 90:10)."

- I.10.** A. *And as to the consideration, lest he not enjoy the divine favor of producing children with her, but maybe she is the one who did not enjoy the divine favor of having children from him?*
- B. *Since she is not subject to the commandment of being fruitful and multiply, punishment of that sort will not be exacted from her.*
- C. *Now it won't, won't it? And lo, rabbis said to R. Abba bar Zabeda, "Marry a woman and have children," and he said to them, "If I had sufficient divine favor, I would have had them with my first wife"!*
- D. *There he was just putting them down, for R. Sheshet was really impotent, on account of sitting through the long speeches of R. Huna.*
- E. *R. Giddal became impotent on account of the lecture of R. Huna, R. Helbo became impotent because of the lecture of R. Huna, R. Sheshet became impotent through the long lecture of R. Huna.*
- F. *R. Aha bar Jacob suffered from dysuria [for not urinating when he should have], and when he leaned on the cedar at the household of the master, a discharge like a green palm shoot was excreted.*
- G. *Said R. Aha bar Jacob, "We were sixty elders, and all of us were made impotent by the lecture of R. Huna except for me, for I carried out in my own regard: 'Wisdom preserves the life of him who has it' (Qoh. 7:12)."*

**II.1** A. **[If] he divorced her, she is permitted to marry someone else:**

- B. *Only a second husband but not a third? Then who is the authority who stands behind our Mishnah-paragraph?*
- C. *It is Rabbi, for it has been taught on Tannaite authority:*
- D. *"If one circumcised the first child and he died, a second and he died, she must not circumcise the third," the words of Rabbi.*
- E. *Rabban Simeon b. Gamaliel says, "The third she may circumcise, but not the fourth."*
- F. *But has not the opposite been taught on Tannaite authority?*
- G. *Which of the two versions is the later [and therefore the more accurate, the authority having changed his mind]?*
- H. *Come and take note, for said R. Hiyya bar Abba said R. Yohanan, "There was a case of four sisters in Sepphoris, in which, when the first circumcised her son, he died; when the second circumcised hers, he died, and when the third circumcised hers, he died. The fourth came before Rabban Simon b. Gamaliel. He said to her, 'Don't circumcise him.'"*
- I. *But perhaps if the third sister had presented herself to him, he would have given her the same advice?*
- J. *If so, then what's the point of R. Hiyya bar Abba's testimony?*
- K. *Perhaps this is what he meant to tell us: that the sisters serve to establish a presumption concerning one another [that when an incident recurs in the case of not the same mother but three sisters, we take that into account].*



**II.2.** A. *Said Raba, "Now that you have declared that sisters serve to establish a presumption concerning one another, a man should not take a wife from a family of epileptics or lepers. But that is the rule when the presumption is established three three cases."*

**II.3.** A. *What's the upshot?*

B. *When R. Isaac bar Joseph he said, "A case came before R. Yohanan in the synagogue in Maon on the Day of Atonement that coincided with the Sabbath. A woman circumcised the first son, who died, the second, who died, and then the third came before him. He said to her, 'Go and circumcise him.'"*

C. *Said to him Abbaye, "See, you have permitted what is forbidden and also dangerous."*

D. *[Nonetheless,] relying on that precedent, Abbaye went and married Homa, daughter of Isi b. R. Isaac b. R. Judah, even though Rahba of Pumbedita had been married to her and had died, and R. Isaac b. Rabbah bar bar Hannah had married her and also died. And after Abbaye married her, he too died.*

E. *Said Raba, "Is there anybody else who would try out an experiment on himself like this? Notice, he himself said, 'Abin is reliable, Isaac the Red is not reliable.' Abin would know about any retraction, Isaac the Red wouldn't. And further more, I might say that the dispute pertained only to the matter of circumcision, but would they differ also as to marriage?"*

F. *Well, as a matter of fact, they would, for it has been taught on Tannaite authority:*

G. **"If a woman was married to a first husband who died, to a second who died, to a third she should not be wed," the words of Rabbi.**

H. **Rabban Simeon b. Gamaliel says, "To a third she may be married, but to a fourth she should not be married. [If she produces males and they were circumcised and died, if the first was circumcised and died, the second and he died, the third may be circumcised, but the fourth should not be circumcised]" [T. [Shab. 15:8A-C](#)].**

I. *Now with respect to circumcision, there is the consideration of inherited hemophilia, for there may be a family that bleeds a lot and another not; but what consideration comes into play for marriage?*

J. *Said R. Mordecai to R. Ashi, "This is what Abimi of Hagronayya said in the name of R. Huna: 'A disease in the uterus can be the cause.' And R. Ashi said, 'Astrology is the cause.'"*

K. *What's at issue between them?*

L. *At issue between them is a case in which someone betrothed the woman and died or fell off a palm-tree and died.*

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

N. *He said to him, "Not at all. What we have are several unattributed statements, and he elucidated matters for you in the following: in the matters of marriage and flogging, the unattributed Mishnah-rule concurs with Rabbi, in the matter of*

*menstrual periods and the ox the owner of which was placed on notice [that his beast is dangerous, the decided law of the unattributed ruling of the Mishnah accords with R. Simeon b. Gamaliel.]”*

**II.5.** A. *As to the matter of marriage, it is as we have just said.*

**II.6.** A. *As to the matter of flogging, it is as we have learned in the Mishnah:*

B. **He who was flogged [and did the same deed] and was flogged again — [if he did it yet a third time] the court puts him in prison and feeds him barley until his belly explodes [M. San. 9:5A-B].**

**II.7.** A. *As to the matter of menstrual periods, it is as we have learned in the Mishnah:*

B. **For a woman does not [65A] establish for herself a fixed period until she has established it three times. And she is not cleaned from [uncleanness imposed by] a fixed period until it will have been uprooted from her three times [M. Nid. 9:10F-G].**

**II.8.** A. *As to the matter of the ox the owner of which was placed on notice [that his beast is dangerous:*

B. **An ox that is an attested danger is only one against which people have given testimony for three times [M. B.Q. 2:4D]**

**II.9.** A. *Our rabbis have taught on Tannaite authority:*

B. If a woman married her first husband and had no children, a second and had no children, a third she should not marry unless he has children. If she married a third husband who had no children, she must go forth without collecting a marriage settlement.

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

B. *It stands to reason that she can say to them, “Now is the point at which I have deteriorated.”*

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

B. *We say to her, “You’re smarter to shut up than to blab,” because he can say to her, “I never had this possibility in mind when I divorced you” [so your divorce is null].*

C. *Objected R. Pappa, “So if she shuts up, should we shut up too? If the third husband’s claim is valid, will the divorce be null and the offspring of the new marriage mamzerim? [Not at all,] for we may rule, ‘Now is the point at which I have been restored to health’ [and the divorce was valid when issued].”*

**II.12.** A. *If the husband claims, “She’s at fault,” and the wife, “He’s at fault [being impotent or unproductive],”*

B. said R. Ammi, “When it comes to matters that are strictly between him and her, she is believed. *How come? She is situated to know whether the ejaculation is like an arrow, but he’s not in a position to know whether the ejaculation is like an arrow.*”

**II.13.** A. *If the husband claims, “So I’ll then go and take another wife to check it out on my own” —*

B. said R. Ammi, “Even in such a case he has to divorce the wife and pay off the marriage contract, for I rule, ‘Whoever goes and marries a wife in addition to his present wife has to divorce the present wife and pay off her marriage contract.’”

C. Raba said, “Someone may marry any number of wives in addition to his present wife, *on condition that he can support them all.*”

**II.14.** A. **[65B]** *If the husband said, “She miscarried within the past ten years,” and she says, “I never had a miscarriage,”*

B. said R. Ammi, “Even in such a case she is believed, *for if she had really had a miscarriage, she would never have gone and gotten herself a reputation as barren.* If a woman had a miscarried and went and had a miscarriage and went and had a third, then she is assumed to miscarry.”

**II.15.** A. *If the husband claimed, “She miscarried twice” [and is not assumed to miscarry], and she claimed, “Three times,”*

B. *said R. Isaac b. Eleazar, “There was a cause at the house of study, and they ruled: ‘She is believed, for if it were not the fact that she had miscarried, she would never have gone and gotten herself a reputation as one who miscarries.’”*

## 6:6I-J

**I. The man is required by the Torah to be fruitful and multiply but not the woman.**

**J. R. Yohanan b. Beroqah says, “Concerning both of them does Scripture say, ‘And God blessed them and said to them, Be fruitful and multiply’ (Gen. 1:28).”**

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

B. Said R. Ilai in the name of R. Eleazar b. R. Simeon, “Said Scripture, ‘And fill the earth and subdue it’ (Gen. 1:28) — men usually subdue, women don’t usually subdue.”

C. *To the contrary, the plural of “subdue it” implies two!*

D. *Said R. Nahman bar Isaac, “The actual spelling is ‘subdue it’ [in the singular].”*

E. *R. Joseph said, “It derives from the following: ‘I am God Almighty, be [in the singular] fruitful and multiply’ (Gen. 34:11), and not, ‘be’ in the plural.”*

**I.2.** A. And said R. Ilai in the name of R. Eleazar b. R. Simeon, “Just as it is a religious duty for someone to say something that will be obeyed, so it is a religious duty to refrain from saying what will not be obeyed.”

B. R. Abba says, “It is an obligation: ‘Do not reprove a scorner, lest he hate you, reprove a wise man and he will love you’ (Pro. 9: 8).”

**I.3.** A. And said R. Ilai in the name of R. Eleazar b. R. Simeon, “It is permitted for someone to change the wording for the sake of harmony: ‘Your father did command...so shall you say to Joseph, Forgive I pray you now’ (Gen. 50:16-17) [there being no evidence in Scripture that Jacob made any such statement].”

B. R. Nathan said, “Doing so is a religious duty: ‘And Samuel said, How can I go? If Saul hear it, he will kill me’ (1Sa. 6: 2).” [God then advises him to say he came to sacrifice to the Lord, while his task was to anoint David (Slotki).]

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

**II.1** A. **R. Yohanan b. Beroqah says, “Concerning both of them does Scripture say, ‘And God blessed them and said to them, “Be fruitful and multiply”” (Gen. 1:28):”**

B. *It has been stated:*

C. R. Yohanan and R. Joshua b. Levi:

D. One said, “The decided law accords with R. Yohanan b. Beroqah.”

E. And the other said, “The decided law does not accord with R. Yohanan b. Beroqah.”

F. *One may draw the conclusion that it is R. Yohanan who said, “The decided law does not accord with R. Yohanan b. Beroqah,” for R. Abbahu was in session and stated in the name of R. Yohanan, “The decided law accords with R. Yohanan b. Beroqah,” and R. Ammi and R. Assi turned away [signalling that he was wrong, but not contradicting him].*

G. *There are those who say: “R. Hiyya bar Abba said it, and R. Ammi and R. Assi turned their faces away.”*

H. *Said R. Pappa, “Now with regard to him who has said that R. Abbahu is the one who said it, it is because of the honor that is exacted by the household of Caesar that they didn’t say a thing to him. But according to him who said that R. Hiyya bar Abba is the one who made the statement, shouldn’t they have told him that R. Yohanan said no such thing?”*

I. *So what’s the upshot?*

J. *Come and take note:* Said R. Aha bar Hanina said R. Abbahu said R. Assi, “There was a case that came before R. Yohanan in the assembly in Caesarea, and he said, ‘Let him divorce her but pay off her marriage settlement.’” *Now if you take the view that the woman, as much as the man, is not subject to the religious duty [of being fruitful and multiplying], then on what basis should she have a claim to the settlement of her marriage-contract at all?*

K. *Maybe it was a case with a special plea, like the case in which a woman came before R. Ammi, saying to him, “Order my marriage contract to be paid to me.” He said to her, “Get out of here, you are not subject to the commandment,” and she said to him, “So what’s going to happen to me in my old age?” He said, “In such a case as this, we certainly do force the husband [to divorce her and pay her marriage contract].’*

- L. *A woman came before R. Nahman. He said to her, "Get out of here, you are not subject to the commandment," and she said to him, "Don't I need a cane in my hand and a spade to dig me a grave?" In that case, the master said, "We do force the husband to pay off."*

**II.2.** A. *Judah and Hezekiah were twins. The features of one of them were complete at the end of nine months, and of the other at the beginning of the seventh month. Judith, the daughter of R. Hiyya, suffered terrible pains in childbirth. She changed her clothes and came before R. Hiyya. She said, "Is a woman subject to the commandment of being fruitful and multiplying?"*

B. *He said to her, "No."*

C. *She went and drank a potion that sterilized her. In the end the matter came out. He said to her, "I wish you had born me only one more fruit of the womb [another set of twins]."*

D. *For a master has said, "Judah and Hezekiah were twin brothers, and Pazi and Tavi [66A] were twin sisters."*

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

B. *Said R. Nahman bar Isaac, "It was because men were treating her like a whore."*