

# X.

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## BAVLI YEBAMOT CHAPTER TEN

### FOLIOS 87B-97A

10:1-2

10:1

- A. The woman whose husband went overseas,
- B. and whom they came and told, “Your husband has died,”
- C. and who remarried,
- D. and whose husband afterward returned,
- E. (1) goes forth from this one [the second husband] and from that one [the first] –
- F. And (2) she requires a writ of divorce from this one and from that.
- G. And she has no claim of (3) [payment of her] marriage contract, (4) of usufruct, (5) of alimony, or (6) of indemnification, either on this one or on that.
- H. (7) If she had collected anything [of G] from this one or from that, she must return it.
- I. (8) And the offspring is deemed a mamzer, whether born of the one marriage or the other.
- J. And (9) neither one of them [if he is a priest] becomes unclean for her [if she should die and require burial].
- K. And neither one of them has the right either (10) to what she finds or (11) to the fruit of her labor, or (12) to annul her vows.

- L. [If] (13) she was an Israelite girl, she is rendered invalid for marriage into the priesthood; a Levite, from eating tithe; and a priest girl, from eating heave-offering.
- M. And the heirs of either one of the husbands do not inherit her marriage settlement.
- N. And if they died, a brother of this one and a brother of that perform the rite of removing the shoe but do not enter into levirate marriage.
- O. R. Yosé says, "Her marriage contract is [a lien] on the property of her first husband."
- P. R. Eleazar says, "The first husband has a right to what she finds and to the fruit of her labor and to annul her vows."
- Q. R. Simeon says, "Having sexual relations with her or performing a rite of removing the shoe with her on the part of the brother of the first husband exempts her co-wife [from levirate connection]."
- R. "And offspring from him is not a mamzer."
- S. But if she should remarry without permission, [since the remarriage was an inadvertent transgression and null], she is permitted to return to him.

## 10:2

- A. [If] she was remarried at the instruction of a court,
- B. she is to go forth,
- C. but she is exempt from the requirement of bringing an offering.
- D. [If] she did not remarry at the instruction of a court, she goes forth,
- E. and she is liable to the requirement of bringing an offering.
- F. The authority of the court is strong enough to exempt her from the requirement of bringing a sacrifice.
- G. [If] the court instructed her to remarry, and she went and entered an unsuitable union,
- H. she is liable for the requirement of bringing an offering.
- I. For the court permitted her only to marry [properly].

## I.1

- A. [But if she should remarry without permission, she is permitted to return to him:] *since the concluding clause states, But if she should remarry without permission, she is permitted to return to him, it must follow that without permission* of the court must mean, "but with the evidence of witnesses," and the first clause then must refer to a woman who married with

the permission of the court but on the evidence of a single witness [that the husband had died]. *Therefore, it must follow, a single witness is believed in such a matter. And we furthermore have learned in the Mishnah: **And they confirmed in the practice of permitting the wife to remarry on the evidence of a single witness, on the evidence of a slave, on the evidence of a woman, on the evidence of a slave girl [M. Yeb. 16:7I]. So it follows that*** the evidence of a single witness is believed in such a matter.

- B. *And we have learned in the Mishnah: [If] a witness says, “He ate,” and he says, “I did not eat” – he is exempt [from bringing an offering] [M. Ker. 3:1E-F]. The operative consideration is that the accused himself has said, “I did not eat.” Lo, if he had remained silent, the single witness would have been believed. Therefore on the strength of the Torah, the evidence of a single witness is believed in such a matter.*

C. *Now how on the basis of Scripture do we know this fact?*

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

E. “[When a ruler sins, doing unwittingly any one of all the things that the Lord his God has commanded not to be done and is guilty,] if the sin that he has committed is made known to him, he shall bring as his offering...” (Lev. 4:23) – but not if others have made it known to him.

F. Might one suppose that even if he does not contradict them [he does not bring an offering]?

G. Scripture is explicit: “If the sin that he has committed is made known to him” – in whatever manner.

H. *Now with what sort of a case do we deal? If we say that two witnesses give evidence in the matter, then if there are two witnesses and he does not contradict them, is it necessary to find a Scripture to prove this point?*

I. *Rather, do we not deal with a case in which there is one, and yet it is taught on Tannaite authority, if he does not contradict them, the single witness’s evidence is believed [so the other has to bring an offering].*

J. *That is ample proof.*

K. *But why insist that the operative consideration is that he is believed? Maybe the operative consideration is that the accused has remained silent, on the grounds that silence stands for admission? You may know that that is the case, for lo, it is*

*set forth at the end of the same Tannaite formulation: [If] two say, "He ate," and he says, "I did not eat" – R. Meir declares liable. Said R. Meir, "If [despite his denial] two bring upon him the death penalty, which is strict, will they not bring upon him the obligation to an offering, which is lenient?" They said to him, "What if he should choose to say, 'I did it deliberately,' [in which case he is exempt from a sin-offering, and the witnesses cannot contradict him]?" [M. Ker. 3:1G-J]. [88A] Now what is the operative consideration for the opening rule [covering an accusation from a single witness] in which case rabbis impose liability [in the event of the man's silence]? If one should propose that it is on grounds that the single witness is believed, well, two witnesses in general, even though the accused contradicts them, are believed, and yet in such a case rabbis have declared the man exempt [Slotki: because his word is more than the evidence of two witnesses, how much the more so if there is only one witness]! So is not the operative consideration only that the accused has remained silent, and silence stands for admission?*

*L. In point of fact, the basis for accepting the evidence of a single witness is a matter of right reasoning. The analogous case involves a piece of fat, and it is a matter of doubt whether it is forbidden or permitted. If a single witness came and said, "I am positive it is permitted fat," he is believed.*

*M. Are these cases really comparable? There [in the case of the dubious fat], there is no presumption that a prohibition applies, but here, in the case of the woman, there is surely a presumption that she is subject to the prohibition of being a married woman, and no matter involving sexual relationships is settled on the basis of the testimony of fewer than two witnesses. Rather, the governing analogy is the case of a piece of fat that is known to be forbidden. If a single witness came and said, "I am positive that it is permitted fat," he is not believed!*

*N. But are the two cases genuinely comparable? In that case, even if a hundred came with the same message, they would not*

*be believed [that fat known to be forbidden is permitted]. But here, if two witnesses came, they would be believed, and one, therefore, also should be believed, in a manner analogous to cases of produce that is liable for the separation of tithes but not yet tithed, consecrated objects, and objects subjected to a qonam oath.*

*O. Now as to this reference to produce that is liable for the separation of tithes but not yet tithed, how are we to imagine the case? If it belonged to the witness himself, he would be believed since he has the power properly to ready the produce [for ordinary food, by separating the required tithes and offerings]. But if it belonged to someone else, then what is the operative theory here? If it is the theory that one may separate priestly rations from one's own produce in behalf of the produce of his fellow, he does not have to have the knowledge and consent of the other, then the operative consideration remains, it is because he has the power properly to ready the produce [for ordinary food, by separating the required tithes and offerings]. But if the operative theory is that he does have to have the knowledge and consent of the owner, and the witness then says, "I know for sure that that produce has been properly prepared for ordinary consumption through the separation of tithes and offerings, then how, to begin with, do we know the law itself [that a single witness may testify in such a case]?*

*P. And as regards consecrated objects too: if we deal with objects the value of which has been consecrated, then the operative consideration for accepting the testimony of a single witness is that in any event, he has the power to redeem the object [he has claimed was sanctified]. If it was an object that was sanctified as to itself, not as to its value, then if it belongs to the man himself, the operative consideration is that he has the power nonetheless to seek remission of his vow; if it belonged to a third party, and the witness declared, "I*

*know as fact that the owner has sought remission of his vow,” then how, to begin with, do we know the law itself [that a single witness may testify in such a case]?*

*Q. And as regards objects subjected to a qonam oath too: if the operative theory is that the laws of sacrilege apply to objects subjected to a qonam oath, so that the consecration of the value of the objects has descended upon them, then the operative consideration for accepting the testimony of a single witness is that in any event, he has the power to redeem the object [he has claimed was subject to the qonam oath]. And if the operative consideration is that the laws of sacrilege do not apply to objects subjected to a qonam oath, and a mere prohibition in general has saddled him, then: If the object was his own, why not trust him, since he has the power nonetheless to seek remission of his vow; if it belonged to a third party, and the witness declared, “I know as fact that the owner has sought remission of his vow,” then how, to begin with, do we know the law itself [that a single witness may testify in such a case]?*

*R. Said R. Zira, “[We accept the testimony of a single witness in respect to the rule of our Mishnah paragraph] for, because of the strict penalties that you have imposed upon the woman at the end, you have defined lenient requirements on her at the outset [and therefore she may remarry on the evidence of a single witness].”*

*S. Well, why not just impose neither strict rules at the end nor lenient rules at the outset?*

*T. Because of the possibility of a deserted woman [who can never remarry if evidence that her husband has died is lacking], sages have imposed a lenient ruling.*

- II.1** A. ...goes forth from this one [the second husband] and from that one [the first]:
- B. Said Rab, “This rule governs only if the woman remarried on the testimony of a single witness that her husband had died, but if she remarried on the strength

of the evidence of two witnesses that her husband has died, she does not go forth.”

- C. *They ridiculed this opinion in the West: “Here the man comes along and is standing right there, and you maintain that she does not go forth [from the second marriage]!”*
- D. *No, the ruling was required to cover a case in which the identity of the first husband was not known, so that we do not know whether or not this is the man.*
- E. *If we don’t know him, then if she has remarried on the testimony of a single witness, why in the world should she go forth?*
- F. *The rule was necessary to cover a case in which two witnesses came and said, “We were with him from the moment he went forth until now, and you are the ones who cannot recognize him” [Slotki: because he left while still young and now is a man; such evidence is accepted if the evidence of the husband’s death was given by one witness only; it is not accepted where it contradicts evidence two witnesses have given, on the basis of which testimony the woman has married her second husband].*
- G. *For it is written, “And Joseph knew his brothers, but they did not know him” (Gen. 42: 8), and said R. Hisda, “This teaches that he went forth without any sign of a beard but now he had a full beard.”*
- H. *In any event, there are two witnesses against two [88B] and one who has sexual relations with her [since we do not know which pair of witnesses is accurate] has to bring a suspensive guilt-offering. [So how can Rab say she stays with the second husband?]*
- I. *Said R. Sheshet, “[Rab’s ruling applies to] a case in which she was married to one of the witnesses [who has testified that the first husband has died].”*
- J. *Then she herself is subject to a suspensive guilt-offering!*
- K. *It is a case in which she says, “I am certain.”*
- L. *If so, then why give such an obvious ruling? Even R. Menahem b. R. Yosé [who held in a parallel case that the woman has to leave the second husband] took that position only when the witnesses [who testified that the first husband was still alive] came first and then she remarried; but he did not take that position in a case in which she had already married before the witnesses came forth! For it has been taught on Tannaite authority: If two witnesses say the husband has died, and two say he has not died, two say the wife has been divorced and two say she has not been divorced, lo, this woman may not*

remarry, and if she has remarried, she also does not have to leave her second husband. R. Menahem b. R. Yosé says, “She must leave the second husband.” Said R. Menahem b. R. Yosé, “Under what circumstances do I rule that she must leave the second husband? It is when witnesses came, and then she got married. But if she got married and then the contrary witnesses showed up, lo, this one should not go forth.”

- M. *When Rab made his statement, it pertained also to a case in which the witnesses gave their testimony and afterward she got married, and it was meant to exclude the position of R. Menahem b. R. Yosé.*

N. *There are those who say, “The operative consideration is that she got married and then the witnesses came along; but if the witnesses had come along and then she got married, she goes forth. In accord with whom is this ruling? It is in accord with R. Menahem b. R. Yosé.”*

O. *Objected Raba, “How do we know that if a priest refused [to keep the rules of cultic cleanness and marriage of Lev. 21], they push him into it? ‘And you shall sanctify him’ (Lev. 21: 8) – even against his will. Now how can such a case of coercion be imagined? [Slotki: Since a scriptural text was required for the purpose, it could not apply to established or even doubtful prohibitions which a priest must undoubtedly obey and the observance of which is obviously to be enforced.] If one should propose that it is a case in which she was not married to one of her witnesses [a priest], and in which she does not plead, ‘I am certain,’ do we have to say that he is compelled? [Obviously he is.] So we must deal with a case in which she was married to one of her witnesses [a priest], but she says, ‘I am certain,’ and yet it is said that he is compelled, so it follows that she is taken away from him!” [Slotki: How then could Rab rule that in the case of contradictory evidence between two pairs of witnesses, the second union is not to be severed if it took place prior to the appearance of the second pair?]*

P. The prohibition pertaining to the priesthood is exceptional [and the rule would be different elsewhere]. Or, if you prefer, I shall say, “What is the meaning of, ‘he is pushed into it’? ‘He is pushed into it through the testimony of witnesses.’” [Slotki: Before marriage with the priest is allowed, the court makes every effort to ascertain whether witnesses are available who could contradict the evidence of the first witnesses and thus prevent the marriage; if no such witnesses are available and



the marriage has taken place, the union need not be severed though such witnesses subsequently appeared.] Or, if you prefer, I shall say, “It is a case in which witnesses came first and then she got married, and it represents the position of R. Menahem b. R. Yosé.”

Q. *R. Ashi says, “What is the meaning of ‘she does not go forth,’ as Rab has said? She does not go forth from her original condition of being permitted to him [but may return to the first husband, the second having been a situation brought on through misleading evidence].”*

R. *Yeah, well then Rab already said this! For we have learned in the Mishnah, **But if she should remarry without permission, [since the remarriage was an inadvertent transgression and null], she is permitted to return to him, and said R. Huna said Rab, “That is the decided law.”***

S. *One of these statements was inferred on the basis of the other [but he only said it once].*

- II.2** A. [With reference to the statement, **goes forth from this one and from that one**], said Samuel, “That rule applies only in a case in which she does not contradict [the man claiming to be her first husband], but if she does contradict his claim, she does not go forth from the second.”
- B. *Under what conditions? If one should propose that there are two witnesses [who validate the identification of the man claiming to be the first husband], even if she does dispute his claim, what good is it? Rather, it is that there is only one witness. Then the operative consideration is that she contradicts his claim. Lo, if she remained silent, then she would go forth.*
- C. But has not Ulla said, “In any case in which the Torah has lent credence to the testimony of a single witness, lo, behold, it is as though there are two witnesses,” and the evidence of one man [who says the husband is not dead] against the testimony of two is null. [Slotki: The previous evidence of the one witness being consequently valid, why should the woman have to leave even when she does not contradict the latter evidence?]
- D. *Here with what situation do we deal? It is one in which the testimony is given by those who under other conditions would be invalid to give testimony at all, and that is in accord with R. Nehemiah. For it has been taught on Tannaite authority: **R. Nehemiah says, “In any situation in which sages have declared valid the testimony of a woman as equivalent to the testimony of***

**a single individual male, all things follow the number of opinions” [T. Yeb. 14:1L].**

- E. *And if you prefer, I shall say, “in any case in which one valid witness came first of all [and said the first husband was dead], then the testimony of even a hundred women [who are ineligible under ordinary conditions, and who, after the woman remarried, testified the first husband was alive] is regarded as equivalent to the testimony of a single witness [and is disregarded, so the woman does not have to leave the second husband].” And as to what R. Nehemiah has said, this is the sense of it: R. Nehemiah says, “In any situation in which sages have declared valid the testimony of a woman as equivalent to the testimony of a single individual male, all things follow the number of opinions, and treat the evidence of two women against that of one woman as equivalent to the evidence of two men against one man, but that of two women against one man is regarded as only half and half.” [Slotki: The two represent one, so the evidence of the first eligible witness remains unaffected by it, provided the woman remarried, even where she remained silent.]*

**III.1 A. And she requires a writ of divorce from this one and from that:**

- B. *Now there is no problem understanding why she requires a writ of divorce from the first, to whom she was validly married, but why does she require a writ of divorce from the second man, since it was a relationship of mere fornication?*
- C. Said R. Huna, “It is a precautionary decree lest people say, ‘The first party divorced her, the second married her, so there is a married woman who has left her husband without a writ of divorce’!”
- D. *If so, further on, when it says, [If] they told her, “Your husband died,” and she became betrothed, and afterward her husband came home, she is permitted to return to him, here, too, why not claim that we should take account of peoples’ saying, “The first party divorced her, the second married her, so there is a married woman who has left her husband without a writ of divorce?”*
- E. *In point of fact she [in the later case] does have to get a writ of divorce from the party to whom she was betrothed.*
- F. If so, then it turns out that this man is remarrying a woman he has divorced after she was betrothed!

- G. It is in accord with R. Yosé b. Kipper, who has said, "If the divorce is from a consummated marriage, she is forbidden, but if it is merely from betrothal, she is permitted."
- H. *But since at the end it is stated, Even though [89A] the second man gave her a writ of divorce, he has not rendered her invalid from marrying into the priesthood, it must follow that she does not require a writ of divorce, for if she were to have required a writ of divorce, then why does he not disqualify her from marrying a priest?*
- I. *Rather, [no writ of divorce is required], for in the final clause it will be taken for granted, when she goes out without a writ of divorce, that the betrothal was in error.*
- J. *In the first clause, then, why not have people assume the marriage was in error?*
- K. *Rabbis have imposed an extrajudicial penalty in that case [Slotki: for contracting a marriage without first making the necessary inquiries].*
- L. *In the concluding case too, why should rabbis not have imposed an extrajudicial penalty?*
- M. *In the first case, where the woman actually did a prohibited deed, a penalty was imposed; in the second, where she did not commit a prohibited deed, the rabbis did not impose a penalty.*

**IV.1 A. And she has no claim of (3) [payment of her] marriage contract:**

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

**V.1 A. Of usufruct, of alimony, or of indemnification:**

- B. *A stipulation in the marriage contract is in the same status as the marriage settlement itself.*

**VI.1 A. If she had collected anything [of G] from this one or from that, she must return it:**

- B. *So what else is new?*
- C. *What might you otherwise have supposed? That once she has seized these things, we do not retrieve them from her? So we are informed that that is not the case.*

**VII.1 A. And the offspring is deemed a mamzer, whether born of the one marriage or the other:**

- B. *There we have learned in the Mishnah: They do not separate heave-offering from that [produce] which is unclean for that which is clean. And if he separated heave-offering [in that manner] – [if he did it] unintentionally, that which he has separated is [valid] heave-offering; [but if he did it] intentionally, he has not done anything [M. Ter. 2:2A-D]. What is the meaning of he has not done anything?*
- C. Said R. Hisda, “...**he has not done anything,**’ whatsoever, so that even that part that has been designated as priestly rations reverts to its initial status of being produce that is subject to tithing but has not yet been tithed.”
- D. R. Nathan b. R. Oshaia said, “...**he has not done anything,**’ so far as properly tithing the remainder of the produce, but as to the status of priestly rations, lo, that status is confirmed.”
- E. *R. Hisda did not rule in the manner in which R. Nathan b. R. Oshaia did, for, if you rule that it falls into the status of priestly rations, then sometimes it might come about that one would negligently err and not designate priestly rations from the rest.*
- F. *How does this case differ from the following, which we have learned in the Mishnah: One who separates a chate melon as heave-offering [for other chate melons] and it is found to be bitter, [or who separates] a watermelon [as heave-offering for other watermelons] and it is found to be rotten – [that which he has separated is valid] heave-offering. But he must separate heave-offering again [M. Ter. 3:1A-D]? [Slotki: The possibility of neglecting the second separation of priestly rations does not render null and void the whole of what has already been done.]*
- G. *But are you challenging a case in which an act is inadvertent by reference to a case in which the act is deliberate? In the case of one’s doing so inadvertently, he has not done what is prohibited, but in the case of one who has done so deliberately, he has done what is prohibited.*
- H. *Well, there is a contradiction to be pointed out in two cases of inadvertent action, for here [in the first of the two citations] it says, [if he did it] unintentionally, that which he has separated is [valid] heave-offering, while there it says, [that which he has separated is valid] heave-offering. But he must separate heave-offering again!*

I. *In that case, doing so inadvertently is nigh unto doing so deliberately, for he should have tasted the produce [before designating it as priestly rations]!*

J. *Well, there is a contradiction to be pointed out in two cases of deliberate action, for here [in the first of the two citations] it says [but if he did it] intentionally, he has not done anything, while there we have learned in the Mishnah: [A perforated pot – behold, this is like the earth. If one separated heave-offering from produce grown in the earth for produce grown in a perforated pot, or from produce grown in a perforated pot for produce grown in the earth, his [act of separating heave-offering is deemed a valid separation of heave-offering.] If he separated heave-offering from produce grown in a pot] which is not perforated for produce grown in one which is perforated, it is deemed to be] heave-offering, but he should again separate heave-offering from the produce grown in the perforated pot [M. Dem. 5:10].*

K. *In the case of produce grown in two distinct utensils, someone will pay attention to what he is doing [and would go and separate priestly rations once more, even though what he has designated remains in the status of priestly rations], while if it is all from one utensil [clean and unclean in the same pot, or in the dirt], he would not be so alert to what he has done.*

L. *And from the perspective of R. Nathan b. R. Oshaia, who has said, “...he has not done anything,” so far as properly tithing the remainder of the produce, but as to the status of priestly rations, lo, that status is confirmed,” [89B] what differentiates this case from that which we have learned in the Mishnah: If he separated heave-offering from produce grown in a pot] which is not perforated for produce grown in one which is perforated, it is deemed to be] heave-offering, but he should again separate heave-offering from the produce grown in the perforated pot [M. Dem. 5:10]? [Slotki: Why then were the priestly rations in the former case allowed to be used by the priest, even though no priestly rations and tithe have been given for it from other produce?]*

M. *[The case in which unclean produce is designated as priestly rations for clean produce] is exceptional, since by the*

*law of the Torah it is perfectly valid priestly rations, in line with what R. Ilai said, for said R. Ilai, “How on the basis of Scripture do we know that **but if one has separated heave-offering from what is less choice for what is more choice, that which he has separated is valid heave-offering?** As it is said, ‘you shall bear no sin by reason of it when you have raised from it the best of it’ (Num. 18:32). Now if the portion of the crop designated as heave-offering is not sanctified, then what issue of bearing sin on its account is in play? So we see that **if one has separated heave-offering from what is less choice for what is more choice, that which he has separated is valid heave-offering.**”*

*N. Said Rabbah to R. Hisda, “Now even according to your position, in maintaining, ‘...**he has not done anything**, whatsoever, so that even that pint that has been designated as priestly rations reverts to its initial status of being produce that is subject to tithing but has not yet been tithed,’ and what is the reason? As a precautionary decree, ‘if you rule that it falls into the status of priestly rations, then sometimes it might come about that one would negligently err and not designate priestly rations from the rest,’ still, is there any case at all in which, on the basis of the law of the Torah, you would have something in the status of valid priestly rations, but on the consideration of ‘if you rule that it falls into the status of priestly rations, then sometimes it might come about that one would negligently err and not designate priestly rations from the rest,’ rabbis have declared produce to be unconsecrated [and not priestly rations at all]? Would a court ever stipulate a rule such that it would uproot a law of the Torah?!”*

*O. He said to him, “And don’t you find reasonable that which we have learned in the Mishnah: **And the offspring is deemed a mamzer, whether born of the one marriage or the other?** Now there is no problem in understanding why it is a mamzer if born of the second marriage, but why -in the world should it be a*

*mamzer if born of the first marriage? She is still the wife of the first husband, and the offspring is a perfectly valid Israelite! And if we declare him a mamzer, we will end up permitting a valid Israelite to marry a mamzer."*

P. *He said to him, "This is what Samuel said, 'The offspring is forbidden to marry a mamzer girl.' And so too, when Rabin came, he said R. Yohanan said, 'The offspring is forbidden to marry a mamzer girl.' And why is he referred to as a mamzer? So as to prohibit the offspring from marrying the daughter of an Israelite."*

## VII.2

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

B. [Glossing the foregoing:] "The House of Shammai say, 'When she reaches her full height [at puberty]' – *even though she has not entered the marriage canopy?!*

C. Read: "The House of Shammai say, 'When she reaches her full height [at puberty] and has entered the marriage canopy,'" and this is what the House of Shammai said to the House of Hillel, "*Now as to what you have said, 'once she has entered the marriage canopy,' that is so only when she has reached her full height, but if not, that is not the case, and the condition of the marriage canopy by itself is null.*"

D. [Glossing the foregoing:] "R. Eliezer says, 'When sexual relations have taken place. Then he may inherit her estate; if a priest he may contract corpse uncleanness to bury her, and she may eat priestly rations on account of his status as a priest'" – but has not R. Eliezer said, "The deed of a minor is null"?

- E. *Read*: “After she has grown up and has had sexual relations.”
- F. *In any event the Tannaite rule is*, a husband indeed does inherit the estate of his wife! *But, by the law of the Torah, it is her father, not her husband, who should inherit her estate, and yet it is the husband whom rabbis have named the heir!*
- G. What is declared ownerless property by a court is validly treated as ownerless property [and then may be assigned by the court to any party it wishes], for said R. Isaac, “How on the basis of Scripture do we know that what is declared ownerless property by a court is validly treated as ownerless property? ‘Whosoever did not come within three days according to the counsel of the princes and the elders – all his substance should be forfeited and he himself separated from the congregation of the captivity’ (Ezra 10: 8).”
- H. R. Eleazar said, “It derives from this verse: ‘These are the inheritances, which Eleazar the priest and Joshua b. Nun and the heads of the fathers’ houses of the tribes of the children of Israel distributed for inheritance’ (Jos. 19:51). Now what are ‘heads’ doing alongside ‘fathers’? But this is to tell you that, just as the fathers may assign inheritances to their children in accord with their own wishes, so may the heads likewise assign as an inheritance to the people whatever they choose.”
- I. “If a priest he may contract corpse uncleanness to bury her”: *But lo, in accord with the law of the Torah, her father contracts corpse uncleanness on account of burying her, and here in accord with the ruling of rabbis, it is her husband who does so!*
- J. *This is because she is in the status of a neglected corpse [whom even a priest is obligated to bury].*
- K. *But is she really in the status of a neglected corpse? And has it not been taught on Tannaite authority*: What is the definition of a neglected corpse? It is any that has no relations to bury him. If he should call out and there should be others to respond to him, this is not the definition of a neglected corpse.
- L. *Well, here, too, since they do not inherit her estate, her father’s household would not respond to her if she were to call them.*
- M. **[90A]** “and she may eat priestly rations on account of his status as a priest”: [That is so even though by the law of the Torah she is not allowed to eat priestly rations! (Slotki).]
- N. *It is only what is designated merely on the authority of rabbis as priestly rations.*



- O. *Come and take note:* If unwittingly someone ate unclean priestly rations, he pays back unconsecrated food that is cultically clean. If he paid back unconsecrated food that was cultically unclean, Sumekhosh says in the name of R. Meir, "If he did so inadvertently, his restitution is valid. If he did so deliberately, his restitution is not valid." Sages say, "All the same one way or the other, his act of restitution is valid, but he has to go and pay in addition unconsecrated food that is cultically clean." *And we reflected on this matter: if he made restitution deliberately why should it not be valid? He should be blessed. For he has eaten something of the priestly ration which a priest cannot eat when he is unclean but paid him back with something that the priest may eat when he is clean! And said Raba, and some say, Kadi, "The formulation is flawed, and this is how it should read:* If unwittingly someone ate unclean priestly rations, he pays back nothing at all. If he ate priestly rations that were cultically clean, he must pay back unconsecrated food that is cultically clean. If he paid back unconsecrated food that was cultically unclean, Sumekhosh says in the name of R. Meir, 'If he did so inadvertently, his restitution is valid. If he did so deliberately, his restitution is not valid.'" Sages say, 'All the same one way or the other, his act of restitution is valid, but he has to go and pay in addition unconsecrated food that is cultically clean.'" *Now, in any event here we have a case in which, on the strength of the law of the Torah, his restitution is perfectly valid, for if a priest were to betroth a woman with food of this kind, his act of betrothal would be quite valid, and yet rabbis have ruled that his restitution is null, so that woman properly assigned to a man from the perspective of the law of the Torah would be left available for anyone in the world!*
- P. *What is the meaning of R. Meir's statement, his restitution is not valid? It is that he has to go then and pay back unconsecrated produce that is cultically clean.*
- Q. *Yeah, well, then, what's the difference between Sumekhosh and rabbis?*
- R. *Said R. Aha b. R. Iqa, "Whether or not they have imposed an extrajudicial penalty on the basis of doing so inadvertently or on account of the case of doing so deliberately is at issue between them."*
- S. *Come and take note:* Sacrificial blood that was made cultically unclean but tossed on the altar – if this was done inadvertently, is accepted, but if this was done deliberately, it is not accepted. *Now here is a case in which, in accord with the law of the Torah, it is most assuredly accepted, for it has been taught on Tannaite authority:* For what does the priestly frontlet achieve acceptance?

For blood, meat, and sacrificial fat, that has become unclean, whether inadvertently or deliberately, under constraint or willingly, in connection with a sacrifice offered in behalf of an individual or one offered in behalf of the congregation. *And here rabbis have ruled [in the case of willful action (Slotki)], that it is not accepted, so that [when one makes up the offering that rabbis have declared invalid, it turns out that] an actually unconsecrated beast is brought into the Temple courtyard!*

- T. *Said R. Yosé b. R. Hanina, "What is the sense of 'not accepted'? It is in regard to allowing the meat to be eaten, but the owner has attained atonement through it."*
- U. *Well, anyhow, the eating of the meat of the offering would be uprooted, but Scripture states, "And they shall eat those things with which atonement has been made" (Exo. 29:33), which teaches that the priests eat and the owner achieves atonement.*
- V. *He said to him, "A case in which all one has to do is sit and do nothing is exceptional" [Slotki: different from the case of turning consecrated priestly rations into unconsecrated produce; the former, involving no action, may be within jurisdiction of rabbis, but not the latter, which involves an act uprooting a law of the Torah].*
- W. **[90B]** *He said to him, "I had in mind presenting objections against your position from rabbinical rulings that pertain to uncircumcision [Slotki: a proselyte, whose circumcision is performed on the Passover eve and who by rabbinic law may not eat of the Passover lamb, though by the law of the Torah he is obligated to celebrate Passover as an Israelite], sprinkling [an unclean person on the Sabbath day, which rabbis forbid but the Torah permits], the knife of circumcision [which rabbis forbid carrying on the Sabbath, though the Torah permits it], the linen cloak with fringes [wool fringes may be used, but rabbis forbid it], lambs of Pentecost [not offered on a Pentecost that coincides with the Sabbath, though the Torah permits it], the ram's horn [not sounded on the New Year that coincides with the Sabbath, though the Torah permits it], and the palm branches of Tabernacles [not carried on the Sabbath, though the Torah permits it – all of these being points at which rabbis abrogated the law of the Torah]. But now that you have taken the position for us that the case in which all one has to do is sit and do nothing is not a case in which the Torah has been abrogated, all these cases fall into the same class of sitting and doing nothing."*

- X. *Come and take note:* “To him you shall listen” (Deu. 18:15) – even if he says to you “Violate one of the religious duties of the Torah, for example, Elijah on Mount Carmel. Everything is relative to the moment.”
- Y. [The case of a prophet is different from the case of rabbis’ teaching one to violate the law of the Torah,] for it is indeed written, “To him you shall listen” (Deu. 18:15).
- Z. *Well, then, why not derive the rule governing rabbis by analogy?*
- AA. *Making a wall around a religious requirement [such as rabbis do] is exceptional.*
- BB. *Come and take note:* “If a husband nullified a writ of divorce that he has issued, it is null,” the words of Rabbi.
- CC. Rabban Simeon b. Gamaliel says, “He cannot either nullify it or add anything to what is stipulated in it, for otherwise what power does the court have” [which ordained that there may be no stipulations or annulments of writs of divorce]!
- DD. *Now, here is a case in which in accord with the law of the Torah a writ of divorce may be annulled, but because of the consideration of the authority of the court, we nonetheless allow the woman to marry anyone of her choice!*
- EE. *Anyone who betroths a woman does so in acknowledgement of the authority of rabbis, and rabbis in this case have removed the affect of his betrothal.*
- FF. *Said Rabina to R. Ashi, “Well, that poses no problems for the one who betroths through a money payment, but if he betrothed through an act of sexual relations what is there to say?”*
- GG. *Rabbis have treated that act of sexual relations as nothing more than fornication.*
- HH. *Come and take note:* Said R. Eleazar b. Jacob, “I heard that a court may inflict floggings and penalties not in accord with the law of the Torah. But this is not so as to violate the teachings of the Torah, but so as to establish a fence around the Torah. And there is the precedent concerning one who rode a horse on the Sabbath in the time of the Greeks, and they brought him to court and stoned him, not because it was appropriate, but because the times required it. And there was another precedent concerning a man who had sexual relations with his wife under a date tree, and they brought him to court and flogged him, not because it was appropriate, but because the times required it.”
- II. *Making a wall around a religious requirement [such as rabbis do] is exceptional.*

**VIII.1 A. And (9) neither one of them [if he is a priest] becomes unclean for her [if she should die and require burial]:**

B. *What is the source of this law in Scripture?*

C. “Except for his kin that is near to him” (Lev. 21: 2) – and a master has said, “‘...his kin...’ means his wife.” And it is written, “The husband shall not defile himself, among his people, to profane himself” (Lev. 21: 4) – so there is a husband that does do so and there is one that does not. How so? A priest defiles himself to bury his wife if she is validly married to him but does not contract corpse uncleanness for his wife who is invalidly married to him.

**IX.1 A. And neither one of them has the right either (10) to what she finds –**

B. *What is the operative consideration?*

C. *Rabbis have said that what she finds belongs to her husband so that there will not be enmity between him and her, but here, they want to have enmity between him and her [so that he will divorce her].*

**X.1 A. Or (11) to the fruit of her labor –**

B. *What is the operative consideration?*

C. *Rabbis have held that her wages go to the husband because she is supported by him, but here, since she has no right to support, her wages are not his either.*

**XI.1 A. Or (12) to annul her vows:**

B. *What is the operative consideration?*

C. *Scripture has said that the husband may annul the wife’s vows, so that she may not become disgusting to him, but here, let her become disgusting to him [so he will divorce her].*

**XII.1 A. [If] (13) she was an Israelite girl, she is rendered invalid for marriage into the priesthood; a Levite, from eating tithe:**

B. **[91A] [If she was an Israelite girl, she is rendered invalid for marriage into the priesthood:] so what else is new?**

C. It was necessary to make reference to the fact that **a Levite is rendered invalid from eating tithe** [and the other then was included to sustain the necessary statement].

D. *But is it the fact that a Levite girl is invalidated from eating tithe because of an act of fornication? And has it not been taught on Tannaite authority: A*

Levite woman who was taken captive or who had an act of sexual relations of the character of fornication is given tithe, which she may eat?

- E. *Said R. Sheshet, "This is an extrajudicial penalty."*

**XIII.1 A. And a priest girl, from eating heave-offering:**

- B. *Even produce designated only on the strength of rabbinical authority as priestly rations.*

**XIV.1 A. And the heirs of either one of the husbands do not inherit her marriage settlement:**

- B. *What's her marriage settlement doing here?*
- C. *Said R. Pappa, "Reference is made here to the clause in the marriage settlement covering male children" [that is, her sons are entitled to receive the payment of her marriage contract from the father's estate when he dies, even if she should die first and the father remarried and had more sons with the second wife; they get shares in the father's estate but also the marriage settlement of the mother; but here, they lose that claim (Slotki)].*
- D. *So what else is new!*
- E. *What might you otherwise have supposed? Since she is the one who has done what is prohibited, rabbis have penalized her, not her children. So we are informed that that is not the case. [The penalty extends to them.]*

**XV.1 A. And if they died, a brother of this one and a brother of that perform the rite of removing the shoe but do not enter into levirate marriage:**

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

**XVI.1 A. R. Yosé says, "Her marriage contract is [a lien] on the property of her first husband":**

- B. *Said R. Huna, "The latter authorities [entering specific dissents] concur with the former authorities [in regard to the woman's being held the wife of the first husband], but the former authorities do not concur with the latter.*
- C. *"R. Simeon concurs with R. Eleazar: Since the woman is not penalized [in respect to the first husband] in the case of having sexual relations, which is the principal point of prohibition, how much less*

would she be penalized in regard to what she finds and to what she earns with her own work, which touch merely monetary matters?

D. *“But R. Eleazar does not concur with R. Simeon: What she finds and what she earns with her own work, which are monetary matters, are not subject to penalty, but the matter of her sexual relations, which involves a prohibition, is subject to penalty.”*

E. *“And both parties concur with R. Yosé: Since they do not subject to penalty matters that pertain while she continues to live with her husband, they surely will not penalize her in regard to her marriage contract, which is meant to encourage her to collect and leave the marriage. But R. Yosé does not concur with them: Her marriage contract, which is meant to encourage her to collect and leave the marriage, is not subjected to a penalty, but these, which pertain while she is married to him, are subject to penalty.”*

- F. R. Yohanan said, *“[To the contrary,] the former concur with the latter, but the latter do not concur with the former. R. Yosé accepts the judgment of R. Eleazar, for if the marriage settlement, which is taken from the husband and is given to the wife, is not subjected to a penalty, how much less in the case of what she finds and earns through her own labor, which are to be taken from her and given to him!”*

G. *“And R. Eleazar will not concur with him: What she finds and the proceeds of her own labor, which go from her to him, are not subjected to a penalty, but her marriage settlement, which goes from him to her, is subjected to a penalty.”*

H. *“And both parties concur with R. Simeon: If these matters, which take effect in the husband’s lifetime, are not subject to a penalty, sexual relations, which take place after his death, all the more so [should be left free of penalty]!”*

I. *“But R. Simeon will not concur with him: It is sexual relations in particular, which pertain to the time after the husband has died, that are not subjected to a penalty, but these, which pertain to the time he is alive, are subject to a penalty.”*

**XVII.1 A. But if she should remarry without permission, [since the remarriage was an inadvertent transgression and null], she is permitted to return to him:**

- B. Said R. Huna said Rab, *“That’s the decided law.”*

- C. *Said to him R. Nahman, "Why beat around the bush? If in your view logic favors R. Simeon, say, 'The decided law accords with R. Simeon,' for what you have heard goes along with the position of R. Simeon. But if you should say, 'If I said, "The decided law accords with R. Simeon," then it might enter your mind to suppose that that statement pertained even to his initial statement, then simply say, 'The decided law accords with R. Simeon in his latter statement.'"*
- D. *That's a tough one.*

**XVII.2** A. *Said R. Sheshet, "I should say that it was only when he was drowsy or sleeping that Rab made such a dumb statement. For by saying 'the decided law,' he introduces the inference that there is dissent [on the part of rabbis, who would then hold that the woman is penalized]. But what was she supposed to do? She was [Slotki:] a victim of circumstances. And, furthermore, it has been taught on Tannaite authority: In the case of all consanguineous unions that are listed in the Torah, the women do not require a writ of divorce, except for the married woman who went and remarried on the instructions of a court. So it is when she did so on the instructions of a court that she requires a writ of divorce, but if she did so on the strength of the testimony of witnesses alone, she does not require a writ of divorce. Now who can be the authority behind that formulation? Should I say that it is R. Simeon? Then if she remarried on the instructions of the court, would she require a writ of divorce? And has it not been taught on Tannaite authority: R. Simeon says, 'If a court acted on their own instructions the marriage is classified as a deliberate act of adultery between the second man and a married woman; if they acted only in accord with the evidence of witnesses, the marriage is classified as a relationship between a man and woman that was on account of error. But neither in this case nor in that is a writ of divorce required'? Rather, does this not represent the position of rabbis?" [Slotki: This proves that they also admit no divorce is necessary where the marriage was contracted in reliance on two witnesses. Who then differs from Simeon, that it should have been necessary for Rab to declare the law to agree with Simeon's view?]*

B. *In point of fact, the cited passage does represent the position of R. Simeon, and you may sort matters out as follows: R. Simeon says, "If a court acted on their own instructions the marriage is classified as a*

deliberate act of sexual relations between the second man and an unmarried woman, *so that a writ of divorce is required*; if they acted only in accord with the evidence of witnesses, the marriage is classified as fornication between a man and unmarried woman, *so no writ of divorce is required.*”

C. R. Ashi said, *“The cited passage pertains to the matter of the violation of a prohibition, and this is the sense of the matter: ‘If a court acted on their own instructions the marriage is classified as a deliberate act of adultery between the second man and a married woman, who is therefore forbidden to return to the first husband. If they acted only in accord with the evidence of witnesses, the marriage is classified as an act of sexual relations done in error between a man and unmarried woman, so the woman is not forbidden to return to her first husband.’”*

D. [91B] Rabina said, *“The cited passage pertains to the matter of presenting an offering, namely: ‘If a court acted on their own instructions the marriage is classified as a deliberate act of adultery between the second man and a married woman, and the latter does not present an offering [Slotki: since her willful act was performed in reliance on the ruling of the court]. If they acted only in accord with the evidence of witnesses, the marriage is classified as an act of sexual relations done in error between a man and unmarried woman, so the woman is obligated to bring an offering [as with any sin committed inadvertently].’”*

E. *If you prefer, I shall say that the former formulation stands for the view of rabbis, to be worked out as follows: “Except for a married woman [on the evidence of two witnesses] and one who remarried on the instructions of a court” [on the evidence of one witness (Slotki)]. [Slotki: According to this interpretation, a marriage on the evidence of two witnesses is not excluded and it also requires a writ of divorce.]*

**XVII.3** A. *Objected Ulla, “But do we invoke the claim, ‘What was she supposed to have done’? And have we not learned in the Mishnah: [If] he wrote [the writ of divorce dating it] according to an era which is not applicable, according to the era of the Medes, according to the era of the Greeks, according to the building of the Temple, according to the*



destruction of the Temple, [if] he was in the east and wrote, 'In the West,' in the west and wrote, 'In the East,' she goes forth from this one [whom she married on the strength of the divorce from the former husband] and from that one [the first husband]. And she requires a writ of divorce from this one and from that one. And she has no claim on the payment of her marriage contract, or on the usufruct [of 'plucking' property], or to alimony, or to indemnity [for loss on her 'plucking' property], either against this one or against that one. If she collected [such payment] from this one or from that one, she must return what she has collected. And the offspring from either marriage is a mamzer. And neither one nor the other contracts uncleanness for her [if they are priests, and she should die and require burial]. And neither one nor the other gains possession of what she may find, or of the fruit of her labor, or is vested with the right to abrogate her vows. [If] she was an Israelite girl, she is invalidated from marrying into the priesthood. [If she was] a Levite girl, [she is invalidated] from eating tithe. [If she was] a priest girl, she is invalidated from eating heave-offering. And the heirs neither of this one nor of that one inherit her marriage contract [M. Git. 8:5]? *But why should this be the case? Why not invoke the claim, 'What was she supposed to have done'?"*

B. *In that case, she should have arranged for the writ of divorce to be read [by a lawyer, who would have invalidated it for her].*

C. *Said R. Shimi bar Ashi, "Come and take note: He who marries his deceased childless brother's widow, and her co-wife went off and married someone else, and this one turned out to be barren – she [the co-wife] goes forth from this one and from that one. And all the above conditions apply [M. Git. 8:7]. But why should this be the case? Why not invoke the claim, 'What was she supposed to have done'?"*

D. Waited.

E. *Said Abbayye, “Come and take note: All those prohibited relationships of which they have said that their co-wives are permitted [to remarry without levirate marriage], [if] these co-wives went and got married and this [woman who is in a prohibited relationship] turns out to be barren – she goes forth from this one and from that one. And all the above conditions apply [M. Git. 8:6]. But why should this be the case? Why not invoke the claim, ‘What was she supposed to have done’?”*

F. Waited.

G. *Said Raba, “Come and take note: [If the scribe wrote a writ of divorce for the man and a quittance [receipt given to the husband for her marriage contract payment] for the woman, and he erred and gave the writ of divorce to the woman and the quittance to the man, and they then exchanged them for one another, and [if] after a while, lo, the writ of divorce turns up in the hand of the man, and the quittance in the hand of the woman – she goes forth from this one and from that one. And all the above conditions apply [M. Git. 8:8]. But why should this be the case? Why not invoke the claim, ‘What was she supposed to have done’?”*

H. *In that case, she should have arranged for the writ of divorce to be read [by a lawyer, who would have invalidated it for her].*

I. *Said R. Ashi, “Come and take note: [If] he changed his name or her name, the name of his town or the name of her town, she goes forth from this one and from that one. And all these [above] conditions apply to her [M. Git. 8:6R-T]. But why should this be the case? Why not invoke the claim, ‘What was she supposed to have done’?”*

J. *In that case, she should have arranged for the writ of divorce to be read [by a lawyer, who would have invalidated it for her].*

K. *Said Rabina, “Come and take note: If he married her on the strength of [her having been divorced from a former husband] by a ‘bald’ [defectively witnessed] writ of divorce,*

she goes forth from this one and from that one. And all the above conditions apply [M. Git. 8:9H-J]. But why should this be the case? Why not invoke the claim, 'What was she supposed to have done'?"

L. In that case, she should have arranged for the writ of divorce to be read [by a lawyer, who would have invalidated it for her].

**XVII.4** A. R. Pappa considered making a practical decision in accord with the plea, "What was she supposed to have done?" Said R. Huna b. R. Joshua to R. Pappa, "But have not all of these Tannaite formulations been repeated [and in none of them did that principle govern]?"

B. He said to him, "But were they not set forth [with reasons for the exceptional character of each]?"

C. "Are we then going to have to depend on these obiter dicta?"

**XVII.5** A. Said R. Ashi, "We pay no attention to rumors [concerning the survival of the first husband, once declared dead]."

B. What kind of rumors does he mean? If we say that it is a rumor that circulates after the fact of the remarriage, lo, R. Ashi made that statement on another occasion, for said R. Ashi, [92A] "To no rumor that circulates after remarriage do we pay attention."

C. What might you otherwise have supposed? Since the woman has come to court and we have permitted her to remarry, it is like a report of the survival of the husband that circulated prior to the marriage, so she should be forbidden to continue the second marriage. So we are informed that that is not the case.

**XVIII.1** A. [If] she was remarried at the instruction of a court, she is to go forth:

B. Said Zeiri, "There is no validity to our Mishnah paragraph, since it has been stated at the schoolhouse as a Tannaite statement to the contrary, for it has been stated at the schoolhouse as a Tannaite formulation: If the court made a decision that the sun had set [on a cloudy Sabbath afternoon, and it turned out not to have been the case], but in the end the sun shone again, this is a decision that is no instruction but a mere mistake" [as to the facts, not the law; here,

too, the court thought the man was dead but he was alive, and that is therefore a deed done in error, and the woman is not exempt from a sin-offering in the case of a sin committed in error; so the Mishnah formulation cannot be authentic (Slotki)].

- C. *But R. Nahman said, "[Permitting the woman to remarry] falls into the category of a court's instruction, for throughout the entire Torah, the testimony of a single witness is not believed, but here it is believed. What can the reason possibly be? Is it not because the court's decision on the strength of which the woman has remarried is classified as a decision [not a mere mistake]?"*
- D. *Said Raba, "You may know that it falls into the classification of a mere mistake, for if the court had decided in the case of forbidden fat and blood to permit eating them but then found grounds for forbidding them, if they then retracted and ruled again that these are permitted, the subsequent ruling would be ignored. Here, by contrast, when a single witness testifies, the woman is permitted to remarry; if two come along, she is forbidden to remarry; if another witness comes along, the woman would be permitted to remarry. But why should that be the case? It is obvious that it is because the decision of the court is regarded as a mere error as to the facts."*
  - E. *And so, too, R. Eliezer takes the position that the decision falls into the classification of a mere error, for it has been taught on Tannaite authority: R. Eliezer says, "Let the law pierce the mountain, and let her bring a fit sin-offering." Now if you say that it is classified as a mere judicial error, that is why she brings an offering. But if you say that the decision falls into the classification of an erroneous instruction, why should she bring a sin-offering [having acted deliberately]?*
  - F. *Maybe R. Eliezer takes the position that when an individual acts upon the instruction of the court, he is liable?*
  - G. *If so, what's the relevance of the principle that is invoked, "Let the law pierce the mountain"?*

- XIX.1** A. **[If] the court instructed her to remarry, and she went and entered an unsuitable union, she is liable for the requirement of bringing an offering. For the court permitted her only to marry [properly]:**
- B. *What is the meaning of and she went and entered an unsuitable union?*
  - C. *R. Eleazar says, "She has fornicated."*

D. R. Yohanan said, "It would involve for instance a widow married to a high priest, a divorcée or woman who has performed the rite of removing the shoe married to an ordinary priest."

E. *He who says that what she has done is simply fornicated would all the more so concur that it would cover the cases of a widow married to a high priest, a divorcée or woman who has performed the rite of removing the shoe married to an ordinary priest.*

F. *But one who specifies the cases of a widow married to a high priest, a divorcée or woman who has performed the rite of removing the shoe married to an ordinary priest would exclude the case of mere fornication.*

G. *How come? She would rightly claim, "Well you're the one who classified me as an unmarried woman" [and so is not liable to bring a sin-offering, having acted deliberately].*

H. *It has been taught on Tannaite authority in accord with the position of R. Yohanan: If the court instructed her to remarry and she went and entered an unsuitable union, for instance, a widow who married a high priest, a divorcée or a woman who has performed the rite of removing the shoe who married an ordinary priest –*

I. "She is liable to present a sin-offering for each act of sexual relations," the words of R. Eleazar.

J. And sages say, "One sin-offering for all of them."

K. But sages concur with R. Eleazar that if she married [successively] five men, she is liable for a sin-offering on each count, since here the persons are distinct from one another."

### 10:3

- A. The woman whose husband and son went overseas,
- B. and whom they came and told, "Your husband died, and then your son died,"
- C. and who remarried,
- D. and whom they afterward told, "Matters were reversed" –
- E. goes forth [from the second marriage].
- F. And earlier and later offspring are in the status of a mamzer.

- G. [If] they told her, “Your son died and afterward your husband died,” and she entered into levirate marriage, and afterward they told her, “Matters were reversed,”
- H. she goes forth [from the levirate marriage].
- I. And the earlier and later offspring are in the status of a mamzer.
- J. [If] they told her, “Your husband died,” and she married, and afterward they told her, “He was alive, but then he died,”
- K. she goes forth [from the second marriage].
- L. And the earlier offspring [born prior to the actual death of the husband] is a mamzer, but the later is not a mamzer.
- M. [If] they told her, “Your husband died,” and she became betrothed, and afterward her husband came home,
- N. she is permitted to return to him.
- O. Even though the second man gave her a writ of divorce, he has not rendered her invalid from marrying into the priesthood.
- P. This did R. Eleazar b. Matya expound, “‘And a woman divorced from her husband’ (Lev. 21: 7) – and not from a man who is not her husband.”

- I.1** A. [The woman whose husband and son went overseas, and whom they came and told, “Your husband died, and then your son died,” and who remarried, and whom they afterward told, “Matters were reversed” – goes forth from the second marriage. And earlier and later offspring are in the status of a mamzer:] *what is the meaning of earlier? And what is the meaning of later? Shall we say that earlier refers to before the second report, and later means, afterward? Then the passage should read: The offspring is a mamzer [Slotki: for the legitimacy of the offspring is not determined by the date of the report but by the facts of the case]!*
- B. *The matter is formulated as it is because it was planned to state in the final clause, [If] they told her, “Your husband died,” and she married, and afterward they told her, “He was alive, but then he died,” she goes forth [from the second marriage]. And the earlier offspring [born prior to the actual death of the husband] is a mamzer, but the later is not a mamzer, so the language And the earlier and later offspring are in the status of a mamzer also was used.*

- I.2** A. *Our rabbis have taught on Tannaite authority:*

- B. This represents the position of R. Aqiba, who would say, “A valid betrothal does not take effect in a situation in which there is a violation of a negative commandment.”
- C. But sages say, “A child born to a deceased childless brother’s widow is not classified as a mamzer” [T. Yeb. 11:8G-H].

D. *Why not formulate the statement as:* The offspring of a union between parents who violate a negative commandment by marrying is not classified as a mamzer?

E. *This Tannaite authority accords with the Tannaite authority of R. Aqiba who has said,* “In the case of unions that violate the negative commandment concerning consanguineous marriages, the offspring is a mamzer; but from the unions that violate the negative commandment otherwise, the offspring is not a mamzer.”

- I.3 A. Said R. Judah [92B] said Rab, “How on the basis of Scripture do we know that a rite of betrothal [by an outsider] is null in the case of a deceased childless brother’s widow [who must marry the levir]? Scripture states, ‘The wife of the dead shall not be married to an outsider, to one not of his kin’ (Deu. 25: 5). That is to say, there will be no valid marital arrangement to her with an outsider.”
- B. And Samuel said, “By reason of our poverty [of wit, to understand the cited verse,] she does require a writ of divorce nonetheless.”
- C. *Samuel was in doubt whether or not the language,* “The wife of the dead shall not be” (Deu. 25: 5) *serves to establish a negative commandment* [Slotki: and as is the rule for other unions forbidden by negative commandments, the betrothal is valid], *or whether the meaning is that betrothal with such a woman is invalid.*

I.4 A. *Said R. Mari bar Rahel to R. Ashi, “This is what Amemar said: ‘The decided law accords with Samuel.’”*

B. *Said R. Ashi, “Now that Amemar has said, ‘The decided law accords with Samuel,’ if the deceased childless brother’s brother was a priest, [whom the levirate widow could not marry after she was divorced by the outsider], he accepts the rite of removing the shoe with her, and she is then permitted to the outsider whom she has wed. But in that case, the outsider benefits, and it turns out that the sinner [who married the woman without ascertaining that she was free to wed] is*

*rewarded! Rather: if the deceased childless brother's surviving brother was a common Israelite, the outsider hands over a writ of divorce, and she is permitted to marry the levir."*

- I.5** A. [Speaking of a deceased childless brother's widow who prior to the rite of removing the shoe has married a third party,] said R. Hiyya bar Joseph said Rab, "A levirate widow is not validly betrothed, but she is validly married [and so must receive a writ of divorce]."
- B. *Well, friend, if she is not subject to betrothal, she assuredly is not going to be subject to a valid marriage!*
- C. *Say: Neither betrothal nor marriage is valid in her case.*
- D. *If you prefer, I shall say, what is the meaning of* she is validly married? *Her marriage adds up to an act of fornication, and that is in accord with what R. Hamnuna said, for* said R. Hamnuna, "A woman awaiting levirate marriage who committed an act of fornication is invalidated to marry her deceased childless husband's brother."
- E. *If you prefer, I shall say, in point of fact, matters are as we originally said, namely, a levirate widow is not validly betrothed, but she is validly married. The reason is that, in her case, it might be confused with one involving a woman whose husband went overseas [Slotki: and who remarried in accord with the decision of a court on the evidence of a single witness, who said her husband died; she requires a writ of divorce; as a precautionary measure, in our case too, a writ of divorce is required, and what is valid is only that such a writ is required].*

- I.6** A. Said R. Yannai, "In a meeting it was voted and decided: 'A levirate widow is not validly betrothed.'"
- B. Said to him R. Yohanan, "My lord, is this not explicitly set forth in our Mishnah, *for we have learned in the Mishnah: He who says to a woman, 'Lo, you are betrothed to me after I convert to Judaism,' or 'after you convert,' '...after I am freed' or 'after you are freed,' '...after your husband died,' or '...after your sister dies,' after your levir will have performed the rite of removing the shoe with you – she is not betrothed [M. Qid. 3:5E-I]!*"
- C. *He said to him, "If I hadn't lifted up the potsherd, would I ever have found the pearl?"* [Slotki: If Yannai had not stated his ruling, it would not have occurred to Yohanan that the reason for the invalidity of the betrothal in the case of the levirate widow was the law that betrothal with a levirate widow by



an outsider is never valid before the levir has submitted to the rite of removing the shoe; he might have assumed the invalidity in this case also derived from the fact that the man distinctly wanted it to take place in the future, and no one can acquire that which is not yet in existence.]

- D. *Said to him R. Simeon b. Laqish, "If a major authority had not praised you, I would have said to you, 'The authority of the cited Mishnah paragraph is merely R. Aqiba, who takes the position that betrothal takes no effect in unions that violate negative commandments.'"*
- E. *Well, if this Mishnah paragraph represents the position of R. Aqiba, then the betrothal with the levirate would be valid if the stranger said to her, "...after your levir has performed the rite of removing the shoe," since we have heard that R. Aqiba has said, "Someone may transfer title to something that has not yet come into existence." For we have learned in the Mishnah: [93A] [If she said, "Qonam if I work for you," he need not annul [that vow, which is null to begin with]. R. Aqiba says, "Let him annul it lest she do more work for him than is required" [and that excess would indeed be subject to her vow, even though the work has not yet been done] [M. Ned. 11:4B-D].*
- F. *But lo, it has been stated in this connection:*
- G. *Said R. Huna b. R. Joshua, "This rule pertains to a case in which she says, 'Let my hands be sanctified to Him who has made them,' for the hands are indeed something that exists in the world.'"*

**I.7** A. *This [principle, that title to something that does not yet exist may not be transferred] differs from what R. Nahman bar Isaac said, for said R. Nahman bar Isaac, "R. Huna concurs with Rab, and Rab concurs with R. Yannai, and R. Yannai concurs with R. Hiyya, and R. Hiyya concurs with Rabbi, and Rabbi concurs with R. Meir, and R. Meir concurs with R. Eliezer b. Jacob, and R. Eliezer b. Jacob concurs with R. Aqiba, who has said, 'One may transfer title to something that at that moment does not exist in the world.'"*

- I.8** A. *As to R. Huna, it is in line with that which has been stated:*
- B. *He who sells to his neighbor the produce of a palm tree –*
  - C. *Said R. Huna, "If this is prior to the actual yield of the produce, he can retract. If it is afterward, he cannot retract."*
  - D. *And R. Nahman said, "Even if it is afterward, he can retract."*

E. *And R. Nahman said, “I concede that if the buyer went and grabbed and ate the fruit, the seller has no claim upon him.”* [The seller permitted him to do so only because he did not know that he could retract; this is a renunciation in error, and that is here shown to be valid (Freedman, *Baba Mesia* 66B)].

**I.9** A. As to Rab, said R. Huna said Rab, “He who says to his fellow, ‘The field that I am buying, when I shall have bought it, is bought for you as of this moment’ – the other has acquired possession of the field. [As soon as the seller has bought the field from the original owner, it is the property of the buyer and the seller ends the transaction (Daiches, *Baba Mesia* 16B).]”

**I.10** A. *As to R. Yannai’s concurring with R. Hiyya:*  
B. *R. Yannai had a tenant farmer, who brought him a basket of produce every Friday. Once, when dusk fell but the tenant had not come, R. Yannai separated tithe from fruit he had in the house for the produce that was expected. When he later on came before R. Hiyya, [Hiyya] said to him, “You did it right, for so it has been taught on Tannaite authority: “That you may learn to fear the Lord your God always” (Deu. 14:23) this refers to Sabbaths and festivals.’ Now for what purpose is this law set forth? If it has to do with separating tithe so that one may eat the remaining produce, is it necessary for a verse of Scripture to be invoked to permit moving produce before tithing it? The consideration of not moving objects from domain to domain derives from the authority of rabbis [and not from the Torah in any event]. [93B] Rather, is it not to cover a case such as this [namely, to permit designating tithe for produce that one does not yet at that moment possess, so that one may observe the Sabbath or a festival]?”* [So one may dispose of what is not yet in being (Slotki).]

C. *He said to him, “Lo, in a dream the verse of Scripture on the bruised reed [2Ki. 18:21, Isa. 42:3] was proclaimed to me. Was it not the intention to tell me: ‘Behold, you rely on the staff of this bruised reed’ (2Ki. 18:21)?”*

D. “No, the intent was to say this: ‘A bruised reed he shall not break, and the dimly burning wick he shall not quench; he shall make the right to go forth according to the truth’ (Isa. 42: 3).”

**I.11** A. *As to Rabbi, as has been taught on Tannaite authority:*

B. “You shall not deliver unto his master a bondman” (Deu. 23:16) –

C. Rabbi says, “Scripture speaks of a person who bought a slave on the stipulation that he would manumit him.”

D. *What circumstances can be contemplated here?*

E. *Said R. Nahman bar Isaac, “The purchaser writes a deed for him: ‘When I have purchased you, lo, title to you is assigned to you yourself as from this moment.’”*

**I.12** A. *As to R. Meir, it is as has been taught on Tannaite authority:*

B. He who says to a woman, “You are betrothed to me after I convert to Judaism,” “...after you convert to Judaism,” “...after I am emancipated,” “...after you are emancipated” “...after your husband dies,” “...after your levirate connection performs the act of removing the shoe with you [and so frees you of the levirate bond],” “...after your sister dies [and it becomes legal for you to marry me]” – the woman is not deemed betrothed. R. Meir says, “She is deemed betrothed.”

**I.13** A. *As to R. Eliezer b. Jacob, it is as has been taught on Tannaite authority:*

B. More than this did R. Eliezer b. Jacob say: “Even if he said, ‘The already picked produce of this bed shall serve as priestly rations for the already picked produce of that other bed,’ or, ‘The unharvested produce of this bed shall serve as priestly rations for the already picked produce of that other bed when it will have grown to a third of maturity and been picked’ – his words take effect when the produce grows to a third of maturity and is picked.”

**I.14** A. *As to R. Aqiba, as we have learned in the Mishnah: [If she said, “Qonam if I work for you,” he need not annul [that vow, which is null to begin with]. R. Aqiba says, “Let him*

annul it lest she do more work for him than is required”  
[M. Ned. 11:4B-D].

- I.15** A. *This question was addressed to R. Sheshet: “What is the standing of a single witness in the case of a levirate wife? [Is such a witness believed to testify that the levir is dead?] Is the operative consideration for accepting the testimony of a single witness that the matter is such that, one way or the other, the truth will come out, so someone would not lie, and here, too, someone would not lie? Or perhaps is the operative consideration that a single witness is believed because the woman herself is going to look into the matter very cautiously before she remarries, and here, where she may have fallen in love with her late husband’s surviving brother, she might marry him without undertaking very careful inquiries?”*
- B. *He said to them, “You have already learned the answer in the Mishnah itself: [If] they told her, ‘Your son died and afterward your husband died,’ and she entered into levirate marriage, and afterward they told her, ‘Matters were reversed,’ she goes forth [from the levirate marriage]. And the earlier and later offspring are in the status of a mamzer. Now how are we to understand the situation here? If we say that there are two sets of contradictory witnesses, then why rely on these? Rely on those! And, furthermore, is a child whose status as to being a mamzer is subject to doubt ever going to be classified as a mamzer at all? And should you say that the framer of the passage has not used language precisely, lo, the further clause is explicit when it says, **And the earlier offspring [born prior to the actual death of the husband] is a mamzer, but the later is not a mamzer,** which shows that the framer of the passage has used language very precisely. So does the passage therefore not cover a case in which the first report came from one witness, and the operative consideration for not accepting his testimony is that two witnesses then came and contradicted what he said? If this were not the case, however, he would have been believed.”*
- C. *There is he who says, “That really is not a question at all. For even the woman herself will be believed [and assuredly a single witness will be believed], for we have learned in the Mishnah: **The woman who came back from overseas and said, ‘My husband has died,’ may remarry. [If she said], ‘My husband has died,’ she may enter into levirate marriage [M. Ed. 1:12B-C].** The question comes up, rather, it pertains to permitting the levirate widow to marry a third party. Now here, what is the operative consideration for*

*accepting the testimony of a single witness that the matter is such that, one way or the other, the truth will come out, so someone would not lie, and here, too, someone would not lie? Or perhaps is the operative consideration that a single witness is believed because the woman herself is going to look into the matter very cautiously before she remarries, and here, [94A] where she may hate the brother-in-law [she will certainly make inquiries]?”*

- D. *He said to them, “You have already learned the answer in the Mishnah itself: [If] they told her, ‘Your son died and afterward your husband died,’ and she entered into levirate marriage, and afterward they told her, ‘Matters were reversed,’ she goes forth [from the levirate marriage]. And the earlier and later offspring are in the status of a mamzer. Now how are we to understand the situation here? If we say that there are two sets of contradictory witnesses, then why rely on these? Rely on those! And, furthermore, is a child whose status as to being a mamzer is subject to doubt ever going to be classified as a mamzer at all? And should you say that the framer of the passage has not used language precisely, lo, the further clause is explicit when it says, **And the earlier offspring [born prior to the actual death of the husband] is a mamzer, but the later is not a mamzer, which shows that the framer of the passage has used language very precisely. So does the passage therefore not cover a case in which the first report came from one witness, and the operative consideration for not accepting his testimony is that two witnesses then came and contradicted what he said? If this were not the case, however, he would have been believed.”***
- E. *[Not at all,] in point of fact there were two sets of witnesses, one on either side, but the matter accords with what R. Aha bar Minyumi said, “That is the case when it is witnesses that prove the first set to be a conspiracy of perjurers.” Here, too, it is a case in which the witnesses that prove the first set to be a conspiracy of perjurers.*
- F. *Said R. Mordecai to R. Ashi, and some say, R. Aha to R. Ashi, “Come and take note: **For a woman is not believed to testify, ‘My levirate brother-in-law has died,’ so that she may remarry. Nor is she believed to testify, ‘My sister has died,’ so that she may enter into his [her brother-in-law’s] house [M. Yeb. 15:10G-H].** She is the one who is not believed, so a single witness is believed!”*
- G. *Well, according to your reading of matters, let me introduce the conclusion of the same passage: **And a man is not believed to say, “My brother has***

died,” so that he may enter into levirate marriage with his [the brother’s] wife. [Nor is he believed to testify,] “My wife died,” so that he may marry her sister [M. Yeb. 15:10I-J]! *He is the one who is not believed, so a single witness is believed! Now, in the situation of the woman, we can understand why that remission should have been granted; it is so as to prevent her from the status of a deserted wife that rabbis have provided a lenient ruling. But as to a man, what is to be said? Rather, the reason that the ruling you cite is required is in connection with the position of R. Aqiba. For it might have entered your mind to maintain that, since R. Aqiba has said, “A mamzer may derive from the union of a couple that in marrying has violated a negative commandment,” I might suppose that a woman subject to the levir, who will violate a negative commandment if she marries a third party, will want to avoid an improper union and so will look into matters very carefully before she remarries. So we are informed that that consideration does not enter in.*

- H. Raba said, “It is a matter of an argument a fortiori that a single witness should be believed in the case of attesting the situation of a levirate widow: If you have permitted marriage [on the strength of a single witness’s testimony that her husband has died] in which case the penalty of extirpation is involved, will you not all the more so permit a situation in which the marriage would be subject to a routine prohibition?”
- I. *Said one of the rabbis to Raba, “But she herself proves the contrary: In the face of the penalty of extirpation you have permitted her to marry again [if she herself said her husband had died], so in the face of a mere negative commandment have you not permitted her [to marry a third party, having said her levir has died]?”*
- J. *Rather, as to her not giving testimony, what is the operative consideration preventing her testimony from being accepted? It is because she may hate the levir, and so may marry a third party without making sure the levir is dead; also in the case of a single witness, she may hate the levir, and so may marry a third party without making sure the levir is dead.*

- II.1** A. **This did R. Eleazar b. Matya expound, “‘And a woman divorced from her husband’ (Lev. 21: 7) – and not from a man who is not her husband”:**
- B. *Said R. Judah said Rab, “R. Eleazar could have produced an exegesis here that was a pearl, but the jerk brought up a potsherd!”*
  - C. *What is the pearl?*

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

**10:4**

- A. **He whose wife went overseas, and whom they came and told, “Your wife has died,”**
- B. **and who married her sister,**
- C. **and whose wife thereafter came back –**
- D. **she is permitted to come back [94B] to him.**
- E. **He is permitted to marry the kinswomen of the second, and the second woman is permitted to marry his kinsmen.**
- F. **And if the first died, he is permitted to marry the second woman.**
- G. **[If] they said to him, “Your wife has died,” and he married her sister, and afterward they said to him, “She was alive, but then she died” –**
- H. **the former offspring is a mamzer [born before the wife died], and the latter [born after she died] is not a mamzer.**
- I. **R. Yosé says, “Anyone who invalidates [his wife] for [marriage] with others invalidates her for marriage for himself, and whoever does not invalidate his wife for marriage with others does not invalidate her for himself.”**

- I.1** A. **[He whose wife went overseas, and whom they came and told, “Your wife has died,” and who married her sister, and whose wife thereafter came back – she is permitted to come back to him:]** *Now even though his wife and his brother-in-law [husband of his wife’s sister] went overseas, so that the marriage [of the man with his sister-in-law] invoked the prohibition of the wife of his brother-in-law to his brother-in-law, it is the wife of the brother-in-law that is forbidden [to her husband], while his own wife is permitted to him. We do not invoke the rule, since the wife of his brother-in-law is forbidden to his brother-in-law, his own wife should be forbidden to him [so that the same marriage that prohibits the one woman does not permit the other (Slotki)]. May we therefore say that our Mishnah rule is not in accord with the position*

of R. Aqiba, for, if it were to have accorded with his view, his wife would [who may return to him] is the sister of a woman he has divorced [whom he cannot marry]! For it has been taught on Tannaite authority: None of the women who stand in a consanguineous relationship as specified in the laws of the Torah has to receive a writ of divorce from a consanguineous man whom she has married, except for a wife who has married on the instructions of a court. And R. Aqiba adds to the list, "Also the wife of the brother, and the sister of the wife." [Slotki: These have to receive a writ of divorce; if the man married his sister-in-law upon hearing that his brother has died but the husband came back, or, as in our Mishnah's rule, he married the wife's sister on news that the husband has died, he needs to issue a writ of divorce.] Now, since R. Aqiba has maintained that the wife's sister has to get a writ of divorce, his first wife becomes forbidden to him as the sister of a woman whom he has divorced!

- B. But has it not been stated in this regard: Said R. Giddal said R. Hiyya bar Joseph said Rab, "How are we to imagine this 'brother's wife' [where a writ of divorce is required]? For example, his brother betrothed a woman and went overseas, and the brother who stayed home heard that his brother had died, so he went and married the brother's wife. Now, since people might say, 'In connection with the first betrothal, he has attached a stipulation [which was not fulfilled, so the betrothal was invalid (Slotki)], in which case the initial betrothal was invalid, so the second betrothal was valid,' [as a precautionary measure, a writ of divorce is required here]. And as to the 'wife's sister,' too, how shall we imagine the case? For example, one betrothed a woman, who went overseas, and he heard that she died, so he went and married her sister. Now, since people might say, 'In connection with the first betrothal, he has attached a stipulation, the second betrothal was valid,' [as a precautionary measure, a writ of divorce is required here]. But in regard to marriage [of which our Mishnah paragraph speaks], is there the possibility of claiming that someone has attached a stipulation to the consummation of a marriage?" [That is not possible, so everybody would know that the first marriage was valid, the second invalid, and no writ of divorce would be required, even in Aqiba's view, and therefore he, too, may concur in our Mishnah paragraph (Slotki).]

C. [Now addressing the possibility that Aqiba concurs with our rule,] said R. Ashi to R. Kahana, "If R. Aqiba is covered here, then the framer of the Mishnah should address also the position of his mother-



*in-law [married when one heard his wife, her daughter, had died], for lo, we have heard that R. Aqiba has said, ‘He who married his mother-in-law after the death of his wife is not subject to death by burning [and therefore would be permitted to marry her!],’ For it has been taught on Tannaite authority: “‘They shall be burned with fire, both he and they, [a man who married a woman and her mother],” (Lev. 20:14), he and one of them [the one he is forbidden to marry],’ the words of R. Ishmael. R. Aqiba says, ‘He and both of them.’ Now from the perspective of Abbayye, who has taken the position that at issue between them is the implication of the verse at hand, since R. Ishmael says the verse speaks of only one, while R. Aqiba says the text speaks of two [both women were forbidden to him if he married his mother-in-law and her mother], there is no problem [so the question of marrying a mother-in-law after the death of the lawful wife does not arise in the dispute, and Aqiba’s opinion on the subject cannot be inferred from it (Slotki)]. But from the perspective of Raba, who has said that at issue between them is a case in which someone has married his mother-in-law after the death of his wife, his mother-in-law also should have been mentioned” [in the pertinent Mishnah passage, since, according to Raba, marriage of a mother-in-law after the death in Aqiba’s opinion is permitted (Slotki)].*

D. He said to him, “While Scripture has excluded from the penalty of burning the mother-in-law married to her son-in-law, did Scripture exclude her from the prohibition of marrying him? [Certainly not, and the case could not have been included].”

- II.1** A. **[She is permitted to come back to him:]** but why not forbid the woman to her husband because he has had sexual relations with her sister, along the lines of the case in which a woman’s husband has gone overseas [who married someone else, and who cannot revert to the first husband]? [Slotki: In both cases the women have acted unwittingly.]
- B. *Because the two cases are not parallel! In the case of his wife, if she acted deliberately, she would be forbidden to him by the law of the Torah, so she is equally forbidden if she acted inadvertently, by reason of a precautionary decree of rabbis. [95A] But his wife’s sister, if she deliberately married him, would not cause his first wife to be forbidden to him on the strength of the law of the Torah, so no precautionary decree has been made by rabbis if she acted inadvertently [as in our Mishnah’s case].*

C. And how on the basis of Scripture do we know that [the wife whose husband had sexual relations with her sister in the mistaken impression that he might marry her] is not forbidden?

D. *It is as has been taught on Tannaite authority:*

E. “With her” (Num. 5:13) – sexual relations with her prohibits her husband from remaining wed to her, but sexual relations with her sister does not prohibit her to be prohibited to her husband.

F. But is not the contrary proposition logical? If when he has sexual relations with one who is prohibited by a lightweight prohibition, the person who has caused the prohibition [the husband, who prohibits her to marry anybody else by reason of her marriage to him] is forbidden by her [but he must divorce her], in the case of one who has sexual relations with one who is prohibited by a heavyweight prohibition, the person who has caused the prohibition surely should be forbidden by her. [Since his wife causes her sister to be forbidden to him during the whole of her lifetime, she surely should be forbidden. This possible argument explains why a proof on the strength of Scripture is required to show that his sexual relations with her sister does not prohibit her to be prohibited to her husband.

**II.2** A. Said R. Judah, “The House of Shammai and the House of Hillel did not differ concerning one who has sexual relations with his mother-in-law, concurring that he renders his wife invalid [for continuing to live with him, but must divorce her]. Concerning what did they disagree? Concerning him who had sexual relations with the sister of his wife. For the House of Shammai say, ‘He invalidates his wife from remaining wed to him,’ and the House of Hillel say, ‘He does not invalidate his wife from remaining wed to him.’”

B. Said R. Yosé, “The House of Shammai and the House of Hillel did not differ concerning one who has sexual relations with his wife’s sister, that he does not invalidate his wife from remaining wed to him. Concerning what did they differ? Concerning one who has sexual relations with his mother-in-law. For in this case, the House of Shammai say, ‘He invalidates his wife from remaining wed to him,’ and the House

of Hillel say, 'He does not invalidate his wife from remaining wed to him.'

C. "[They concur on the case of the wife's sister] because to begin with he was permitted to marry any woman in the world and she was permitted to marry any man in the world. When he betrothed her, he prohibited her from marrying anybody else, and she prohibited him from marrying certain women [relatives of hers]. Greater is the prohibition that he has inflicted upon her than the prohibition that she has inflicted upon him. For he has forbidden her from marrying any other man in the world, while she has forbidden him only from marrying her relatives.

D. "[That sexual relations with the wife's sister does not make the wife unfit to live with him] derives from an argument a fortiori, namely: If she, whom he has prohibited to every other man in the world, inadvertently had sexual relations with any other man who was forbidden to her [for example, by rape] is not forbidden to the man [her husband] who had been permitted to her, then he, whom she made forbidden only to her relatives, if he should have sexual relations inadvertently with a woman who was forbidden to him, surely should not be forbidden to her [the wife], who was permitted to him.

E. "So much for inadvertent relations. What about if it was done deliberately? [Slotki: That is, how do we know that sexual relations with the wife's sister does not make the wife unfit to live with him?]

F. "Scripture states, 'With her' (Num. 5:13) – sexual relations with her prohibits her husband from remaining wed to her, but sexual relations with her sister does not prohibit her to be prohibited to her husband."

**II.3** A. Said R. Ammi said R. Simeon b. Laqish, "What is the Scripture basis, then, for the position of R. Judah? Scripture states, 'They shall be burned with fire, both he and they' (Lev. 20:14). Now is the entire household subject to burning at the stake? [Slotki: Obviously that is impossible, what did the lawfully wedded wife do that she should be put to death by reason of her husband's

invalid marriage later on?] So if this cannot refer to actually burning them, it presumably refers to the matter of a prohibition [against the original wife's remaining wed if her husband has sexual relations with his mother-in-law].”

**II.4** A. Said R. Judah said Samuel, “The decided law does not accord with R. Judah.”

**II.5** A. *There was someone who had sexual relations with his mother-in-law. The case came before R. Judah, who flogged him. He said to him, “If, furthermore, Samuel had not said, ‘The law does not accord with R. Judah,’ I would also have forbidden your wife from ever remaining with you.”*

**II.6** A. *To what does the language, “lightweight prohibition” refer [at I.1, in the argument, If when he has sexual relations with one who is prohibited by a lightweight prohibition, the person who has caused the prohibition, that is, the husband, who prohibits her to marry anybody else by reason of her marriage to him, is forbidden by her but he must divorce her, in the case of one who has sexual relations with one who is prohibited by a heavyweight prohibition, the person who has caused the prohibition surely should be forbidden by her]?*

B. Said R. Hisda, “It refers to one who remarries a woman he has divorced after she had married someone else. *When the second husband had sexual relations with her, he forbids her from being wed to the first husband, and when the first husband has sexual relations with her, he forbids her to be married to the second. [Here is a case in which the second husband, who has caused the prohibition of the wife, is himself forbidden to her.]*”

C. But what distinguishes a case in which one has remarried a woman he has divorced after she married a third party is that she is personally made unclean, and she is forbidden to return to the first husband forever.

D. Rather, said R. Simeon b. Laqish, “It refers to a levirate widow” [who has married an outsider, not a surviving brother-in-law].

E. *So whom has the levirate widow married? If I should say it was to an outsider, in accord with what R. Hamnuna said, for*

said R. Hamnuna, “A woman awaiting levirate marriage who committed an act of fornication is invalidated for marrying her deceased childless husband’s brother,” one may well object, what distinguishes a case in which one has remarried a woman he has divorced after she married a third party is that she is personally made unclean, and she is forbidden to return to the first husband forever. So, rather, it must be a levirate widow who married one of the levirs, *along the following lines: One of them bespoke her, and in so doing forbade her to the others; now when another one of them had sexual relations with her, he has forbidden her to marry the first of the two.*

F. *But then why speak of having the second brother actually have sexual relations with her? Even if he had bespoken her, the same effect would have come about?*

G. *But that’s no real problem, for it is in accord with Rabban Gamaliel, who has said, “There is no writ of divorce [which is valid] after [another] writ of divorce, and no bespeaking [a statement of betrothal in a case of a levirate connection] after another bespeaking, and no coition [consummating a levirate marriage] after another coition, and no rite of removing the shoe [which is valid] after another such rite.”*

H. Nonetheless, one could object that the same outcome would apply even if he gave her a writ of divorce or even if he went through the rite of removing the shoe with her.

I. Rather, said R. Yohanan, “It is the case of an accused wife [that is this lightweight prohibition].”

J. *With whom did she have sexual relations [so that her act would result that he who caused the prohibition is thereby himself prohibited to her (Slotki)]? If I should say that it was with the husband, who, if he has sexual relations with her, prohibits her from marrying the lover, [even after he dies or divorces her, so the one who seduced her has prohibited her to the husband and is himself forbidden to her for all time (Slotki)], why hold that he had to have sexual relations with her to accomplish that goal? The same result would have come about had he only given her a writ of divorce or had he*

*only said, "I shall not administer the ordeal of drinking the bitter water to her."*

K. Rather, it would be the case of the accused wife with the lover.

L. *So is that your idea of a lightweight prohibition!? It is a very heavyweight prohibition, because she is nothing other than a married woman!*

M. [95B] Rather, said Raba, "Reference is made to a married woman," and so too, *when Rabin came*, he said R. Yohanan said, "Reference is made to a married woman."

N. *So on what basis do you call this a lightweight prohibition?*

O. For the one who makes her prohibited to other men does not do so during his entire life [since if he divorces her, she can marry someone else, and that is a prohibition that can end at any time, and it is lightweight in comparison to the prohibition against the man's wife's sister, which is in force so long as his wife lives (Slotki)].

**II.7** A. *So, too, it has been taught on Tannaite authority:*

B. Abba Hanan said in the name of R. Eleazar, "It is a married woman. For if when a man has sexual relations with a woman who is forbidden by a lightweight prohibition, in that he who makes her prohibited does not keep her prohibited through his entire life, it is the rule that the person who causes the prohibition becomes prohibited [the woman becomes forbidden to her own husband through illicit intercourse (Slotki)], then where having sexual relations is forbidden by a heavyweight prohibition, in which instance the one who makes her prohibited makes her prohibited throughout her lifetime [the wife's sister], all the

more so should we rule that the one who causes the prohibition should be prohibited.

C. “So it is required that we invoke this scriptural reading: ‘With her’ (Num. 5:13) – sexual relations with her prohibits her husband from remaining wed to her, but sexual relations with her sister does not prohibit her to be prohibited to her husband.”

- III.1 A.** [If they said to him, “Your wife has died,” and he married her sister, and afterward they said to him, “She was alive, but then she died” – the former offspring is a mamzer born before the wife died, and the latter [after she died is not a mamzer:] R. Yosé says, “Anyone who invalidates [his wife] for [marriage] with others invalidates her for marriage for himself, and whoever does not invalidate his wife for marriage with others does not invalidate her for himself”]:
- B. *In the context of the prior statement, what can R. Yosé possibly mean?*
- C. *If we say that the initial Tannaite authority has stated that if the man’s wife and brother-in-law [his wife’s sister’s husband] went overseas [and they returned after he had married his wife’s sister because he heard a single witness testify that both had died], then the wife of the brother-in-law is forbidden to her husband, his brother-in-law, though his own wife is permitted, then R. Yosé said to him, “Just as his wife is permitted to him, his brother-in-law’s wife is permitted to him” – if that is what we think it means, then the language that is used, **whoever does not invalidate his wife for marriage with others does not invalidate her for himself**, is not correct, but it should have been whoever does not invalidate himself for marriage with others does not invalidate ...for others.*
- D. *If the meaning is, just as the wife of his brother-in-law is forbidden [to her husband, his brother-in-law (Slotki)], so his own wife is forbidden to him, then the language, **Anyone who invalidates [his wife] for [marriage] with others invalidates her for marriage for himself**, poses no problems, but what shall we make of the language, **whoever does not invalidate**?*
- E. *Said R. Ammi, “[Yosé] makes reference to the earlier formulation, namely: **If she did not remarry at the instruction of a court, she goes forth, and she is liable to the requirement of bringing an offering. The authority of the court is strong enough to exempt her from the requirement of bringing a***

**sacrifice.** The authority of the court is greater in that it has the power to exempt her from having to present an offering. *Now the initial Tannaite authority [of our passage] maintains, his wife may return to him whether or not the marriage took place [of the husband whose wife had gone overseas, to the wife's sister, whose husband also had gone away] whether or not the marriage took place on the statement of two witnesses, in which case the wife of the brother-in-law is permitted to her husband when he came home, or whether it was in accord with the decision of the court [on the evidence of one witness], in which case the wife of his brother-in-law is forbidden to her husband when he gets back. It is to this that R. Yosé then replied, 'If the marriage took place in accord with a court decision, then, where he invalidates [his wife] for [marriage] with others, he also invalidates her for marriage for himself; but if it was on the basis of the evidence of two witnesses, then when he does not invalidate his wife for marriage with others does not invalidate her for himself.'* [Slotki: His first wife may return to him.]”

- F. R. Isaac Nappaha said, “In point of fact, [Yosé] refers to the latter clause [marriage permitted on the strength of one witness]. He addresses a case in which the ones who had gone overseas were the man's wife and his brother-in-law, and another of his rulings pertains to a case in which his betrothed and brother-in-law had gone overseas. The position of the first Tannaite authority is, without regard to whether it was his wife and his brother-in-law, or his betrothed and his brother-in-law, the wife of his brother-in-law is forbidden, and his wife is permitted. To this R. Yosé said, ‘So far as it involves his wife and his brother-in-law, where no one would imagine he had made some stipulation in the marriage agreement [with the first wife, no such stipulation being possible], and where he does not make his sister-in-law prohibited to her husband, his brother-in-law, he does not make his first wife prohibited to him either; where it is a case in which his betrothed and his brother-in-law have gone overseas, when someone might imagine that he had inserted some stipulation into the agreement of betrothal’ [and it was null and the betrothal was involved, so he could legally contract his subsequent marriage, since his supposed sister-in-law is now not related to him at all, her sister never having been betrothed to him], so consequently he prohibits the sister-in-law to be prohibited to her former husband [if she could return to him, it might be assumed he had divorced her prior to her marriage with her brother-in-law and the latter had divorced her, so it would appear that a man



remarried a woman he had divorced who had in the interim remarried (Slotki)], *he causes his first wife to be prohibited to him.*”

**III.2** A. Said R. Judah said Samuel, “The decided law accords with R. Yosé.”

B. *Could Samuel have made such a statement? And has not the following been stated?*

C. “As to a levirate widow –

D. “Rab said, ‘She is equivalent to a married woman.’

E. “Samuel said, ‘She is not equivalent to a married woman.’

F. “And said R. Huna, ‘For instance, if his brother betrothed a woman and then went overseas, and the brother at home heard that the overseas brother had died and he went and married the brother’s wife – Rab said, “She is equivalent to a married woman.” Samuel said, “She is not equivalent to a married woman,” *and she is permitted to him.*” [Slotki: In Samuel’s view, no provision has to be made against the erroneous assumption that the betrothal might have been invalid.]

G. *Said to him Abbaye, “Now on what basis do you suppose that, when Samuel said, ‘The decided law accords with the position of R. Yosé,’ it was vis-à-vis R. Isaac Nappaha that he made that statement. Perhaps it was vis-à-vis R. Ammi’s statement that he made his judgment? And even if you hold that he makes reference to the statement of R. Isaac Nappaha, how do you know that he referred to the ruling that he is disqualified; [96A] maybe he referred to the ruling that he does not disqualify?* [Slotki: The case involves the wife and the brother-in-law; Samuel indicates that in this case alone the law accords with Yosé that the sister-in-law is permitted to her first husband, versus the view of the initial Tannaite authority, who forbids her.]

H. *“Or perhaps, how do you know that R. Huna’s position is valid? Perhaps what he says is null. What is at issue between them concerns the statement of R. Hammuna, ‘A woman awaiting levirate marriage who committed an act of fornication is invalidated for marrying her deceased childless husband’s brother.’ In this case, Rab said, ‘She is equivalent to a married woman.’ Samuel said, ‘She is not equivalent to a married woman,’ so she is not invalidated by an act of fornication.*

- I. *“Or perhaps at issue between them is whether or not a betrothal by an outsider takes effect in the case of a levirate widow, for Rab said, ‘She is equivalent to a married woman,’ so an act of betrothal by an outsider does not take effect in the case of a levirate widow. Samuel said, ‘She is not equivalent to a married woman,’ so an act of betrothal by an outsider does take effect in the case of a levirate widow.”*
- J. *But this is something they already had discussed!*
- K. *The one was spelled out, the other inferred from the former.*

## 10:5-6

### 10:5

- A. (1) [If] they said to him, “Your wife has died,”
- B. (2) and he married her sister by the same father,
- C. (3) [and they reported that] she died and he married her sister from the same mother,
- D. (4) [and they reported that] she died and he married her sister from the same father,
- E. (5) [and they reported that] she died, and he married her sister from the same mother –
- F. and it turns out that all of them are alive –
- G. he is permitted [to continue in marriage] with the first, the third, and the fifth,
- H. and they exempt their co-wives.
- I. But he is prohibited [to continue in marriage] with the second and the fourth,
- J. and sexual relations [of the levir] with one of them does not exempt her co-wife.
- K. 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,
- L. and they exempt their co-wives.
- M. And he is prohibited [to remain married to] the third and the fifth.
- N. And sexual relations with one of them does not exempt her co-wife.

## 10:6

- A. A boy nine years and one day old
- B. invalidates [his deceased childless brother's widow] for the other brothers,
- C. and the other brothers invalidate her for him,
- D. But [while] he invalidates her at the outset,
- E. the brothers invalidate her at the outset and at the end.
- F. How so?
- G. A boy nine years and one day old who had sexual relations with his deceased childless brother's widow has invalidated her for the [other] brothers.
- H. [If one of] the brothers had sexual relations with her, bespoke her, gave her a writ of divorce, or performed the rite of removing the shoe with her,
- I. they have invalidated her for him.

- I.1** A. *But didn't all the marriages take place after the first wife [and why is that fact mentioned only in the second clause]?*
- B. *Said R. Sheshet, "The meaning is, after the [actual] death of the first." [In the other cases, it was only reported (Slotki)].*

- II.1** A. **A boy nine years and one day old invalidates [his deceased childless brother's widow] for the other brothers, and the other brothers invalidate her for him. But [while] he invalidates her at the outset, the brothers invalidate her at the outset and at the end:**
- B. *Is it the fact that a boy of nine years and a day at the outset [before the adult levirs have undertaken bespeaking the widow] invalidates the levirate widow, but at the end does not [if they have bespoken her and only then he had sexual relations with her]? Did not R. Zebid b. R. Oshaia state as a Tannaite formulation, "He who performs an act of bespeaking of his levirate sister-in-law and afterward his brother nine years and a day old had sexual relations, he has invalidated her for marriage with the one who earlier had bespoken the widow"?*
- C. *Say: An act of sexual relations invalidates the woman for any other levir even after some prior act of bespeaking has taken place, but while an act of bespeaking invalidates her for the other levirs if done as the first of a sequence of levirate actions, it does not do so at the end.*

- D. *But is it the fact that an act of sexual relations invalidates the woman for any other levir even after some prior act of bespeaking has taken place?*
- E. *And has it not been taught as a Tannaite statement: **But [while] he invalidates her at the outset, the brothers invalidate her at the outset and at the end. How so? A boy nine years and one day old who had sexual relations with his deceased childless brother's widow has invalidated her for the [other] brothers. [If one of] the brothers had sexual relations with her, bespoken her, gave her a writ of divorce, or performed the rite of removing the shoe with her, they have invalidated her for him?** [Slotki: Since the illustration is limited to an act of cohabitation only, the general statement that the boy renders her unfit from the outset only, on which the illustration hangs, must also be limited to cohabitation.]*
- F. *The passage is flawed, and this is how it is to be set forth as a Tannaite statement: **A boy nine years and one day old invalidates his deceased childless brother's widow if he had sexual relations with her at the outset [prior to any other action by another party]. The brothers invalidate her at the outset and at the end.** Under what circumstances? If there was an act of bespeaking. But sexual relations on his part will invalidate the widow for the other brothers even if it took place at the end. **How so? A boy nine years and a day old who had sexual relations with his levirate sister-in-law has invalidated her for the other brothers.***

- II.2** A. *But does the act of bespeaking of a boy bear any consequences at all in respect to the other brothers? And has it not been taught on Tannaite authority:*
- B. **A boy nine years and a day old spoils the levirate widow for the other brothers in one way, and the brothers spoil her for him in four ways. He spoils her for the brothers only through an act of sexual relations. But they spoil her for him through an act of sexual relations, a writ of divorce, an act of bespeaking, and a rite of removing the shoe [all of which, done by them is valid] [T. Yeb. 11:10H-J].**
  - C. *As to an act of sexual relations, which spoils the widow for the others whether it is the first or the last act, that act invariably proves effective, but the act of bespeaking sometimes spoils the relationship only to begin with but not if done after some other action, so it was not set forth by the framer of the passage at all. [But the boy's act of bespeaking is sometimes effective.]*
    - D. *So, too, it has been stated:*

E. Said R. Judah said Samuel, “The boy has the power to issue a valid writ of divorce [spoiling the levirate widow from relations with the other brothers].”

F. And so said R. Tahalipa bar Abimi, “He has the right to effect an act of bespeaking.”

G. *So, too, it has been taught on Tannaite authority:*

H. “A boy has the power to issue a writ of divorce to his levirate sister-in-law and has the power to effect an act of bespeaking with her,” the words of R. Meir.

**II.3** A. *But does R. Meir really maintain that he has the right to issue a writ of divorce? And has it not been taught on Tannaite authority: **They have treated the act of sexual relations of a nine-year-old boy as equivalent to the act of bespeaking of an adult. R. Meir says, “They have treated the rite of removing the shoe performed by a nine-year-old boy as the equivalent of a writ of divorce issued by an adult” [T. Yeb. 11:10C]. Now if it were the fact that R. Meir maintains that he has the right to issue a writ of divorce, the framer should have said, as the equivalent of a writ of divorce issued by him!***

B. *Said R. Huna b. R. Joshua, “He may issue a writ of divorce, but it is a triviality [so one cannot compare his rite of removing the shoe, which is valid like a divorce issued by an adult, and his writ of divorce, his is not of the same weight]. For from the perspective of Rabban Gamaliel, who has said, ‘**There is no writ of divorce [which is valid] after [another] writ of divorce [so that the second such writ is invalid]**’ [M. Yeb. 5:1A], that is the case for an adult’s doing so after an adult has done so, or a minor’s doing so after another minor has done so; but in the case of an adult who does so after a minor has done so, the action of the adult is effective.*

C. “From the perspective of rabbis,<sup>1</sup> who have said, ‘**There is a writ of divorce [which is valid] after [another] writ of divorce,**’ that is the case for an

adult's doing so after an adult has done so, or a minor's doing so after another minor has done so; but in the case of a minor who does so after an adult has done so, the action of the adult *is null*."

### 10:7-8D

- A. [96B] A boy nine years and one day old who had sexual relations with his deceased childless brother's widow,
- B. and afterward his brother, who was nine years and one day old, had sexual relations with her,
- C. he [the latter] has invalidated her for marriage with him [the former].
- D. R. Simeon says, "He has not invalidated [her for marriage with the first brother] ."

### 10:8A-D

- A. A boy nine years and one day old who had sexual relations with his deceased childless brother's widow,
- B. and afterward he had sexual relations with her co-wife,
- C. has invalidated her for himself.
- D. R. Simeon says, "He has not invalidated her for himself."

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

- B. Said R. Simeon to sages, "If the first act of sexual relations was valid, the second is null, and if the first is not valid, then the second also is not valid." *Now so far as rabbis are concerned, the act of sexual relations of a nine-year-old is treated as tantamount to the act of bespeaking, and yet, as we see, R. Simeon has declared that such an act of sexual relations is null.*

**I.2** A. *Our Mishnah's rule*, [regarding the sexual relations of the levir minor as equivalent to an act of bespeaking and yet rules that an act of sexual relations after another such act is legally effective (Slotki)] *is not in accord with Ben Azzai, as has been taught on Tannaite authority: Ben Azzai says, "There can be a valid act of bespeaking after another act of bespeaking, in the case of two levirs and one deceased childless brother's widow, but there cannot be a valid act of bespeaking after another such act where there are two deceased childless brother's widows and one levir."* [Slotki: The second act of bespeaking has no validity, because by the first act of bespeaking the levir had already effected acquisition of the widow to whom he had addressed it.]

### 10:8E-G

- E. A boy nine years and one day old who had sexual relations with his deceased childless brother's widow and then died –
- F. she performs the rite of removing the shoe but does not enter into levirate marriage [with a levir].
- G. [If] he married a woman and died, lo, this one is exempt [from the levirate connection entirely].

### 10:9

- A. A boy nine years and one day old who had sexual relations with his deceased childless brother's widow,
- B. and when he grew up, married another wife, and then died –
- C. if he did not have sexual relations with the first from the time that he reached maturity,
- D. the first performs the rite of removing the shoe but does not enter into levirate marriage.
- E. And the second either performs the rite of removing the shoe or enters into levirate marriage.
- F. R. Simeon says, "He [the surviving levir] enters into levirate marriage with whichever one he wants, but he also performs the rite of removing the shoe with the second woman."
- G. All the same is a boy nine years and one day old and one who is twenty years old but has not produced two pubic hairs.

**I.1** A. [A boy nine years and one day old who had sexual relations with his deceased childless brother's widow and then died – she performs the rite of removing the shoe but does not enter into levirate marriage with a levir:] *Said Raba, "In regard to what rabbis have said, namely, when there is a levirate bond pertaining to two levirs, the widow performs the rite of removing the shoe but does not contract levirate marriage, you should not suppose that that is the case only where there is a co-wife, since in that case, it is a precautionary decree on account of the co-wife. For here, there is no co-wife, and yet it is still the case that the widow performs the rite of removing the shoe but does not contract levirate marriage."*

**II.1** A. [If] he married a woman and died, lo, this one is exempt [from the levirate connection entirely]:

- B. *In the present passage we learn a Tannaite version of that which our rabbis have taught on Tannaite authority: An idiot or a minor who married and died – their wives are exempt from the requirement of performing the rite of removing the shoe [T. Yeb. 11:11:K-L].*

**III.1** A. A boy nine years and one day old who had sexual relations with his deceased childless brother's widow, and when he grew up, married another wife, and then died – if he did not have sexual relations with the first from the time that he reached maturity, the first performs the rite of removing the shoe but does not enter into levirate marriage. And the second either performs the rite of removing the shoe or enters into levirate marriage:

- B. But why not treat the act of sexual relations of a boy nine years and a day old as equivalent to the act of bespeaking of an adult, with the consequence that the co-wife here is invalidated for levirate marriage [and why give her the choice of removing the shoe or levirate marriage]?  
C. Said Rab, "The act of sexual relations of a nine-year-old boy is not treated as equivalent to an act of bespeaking done by an adult."  
D. And Samuel said, "It is most certainly treated in such a way."  
E. And so said R. Yohanan, "It is most certainly treated in such a way."  
F. [In accord with the latter authorities,] let the same validity be assigned here too?

G. *It is a conflict of Tannaite formulations of the law. The Tannaite authority who stands behind the ruling in the chapter, **Four Brothers**, maintains that there is a precautionary decree on account of the co-wife, [making reference to the passage, **Three brothers married to three unrelated women – and one of the men died, and the second brother bespoke her [the widow of his brother] and then he, too, died – lo, these perform the rite of removing the shoe and do not enter into levirate marriage, since it is said, "And one of them dies...her brother-in-law will come unto her" (Deu. 25: 5) – [referring to] the one who is subject to the levirate power of a single brother-in-law, and not the one who is subject to the levirate power of two brothers-in-law. R. Simeon says, "He [the surviving brother] takes in levirate marriage whichever one he wants and performs the rite of removing the shoe with the second woman" [M. 3:9A-H], where the question is raised and answered to which***



reference is made here: *If the levirate bond is with two levirs by the law of the Torah [as maintained by rabbis vis-à-vis Simeon], then she should also not have to undertake the rite of removing the shoe! It is on the authority of rabbis, who have made a decree to take precautions against the assumption that two deceased childless brother's widows deriving from the same house, that is, widows of the same brother, may both enter into levirate marriage with the brothers.] Now the rule is stated with regard to an adult, but the same law applies to a minor, and he has made reference to an adult only because that was the topic then under discussion. And the Tannaite authority of the present passage maintains that the sexual relations of the minor and the act of bespeaking of the adult were treated as equivalent, but he made no precautionary measure on account of the co-wife; and while speaking of a minor, the same is the case for an adult; he has mentioned a minor only because that was the topic of the passage.*

- III.2** A. R. Eleazar stated this tradition at the schoolhouse, but he did not give it in the name of R. Yohanan. R. Yohanan heard about it. He was outraged. R. Ammi and R. Assi went to him. They said to him, "Was this not the precedent in the synagogue of Tiberias, in the case of a door bolt that had a knob at one end [debating whether or not the bolt may be used on the Sabbath; since it is not a utensil, it may not be used; or since the knob at the end can be used as a pestle for crushing food, it is a utensil and may be used on the Sabbath (Slotki)], in which R. Eleazar and R. Yosé debated so fiercely that they tore a scroll of a Torah in their wrath?"
- B. *Now do you honestly think they tore a scroll of the Torah?*
- C. Say: "A Scroll of the Torah was torn in their wrath."
- D. "And R. Yosé b. Qisma was present. I said, 'I should be surprised if in this synagogue an act of idolatry should take place.' And that is precisely what happened."
- E. *[Yohanan] got madder: "It's the old buddy -system."*
- F. R. Jacob bar Idi came in. He said to him, "As the Lord commanded Moses, his servant, so did Moses command Joshua, and so did Joshua; he left nothing undone of all that the

Lord had commanded Moses' (Jos. 11:15). So did Joshua state, every time he told people anything, 'This is what Moses said to me'? But Joshua in session expounded without identifying the authority, but everybody knew that he was the Torah of Moses. So R. Eleazar is your disciple, out there in session and expounding without identifying the authority, but everybody knows that it is yours."

G. He said to him, "How come you fellows don't know how to negotiate the way our colleague, Ben Idi, has done it?"

H. *And how come R. Yohanan got all that mad?*

I. *It is in line with what R. Judah said Rab said, "What is the meaning of the verse of Scripture: 'I will dwell in your tent forever' (Psa. 61: 5)? Can somebody really dwell in both worlds? Rather, said David before the Holy One, blessed be He, 'Lord of the world, may it please you [97A] that people say a tradition in my authority in this world.'"*

J. For said R. Yohanan in the name of R. Simeon b. Yohai, "Every disciple of a sage in whose authority people state a tradition in this world – his lips murmur in the grave."

K. And said R. Isaac bar Zeiri, and some say Simeon the Nazirite, "What is the meaning of the verse, 'And the roof of your mouth like the best wine that glides smoothly for my beloved, moving gently the lips of those that are asleep' (Son. 7:10)? It is to be compared to a heated mass of grapes. Just as a heated mass of grapes drips as soon as you put the weight of your finger to it, so the lips of disciples of sages in the grave murmur when someone states a tradition in their authority."

**IV.1 A. All the same is a boy nine years and one day old and one who is twenty years old but has not produced two pubic hairs.**

B. *An objection was raised: A boy twenty years old who has not produced two pubic hairs – let him bring evidence that he is twenty years old, and he is*

**declared a eunuch. He does not perform the rite of removing the shoe and does not enter into levirate marriage. A girl twenty years old who has not produced two pubic hairs – let her bring evidence that she is twenty years old and she is then declared sterile: she does not perform the rite of removing the shoe to sever a levirate connection and does not enter into levirate marriage.** [So at the age of twenty, one is legally an adult, although the body has not matured, while our Mishnah passage regards signs of maturity as the criterion (Slotki).]

- C. *Lo, it has been said in this regard, said R. Samuel bar Isaac said Rab, “But the rule that he is regarded as a eunuch is invoked only if he produces the marks that he is a eunuch.”*
- D. *Said Raba, “A close reading of the Tannaite passage yields the same result, for it says, **and he is declared a eunuch.**”*
- E. *That proves it.*

- IV.2** A. But if the marks of being a eunuch do not develop, how long is one still regarded as a minor?
- B. *The Tannaite authority of the household of R. Hiyya stated, “Till past middle age.”*
  - C. *When such a case was brought to Raba, he would say to them, “If he is emaciated, fatten him up;” if he is stout, “put him on a diet.” For if these symptoms disappear, it may be because of emaciation or because of obesity.*