

IV.

BAVLI YEBAMOT CHAPTER FOUR

FOLIOS 35B-50A

4:1-2

4:1

- A. He who undergoes the rite of removing the shoe with his deceased childless brother's widow,
- B. and it turns out that she is pregnant, and she gives birth —
- C. when the offspring is timely [and not premature],
- D. he is permitted to marry her relatives, and she is permitted to marry his relatives,
- E. and he has not invalidated her from marrying into the priesthood.
- F. [If] the offspring is not timely,
- G. he is prohibited from marrying her relatives, and she is prohibited from marrying his relatives,
- H. and he has invalidated her from marrying into the priesthood.

4:2

- A. He who marries [enters into levirate marriage with] his deceased childless brother's widow,
- B. and it turns out that she is pregnant, and she gives birth —
- C. when the offspring is timely,
- D. he must put her away, and they [both man and woman] are liable for a sacrifice.
- E. [If] the offspring is not timely,
- F. he may confirm [the marriage].
- G. [If] it is a matter of doubt whether the offspring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second,
- H. he must put her away.
- I. But the offspring is valid.
- J. And both of them are liable for a suspensive guilt offering.

I.1 A. *It has been stated:*

- B. He who enters into the rite of removing the shoe with a pregnant woman who then miscarried —
- C. R. Yohanan said, “She does not perform the rite of removing the shoe [with the brothers].”
- D. And R. Simeon b. Laqish said, “She does perform the rite of removing the shoe [with the brothers].”
- E. R. Yohanan said, “She does not perform the rite of removing the shoe [with the brothers].” the rite of removing the shoe performed by a pregnant woman who has miscarried is classified as a valid rite of removing the shoe, and the act of sexual relations of a pregnant woman is classified as a valid act of sexual relations.
- F. And R. Simeon b. Laqish said, “She does perform the rite of removing the shoe [with the brothers].” the rite of removing the shoe performed by a pregnant woman who has miscarried is not classified as a valid rite of removing the shoe, and the act of sexual relations of a pregnant woman is not classified as a valid act of sexual relations.
- G. *What is at stake in this dispute?*
- H. *If you wish, I shall say that at issue is the interpretation of a verse of Scripture, and if you wish, I shall say that at issue is a matter of reasoning.*
- I. *If you wish, I shall say that at issue is the interpretation of a verse of Scripture: “R. Yohanan takes the view that the language, “And have no child” is what Scripture has said, and lo, this one has no child. And R. Simeon b. Laqish maintains that the language, “And have no child” implies, “look into the matter” [and find out whether there has been any kind of offspring; here the miscarriage then qualifies].*
- J. *and if you wish, I shall say that at issue is a matter of reasoning. R. Yohanan takes the view that, if Elijah should come and say that the woman is going to miscarry, would she not in any event have been subject to the rite of removing the shoe or levirate marriage? {She most certainly would.} So here too, it is a fact that is subject to retrospective clarification. And R. Simeon b. Laqish maintains that we do not invoke the principle that a fact is subject to retrospective clarification [but we settle matters as they are at the moment of decision].*
- K. R. Yohanan objected to R. Simeon b. Laqish, “**[If] the offspring is not timely, he is prohibited from marrying her relatives, and she is prohibited from marrying his relatives, and he has invalidated her from marrying into the priesthood.** Now from my perspective, in holding that the rite of removing the shoe performed by a pregnant woman who has miscarried is classified as a valid rite of removing the shoe, and the act of sexual relations of a pregnant woman is classified as a valid act of sexual relations, *that explains why he renders her unfit.* But from your perspective, in holding that, the rite of removing the shoe performed by a pregnant woman who has miscarried is not classified as a valid rite of

removing the shoe, and the act of sexual relations of a pregnant woman is not classified as a valid act of sexual relations, *why in the world can he have invalidated her from marrying into the priesthood?*”

- L. *He said to him, “It is based on rabbinical authority and represents merely a stricter ruling than the law would require”* [Slotki: one not knowing the circumstances of this particular case would erroneously assume that any other woman who has performed the rite of removing the shoe likewise may be married to a priest].
- M. *There are those who represent matters as follows: R. Simeon b. Laqish objected to R. Yohanan, “ [If] the offspring is not timely, he is prohibited from marrying her relatives, and she is prohibited from marrying his relatives, and he has invalidated her from marrying into the priesthood. Now from my perspective, in holding that the rite of removing the shoe performed by a pregnant woman who has miscarried is not classified as a valid rite of removing the shoe, that explains why he renders her unfit — that is, as a strict interpretation of the law. But it is not taught as the Tannaite rule, she does not have to undergo the rite of removing the shoe with the brothers. But from your perspective, the rule should be stated: she does not have to undergo the rite of removing the shoe with the brothers.”*
- N. *He said to him, “True enough. But since the Tannaite formulation in the first clause is, and he has not invalidated her from marrying into the priesthood, it is stated in the second clause, and he has invalidated her from marrying into the priesthood.”*
- O. *R. Yohanan objected to R. Simeon b. Laqish, “ [If] the offspring is not timely, he may confirm [the marriage]: now from my perspective, in holding that the rite of removing the shoe performed by a pregnant woman who has miscarried is classified as a valid rite of removing the shoe, and the act of sexual relations of a pregnant woman is classified as a valid act of sexual relations, that explains why he may confirm [the marriage]. But from your perspective, in holding that, the rite of removing the shoe performed by a pregnant woman who has miscarried is not classified as a valid rite of removing the shoe, and the act of sexual relations of a pregnant woman is not classified as a valid act of sexual relations, why in the world [can he confirm the marriage]? Rather, the rule should state, he must go and have sexual relations with her again, and only then may he confirm the marriage!”*”

- P. *“But what is the meaning of, **he may confirm [the marriage]**? It is, he must go and have sexual relations with her again, and only then may he confirm the marriage. That is, it is not sufficient [without doing so].”*
- Q. *There are those who represent matters as follows: R. Simeon b. Laqish objected to R. Yohanan, “ **[If the offspring is not timely, he may confirm [the marriage]:** now from my perspective, in holding that the rite of removing the shoe performed by a pregnant woman who has miscarried is not classified as a valid rite of removing the shoe, and the act of sexual relations of a pregnant woman is not classified as a valid act of sexual relations, that explains why **he may confirm [the marriage]** — meaning: he must go and have sexual relations with her again, and only then may he confirm the marriage. That is, it is not sufficient [without doing so]. But from your perspective, the rule should be, if he wants, he may divorce her, but if he wants, he may confirm the marriage with her.”*
- R. *He said to him, “True enough. But since in the prior clause it says, **he must put her away**, in the following clause it says, **he may confirm [the marriage]**.”*
- S. *An objection was raised: He who marries his deceased childless brother’s widow and she turns out to be pregnant, lo, her co-wife should not remarry, lest the offspring turn out to be viable. To the contrary, what it should say is this: if the offspring is viable, her co-wife is exempt [and free to marry, so none of the widows of the deceased is subject to the levirate connection in any form]. So rather read: it is possible that the offspring will not be viable. Now, if it should enter your mind that the act of sexual relations of a pregnant woman is classified as a valid act of sexual relations, why is the rule that her co-wife should not remarry, lest the offspring turn out to be viable? Let her be freed of the levirate connection through the act of sexual relations of her fellow!”*
- T. *Said Abbaye, “As to the sexual relations, both parties concur that she does not exempt her co-wife. What separates them is only the question of the rite of removing the shoe. R. Yohanan maintains that that the rite of removing the shoe performed by a pregnant woman who has miscarried is classified as a valid rite of removing the shoe but the act of sexual relations of a pregnant woman is not classified as a valid act of sexual relations, and*

- R. Simeon b. Laqish holds the view that that the act of sexual relations of a pregnant woman is not classified as an act of sexual relations, and the rite of removing the shoe performed by a pregnant woman who has miscarried is not classified as a valid rite of removing the shoe.*
- U. *Said to him Raba, "Well, how do you want it? If the act of sexual relations of a pregnant woman is classified as an act of sexual relations, then the rite of removing the shoe performed by a pregnant woman should be regarded as valid, and if the act of sexual relations of a pregnant woman is not classified as an act of sexual relations, then the rite of removing the shoe performed by a pregnant woman should not be regarded as valid. For we have it as an established rule [36A] that anyone who is subject to marriage with the levir is subject to the rite of removing the shoe, and anyone who is not subject to marriage with the levir is not subject to the rite of removing the shoe."*
- V. *Rather, said Raba, "This is the sense of the matter: 'He who marries his deceased childless brother's widow and she turns out to be pregnant, lo, her co-wife should not remarry, lest the offspring turn out to be viable, and sexual relations with a pregnant woman are not classified as sexual relations, and the rite of removing the shoe done with a pregnant woman is not classified as a valid rite of removing the shoe, and the offspring does not exempt the co-wives from the levirate connection until it is actually born.'"*
- W. *It has been taught on Tannaite authority in accord with the position of Raba: He who marries his deceased childless brother's widow and she turns out to be pregnant, lo, her co-wife should not remarry, lest the offspring turn out to be viable, and sexual relations with a pregnant woman or the rite of removing the shoe does not exempt the co-wives from the levirate connection, but only the offspring exempts the co-wives, and the offspring does not exempt the co-wives from the levirate connection until it is actually born.*
- X. *The operative consideration therefore in exempting the co-wives from the levirate connection is, lest the offspring turn out to be viable. But then, if the offspring is not viable, the co-wife is exempt [Slotki: on the strength of the sexual relations that took place prior to the miscarriage of the child, no repeated sexual relations being necessary]. May we then say that this refutes the position of R. Simeon b. Laqish?*
- Y. *R. Simeon b. Laqish will say to you, "This is the sense of the statement: He who marries his deceased childless brother's widow and she turns out to be pregnant, lo, her co-wife should not remarry, lest the offspring not turn out to be viable, and sexual relations with a pregnant woman are not classified as valid sexual relations, and the rite of removing the shoe performed with her is not classified as a valid rite of removing the shoe. And if you should say, 'well, follow the rule governing the majority of women, and the majority of women produce perfectly healthy offspring,' still it is the fact that an offspring exempts the co-wives from the levirate connection only when it is actually born."*

- Z. *Said R. Eleazar, "Well, how is it possible that there should be such a ruling as that which R. Simeon b. Laqish has laid down, and yet we have not learned it as a Tannaite formulation in our Mishnah?" He went forth and took a close look, and found the following, which we have learned in the Mishnah: A woman whose husband and co-wife went overseas and they came and said to her, "Your husband has died," should not remarry [without the rite of removing the shoe or enter into levirate marriage, until she ascertains whether her co-wife is pregnant [M. 16:1A-B]. Now it is easy to understand why she should not enter into levirate marriage, lest the offspring be viable, so the levir would violate the Torah's prohibition against marrying a brother's wife. But why should she not perform the rite of removing the shoe? Now there is no problem in understanding why she should not perform the rite of removing the shoe within the nine months after the husband's death, and not contract a marriage in that same period, on account of doubt [as to whether the offspring is viable; if it is, the rite and the levirate marriage would be invalid; the exemption is brought into force by the actual birth]. But why should she not perform the rite of removing the shoe within the nine months of the husband's death and enter into marriage after nine months?" [Slotki: this should be permitted by Yohanan in any event: if the rival had been pregnant and miscarried or had not been pregnant at all, the rite of removing the shoe was valid; if a viable child had been born, the exemption took effect at his birth, and the subsequent marriage would be lawful; since the rule forbids the rite of removal and marriage even after nine months unless definite information about the rival has been received, it must be assumed to represent the view of Simeon b. Laqish, who deems the rite of removal invalid wherever the child is not viable and the ceremony took place during pregnancy.]*
- AA. *But even in accord with your position [the rite of removal is forbidden because the co-wife may have been pregnant when the rite took place (Slotki)], let her perform the rite of removal and then marry after nine months [when there will be no doubt on the pregnancy; why wait to find out whether the co-wife has been pregnant at all]? So this passage must be excluded from consideration, for Abbaye and Bar Abba and R. Hinena bar Abbaye all maintained, "It is possible that the offspring of the co-wife might be viable, and you would then make it necessary to proclaim concerning her with regard to the priesthood [that the rite of removal was unnecessary and therefore null, so she remains eligible to the priesthood]."*
- BB. *So make it necessary to issue such a proclamation!*
- CC. *There may be someone who witnessed the rite of removing the shoe but did not hear about the proclamation and so would imagine that*

a woman who has performed the rite of removing the shoe may marry a priest [which is not the case].

DD. *Said to him Abbaye, “Now has it been said, ‘She should not carry out the rite of removing the shoe nor enter into levirate marriage’? What is stated is, ‘She shall not be married nor enter into levirate marriage’ that is, without the rite of removing the shoe. But if the rite of removing the shoe was carried out [even within the nine months of the death of the husband], she would be permitted to marry at the end of the period”* [Slotki: and the passage affords no support to Simeon b. Laqish].

EE. *It has been taught on Tannaite authority in accord with the position of R. Simeon b. Laqish: He who carries out the rite of removing the shoe with a pregnant woman, who subsequently miscarried — she has to enter into the rite of removing the shoe with one of the other brothers.*

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

B. *“The second is in accord with that which we have learned in the Mishnah: **He who divides his estate among his sons by a verbal [donation], [and] gave a larger portion to one and a smaller portion to another, or treated the firstborn as equivalent to all the others — his statement is valid. But if he had said, “By reason of an inheritance [the aforesaid arrangements are made],” he has said nothing whatsoever. [If] he had written, whether at the beginning, middle, or end, [that these things are handed over] as a gift, his statement is valid [M. B.B.8:5E-J]. [36B]*** And said R. Simeon b. Laqish, ‘Title is not transferred unless he said, “Let Mr. X and Mr. Y will inherit such-and-such a field, which I have assigned to them as a gift, so that they may inherit them.”’

C. *“And the third is in line with that which we have learned in the Mishnah: **He who writes over his property to his son [to take effect] after his death — the father cannot sell the property, because it is written over to the son, and the son cannot sell the property, because it is [yet] in the domain of the father. [If] the father sold [it], the property is sold until he dies. If the son sold the property, the purchaser has no right whatever in the property until the father dies. The father***

harvests the crops and gives the usufruct to anyone whom he wants. And whatever he left already harvested-lo, it belongs to his heirs [M. B.B. 8:7]. *And it has been stated: if the son sold the property in the lifetime of the father and died in the lifetime of the father — R. Yohanan said, “The purchaser has not acquired the property.” R. Simeon b. Laqish said, “The purchaser has acquired the property.” R. Yohanan said, “The purchaser has not acquired the property,” for the right to the usufruct [such as the step father in our case had] is tantamount in law to the right to the substance of the estate, [so that when the son sold the estate during the lifetime of the father, he sold something that he did not own.] [R. Simeon b. Laqish said, “The purchaser has acquired the property,” for the right to the usufruct [such as the step father in our case had] is not tantamount in law to the right to the substance of the estate, so that when the son sold the estate during the lifetime of the father, he sold something that he did own.”*

II.1 A. [If] the offspring is not timely, he is prohibited from marrying her relatives, and she is prohibited from marrying his relatives, and he has invalidated her from marrying into the priesthood:

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

II.2. A. Said Raba, “R. Meir and R. Eliezer have made the same statement. R. Eliezer’s is the one that we have just said.

B. *“As to R. Meir’s, it is in line with that which has been taught on Tannaite authority: ‘A man should not marry a woman made pregnant by an earlier husband or giving suck to a child born to an earlier husband, and if she married under such conditions, he must put her away and never remarry her,’ the words of R. Meir. And sages say, ‘He puts her away, but when the time comes to marry her, he may marry her.’”*

C. *Said to him Abbaye, “How so? Perhaps that is not the case. R. Eliezer may take the position that he does here only on account of the fact that the levir is intersecting with the prohibition of the brother’s wife, which derives from the authority of the Torah, but where the prohibition is only by reason of the authority of rabbis, he may take the position as rabbis. And, alternatively, R. Meir may take the position that he does there only because the prohibition is rabbinical, and sages have enforced their rulings with stronger safeguards than*

they provide those of the Torah; *but here, where the prohibition derives from the Torah, they would not do so, since people ordinarily avoid violating laws of the Torah.*"

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

B. *Said Mar Zutra, "The Mishnah's wording itself yields that conclusion, since it says, he must put her away, not merely, he must separate from her."*

C. *That is decisive proof.*

II.4. A. *Said R. Ashi to R. Hoshia b. R. Idi, "There it has been taught on Tannaite authority: Rabban Simeon b. Gamaliel says, 'Any offspring that survived for thirty days in the case of a human being is no longer deemed a miscarriage' [T. Shab. 16:7E]. Lo, if it did not live that long a time, however, it would have been regarded as subject to doubt. But it has been stated: if it died within thirty days and the mother [widow of the deceased father] went and got betrothed [assuming that she no longer had a levirate obligation] — Rabina in the name of Raba said, 'If she is the wife of a member of the Israelite caste, she undertakes the rite of removing the shoe, but if she is the wife of a member of the priestly caste, she does not even have to do that.' R. Mesharshayya in the name of Raba said, "All the same is this woman and that one: she performs the rite of removing the shoe. Said Rabina to R. Mesharshayya, [37A] 'In the evening Raba made that statement, but the next morning he reversed himself.' He said to him, 'Once you have permitted it, would you also have permitted the forbidden abdominal fat!' Now, with reference to the pregnant or nursing wife of one's fellow who was married to a priest, what is the rule? Did rabbis make provision for the case of a priest, or did they not do so?"*

B. *He said to him, "Well how are the cases comparable anyhow! In that case, distinguishing between an Israelite and a priest makes good sense, [where the child died in the first thirty days and the mother was betrothed to an outsider], since rabbis differ from Rabban Simeon b. Gamaliel in holding that the offspring is deemed viable even though it did not live thirty days; so we may make provision for a priest's wife, where there is no choice, in accord with the position of rabbis. But here, in accord with what authority are we to act? If it is R. Meir's position, well, he has stated that the second husband must divorce her and may never remarry her; and rabbis hold that she is divorced by means of a writ of divorce."*

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

B. If someone betrothed a woman [who was pregnant or nursing, that is, a widow or divorcée] within three months [of the death or divorce], and then fled —

C. *there was a dispute between R. Aha and Rafram —*

D. *One said, "We excommunicate him" [Slotki: until he agrees to divorce the woman].*

E. *The other said, "His flight suffices" [since he clearly did not plan to live with her before the end of the period of twenty-four months after the birth (Slotki)].*

F. *There was a case, and Rafram said to them, "His flight suffices."*

III.1 A. [If] it is a matter of doubt whether the offspring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second, he must put her away. But the offspring is valid:

- B. *Said Raba to R. Nahman, "Why not say, 'We follow the majority of women,' and the majority of women give birth at nine months?" [Slotki: the child would be deemed the son of the first husband, and the marriage of the mother with the levir would be forbidden; the levir should bring a sin offering, not a suspensive guilt offering.]*
- C. *He said to him, "Our wives give birth at seven months."*
- D. *He said to him, "So are your wives the majority of the world?"*
- E. *He said to him, "This is what I meant to say: 'Most women give birth at nine months, a minority at seven, and in the case of every woman who gives birth at nine months, the embryo is to be discerned at the end of the first trimester of the pregnancy, and in the case of this woman, since the pregnancy was not to be discerned at the end of the first trimester, her claim to belong to the majority is spoiled.'"*
- F. *If in the case of every woman who gives birth at nine months, the embryo is to be discerned at the end of the first trimester of the pregnancy, since this woman's embryo was not recognized after the first trimester, it must be a child born at seven months and therefore to be assigned to the second husband!*
- G. *Rather, say: in the case of most women who give birth at nine months, the embryo is to be discerned at the end of the first trimester of the pregnancy, since this woman's embryo was not recognized after the first trimester, her claim to form part of the majority is impaired.*

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

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

III.3. A. *What does [Eliezer] mean?*

- B. *Said Abbaye, "This is what he meant to say: **The first child to be born is worthy of becoming a high priest, but the second is deemed a mamzer by reason of doubt,** and may not marry a mamzer-girl. **R. Eliezer b. Jacob says, "He is not deemed a mamzer by reason of doubt,** but he is certainly a mamzer, and he is permitted to marry a mamzer girl."*
- C. *Raba said, "This is what he meant to say: **The first child to be born is worthy of becoming a high priest, but the second is deemed a mamzer** by reason of the doubt about his origin and may marry a mamzer-girl. **R. Eliezer b. Jacob says,***

“He is not deemed a mamzer by reason of his doubtful origin, but he is a mamzer as a matter of doubt, and he is forbidden to marry a mamzer girl.”

- D. *They are in dispute concerning R. Eliezer’s statement, as we have learned in the Mishnah: R. Eliezer says, “Those who are of certain status are permitted to intermarry with others who are of certain status. Those who are of certain status and those who are of doubtful status, those who are of doubtful status and those who are of certain status, those who are of doubtful status and those who are of doubtful status — it is prohibited.” And who are those who are of doubtful status? The “silenced one,” the foundling, and the Samaritan [M. Qid. 4:3C-E]. And said R. Judah said Rab, “[The decided law accords with R. Eliezer.’ But when I made that statement before Samuel, he said to me, ‘Hillel repeated as a Tannaite statement: Ten castes came up from Babylonia: (1) priests, (2) Levites, (3) Israelites, (4) impaired priests, (5) converts, and (6) freed slaves, (7) mamzers, (8) Netins, (9) “silenced ones” [shetuqi], and (10) foundlings [M. Qid. 4:1A] and all of these castes may intermarry,’ and you say that the decided law accords with the position of R. Eliezer?!”*
- E. *Now Abbaye takes the view along the lines of Samuel’s position, who has said, “The law is in accord with Hillel,” and he therefore interprets the statement of R. Eliezer b. Jacob in accord with the law so that there will be no contradiction between one decided law and another. Raba reads matters as does Rab, who has said, “The decided law accords with R. Eliezer,” and he interprets the statement of R. Eliezer b. Jacob in accord with the decided law so that there will be no contradiction [37B] between one decided law and another.*
- F. *Said Abbaye, “On what basis do I maintain that in any matter of doubt, R. Eliezer treats the matter of doubt as though it were a certainty? It is on the basis of that which has been taught on Tannaite authority: R. Eliezer b. Jacob says, ‘If someone had sexual relations with many women and did not know which of them, and so in the case of a woman who had sexual relations with many men and did not know from which one of them she has become pregnant, it may turn out that a father may marry his daughter, and a brother his sister, so the whole world will be filled up with mamzerim. In regard to such a case, it is stated in Scripture, “And the land became full of lewdness” (Lev. 19:29)’ [T. Qid. 1:4F-G].”*
- G. And Raba?
- H. He will say to you, “This is the sense of his statement: ‘what might be the result’” [Slotki: the possibility is that the consequences might be..., not that all would be confirmed mamzerim].

III.4. A. More than this did R. Eliezer b. Jacob say, “A man should not marry a woman in one province and go and marry a woman in another, lest the two produce children

who might marry one another, so that a brother might marry his sister.”

B. *Is this so?: But lo, when Rab would come to Dardeshir, he would announce, “So who wants to be mine for the day?” And when R. Nahman would happen to visit Shekunsib, he would announce, “So who wants to be mine for the day?”*

C. *Well, rabbis are exceptional, since what they do is pretty well known.*

III.5. A. But didn’t Raba say, “If a woman has been sought in marriage and agrees, she has to allow seven cultically clean days to go by” [so how can rabbis marry on the day they come to town]?

B. *Rabbis would send out messengers and let people know that they were coming. If you prefer, I’ll say, “rabbis would only remain alone with the women [but would not have sexual relations with them], for a master has said, “He who has bread in the basket [even if he doesn’t eat it] is not the same as he who has no bread in his basket.”*

III.6. A. *A Tannaite statement: R. Eliezer b. Jacob says, “A man may not marry his wife intending to divorce her, since it is said, ‘Do not devise evil against your neighbor, seeing that he dwells securely with you’ (Pro. 3:29).”*

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

B. If the son whose status is subject to doubt and the children of the levir came to divide the estate of the deceased, the son whose status is subject to doubt says, *“I am the son of the deceased and the estate is mine,” and the sons of the levir say, “You are merely a brother of ours and you have only one share equal to ours,” rabbis reasoned before R. Mesharshayya to rule that it accords with the situation covered by our Mishnah: [If one of them was an Israelite and one a priest, he marries a woman appropriate for marriage into the priesthood. He does not become unclean by contact with corpses. And if he was made unclean, he does not incur forty stripes. And he does not eat heave offering. If he ate it, he does not pay back the principal and added fifth. And he does not take a share at the threshing floor. But he sells [his own] heave offering, and the*

proceeds are his. He does not take a share in the Holy Things of the sanctuary. And they do not give him Holy Things. But they do not remove his [Holy Things] from his own possession. And he is exempt from the requirement to give the priest the shoulder, cheeks, and maw. And a firstling belonging to him should be put out to pasture until it is blemished. And they apply to him the strict rules applicable to the priesthood and the strict rules applicable to Israelites. If both of them [A] were priests, he performs the rites of mourning for them, and they perform the rites of mourning for him. He does not become unclean for them, and they do not become unclean for him.] He does not inherit them, but they do inherit him [M. 11:7]. [That is, the son who may be born at seven months from the second husband or nine from the first is subject to the stated rule.] *Here we have a case that is just the opposite.* [Slotki: in the cited rule their claim is certain and his is not, in this case, his claim is certain and theirs is not. His claim is certain since he is entitled either to all of the estate or at least part of it; their claim is doubtful, since if he is the son of the deceased and the others are the sons of the levir, they have no claim on the estate.] *There they tell him, "Produce proof and take your share," here he tells them, "Produce proof and take your share."*

- C. *Said to them R. Mesharshayya, "But are the cases truly parallel? In that case, they have a claim that is certain and his is doubtful, but here, both claims are doubtful [since he also does not know by whose rights he is entitled to the estate (Slotki)]. Rather, if there is a case that serves as an analogy to this one yielded by our Mishnah, it is the following: a case in which a son whose status is subject to doubt and the sons of levir who came to claim shares in the estate of the levir. They can say to him, 'Produce proof that you really are our brother, and then take your share.'"*
- D. *If a son whose status was subject to doubt and the sons of the levir, after the levir had gotten his share of the estate of the deceased childless brother — the children of the levir say, "Bring proof that you are our brother and take your share," [and] the son whose status was subject to doubt says to them, "What's your choice? If I'm your brother, give me my share along with you, and if I'm the son of the deceased, give me back the half that your father got when he shared the estate with me."*
- E. *R. Abba said Rab [said], "The judgment stands." [Slotki: once the levir received half of the estate of the deceased brother, it cannot be taken away from his heirs; the second claim of the son whose status is in doubt is invalid.]*
- F. *R. Jeremiah said, "The judgment is to be reversed."*
- G. *May we say that at issue between them is what is at stake in the dispute of Admon and rabbis? For we have learned in the Mishnah: **He who went overseas, and the right-of-way to his field was lost — Admon says, "Let him go the shortest way."** And sages say, **"Let him purchase a right-of-way with a hundred manehs [if need be], or let him fly through the air"** [M. **Ket. 13: 7**]. Now we reflected on this matter. As against rabbis, Admon gave a first-rate ruling. And said R. Judah said Rab, *"Here, [in explanation of rabbis' position,] with what sort of a situation do we deal? It is one in which the property of four persons surrounded the field on all four sides* [Slotki: so that each person pleads that it*

was not in his field but in one of the others that the lost path lay]. *If so, then what is the operative consideration behind Admon's ruling? And said Raba, "It is a case in which all four persons derive their right of ownership for four persons, or where four persons derive it from one prior owner, all concur that the adjacent property owners can refuse him. Where there is a dispute, it involves a case in which there is one owner, who derived his rights of ownership from four prior owners. Admon takes the view that the man whose right of way has been lost can say to him, 'In any event, my right of way runs through your fields,' and the rabbis take the view that the other party can reply, "Well, if you shut up, no problem, but if not, I'll return the deeds to their original owners, and you cannot call them to court."'"* Now may we say that R. Abba takes the position there of rabbis here, and R. Jeremiah concurs with the thinking of Admon?

- H. *R. Abba may say to you, "I take the view that I do even within the position of Admon. Admon takes the position that he does in that case only because the man who has lost his right of way can say to the other, 'Whichever way you want it, [38A] my sole path lies in your fields.' But could such a statement be made here?" And R. Jeremiah may say to you, "I take the view that I do even within the position of rabbis. Rabbis take the view that they do there only because he can say to him, 'Well, if you shut up, no problem, but if not, I'll return the deeds to their original owners, and you cannot call them to court.' But here, is there any such possibility of making such a plea?"*

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

- B. A son whose status is subject to doubt and the sons of the levir who came to divide up the property of the grandfather — *the son whose status is subject to doubt said, "I am the son of the deceased, and half is mine," and the sons of the levir say, "You are our brother, and you get an equal share along with us"* — *the half of the estate that he in any event concedes to them they take, and he gets the third that they concede to him, with a sixth remaining being deemed property the ownership of which is subject to doubt, and that is divided equally.*
- C. The grandfather and the levir with regard to the estate of the son that is subject to doubt, or the grandfather and the son that is subject to doubt with respect to the estate of the levir — in either case it is a matter of money the ownership of which is subject to doubt, and it is divided.

4:3-4

4:3

- A. A woman awaiting levirate marriage who received property —**
- B. the House of Shammai and the House of Hillel concur that she sells or gives away the property [which she has received], and the transaction is confirmed.**

- C. [If] she died, what do they do with her marriage contract and with the property which comes in and goes out with her [plucking property, that is, the husband enjoys the usufruct but the principal remains under the title of the wife]?
- D. The House of Shammai say, "The heirs of the [levirate] husband and the heirs of [the woman's] father divide it."
- E. And the House of Hillel say, "The property remains in the possession of those who have a presumptive claim to it:
- F. "The marriage contract is subject to the presumptive claim of the heirs of the husband.
- G. "The property which comes in and goes out with her is subject to the presumptive claim of the heirs of the father."

4:4

- A. [If] he married her, lo, she is deemed to be in the status of his wife for every purpose,
 - B. but in this matter only: [the charge of] her marriage contract [falls] onto the property of her first husband.
- I.1** A. *So what's the difference between the first clause [in which the widow is alive], in which case there is no dispute between the Houses of Shammai and Hillel, and the second case [where she has died], in which instance there is a dispute?*
- B. *Said Ulla, "The first clause deals with a case in which the property fell to her while she was in the status of a woman merely betrothed [so what is hers is hers, the prospective husband having no claim], and the second clause deals with a case in which the property came to her when she was already married."*
 - C. *And Ulla takes the view that the obligation to the levirate bond of a betrothed woman puts her into the status of one whose betrothal is subject to doubt [the levirate obligation is not the same as an actual betrothal (Slotki)], [38B] while the levirate obligation of a woman who is married puts her into the status of one whose marriage is subject to doubt.*
 - D. ...the obligation to the levirate bond of a betrothed woman puts her into the status of one whose betrothal is subject to doubt: *for if you should imagine that she is regarded as most certainly betrothed, how can it be the case that the House of Hillel concur that she sells or gives away the property [which she has received], and the transaction is confirmed? Have we not learned in the Mishnah: [If] they [goods or property] came to her after she was betrothed, the House of Shammai say, "She may sell them." And the House of Hillel say, "She may not sell them." These and those concur that if she sold or gave away [goods or property], the transaction is valid [M. Ket. 8:1C-F]? So it must follow that the obligation to the levirate bond of a betrothed woman puts her into the status of one whose betrothal is subject to doubt.*
 - E. ...the levirate obligation of a woman who is married puts her into the status of one whose marriage is subject to doubt: *for if you should imagine that she is regarded as most certainly married, how can it be the case that The House of Shammai say, "The heirs of the [levirate] husband and*

the heirs of [the woman's] father divide it"? Have we not learned in the Mishnah: [If] they came to her after she was married, these and those concur that if she sold or gave them away, the husband retrieves them from the domain of the purchasers [M. Ket. 8:11-J]? So it must follow that the levirate obligation of a woman who is married puts her into the status of one whose marriage is subject to doubt.

- F. *Said Rabbah [to Ulla], "Then, instead of disputing the disposition of the estate after the death of the widow, let them conduct their dispute on the disposition of the usufruct while she is alive?"*
- G. *Rather said Rabbah, "Both clauses address the disposition of property that came into her domain while she was married. The levirate connection places the woman into a marriage bond that is subject to doubt. The first clause, addressing the case while she is alive, involves property that is certainly her possession [the property belongs to her], while the others' claim is subject to doubt, and doubt cannot override certainty. In the latter clause, when she is doubt, both groups come as heirs, so they divide the claim."*
- H. *Abbaye objected [to Rabbah's view], "From the perspective of the House of Shammai is it the case that doubt cannot override certainty? And have we not learned in the Mishnah: [If] the house fell on him and on his father, or on him and on those whom he inherits, and he was liable for the settlement of his wife's marriage contract and for payment of a debt — the heirs of the father claim, "The son died first, and afterward the father died," — the creditors claim, "The father died first, and then the son" — The House of Shammai say, "Let them share [the son's estate]." And the House of Hillel say, "The property remains in its former status [in the hands of those who inherit the father]" [M. B.B. 9:8]? Now here is a case in which the claim of the heirs of the father is certain, while that of the creditor is subject to doubt, and yet according to the House of Shammai, what is subject to doubt certainly does override certainty!"*
- I. *The House of Shammai take the view that a bond that is due to be collected is regarded as though it has already been collected. [The amount of the debt is held to be in the virtual possession of the creditor, so the claims of heirs and creditor are of equal force (Slotki)].*
- J. *And on what basis do you maintain that the House of Shammai take the view that a bond that is due to be collected is regarded as though it has already been collected? It is in line with that which we have learned in the Mishnah: [If] their husbands died before they drank the bitter water — The House of Shammai say, "They receive the marriage contract and do not undergo the ordeal of drinking the bitter water." And the House of Hillel say, "They either undergo the ordeal of drinking the bitter water or do not receive the marriage contract" [M. Sot. 4:2G-J].*
- K. *They either undergo the ordeal of drinking the bitter water?! But the All-Merciful has said, "Then shall the man bring his wife" (Num. 5:15) — and he's not around! Rather, since they do not drink the water, they also do not receive the payment of their marriage-settlement. Now here there is doubt, since we do not know whether or not she was unfaithful, and yet here what is subject to doubt*

certainly does override certainty! *So it must follow that, from their perspective, the House of Shammai take the view that a bond that is due to be collected is regarded as though it has already been collected.*

- L. *Well, Abbaye ought to have objected on the following basis: “The law governing the marriage-settlement of a woman is exceptional, because of the consideration of affection.” [To maintain good relations between husband and wife, the law is that, even though in general doubt cannot override certainty, still a woman can collect her marriage-settlement even where her claim is subject to doubt and the litigants against her have a certain claim (Slotki)].*
- M. *So let him raise an objection against our Mishnah-paragraph [in respect to the position of the House of Shammai, who hold that the heirs of the father, who has inherited the estate of the widowed daughter, though their claim is of a doubtful nature, share the amount of the marriage-settlement with the heirs of the husband, whose rights to the marriage settlement as heirs of the husband are certain] on the basis of the law of the marriage settlement!*
- N. *The House of Shammai don’t dispute that point [but concur that **the marriage contract is subject to the presumptive claim of the heirs of the husband**].*
- O. *So they don’t, don’t they? But have we not learned in the Mishnah: [If she died, what do they do with her marriage contract and with the property which comes in and goes out with her [plucking property, that is, the husband enjoys the usufruct but the principal remains under the title of the wife]? The House of Shammai say, “The heirs of the [levirate] husband and the heirs of [the woman’s] father divide it.” And the House of Hillel say, “The property remains in the possession of those who have a presumptive claim to it...”?*
- P. *This is the sense of the statement: [If she died, what do they do with her marriage contract? Then the question was left off, then: The House of Shammai say, “The heirs of the [levirate] husband and the heirs of [the woman’s] father divide it.” And the House of Hillel say, “The property remains in the possession of those who have a presumptive claim to it....”*
- Q. *Said R. Ashi, “A close reading of our Mishnah-paragraph supports that view, for it is stated as the Tannaite rule: **The heirs of the [levirate] husband and the heirs of [the woman’s] father divide it**, but it is not stated, the heirs of the father divide with the heirs of the husband [Slotki: which would have referred to the marriage settlement, which is in the virtual possession of the husband’s heirs].”*
- R. *That settles it.*

I.2. A. [Referring to the question with which we began: *So what’s the difference between the first clause, in which the widow is alive, in which case there is no dispute between the Houses of Shammai and Hillel, and the second case, where she has died, in which instance there is a dispute,*] Abbaye said, “The first clause deals

with a case in which the property fell to her while she was in the status of a woman awaiting the decision of the levir [Slotki: as the levirate bond is not strong enough to give the levir any right over the property, people concur that she or her heirs dispose of it as they like], and the second clause deals with a case in which the property came to her when she was already married.”

- B. **[39A]** *And Abbayye takes the view that the husband’s rights [to the wife’s plucking property] are of the same power as the wife’s.” [Slotki: the House of Hillel hold that the husband’s rights are not superior to those of the wife; when he dies and the widow comes only under the levirate bond, the levir’s rights, which cannot have the same force as those of a husband, are inferior to those of the widow; the property remains in her domain or in that of her heirs. The House of Shammai maintain that a husband’s rights have more force than those of the wife; when he dies and the levir steps in by virtue of the levirate bond, the latter’s rights, though inferior to those of the husband, are of equal force with those of the widow, whose rights also are inferior to those of her husband.]*
- C. *Said to him Raba, “If the property comes to the wife when she is subject to the husband, all parties concur that his power is greater than hers. But both clauses address property that came into her domain while she was waiting on the decision of the levir; the first clause speaks of a woman to whom the act of bespeaking had not been addressed, the second, one to whom the act of bespeaking has been addressed.”*
- D. *And Raba takes the view that from the viewpoint of the House of Shammai, the act of bespeaking places the woman into the status of one who is certainly betrothed and subject to doubt as to whether or not she is fully married — certainly betrothed, to shut out her co-wife; subject to doubt as to whether or not she is fully married in respect to the division of her property.*
- E. *It has been stated in the name of R. Eleazar in accord with the position of Raba, and it has been stated in the name of R. Yosé b. R. Hanina in accord with the position of Abbayye.*
- F. *But is it possible that R. Eleazar could have made such a statement? And lo, R. Eleazar has said, “From the perspective of the House of Shammai, an act of bespeaking suffices only so as to eliminate her co-wife” [Slotki: her co-wife who is her sister does not cause her to be forbidden to the levir as the sister of a woman who is subject to the levirate relation with him].*
- G. *Well, then, you can reverse the statements. Or, if you prefer, I shall say, “Don’t bother to reverse them. R. Eleazar may say to you, ‘This is the sense of my statement: a writ of divorce alone will not suffice, but she also has to undergo the rite of removing the shoe; but do I maintain that the act of bespeaking places the woman into the status of one who is subject to doubt as to whether or not she is fully married in respect to the division of her property?’”*
- H. *Said R. Pappa, “A close reading of our Mishnah-paragraph will produce support for the position of Abbayye [Slotki: that the final clause deals with property that came into her possession while she was still living with her husband], even though the language, **if she died**, presents a problem. With reference to the language, **the property which comes in and goes out with her**, what is the meaning of,*

comes in and what is the meaning of, goes out? *Does this not mean, property that comes in to the possession of her husband, and property that goes out from the domain of her husband to the domain of her father?"*

- I. *even though the language, **if she died**, presents a problem: instead of debating about the case of the property itself, which comes up as a problem only if the woman dies, let them dispute about the usufruct, which is a problem even if the woman is still alive?*
- J. *Well, there are no more problems [beside that one, and Abbayye is in the stronger position in interpreting the Mishnah].*

II.1 A. [If] he married her, lo, she is deemed to be in the status of his wife for every purpose:

- B. *What is the practical purpose of this ruling?*
- C. Said R. Yosé bar Hanina, "It is to indicate that he has to divorce her with a writ of divorce but that he may remarry her."
- D. *he has to divorce her with a writ of divorce: so what else is new?*
- E. *You might otherwise have thought that, since the All-Merciful has said, "and he shall take her as his wife and enter into levirate marriage with her," she remains subject to that initial relationship with the levir, and so she may go forth from the marriage only through a rite of removing the shoe, but not with a writ of divorce. So we are informed that that is not the case.*
- F. *but that he may remarry her: so what else is new?*
- G. *It might have entered your mind that since he has already carried out the religious duty that the All-Merciful has placed upon him, she is now forbidden to him as the wife of his brother. So we are informed that that is not the case.*
- H. *So maybe it is the case?*
- I. Scripture has said, "and he shall take her as his wife and enter into levirate marriage with her" —once he has taken her to him as his wife, lo, she is his wife in every respect.

III.1 A. ...but in this matter only: [the charge of] her marriage contract [falls] onto the property of her first husband:

- B. *How come?*
- C. *A wife has been handed over to him from Heaven.*
- D. *But if she can't get her marriage-settlement from the first husband, they have made an ordinance for her that she may get it from the second, so that it will not be a light thing in his view to divorce her.*

4:5-6

4:5

- A. **It is the duty of the oldest surviving brother to enter into levirate marriage.**
- B. **[If] he did not want to do so, they pass in turn to all the other brothers.**
- C. **[If] they [all] did not want to do so, they go back to the oldest and say to him, "Yours is the duty! Either undergo the rite of removing the shoe or enter into levirate marriage."**

- A. [If the levir proposed to] suspend [his decision, waiting] for a youngster to grow up, or for an adult to come from overseas, or for a deaf-mute or an idiot [to recover sound or sense],
- B. they do not listen to him.
- C. But they say to him: “Yours is the duty. Either undergo the rite of removing the shoe or enter into levirate marriage.”

I.1 A. *It has been stated:*

- B. *As to the relative importance of the act of sexual relations of a minor brother or the act of performing the rite of removing the shoe on the part of an adult brother, there was a dispute:*
- C. R. Yohanan and R. Joshua b. Levi —
- D. *One said, “The act of sexual relations of the minor takes precedence.”*
- E. *The other said, “The act of performing the rite of removing the shoe on the part of an adult brother takes precedence.”*
- F. *As to the one who said, “The act of sexual relations of the minor takes precedence:” lo, the religious duty is to enter into levirate marriage [which is accomplished in this manner].*
- G. *As to the other who said, “The act of performing the rite of removing the shoe on the part of an adult brother takes precedence:” where there is an adult, the sexual relations of a minor is null.*
- H. *We have learned in the Mishnah: [If] he did not want to do so, they pass in turn to all the other brothers. Does this not mean that he did not want to enter into levirate marriage but rather to perform the rite of removing the shoe, and yet it is set forth as the Tannaite rule, they pass in turn to all the other brothers? So from this it must follow that the act of sexual relations of the minor takes precedence.*
- I. *No, the meaning is, he did not want either to perform the rite of removing the shoe or to enter into levirate marriage. So to in connection with the other brothers, they refused either to perform the rite of removing the shoe or to enter into levirate marriage.*
- J. *Then why is it that they go back to the oldest? Why not pressure them?*
- K. *Since the religious duty is incumbent on him, it is upon him that pressure is brought.*
- L. *We have learned in the Mishnah: [If the levir proposed to] suspend [his decision, waiting] for a youngster to grow up...they do not listen to him. But if the act of sexual relations of the minor takes precedence, then why don't they listen to him? Why not wait, since when he becomes an adult, he might enter into levirate marriage?*
- M. *Well, in accord with your reasoning, what about or for an adult to come from overseas? Why not go along with him, maybe he'll come along and enter into levirate marriage? But the point is, in no event do we perform the fulfillment of a religious duty.*

- N. **[39B]** *There are those who say, “With respect to sexual relations, all concur that the sexual relations performed even by a minor take precedence. Where there is a dispute, it concerns the act of removing the shoe performed by a minor, and this is how the matter has been stated: As to the relative importance of the act performing the rite of removing the shoe on the part of a minor brother or the act of performing the rite of removing the shoe on the part of an adult brother, there was a dispute:*
- O. *“R. Yohanan and R. Joshua b. Levi —*
- P. *“One said, ‘The act of sexual relations of the adult takes precedence.’*
- Q. *“The other said, ‘They are of equal merit.’*
- R. *As the the one who said, “The act of sexual relations of the adult takes precedence:” lo, the religious duty is assigned to the oldest brother.*
- S. *And the other party?*
- T. *When we invoke the principle that the religious duty is assigned to the oldest brother, that is when it comes to actual levirate marriage. But when it comes to the rite of removing the shoe, they are of equal merit.*
- U. *We have learned in the Mishnah: **[If] he did not want to do so, ... they go back to the oldest.** Does this not mean that he did not want to enter into levirate marriage but rather to perform the rite of removing the shoe, and yet it is set forth as the Tannaite rule, **they go back to the oldest?** So from this it must follow that the act of removing the shoe on the part of the oldest takes precedence.*
- V. *No, the meaning is, **he did not want** either to perform the rite of removing the shoe or to enter into levirate marriage. So to in connection with the oldest of the brothers, he refused either to perform the rite of removing the shoe or to enter into levirate marriage.*
- W. *Then why is it that **they go back to the oldest?** Why not pressure them?*
- X. *Since the religious duty is incumbent on him, it is upon him that pressure is brought.*
- Y. *Come and take note: **[If the levir proposed to] suspend [his decision, waiting] for an adult to come from overseas...they do not listen to him.** But if the act of performing the rite of removing the shoe on the part of the adult takes precedence, then why don’t they listen to him? Why not wait, since maybe he’ll come back and perform the rite of removing the shoe?*
- Z. *Well, in accord with your reasoning, what about **[If the levir proposed to] suspend [his decision, waiting] for a youngster to grow up?** Why not wait until he grows up, maybe he’ll enter into levirate marriage? But the point is, in no event do we perform the fulfillment of a religious duty.*
- I.2. A.** *We have learned in the Mishnah there: **The requirement of levirate marriage takes precedence over the ceremony of the rite of removing the shoe. At first, when they would consummate the levirate marriage for the sake of fulfilling a commandment. But now, that they do not consummate the levirate marriage for the sake of fulfilling a commandment, they have ruled: The requirement of the rite of removing the shoe takes precedence over the requirement of levirate marriage [M. Bekh. 1:8F-I].***

- B. Said Rab, "They do not force [that decision, if the levir has the contrary preference]."
- C. *When a levir would come before Rab, he would say to him, "If you want, undertake the rite of removing the shoe, if you want, enter into levirate marriage. It is on you that the All-Merciful has laid the matter: 'And if the man not want to take his brother's wife,' (Deu. 25: 7), meaning, if he wants, he undertakes the rite of removing the shoe, if he wants, he enters into levirate marriage."*

I.3. A. *So too Rab held the view, "They do not force [that decision, if the levir has the contrary preference]."*

- B. *For R. Judah provided a document attesting to the performance of the rite of removing the shoe, including this language: "So-and-so, daughter of so-and-so, brought before us to court her deceased childless husband's brother, Mr. So-and-so, and we have ascertained that he is the paternal brother of the deceased. We said to him, 'If you want to enter into levirate marriage, go do it, and if not, turn your right foot toward her.' He turned his right foot toward her, and she removed his shoe from off his foot and spit before him, on the ground, spit that the court could see on the ground."*
- C. *And R. Hiyya bar Avayya concluded in the name of R. Judah: "And we read aloud before them the passage that is written in the book of the Torah of Moses."*
- D. *As to the language, "and we have ascertained," there was a dispute between R. Aha and Rabina.*
- E. *One said, "This is done through the testimony of witnesses [who are otherwise valid to give testimony]."*
- F. *And the other said, "This may be ascertained even through the testimony of a relative and even through the testimony of a woman."*
- G. *The decided law is that the language, and we have ascertained, is a mere clarification, and in fact it may be ascertained even through the testimony of a relative and even through the testimony of a woman.*

I.4. A. **The requirement of levirate marriage takes precedence over the ceremony of the rite of removing the shoe. At first, when they would consummate the levirate marriage for the sake of fulfilling a commandment. But now, that they do not consummate the levirate marriage for the sake of fulfilling a commandment, they have ruled: The requirement of the rite of removing the shoe takes precedence over the requirement of levirate marriage [M. Bekh. 1:8F-I]:**

- B. Said Rammi bar Hama said R. Isaac, "They reverted to rule: the religious duty of levirate marriage takes precedence over the religious duty of performing the rite of removing the shoe."
- C. *Said to him R. Nahman bar Isaac, "So have the generations improved in virtue?"*
- D. *They concurred to begin with with Abba Saul and at the end with rabbis, for it has been taught on Tannaite authority: Abba Saul says, "He who marries his levirate bride because she is beautiful or because of lust or because of some other improper motive is as though he had violated the laws against incest; and I am nigh unto*

maintaining that the offspring is a mamzer.” But sages say, ““Her husband’s brother shall go in unto her’ (Deu. 25: 5) — under all circumstances.”

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

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

C. *Said R. Isaac bar Abdimi, “It is Abba Saul, and this is the sense of the statement: ‘Her husband’s brother shall go in unto her’ — it is a religious duty. For to begin with she was permitted to him, so that, if he wanted, he could have married her because of her beauty, or if he wanted, he could have married her for his lust. But then she was forbidden [when his brother married her], and now once more she is permitted to him. So one might have supposed that she is restored to the original condition of being permissible as she had been. So it is made explicit: “Her husband’s brother shall go in unto her” (Deu. 25: 5) — this is a religious duty.”*

D. *Raba said, “You may even maintain that it represents the position of rabbis, and this is the sense of the statement: ‘Her husband’s brother shall go in unto her’ — it is a religious duty. For to begin with she was permitted to him, so that, if he wanted, he could have married her, and if he had wanted, he did not have to marry her. But then she was forbidden [when his brother married her], and now once more she is permitted to him. So one might have supposed that she is restored to the original condition of being permissible as she had been. Thus, once more, if he wanted, he might marry her, and if he wanted, he did not have to marry her...”*

E. “if he wanted, he might marry her, and if he wanted, he did not have to marry”? *! lo, she is bound to her! Can she be set free without any action at all?*

F. *Rather, say, “if he wanted, he might marry her, and if he wanted, he might perform the rite of removing the shoe. Scripture states, “Her husband’s brother shall go in unto her” (Deu. 25: 5) — this is a religious duty.”* [Slotki: it is a religious duty, and there is no requirement of proper intention, so long as the duty is done; the duty to contract levirate marriage exceeds that of performing the rite of removing the shoe.]

I.6. A. *Say the first clause: “It shall be eaten without leaven in a holy place” (Lev. 6: 9) [when the priest eats his share of the meal offering].*

B. **[40A]** For to begin with, before the ingredients were sanctified, the offering was permitted to him without condition. Then, when the ingredients were sanctified, it was forbidden. But then, after the handful was taken and offered, the residue once more was permitted to him. Now might one suppose that the ingredients reverted to being permitted just as they had been before? Scripture says, “It shall be eaten without leaven in a holy place” (Lev. 6: 9). That is a religious duty.

C. *Now from Raba’s perspective, who has said, “Lo, who is represented here? It is rabbis,” there is no problem. Here this is the sense of the statement: it is a*

religious duty that it be “eaten in a holy place.” To begin with before the ingredients were sanctified, the offering was permitted to him without condition. If he wanted, he could eat, and if he wanted, he did not have to eat.

- D. “If he wanted, he could eat, and if he wanted, he did not have to eat”!? Lo, it is written, “And they shall eat those things wherewith atonement was made” (Exo. 29:33) teaches that the priests eat the residue and thereby the owner of the offering gains atonement.
- E. Say: If he wanted, he could eat, and if he wanted, some other priest could eat it. Scripture says, “It shall be eaten without leaven in a holy place” (Lev. 6: 9). That is a religious duty.
- F. *But from the perspective of R. Isaac bar Abdimi, who has said, “It represents the view of Abba Saul,” what are the choices that are present here [to form analogies to action with or without the intention of carrying out the religious duty]? And should you say, if he wanted, he could eat the residue to appease his appetite, and if he wanted, he could eat it like a glutton, is gluttonous eating classified as eating? Did not R. Simeon b. Laqish say, “He who eats like a glutton on the Day of Atonement is exempt from penalty, since ‘shall not be afflicted’ is written (Lev. 23:29) [and too much eating is an affliction]”? [And if you should say that the counterpart would be,] if he wanted, he may eat it unleavened, and if he wanted, he may eat it leavened, has it not been written, “It shall not be baked with leaven as to their portion” (Lev. 6:10), and said R. Simeon b. Laqish, “Even their portion should not be baked with leaven”? [And if you should say that the counterpart would be,] if he wanted, he may eat it unleavened and if he wanted, he could eat it as a dumpling, how could it be imagined as a dumpling? If it is unleavened, it is unleavened, and if not, then Scripture has said, “Without leaven” (Lev. 19:12)! [Slotki: what need then was there for repeating the same prohibition in Lev. 6: 9?]*
- G. *In any event I may say to you, it is to be unleavened. And the intent of the Tannaite formulation in regard to Scripture was to make it forbidden [to prepare it as a dumpling, even though unleavened].*
- H. *For what practical purpose have we then said that a dumpling may be classified as unleavened?*
- I. To tell you that a person may carry out the obligation to eat unleavened bread through it on Passover. *That is to say, even though to begin with it was made into a dumpling, it is classified as “bread of affliction” once he has baked it in an oven. Therefore, it follows, a person may carry out the obligation to eat unleavened bread through it on Passover.*

4:7A-E

- A. **He who undergoes a rite of removing the shoe with his deceased childless brother’s widow, lo, he is deemed as one with the brothers for inheritance [of the deceased brother’s estate] —**
- B. **And if there is a father [of the deceased brother] there [to share in the inheritance],**
- C. **the property reverts to the father.**

- D. **He who marries his deceased childless brother's widow, however, acquires the estate of his brother.**
- E. **R. Judah says, "One way or the other: if the father is there, the property reverts to the father."**

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

- B. *It might have entered your mind to suppose that since the rite of removing the shoe stands instead of levirate marriage, he should take the entirety of the deceased's estate. So we are informed that that is not the case.*
- C. *If that is [the purpose of this statement,] then how come the formulation is, **lo, he is deemed as one with the brothers for inheritance?** What is required is only, he is deemed as only one with the [other] brothers.*
- D. *Rather, it might have entered your mind to suppose that since he has caused the widow the loss of the levirate marriage, he is subjected to an extra-judicial penalty [of losing his share in the deceased's estate]. So we are informed that that is not the case.*

II.1 A. And if there is a father [of the deceased brother] there [to share in the inheritance], the property reverts to the father:

- B. For a master has said: "The father takes precedence over all of his lineal heirs."

III.1 A. He who marries his deceased childless brother's widow, however, acquires the estate of his brother:

- B. *What is the scriptural basis for this rule?*
- C. "...Shall succeed in the name of his brother" (Deu. 25: 6) *is what the All-Merciful has said, and lo, he has succeeded.*

IV.1 A. R. Judah says, "One way or the other: if the father is there, the property reverts to the father:"

- B. Said Ulla, "The decided law accords with R. Judah."
- C. And so said R. Isaac Nappaha, "The decided law accords with R. Judah."
- D. And said Ulla and some say R. Isaac Nappaha, "What is the scriptural basis for the position of R. Judah? 'And it shall be, that the firstborn that he bears' (Deu. 25: 6) — just as the firstborn has no share in the estate while his father is alive, *so this one has nothing while his father is alive.*"
- E. Might one then say, just as the firstborn takes a double portion in the estate after the death of the father, so this one takes a double portion in the estate after the death of the father, is it written, "...Shall succeed in the name of his father"? What is written is, "...Shall succeed in the name of his brother," not his father.
- F. *Might one then propose that if the father is not alive to receive the deceased's inheritance, then the law of the levirate connection will be carried out, but where the father is alive so that the levir does not inherit the deceased's estate, then the law of the levirate marriage is to be null?*
- G. *Does the All-Merciful treat the law of levirate connection as dependent upon inheritance? The levirate in any event must enter into the levirate connection no*

matter what, and if there is an inheritance to be gotten, he gets it, but if not, he doesn't.

- IV.2.** A. *In session before R. Yannai, R. Hanina the Scripture-teacher stated, "The decided law accords with R. Judah."*
- B. *He said to him, "Get out and shout out your Scripture-verses elsewhere! "The decided law does not accord with R. Judah."*
- IV.3.** A. *A Tannaite authority repeated as a Tannaite tradition before R. Nahman, "The decided law does not accord with R. Judah."*
- B. *He said to him, "Then in accord with whom? With rabbis? That's no surprised: where there is a statement attributed to an individual and one assigned to an anonymous collectivity, the decided law accords with the anonymous formulation of the rule."*
- C. *He said to him, "Shall I suppress my statement?"*
- D. *He said to him, "No, to you the rule was set forth in a Tannaite statement as you have it, but it caused you a difficulty, so you reversed it, and, in reversing it, your wording is quite sound."*

4:7F-L

- F.** **He who undergoes a rite of removing the shoe with his deceased childless brother's widow —**
- G.** **he is prohibited from marrying her relatives, and she is prohibited from marrying his relatives.**
- H.** **[40B] He is prohibited from marrying her mother, her mother's mother, her father's mother, her daughter, the daughter of her daughter, the daughter of her son, and her sister while she is yet alive.**
- I.** **But [his] brothers are permitted [to marry any of the aforementioned].**
- J.** **And she is prohibited from marrying his father, the father of his father, his son, the son of his son, his brother, and the son of his brother.**
- K.** **A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of removing the shoe**
- L.** **but is prohibited from marrying the co-wife of the kinswoman of a woman with whom he has performed the rite of removing the shoe.**
- I.1** A. *The question was raised: in the case of a woman with whom one has carried out the rite of removing the shoe, did sages make a precautionary decree against marrying relations of hers in the second remove [e.g., her mother's mother's mother or her father's mother's mother] or was such a precautionary decree not issued? Was there a precautionary decree prohibiting marriage with relations in the second remove only in regard to a relative who is forbidden by the law of the Torah, while in regard to a woman with whom one has performed the rite of removing the shoe, rabbis made no such precautionary degree forbidden relatives in the second remove — or is there no difference [Slotki: in respect to the law of incest, between the relations of a wife who are pentateuchally forbidden and those of a woman with whom one has performed the rite of removing the shoe, who are only rabbinically forbidden]?*

- B. *Come and take note: He is prohibited from marrying her mother, her mother's mother, her father's mother. But there is no allusion to her mother's mother's mother!*
- C. *Maybe the operative reason that that entry is not included in the Tannaite formulation is because the framer of the passage wished to state at the end, **But [his] brothers are permitted [to marry any of the aforementioned]**. Now, if her mother's mother's mother were included, I might have supposed that the brothers are permitted in particular to marry the mother of the mother of the mother only, but not the mother of the mother or the mother herself.*
- D. *Then let the framer of the passage formulate the matter in terms of, the mother's mother's mother and also, then say, **But [his] brothers are permitted [to marry any of the aforementioned]**.*
- E. *That's a real question.*
- F. *Come and take note: **And she is prohibited from marrying his father, the father of his father.** So his father's father is included in the Tannaite formulation. Is this not because of the levir who undertook the rite of removing the shoe, through whom she is the daughter-in-law of his son?*
- G. *No, it is because of the deceased, through whom she is the daughter-in-law of his son [Slotki: the prohibition to marry this relative is due to the levir who participated in the rite of removing the shoe, through whom she is his father's father's wife].*
- H. *Come and take note: **the son of his son.** Is this not because of the levir who undertook the rite of removing the shoe, through whom she is the wife of his father's father?*
- I. *No, it is because of the deceased, through whom she is his father's father's brother's wife.*
- J. *But lo, Amemar declared valid the wife of the father's father's brother and the father's father's sister.*
- K. *Amemar reads the reference to **son of his son** to speak of the son of the grandfather [father of the deceased and the levir].*
- L. *If so, **his son and son's son** are no different from **his brother and his brother's son.***
- M. *The framer of the passage has specified both the paternal brother and the maternal brother [Slotki: the former by his son and his son's son, prohibitions being Pentateuchal, since they are due to the woman's relationship with the deceased as his wife, and not to her relationship with the levir as a woman with whom he has performed the rite of removing the shoe, the prohibition resulting from which could only be rabbinical].*
- N. *Come and hear that which R. Hiyya set forth on Tannaite authority [in respect to a woman with whom one has performed the rite of removing the shoe]: Four classes of relatives are forbidden [to marry her] by the law of the Torah and four on account of rulings of scribes. The father, his son, his brother, and the son of his brother, by the law of the Torah; his father's father, and his mother's father, his son's son, and his daughter's son, by the rulings of scribes. Now, in any event, the formulation of the passage covers, his father's father. Is this not because of the*

levir who has performed the rite of removing the shoe, through whom she is his son's daughter-in-law [and that proves that, even in the context of the woman with whom one has performed the rite of removing the shoe, relatives in the second remove are forbidden (Slotki)]?

- O. *No, it is because of the deceased, for she is the son's daughter-in-law.*
- P. *Come and hear: his mother's father [on Hiyya's list]. Is this not because of the levir who has performed the rite of removing the shoe, through whom she is his daughter's daughter-in-law?*
- Q. *No, it is because of the deceased, for she is the daughter's daughter-in-law.*
- R. *Come and hear: his son's son [on Hiyya's list]. Is this not because of the levir who has performed the rite of removing the shoe, through whom she is his father's father's wife?*
- S. *No, it is because of the deceased, for she is his father's father's brother's wife.*
- T. *But lo, Amemar declared valid the wife of the father's father's brother's wife.*
- U. *Amemar interprets "the son's son" [in Hiyya's formulation] to be because of the levir who participated in the rite of removing the shoe; but he holds that relatives in the second remove are forbidden as a precautionary measure, even in regard to the woman with whom one has participated in the rite of removing the shoe.*
- V. *Come and hear: and his daughter's son. Is this not because of the levir who participate in the rite of removing the shoe, through whom she is his mother's father's wife?*
- W. *No, it is because of the deceased, through whom she is his mother's father's brother's wife.*
- X. *But lo, in regard to relatives in the second remove of incest, there has been no prohibition as a precautionary decree [Slotki: how then could it be suggested that the prohibition is due to the fact that the woman with whom he has performed the rite of removing the shoe is the wife of the mother's father's brother of the deceased]? So it must be because of the levir who has participated in the rite of removing the shoe, and it may therefore be inferred that relatives in the second remove are forbidden as a precautionary measure, even in the case of a woman with whom one has performed the rite of removing the shoe.*
- Y. *That is decisive proof.*

II.1 A. A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of removing the shoe but is prohibited from marrying the co-wife of the kinswoman of a woman with whom he has performed the rite of removing the shoe:

- B. *Said R. Tubi bar Qisna said Samuel, "He who has sexual relations with the co-wife of a woman with whom he has performed the rite of removing the shoe — the offspring is a mamzer. How come? [The co-wife] remains under the original prohibition [Slotki: of the brother's wife, subject to the penalty of extirpation; children born from such a union are classified as mamzers]."*
- C. *Said R. Joseph, "We too have learned that same fact in the Mishnah: A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of removing the shoe. Now if you concur that the co-wife is excluded, we may well understand why the man is allowed to marry her*

sister [she is forbidden as the brother's wife, so her sister is not the sister of a woman with whom he has performed the rite of removing the shoe (Slotki)], *but if you hold that the co-wife is in the status of the woman with whom he has undergone the rite of removing the shoe, how can her sister be permitted to him?*" [since she obviously is forbidden as the sister of a woman with whom he has performed the rite of removing the shoe, so it must follow that the co-wife of the woman with whom he has performed the rite of removing the shoe remains under the original prohibition of the brother's wife, involving extirpation (Slotki).]

- D. *Would this not represent a refutation of what R. Yohanan said, namely, "Neither he nor the brothers are liable, in respect to the woman with whom he has performed the rite of removing the shoe, to extirpation, or in respect to her co-wife, to extirpation?"* [We have now shown that the penalty for marriage with the co-wife of the woman with whom one has performed the rite of removing the shoe is extirpation!]
- E. *R. Yohanan may say to you, "But do you really read things that way? Is the sister of a woman with whom one has performed the rite of removing the shoe forbidden by the law of the Torah?* [Slotki: that is how Joseph suggests, in assuming that if the co-wife had the same status as the woman with whom he has performed the rite of removing the shoe, then her sister would be forbidden.] *Has not R. Simeon b. Laqish said, 'Here Rabbi has taught that the prohibition to marry the sister of a woman one has divorced is based on the law of the Torah, and the prohibition of the sister of a woman with whom one has performed the rite of removing the shoe is based on the rulings of the scribes'?"* [Slotki: the reason that the sister of a co-wife of a woman with whom one has performed the rite of removing the shoe is permitted is not that assumed by Joseph, but rather, because the prohibition of the sister of the woman with whom one has removed the shoe is only rabbinical, it does not extend to the sister of the co-wife of that woman as well.]
- F. *So what's the difference between the one and the other?*
- G. **[41A]** *As to the one who comes along with her to court [her sister, whom she takes with her to court when she goes to perform the rite of removing the shoe], rabbis made a precautionary decree* [Slotki: since the public might not know which of the sisters is the one who performs the rite of removing the shoe, and they might mistake one for the other; hence the co-wife of the sister was forbidden to the levir who underwent the rite of removing the shoe, so that people might not think that he married the co-wife of the woman who has undergone the rite of removing the shoe herself]. *But as to the one who does not go with her to court, rabbis have made no such precautionary decree* [since no one is going to confuse the co-wife for the woman with whom the rite of removing the shoe has been performed (Slotki)].

4:8-9

4:8

- A. **He who undergoes a rite of removing the shoe with his deceased childless brother's widow,**
- B. **and his brother married her sister,**
- C. **and [this brother] died —**

- D. she performs a rite of removing the shoe and is not taken in levirate marriage.
- E. And so: He who divorces his wife, and his brother married her sister,
- F. and [his brother] died —
- G. lo, this one is exempt from the rite of removing the shoe and from levirate marriage.

4:9

- A. A woman awaiting marriage with a levir, the brother of whom betrothed her sister —
- B. in the name of R. Judah b. Beterah did they say, “They instruct him: ‘Wait until your older brother does a deed.’”
- C. [If] his brother underwent a rite of removing the shoe with her [the woman awaiting levirate marriage] or married her,
- D. he [B] may [then] marry his wife.
- E. [If] the deceased childless brother’s widow died, he may marry his wife.
- F. [If] the levir died,
- G. let him [of A] put away his [betrothed] wife with a writ of divorce and the wife of his brother with a rite of removing the shoe.

- I.1** A. *What is the meaning of And so: He who divorces his wife* [which introduces a rule that is not similar]?
- B. *Read: But he who divorces his wife....*
- C. Said R. Simeon b. Laqish, “Here Rabbi has taught that the prohibition to marry the sister of a woman one has divorced is based on the law of the Torah, and the prohibition of the sister of a woman with whom one has performed the rite of removing the shoe is based on the rulings of the scribes.”

- II.1** A. **A woman awaiting marriage with a levir, the brother of whom betrothed her sister — in the name of R. Judah b. Beterah did they say, “They instruct him: ‘Wait until your older brother does a deed:’”**

- B. Said Samuel, “The decided law accords with the position of R. Judah b. Betera.”

- II.2.** A. *The question was raised: if his wife [the sister of the widow of his deceased brother] died, what is his status as to his deceased childless brother’s widow, whose sister is no longer his wife]?*
- B. *Both Rab and R. Hanina said,* “If his wife [the sister of the widow of his deceased brother] died, as to his status as to his deceased childless brother’s widow, whose sister is no longer his wife], he is permitted to marry her.”
- C. *Both Samuel and R. Assi say,* “If his wife [the sister of the widow of his deceased brother] died, as to his status as to his deceased childless brother’s widow, whose sister is no longer his wife], he is forbidden to marry her.”
- D. *Said Raba, “What is the operative consideration behind the position of Rab? It is because she is a deceased childless brother’s widow who was permitted [when her husband died childless], then forbidden [when the brother betrothed the sister], then permitted [when the sister died], and she now reverts to her initial state of being entirely permitted.”*

- E. *Objected R. Hamnuna: “Three brothers — two of them married to two sisters — and one [the third] of them is unmarried — one of the husbands of the sisters died, and this one who was unmarried bespoke her [the surviving sister] — and afterward his other brother died — [M. 3:5A-E] and then his wife died after him [so that the first widow, the surviving sister, is no longer the sister of a woman who is bound to him by a levirate connection] — that deceased childless brother’s widow must perform the rite of removing the shoe but may not enter into levirate marriage. Now why should this be the case? Why not treat her as tantamount to a case in which she is a deceased childless brother’s widow who was permitted [when her husband died childless], then forbidden [when the brother betrothed the sister], then permitted [when the sister died], so that she now reverts to her initial state of being entirely permitted?”*
- F. *[Raba] shut up. After [Joseph] had left, he said, “Why didn’t I say to him, ‘It is R. Eleazar’s ruling, who has said, “Once she has been subject to a prohibition in his regard for a single moment, she is subject to prohibition in his regard forever”?’”*
- G. *Then he retracted and said, “Well, it is true that R. Eleazar has invoked that rule in a case in which she was not suitable for him at the moment at which she became obligated to the levirate marriage, but did he take that same position in a case in which she was suitable to him at the moment at which she become obligated to levirate marriage?”*
- H. *Then he said, “Well, yes he did, for it has been taught on Tannaite authority: R. Eleazar says, ‘If his [the levir’s, betrothed to the sister of his deceased childless brother’s widow] deceased childless brother’s widow died, he is permitted to marry his wife; if his wife died, then deceased childless brother’s widow has to perform the rite of removing the shoe but may not enter into levirate marriage with him.”*

II.3. A. *Shall we then say that Samuel and R. Assi maintain the same position as R. Eleazar?*

- B. *You may even maintain that they accord with the position of rabbis. The rabbis differ from R. Eleazar only because from the time she became subject to the levirate marriage and thereafter, she was no longer forbidden to him [that is, when her husband died and the levirate obligation came into force]. But here, she was forbidden [because after she was subject to the levirate connection, when the second brother died, she was forbidden to him as sister of a woman to whom he was connected in a levirate relationship], and here even rabbis concur [that levirate marriage is forbidden].*

4:10

- A. **A deceased childless brother’s widow should not perform the rite of removing the shoe or enter into levirate marriage until three months have gone by.**
- B. **And so in the case of all other women: they should not become betrothed or enter marriage until three months have gone by [after the conclusion of a former marriage].**
- C. **All the same are virgins and women who have had sexual relations,**

- D. all the same are women who have been divorced and widows,
- E. all the same are married women and betrothed women.
- F. R. Judah says, “[Within the stated span of time,] those who have been married [and whose husbands have died] may be betrothed, and those who are betrothed [and whose husbands died] may be married,
- G. “except for those who have been betrothed in the province of Judah.
- H. “[For there], the [bridegroom] is shameless for her.”
- I. R. Yosé says, “All women may be betrothed,
- J. “except for a widow,
- K. [41B] “on account of mourning [for a period of thirty days].”

- I.1** A. [A deceased childless brother's widow should not perform the rite of removing the shoe or enter into levirate marriage until three months have gone by. And so in the case of all other women: they should not become betrothed or enter marriage until three months have gone by after the conclusion of a former marriage:] *there is no problem understanding why she should not enter into levirate marriage, since the offspring may not be viable, and so he [the brother-in-law] may end up violating the prohibition of marrying a brother's wife, which derives from the Torah. But why should she not undertake the rite of removing the shoe? May we then say that this refutes what R. Yohanan said, “The rite of removing the shoe performed by a pregnant woman is classified as a valid rite of removing the shoe, [and the act of sexual relations of a pregnant woman is classified as a valid act of sexual relations]”?*
- B. *But has such an objection not already been raised against R. Yohanan [so why cover familiar ground]?*
 - C. *May one say that on this basis also there should be a refutation of his position?*
 - D. *No, here the operative consideration [for postponing the rite of removing the shoe] is this: lest the offspring be viable, and you will turn out to require her to make an announcement in respect to the priesthood [that the rite of removing the shoe was invalid, so she may marry a priest after all].*
 - E. *So let her make such an announcement!*
 - F. *There may be people present at the rite of removing the shoe but not at the announcement, and they would suppose she was not eligible to marry a priest.*
 - G. *That then explains the case of a widow. But what about a divorced woman [Slotki: a divorcee prior to her marriage to the deceased brother, therefore ineligible to marry a priest, whether or not three is a rite of removing the shoe; why can't she immediately perform the rite of removing the shoe]?*
 - H. *It is because she would then lose her support.*
 - I. *That then explains the case of a married woman, but what about a woman who was once divorced and who is now betrothed? [Surely she should immediately perform the rite of removing the shoe.]*
 - J. *The operative consideration, rather, is the position of R. Yosé. For it has been taught on Tannaite authority: **There was a case of someone who came before R. Yosé. He said to him, “What is the law about performing the rite of removing the shoe within three months of the death of the childless brother?”***

- K. He said to him, "She should not enter the rite of removing the shoe."
- L. He said to him, "But let her perform the rite of removing the shoe, what difference does it make?"
- M. He recited in his regard this verse of Scripture, "'If the man does not wish...' (Deu. 25: 7) — if he wants, he may enter into levirate marriage; thus any woman who can enter into levirate marriage also enters into the rite of removing the shoe, and any woman who does not enter into levirate marriage also does not enter into the rite of removing the shoe" [T. Yeb. 6:7L-Q].
- N. *Objected R. Hinnena, "Where there are relationships that are subject to doubt, the women perform the rite of removing the shoe but do not enter into levirate marriage. Now what is the sense of "relationships that are subject to doubt"? If we say that these refer to relationships in which the act of betrothal is subject to doubt, then why should there be no levirate marriage? Let her enter into levirate marriage, there being no possible objection to her doing so! So it must refer to a case in which there was a betrothal of two sisters, in which instance the man does not know which of them he has betrothed, and the rule there is that the rite of removing the shoe is to be carried out."*
- O. *But are these matters so parallel? In that case [of a betrothal subject to doubt as to which sister was betrothed], if Elijah should come and announce, "Lo, the sister was betrothed," she would be eligible for both the rite of removing the shoe and levirate marriage [each sister being free for levirate marriage], but here, if Elijah were to come and say that the widow is not pregnant, would anybody pay any attention and so allow the woman to enter into levirate marriage? Surely, even a minor, incapable of pregnancy, would have to wait for three months [and since levirate marriage is forbidden, the rite of removing the shoe also is postponed].*

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

- B. A deceased childless brother's widow for the first three months after the death of the husband is supported by the estate of the husband. Therefore she is supported neither from the estate of the husband nor from the estate of the levir. If the levir went to court but then ran off, she is supported by the estate of the levir. If she was subject to the levirate relationship with a minor, she gets nothing from him.
 - C. *But then does she get her support from the husband's estate?*
 - D. *There was a dispute on this question between R. Aha and Rabina.*
 - E. *One said, "She does get support from her late husband's estate."*
 - F. *And the other said, "She doesn't get support from her late husband's estate."*
 - G. *And the decided law is that she doesn't get support from her late husband's estate, from Heaven they have imposed an extrajudicial penalty on her.*

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

- B. A deceased childless brother's widow, with whom one of the brothers has entered into the rite of removing the shoe within three months of the death of the husband still has to wait for three months. [42A] If the rite of removing the shoe was done after three months, she does not have to wait for three months beyond the

performance of the rite. The three months of which they spoke pertains to the time of the husband's death, not to the time of the levir's performing the rite of removing the shoe.

C. *How come the law here differs from that governing the writ of divorce, in which case* Rab said, "It is three months from the moment of delivering the writ," and Samuel said, "It is three months from the time of the writing of the writ"?

D. Said Raba, "It is a matter of an argument a fortiori: if you have permitted marriage [three months after the death of the husband] in which case the penalty of extirpation is involved [[marriage with the levir is incest if there is a viable offspring of the deceased], will you not all the more so permit a situation in which the marriage would be subject to a routine prohibition!" [Slotki: hence whenever the rite of removing the shoe was performed three months after the husband's death, the widow may marry immediately].

II.1 A. And so in the case of all other women: they should not become betrothed or enter marriage until three months have gone by [after the conclusion of a former marriage]:

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

C. Said R. Nahman said Samuel, "Because said Scripture, 'to be a God to you and to your seed after you' (Gen. 17: 7) — requiring a distinction between the offspring of the first husband and the offspring of the second."

D. *Objected Raba*, "Therefore must a male and a female proselyte [who are already married nonetheless] wait [and not have sexual relations] for three months [after conversion]. *But what distinction is to be made in their case?*"

E. *Well, there too there is a distinction to be made between seed that is sown in a state of sanctification and seed that is not sown in a state of sanctification.*

F. Raba said, "It is a precautionary decree, to take into account the possibility of the son [born to a widow or divorcée married within three months of the husband's death or divorce, who is born at nine months of the death of the first husband but is assumed to be a child at seven months of the second husband] who might turn out to marry his sister on his father's side or to enter into levirate marriage with the wife of his brother on his mother's side, allowing his mother to go out and marry anyone at all [if the second husband dies without offspring, the mother is assumed free of levirate connection, since he is assumed to belong to the second husband] and also releasing his co-wife to marry anybody."

G. *Objected R. Hananiah*, "In all these [cases in which it is prohibited to marry or enter into levirate marriage] I invoke the consideration of an ordinance against incest, but here [in the case of waiting for three months before remarrying] it is on account of an ordinance for the benefit of the offspring. *But if [Raba's] statement is sound, then all of the cases would be on account of an ordinance against incest!*"

H. *The sense of it is on account of an ordinance for the benefit of the offspring is, so that so that the offspring may not violate the prohibition of incest.*

- II.2.** A. *Now there is no problem in understanding why a divorcee or widow should not marry after waiting for only two months, since doing so would create a doubt as to whether or not the offspring is born at nine months and is assigned to the first husband, or it is born at seven months and is assigned to the second. But why not let her wait for one month and marry, so, if she gives birth at seven months, the child would be born at seven months of the second husband, but if it were born at eight months after marriage, it would be a child born at nine months and belong to the first husband!*
- B. *Even if she were to have given birth at eight months, it still might be assumed to be the child of the second husband, since the conception can have been delayed by a month.*
- C. *Then let her wait only two and a half months before marrying. For if the baby is then born at seven months, it is a seven-month-old foetus and belongs to the second husband. And if it is born at six and a half months, then it is a nine-month old foetus and is the child of the first husband, for, were it the child of the second husband, it could not have lived after merely six and a half months of pregnancy.*
- D. *Even if she gave birth at six and a half months, it could still be claimed that it is the offspring of the second husband, for said Mar Zutra, "Even in the opinion of one who has said, 'A woman who gives birth at nine months does not give birth in less than full term,' a woman who gives birth at seven months does give birth prior to full term.' For it has been stated in Scripture, 'and it came to pass, after the cycles of days' (1Sa. 1:20) — and the minimum number of 'cycles' is two, and the minimum number of 'days' is two. [Slotki: the text implies that a viable child may be born after a pregnancy of six months and two days.]"*
- E. *Well, then, let her wait some small amount of time and remarry, and, when three months have passed, then examine her. [Slotki: if she is pregnant, it will be by the first husband, and if not, then any pregnancy is assigned to the second.]*
- F. Said R. Safra, "Married woman are not to be examined in such a way, so that they will not be repulsive to their husbands."
- G. Well, examine her by the way she walks.
- H. Said Rammi bar Hama, "A woman dissimulates so that her offspring will inherit the estate of her husband."
- I. *Well, then, where we know for sure that she is pregnant, let her remarry?*
- J. *Then why has it been taught on Tannaite authority: A man should not marry a woman made pregnant by an earlier husband or giving suck to a child born to an earlier husband, and if she married under such conditions, he must put her away and never remarry her. This is a precautionary decree, lest the husband [in sexual relations] turn the foetus into a flat fish [which will abort]?*
- K. *If so, the same rule [against sexual relations during pregnancy] should apply to one's own wife just as well!*
- L. *If we invoke the position of one who says, "Sexual relations may be carried on during pregnancy with a diaphragm," then the answer is that it is done with a diaphragm; and if according to him who has said, "From Heaven they will show mercy," then from Heaven they will show mercy."*

- M. *Well, here too, then, if we invoke the position of one who says, "Sexual relations may be carried on during pregnancy with a diaphragm," then the answer is that it is done with a diaphragm; and if according to him who has said, "From Heaven they will show mercy," then from Heaven they will show mercy."*
- N. *Rather, it is because of the consideration of pressure on the belly.*
- O. *If so, then the same consideration applies in regard to one's own wife as well.*
- P. *Well, a man is consideration of his own fetus.*
- Q. *Here too, he would have consideration of the fetus.*
- R. *Well, the operative reason is that a pregnant woman is ordinarily assumed to breast-feed her offspring [and if she marries during pregnancy] **[42B]** she might conceive, and that would make her milk turbid and would kill the offspring.*
- S. *If so, then the same consideration applies in regard to one's own wife as well.*
- T. *In the case of his own child, she would keep it alive with eggs and milk?*
- U. *Well, wouldn't she keep alive her child with eggs and milk?*
- V. *Her husband would provide for the other.*
- W. *Then let her claim the necessities from the heirs [of the first husband]!*
- X. *Said Abbaye, "A woman would be too embarrassed to go to court, so she would kill the baby instead."*

III.1 A. All the same are virgins and women who have had sexual relations:

- B. *What is the definition of **virgins**, and what is the definition of **women who have had sexual relations**?*
- C. *Said R. Judah, "This is the sense of the statement: **All the same are virgins and women who have had sexual relations** who were widowed or divorced, whether after betrothal or after marriage."*

IV.1 A. [R. Yosé says, "All women may be betrothed, except for a widow, on account of mourning for a period of thirty days:]" One day R. Eleazar did not go to the house of study. He came across R. Assi. He said to him, "What did our rabbis say in the house of study?"

- B. *He said to him, "This is what R. Yohanan said, 'The decided law accords with the opinion of R. Yosé' [that women may be betrothed right away, and those who were betrothed may marry right away, with the exceptions that are stated]."*
- C. *"Is that meant to imply that only an opinion assigned to an individual, named authority opposes his view?"*
- D. *"True." For has it not been taught on Tannaite authority: **"If the wife was yearning to go home to her father's house, or was subject to her husband's wrath, or whose husband was old or sick, or whose husband had gone overseas, or whose husband had been imprisoned, she who aborts after her husband's death, a barren woman, a woman past menopause, a woman who does not exhibit the signs of femininity, and a minor who is not yet ripe to get pregnant — all of the above must nonetheless wait for three months before remarrying,"** the words of R. Meir. R. Judah permits betrothal and marriage forthwith **[T. Yeb. 6:6A-L]**.*
- E. *Said R. Hiyya bar Abba, "R. Yohanan retracted."*

- F. *Said R. Joseph, "If he retracted, it was because of what was taught in the vineyard [at Yavneh]. For it has been taught on Tannaite authority: said R. Ishmael b. R. Yohanan b. Beroqah, 'I heard in the vineyard in Yavneh that no woman may remarry or be taken in betrothal until three months have passed'" [T. Yeb. 6:6M].*
- G. *Said R. Jeremiah to R. Zeriqa, "When you go to visit R. Abbahu, present to him the following objection: could R. Yohanan have said, "The decided law accords with R. Yosé," when he has said elsewhere, "The decided law accords with the unattributed statement in the Mishnah"? And we have learned in the Mishnah: **And so in the case of all other women: they should not become betrothed or enter marriage until three months have gone by [after the conclusion of a former marriage]. All the same are virgins and women who have had sexual relations, all the same are women who have been divorced and widows, all the same are married women and betrothed women.**"*
- H. *He said to him, "The one who raised this contradiction pays no mind to the quality of his flour. Where you have an unattributed statement and then a dispute, there the decided law is not in accord with the unattributed statement."*
- I. *For said R. Pappa, and some say R. Yohanan, "Where you have a disputed statement followed by an unattributed one, the decided law is in accord with the unattributed statement. Where you have an unattributed statement and then a dispute, there the decided law is not in accord with the unattributed statement."*
- IV.2.** *A. And R. Abbahu was going along leaning on R. Nahum his servant, going along and collecting from him materials on decided laws. He asked him, "Where you have a disputed statement followed by an unattributed one, what is the rule?"*
- B. *He said to him, "The decided law is in accord with the unattributed statement."*
- C. *He asked him, "Where you have an unattributed statement and then a dispute, what is the rule?"*
- D. *He said to him, "The decided law is not in accord with the unattributed statement."*
- E. *"If the unattributed statement occurs in a paragraph of the Mishnah and the dispute in a Tannaite formulation external to the Mishnah, what is the rule?"*
- F. *He said to him, "The decided law is in accord with the unattributed statement."*
- G. *"If the dispute is in a Mishnah-paragraph and the unattributed statement occurs in a Tannaite formulation external to the Mishnah, what is the rule?"*
- H. *He said to him, [43A] "If Rabbi had not repeated the formulation, how could R. Hiyya have known it?"*
- I. *He said to him, "Lo, we have learned in the Mishnah: **A comb for flax whose teeth have been removed and on which two remained is unclean. And [if] one [remained, it is] clean. And all of them, one by one, by themselves are unclean. And [a comb] for wool, one of every two of whose teeth has been removed, is clean. [If] three remained on it in one place, it is unclean. [If] the outermost was one of them, it is clean. [If] two were removed from it, and one made them into forceps, they are unclean. [If] one [remained] and one made it [for use in cleaning] a lamp or a stretching pin, it is unclean [M. Kel. 13:8], and it is an established fact with us that the decided law is not in accord with that Mishnah-paragraph.**"*

- J. *He said to him, "Except for that one, for in that case, both R. Yohanan and R. Simeon b. Laqish said, 'This is not a valid Mishnah-paragraph.'"*

IV.3. A. *How come?*

- B. *Said R. Huna bar Manoah in the name of R. Idi b. R. Iqa, "It is because there is a contradiction between the opening clause and a later one, for it has been taught as the Tannaite formulation: **And [a comb] for wool, one of every two of whose teeth has been removed, is clean**, so if there were two teeth in one spot, it would remain susceptible to uncleanness, and by contrast, **[If] three remained on it in one place, it is unclean**, so if there were two teeth in one spot, it would be insusceptible to uncleanness."*
- C. *So what's the problem? Maybe the one refers to inside teeth [Slotki: and with two of those the comb may still be used], the other to external teeth [Slotki: two of which are useless].*
- D. *Rather, the contradiction derives from the following Tannaite formulation: In the case of all of them, if the teeth were removed one by one, they remain susceptible to uncleanness, and that is so even though there was no act of adaptation for such use. But then note what follows: if one tooth was adapted for putting out a flame or as a spool, it is susceptible to uncleanness, from which it follows that that is so only when it was adapted for the purpose, but not if one did not do so.*
- E. *Said Abbaye, "So what's the problem? Maybe the one speaks of a tooth with a handle, the other, to one without?"*
- F. *Said R. Pappa, "So what's the problem? Maybe one speaks of small teeth, the other, thick ones."*
- G. *Rather, the operative consideration is that meticulous authorities conclude with the language, "These are the words of R. Simeon." [Slotki: the Mishnah is not at all anonymous.]*

IV.4. A. R. Hiyya bar Abin sent word: "Betrothal may be conducted within the months of the death of the husband, and so it is actually done. And so did R. Eleazar teach us in the name of R. Hanina the Elder: 'The greater part of the first month, the whole of the second, and the greater part of the third month suffice.'"

IV.5. A. *Amemar permitted betrothal on the ninetieth day.*

- B. *Said R. Ashi to Amemar, "But lo, Rab and Samuel both say, 'She has to wait out three months, exclusive of the day on which the husband died, and exclusive of the day on which the betrothal is to take place.'"*
- C. *That was said with respect to a nursing mother. for both Rab and Samuel said, "She has to wait for twenty-four months, exclusive of the day on which the baby was born, and exclusive of the day on which the betrothal is to take place."*
- D. *For lo, somebody made a betrothal feast on the ninetieth day, and Raba made him lose the banquet.*
- E. *Well, that was a banquet for the actual marriage.*
- F. *The decided law is that she has to wait for twenty-four months, exclusive of the day on which the baby was born, and exclusive of the day on which the betrothal is to take place, and she has to wait out three months,*

exclusive of the day on which the husband died, and exclusive of the day on which the betrothal is to take place.

V.1 A. ...except for a widow, on account of mourning [for a period of thirty days]:

- B. Said R. Hisda, “That rule may be derived from an argument *a fortiori*: if in a case in which it is forbidden to wash one’s clothing [the week in which the ninth of Ab occurs], it is permitted to betroth, in a case in which it is permitted to wash one’s clothing, is it not reasonable that it should be permitted to betroth?”
- C. *And where is the law set forth?*
- D. *As we have learned in the Mishnah: In the week in which the ninth of Ab occurs it is prohibited to get a haircut and to wash one’s clothes. But on Thursday of that week these are permitted, because of the honor owing to the Sabbath [M. Ta. 4:7-C]. And in that regard it has been taught on Tannaite authority: Before that time [the ninth of Ab and the week in which it occurs], the people cut down on their activities in business, building, and planting; they betroth but they do not marry, and they do not make a banquet in celebration of a betrothal.*
- E. *When that was set forth as a Tannaite statement, it referred to the time prior to the day.*
- F. *Said Raba, “Then even in respect to the period prior to that prior period, the law still might be deduced through an argument a fortiori: if when it is forbidden to do business, it is permitted to betroth, then how much the more so should it be permitted to betroth when it is permitted to do business? Rather, do not read, R. Yosé says, ‘All women may be betrothed,’ but rather, ‘All women may be married.’”*
- G. **[43B]** *But doesn’t R. Yosé take the position that one has to make a distinction between the offspring of the first husband and that of the second [that he permits marriage within three months]?*
- H. *No he doesn’t. But if you prefer, I shall say, yes he does, but read: All betrothed women women who were divorced may be married.*
- I. *If so, then that’s just what R. Judah says!*
- J. *The difference between them concerns the betrothal [immediately] of a woman who was married. R. Judah takes the view that a married woman [who has been widowed] may be betrothed during the span of time, and R. Yosé takes the view that a married woman who has been widowed may not be betrothed.*
- K. *Has it not been taught on Tannaite authority: R. Yosé says, “All women may be betrothed, except for a widow, on account of mourning. And how long is her period of mourning? Thirty days. And all of them should refrain from marrying until three months have gone by”?*
- L. *But what’s the problem? If you want to say that it has been taught, “R. Yosé says, ‘All women may be betrothed,’” is this a more authoritative formulation than the one of our Mishnah-paragraph? Just as that has been established to mean, “betrothed women who were divorced may be married,” so here it may be interpreted to mean, “All betrothed women who were divorced may be married.”*
- M. *Rather, the problem derives from the concluding clause, in which it has been stated in the Tannaite formulation: And all of them should refrain from marrying*

until three months have gone by. *So marriage has been forbidden, but they may be betrothed [and how can he say that betrothal is forbidden]?*

- N. *Said Raba, "Lay it out and say it in these words: R. Yosé says, 'All betrothed women who were divorced may be married, except for a widow, on account of mourning. And how long is her period of mourning? Thirty days. And all of them should refrain from marrying until three months have gone by. And married women may not be betrothed until three months have gone by.'"*
- O. *But does a widow at the stage of betrothal observe mourning? And did not R. Hiyya bar Ammi teach as a Tannaite statement, "At the stage of betrothal, the husband is not subject to the laws governing him who has suffered a bereavement and not yet buried his died, nor does he contract uncleanness on her account, and she is likewise not subject to those laws nor does she contract uncleanness on his account, and if she dies, he does not inherit her estate, though if he dies, she does collect her marriage-settlement"?*
- P. *Rather, what we have here is a conflict among Tannaite formulations, for it has been taught on Tannaite authority: From the first of Ab until the fast on the ninth of Ab, the people cut down on their activities in business, building, and planting, betrothing and marrying. During the week in which the ninth of Ab occurs, it is forbidden to cut the hair and wash clothes. Others say, "It is forbidden through the entire month." [Betrothal thus is forbidden prior to the ninth of Ab, though the Tannaite authority just now cited permits it.] [Slotki: the objection against Yosé raised by Hisda from the former is therefore untenable, since Yosé may disagree with that Tannaite authority and follow the view of the one in the second passage, who forbids betrothal.]*
- Q. *Objected R. Ashi, "Well, how do you know that 'forbidden to betroth' means 'actually to betroth'? Maybe the real meaning is, 'forbidden to make a banquet celebrating betrothal is forbidden, but betrothing itself is all right?'"*
- R. *If so, does the language, "forbidden to marry or to be married" mean, forbidden to make a banquet in celebration of a marriage, but the marriage itself is permitted?*
- S. *But where's the parallel? In the case of the marriage, even without a feast there is plenty of rejoicing, but in the case of betrothal, is there the requisite celebration if there is no feast?*
- T. *Rather, said R. Ashi, "The case of a fresh occasion for mourning is different from an old occasion [such as mourning for the destruction of the Temple, which happened long ago]. And the case of mourning on the part of the public is different from mourning on the part of an individual." [Slotki: more stringent rules govern personal and recent grief, so there is no contradiction between Yosé's ruling concerning prohibition of betrothal during the widow's personal mourning and permitting betrothal during a period of public mourning; the assumption that the two rules disagree and that Yosé follows the latter is not necessary; both may permit betrothal prior to the ninth of Ab and Yosé may share this view.]*

- A. Four brothers married to four women, and they died —
- B. if the oldest [surviving] brother among them wants to enter into levirate marriage with all of them [the surviving, childless widows], he has the right to do so.
- C. He who was married to two women and who died —
- D. the act of sexual relations [in levirate marriage] or the rite of removing the shoe of one of them exempts her co-wife [from the requirement to do the same].
- E. [44A] [If] one of them was valid and one of them was invalid [for marriage into the priesthood],
- F. if he then performs the rite of removing the shoe, let him perform the rite of removing the shoe with the one invalid [for marriage into the priesthood].
- G. And if he was going to enter into levirate marriage, let him enter into levirate marriage with the one who is valid [for marriage into the priesthood].

- I.1 A. **Four brothers married to four women:** *is such a thing possible? [Then where would there be further brothers to enter into levirate marriage?]*
- B. Say: **Four of the brothers died...**

II.1 A. ...he has the right to do so.

- B. *Do they let him do so? And has it not been taught on Tannaite authority: “Then the elders of his city shall call him” (Deu. 25: 8) — “they” but not their agent;*
- C. *“and speak to him” — teaches that he is given advice appropriate to his situation. If he was a boy and she was an old lady, or he was an old man and she was a girl, they say to him, “What do you want with a girl? What do you want with an old lady? Go to someone your own age and don’t start trouble in your house!” [Here too, he would be advised not to take on four wives.]*
- D. *The rule is required to deal with a case in which it is possible for him to manage.*
- E. *If so, then even more wives too [he should be permitted to take]!*
- F. *What we have here is good counsel: four are all right, no more, so that each one may have sexual relations with him at least once a month.*

III.1 A. He who was married to two women and who died — the act of sexual relations [in levirate marriage] or the rite of removing the shoe of one of them exempts her co-wife [from the requirement to do the same].

- B. *Why should the surviving brother not enter into levirate marriage with both women?*
- C. Said R. Hiyya bar Abba said R. Yohanan, “Said Scripture, ‘...that does not build up his brother’s house’ (Deu. 25: 9) — one house does he build up, but he does not build up two houses.”
- D. *Why should the surviving brother not undertake the rite of removing the shoe with both of them?*
- E. Said Mar Zutra bar Tubiah, “Said Scripture, ‘...the house of him who has had his shoe removed’ (Deu. 25: 9) — in regard to one house he undergoes the rite of removing the shoe, and he does not do so in regard to two houses.”

- F. *Why should the surviving brother not enter into levirate marriage with one of the woman and conduct the rite of removing the shoe with the other?*
- G. Said Scripture, “If the man does not want to take...” (Deu. 25: 7), meaning, but if he does wish, he may enter into levirate marriage. The upshot is any woman who can enter into levirate marriage also enters into the rite of removing the shoe, and any woman who does not enter into levirate marriage also does not enter into the rite of removing the shoe.
- H. And furthermore, so that people should not say of one and the same house, part of it is rebuilt and part of it is removed [as with the shoe].
- I. So let them say so!
- J. *If he first entered into the levirate marriage and then undergone the right of removing the shoe, that would pose no problem, but perhaps he may conduct the rite of removing the shoe and then go into the levirate marriage, at which point he will be subject to the prohibition of “who does not build” (Deu. 25: 9) [who does not build must never again build].*

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

- B. *If so, then what need did the All-Merciful have to forbid the co-wife of a consanguineous relative? Now if, in general, you have said that two co-wives in general are not subject to the rite of removing the shoe or levirate marriage, then what issue can be raised in connection with the co-wife of a consanguineous relative?*
- C. *It most certainly was required. For it might have entered your mind to suppose that the consanguineous relative is excluded, so her co-wife indeed may enter into levirate marriage; so we are informed that she too is forbidden.*
- D. *Rather, in stating “his brother’s widow” twice [at Deu. 25: 7], Scripture has extended the rule to cover a case of more than a single widow.*

IV.1 A. **[If] one of them was valid and one of them was invalid [for marriage into the priesthood], if he then performs the rite of removing the shoe, let him perform the rite of removing the shoe with the one invalid [for marriage into the priesthood]. And if he was going to enter into levirate marriage, let him enter into levirate marriage with the one who is valid [for marriage into the priesthood]:**

- B. Said R. Joseph, “Here Rabbi taught: ‘A man should not pour water out of his cistern while others need the water’ [Slotki: a man should not destroy anything that may be of use to others, though it is of no use to him; in the case under discussion, the levir submits to the rite of removing the shoe done by the forbidden woman, and thus liberates the permitted one to marry even a priest, to whom she would have been forbidden had the rite been done by her].

4:12

- A. **He who remarries a woman whom he has divorced [after she had wed someone else and was divorced or widowed], he who marries a woman with whom he has performed the rite of removing the shoe, and he who marries**

the kinswoman of a woman with whom he has performed the rite of removing the shoe [M. 4:7G-H]

B. must put her away.

C. “And the offspring [of such a union] is a mamzer,” the words of R. Aqiba.

D. And sages say, “The offspring is not a mamzer”

E. But they concede in the case of one who marries the kinswoman of a woman whom he has divorced, that the offspring is a mamzer

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

B. *Read as the Tannaite formulation: **who marries the kinswoman of a woman whom he has divorced.** And that stands to reason, for it proceeds further on: **But they concede in the case of one who marries the kinswoman of a woman whom he has divorced, that the offspring is a mamzer.** Now if you maintain that the relative of the divorcee is subject to discussion, then that is why the language is used, **But they concede....** But if you maintain that that classification is not under discussion, then what is the sense of **But they concede?***

C. *But perhaps this is what the formulation is meant to tell us, that the offspring of a union of those subject to extirpation is a mamzer?*

D. *That is in point of fact set forth as a Tannaite formulation later on: **What is the definition of a “mamzer”?** “[The offspring of] any [marriage of near of kin — the rubric, ‘He shall not come into the congregation of the Lord’ (Deu. 23: 3),” the words of R. Aqiba. Simeon of Teman says, “[The offspring of] any [marriage] for which the participants are liable to extirpation by Heaven.” And the law follows his opinion [M. 4:13A-D].*

E. *But maybe by statement the matter without attribution, the Tannaite means to tell us that the decided law accords with Simeon of Teman?*

F. *If so, he should have covered “others who are subject to the penalty of extirpation.” Why specify **who marries the kinswoman of a woman whom he has divorced?** It must follow that that is the case under discussion.*

G. *But maybe, in point of fact, that was not under discussion, but since the formulation was meant to encompass **He who remarries a woman whom he has divorced [after she had wed someone else and was divorced or widowed], he who marries a woman with whom he has performed the rite of removing the shoe, he also introduced the kinswoman of a woman whom he has divorced?***

- H. *Then would the offspring of a marriage with the relative of a woman with whom he has performed the rite of removing the shoe from R. Aqiba's perspective be a mamzer?*
- I. Said R. Hiyya bar Abba said R. Yohanan, "This is the scriptural basis for the position of R. Aqiba: 'the house of him who has had his shoe drawn off' (Deu. 25:10) — Scripture has then called it 'house house.'" [Slotki: the relative of a woman with whom he has performed the rite of removing the shoe is forbidden by the law of the Torah just as is that of a divorcée. The offspring of such a union is a mamzer.]
- I.2.** A. Said R. Joseph said R. Simeon b. Rabbi, "All concur in the case of one who remarries a woman whom he has divorced [44B] that the offspring is a ruined for marriage into the priesthood."
- B. *Who is "all concur"?*
- C. *It is Simeon of Teman, for even though Simeon of Teman has said, "The offspring of a union that is prohibited by a negative commandment is not a mamzer," while the offspring is not a mamzer, it is most certainly ruined for the priesthood. This derives, in fact, from an argument a fortiori based on the case of a widow, namely: if the son of a widow who was married to a high priest, who is not subject to a prohibition to all [a widow cannot marry only a high priest, not an ordinary priest], is tainted, how much more the offspring of this one, who is forbidden to all, should be forbidden?*
- D. *One may raise this objection: the case of a widow married to a high priest is exceptional, because she herself is profaned?*
- E. And furthermore, "She is an abomination" (Deu. 24: 4), is what is written, meaning, she but her children are not abominations.
- F. *And furthermore, it has been taught on Tannaite authority: He who remarries a woman whom he has divorced [after she had wed someone else and was divorced or widowed], he who marries a woman with whom he has performed the rite of removing the shoe, and he who marries the kinswoman of a woman whom he has divorced — R. Aqiba says, "He has no effective power of betrothing her; she does not have to get a writ of divorce from him; she is invalid for marriage into the priesthood, her offspring is invalid [as a mamzer], and they force him to send her away." Sages say, "He has effective power of betrothing her; she does have to get a writ of divorce from him; she is valid for marriage into the priesthood, her offspring is valid [as a mamzer]." Now for what purpose is the offspring fit? Is it not in regard to the priesthood?*
- G. *No, it is fit to enter the congregation [and marry an ordinary Israelite].*
- H. *If so, in regard to whom is the remarried divorcée ruled [by sages] to be fit? If I should say that it is to marry into the congregation, that is obvious. Just because she played the whore, is she therefore unfit to enter the congregation? But it has to mean, for the priesthood. Now, since she is not disqualified to marry into the priesthood, her offspring also must be not disqualified in regard to the priesthood?*
- I. *What kind of an argument is that? This is covered by its rule, and that is covered by its rule. And that stands to reason, for note what is set forth as the Tannaite*

formulation in the first clause: she is invalid...her offspring is invalid... — here again, to whom is she invalid? If I should say, she is invalid to enter into the congregation, just because she played the whore, is she therefore unfit to enter the congregation? But it has to mean, for the priesthood. Then ...her offspring is invalid — to whom is she invalid? If I should say, to the priesthood, lo, to the congregation then she is valid, but has not R. Aqiba said, “The offspring is a mamzer”? So it is obvious that it is in respect to entry into the congregation. Now, since the first clause finds that this is covered by its rule, and that is covered by its rule, in the second clause as well, this is covered by its rule, and that is covered by its rule. And as to the clause, “She is an abomination”, the meaning is, she is an abomination, but her co-wife is not an abomination, but her children are abominations.

- J. *But the objection based on the widow still remains, namely: the case of a widow married to a high priest is exceptional, because she herself is profaned?*
 - K. *Rather, if the statement was made, this is what was said:*
 - L. Said R. Joseph said R. Simeon b. Rabbi, “All concur in the case of one who remarries a woman whom he has divorced that the offspring is a ruined for marriage into the priesthood.”
 - M. *Who is “all concur”?*
 - N. *It is R. Joshua. For even though R. Joshua has said, “The offspring of a union that is penalized by extirpation is not a mamzer,” granted that it is not a mamzer, it still is ruined for the priesthood. This derives, in fact, from an argument a fortiori based on the case of a widow, namely: if the son of a widow who was married to a high priest, who is not subject to a prohibition to all [a widow cannot marry only a high priest, not an ordinary priest], is tainted, how much more the offspring of this one, who is forbidden to all, should be forbidden?*
 - O. *And if you raise this objection: the case of a widow married to a high priest is exceptional, because she herself is profaned? here too, as soon as someone has had sexual relations with her, he has made her a whore [the union being prohibited, so she may not marry even a common priest (Slotki)].*
- I.3.** A. Said Rabbah bar bar Hannah said R. Yohanan, “All concur in the case of a slave or a gentile who had sexual relations with an Israelite woman that the offspring is a mamzer.”
- B. *Who is “all concur”?*
 - C. *It is R. Simeon of Teman, for even though Simeon of Teman has said, “The offspring of a union that is prohibited by a negative commandment is not a mamzer,” that statement [45A] pertains only to the offspring of a union that is penalized by flogging, since betrothal in that case is valid. Here, however, with an gentile or a slave, betrothal does not take effect, so they are in the status of those whose union is penalized by extirpation.*
 - D. *An objection was raised: If a gentile or a slave had sexual relations with an Israelite woman, the offspring is in the category of a mamzer. R. Simeon b. Judah said, “A mamzer is only the offspring of a union that is forbidden as incest and*

subject to the penalty of extirpation.” [The offspring of a gentile or slave is not a mamzer.]

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

B. *For when R. Dimi came*, he said R. Isaac bar Abodimi [said] in the name of Our Rabbi, “If a gentile or a slave had sexual relations with an Israelite woman, the offspring is in the category of a mamzer.”

C. *R. Aha, head of the castle, and R. Tanhum b. R. Hiyya of Kefar Akko redeemed some female captives, who came from Armon to Tiberias. There was one who had become pregnant by a gentile. They came before R. Ammi. He said to them, ‘R. Yohanan and R. Eleazar and R. Hanina say, ‘If a gentile or a slave had sexual relations with an Israelite woman, the offspring is in the category of a mamzer.’”*

D. *Said R. Joseph, “Is it such a major accomplishment to calculate the number of authorities [behind a given position]? Lo, Rab and Samuel in Babylonia, and R. Joshua b. Levi and Bar Qappara in the Land of Israel, — and some say Bar Qappara is changed to ‘the elders of the South, — say, ‘If a gentile or a slave had sexual relations with an Israelite woman, the offspring is valid.’”*

E. Rather, said R. Joseph, “*So who is ‘all agree’? It is Rabbi. For when R. Dimi came*, he said R. Isaac bar Abodimi [said] in the name of Our Rabbi, ‘If a gentile or a slave had sexual relations with an Israelite woman, the offspring is in the category of a mamzer.’”

I.5. A. R. Joshua b. Levi says, “The offspring is spoiled.”

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

C. But the case of a widow married to a high priest is exceptional, because she herself is profaned.

D. *Here too, [in a case of sexual relations between an Israelite woman and a gentile or slave], when she has had sexual relations, she is invalid. For* said R. Yohanan in the name of R. Simeon, “How on the basis of Scripture do we know that if an idolator or a slave had sexual relations with a priest-girl or a Levite-girl or an

Israelite-girl, he has rendered her invalid [to remain in the caste in which she belongs]? As it is said, ‘But if a priest’s daughter is widowed or divorced’ (Lev. 22:13) — thus referring to a woman who is subject to the status of widow or divorcee. Then the idolator and the slave are excluded, for in such cases the status of widowhood or divorcee does not apply.”

E. *Said to [Joseph] Abbayye, “How come you rely on R. Dimi? Rely rather on Rabin, for when Rabin came, he said, ‘R. Nathan and R. Judah the Patriarch give as a ruling that the offspring is permitted.’ And who is R. Judah the Patriarch? It is of course Rabbi.”*

I.6. A. *So too Rab teaches that the offspring is permitted. For there was a case of someone who came before Rab. He said to him, “If an idolator or a slave had sexual relations with an Israelite woman, what is the law?”*

B. *He said to him, “The offspring is valid.”*

C. *He said to him, “Give me your daughter [in marriage].”*

D. *“I will not give her to you.”*

E. *Said Shimi bar Hiyya to Rab, “People say, ‘A camel in Media can dance on a qab.’ So here’s the qab and here’s the camel and here’s Media, and where’s the dancing?”*

F. *He said to him, “If he were like Joshua b. Nun, wouldn’t I have given him my daughter?”*

G. *“Yeah, well if he were like Joshua b. Nun, if the master would not give him his daughter, there would be plenty of others who would. But if the master will not give him his daughter, nobody else will either.”*

H. *The man wouldn’t go his way. he set his eye on him and he dropped dead.*

I.7. A. *So too R. Mattenah teaches that the offspring is permitted.*

I.8. A. *So too R. Judah teaches that the offspring is permitted. For when someone of that classification came before R. Judah, he said to him, “Go, either dissimulate or marry your own kind.”*

I.9. A. *When someone of that classification came before R. Judah, he said to him, “Either emigrate or marry one of your own kind.”*

Composite on the Marriage-Rules Governing A Slave

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

B. *He said to him, “If in the case of one who is wholly a slave, they have said that the offspring is valid, can there be any question about the status of the offspring of one who is half-slave?”*

C. *Said R. Joseph, “Who is responsible for the tradition [45B] [that the offspring of a slave or a gentile is legitimate]? It is R. Judah. But lo, said R. Judah, ‘He who is half-slave and half-free who has sexual relations with an Israelite woman — as to that offspring, there simply is no remedy!’”*

D. *When that statement of R. Judah was made, it dealt with a case in which the half-slave had betrothed the Israelite woman, in which case, the part*

of him that is a slave has had sexual relations with a [validly] married woman.

- E. *But have not the Nehardeans said in the name of R. Jacob, "In the opinion of him who declares the offspring invalid, the offspring is invalid even if sexual relations have taken place with a woman who has no marital ties whatsoever; and in the opinion of him who regards the child as valid, the offspring is valid even if the sexual relations took place with a married woman." And both of them derive the governing analogy only from the case of the wife of one's father. He who declares the offspring invalid reasons in this way: if the wife of the father, with whom there can be no valid betrothal, yields an offspring that is a mamzer, so any union in which there can be no valid betrothal yields an offspring that is a mamzer. And he who declares the offspring valid reasons that just as with the wife of one's valid, with whom betrothal is invalid only in the case of the son but is valid in the case of others, a gentile and a slave, with whom betrothal is never valid, likewise are excluded. [Slotki: these cases are different from that of the father's wife, so the child born from a union of an Israelite woman and a slave or gentile must be legitimate; the father is entirely eliminated, the child is ascribed to the mother. Since the statement of the Nehardeans proves that there is no difference between an unmarried and a married woman, the distinction drawn between cohabitation after betrothal and cohabitation without betrothal is untenable; the objection against Rabbah's ruling stands.]*

- F. *So it must follow that when the statement of R. Judah was made, the statement of R. Judah [that there is no remedy for the child] must address the case of a slave or gentile who had sexual relations with a married woman, so that the emancipated side of the slave has sexual relations with a married woman. [Slotki: as the offspring of a union between an Israelite and a married woman is a mamzer, so is that of the union between the half-slave.]*

I.11. A. *Said Rabina, "Said to me R. Gaza, 'R. Yosé bar Abin visited our town and there was a case involving a woman with no marital ties whatsoever, and he declared the offspring valid; there was an incident involving a married woman, and he declared the offspring invalid.'"*

- B. *Said R. Sheshet, "To me personally did R. Gaza tell the story. It was not R. Yosé bar Abin but R. Yosé b. R. Zebida. And he declared valid the offspring of both the woman without marital ties and also the married woman."*

I.12. A. *Said R. Abba b. Raba to Rabina, "Amemar visited our town and declared valid the offspring of both the woman without marital ties and also the married woman."*

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

- I.14.** A. *Raba declared R. Mari bar Rachel to be legitimate, and appointed him to be among the supervisors of Babylonia. And even though a master has said, “You shall set as king over you only one who is among your brothers’ (Deu. 17:15), meaning, all those whom you appoint must be only ‘from among your brothers,’” this one, since his mother is Israelite, he counted as one who is “from among your brothers.”*
- I.15.** A. *A slave of R. Hiyya bar Ammi immersed a gentile woman for the purpose of marriage [thus having her take a cultic immersion as a woman would do after menstruating and prior to resuming sexual relations]. Said R. Joseph, “I can declare her to be legitimate, and her daughter as well. In her case, the ruling accords with the position of R. Assi, for said R. Assi, ‘Did she not immerse in respect to her menstrual uncleanness?’ In the case of her daughter: a gentile or a slave who had sexual relations with an Israelite woman — the offspring is valid.”*
- I.16.** A. *There was someone called “son of the gentile woman.”* Said R. Assi, “Did she not immerse in respect to her menstrual uncleanness?”
- I.17.** A. *There was someone called “son of a gentile man.”* Said R. Joshua b. Levi, “Did the father not immerse on account of his seminal emission?”

Composite on Conversion in General

- I.18.** A. Said R. Hama bar Guria said Rab, “He who buys a slave from a gentile, and the slave went ahead on his own and immersed, so as to acquire the status of a freed man — he has acquired title to himself as a free man. *How come?* [46A] *The gentile has no title to the person of the slave, and what he transfers to the Israelite is only what he owns. Now since the slave went ahead on his own and immersed, so as to acquire the status of a freed man, the slave has removed from himself his indenture as a slave.*”
- B. *That accords with Raba, for said Raba, “The act of sanctification [of something to the altar that has already been mortgaged], leavened food [held by an Israelite during Passover but pledged to a gentile for a debt], and the freeing of a slave that is mortgage nullify a mortgage.”* [Slotki: similarly here, the immersion of the slave cancels his obligations to the gentile and the Jewish master only represents the gentile and has no greater claim to the slave than the gentile.]
- C. *Objected R. Hisda, “There was the case of Beluria, the convert, the slaves of whom went ahead and immersed before her. The case came before sages, and they ruled, ‘They have acquired title to themselves as free men.’ So if it was before her that they did so, but if it was after she did, then it is not the case.”* [Slotki: thus it has been shown that if the owner is an Israelite, immersion does not procure the slave’s freedom, and that contradicts what Hama said in Rab’s name.]

- D. Said Raba, "If it was before her doing so, then they acquire title to themselves whether they did so without further explanation of their intent or whether they made explicit what their purpose was; but if it was after her, then if it was done in full articulation of their purpose, they acquire title to themselves, but if not, they do not."
- E. Said R. Avayya, "They have stated this rule [that immersion frees the slave] only in the case of one who buys a slave from a gentile. *But the gentile himself [if he sold himself] transfers title [to the Israelite purchaser], as it is written, 'And also from the children of strangers who sojourn among you, of them you may buy' (Lev. 25:45) — you buy from them, but they do not buy from you, and they do not buy from one another, and they do not buy from you.*"
- F. *Now for what purpose can this statement be made? If we say that it refers to manual work, then may not a gentile buy an Israelite to do manual work? Is it not written, "Or to the offshoot of a stranger's family" (Lev. 25:47), and a master has said, "'...a stranger's family' refers to a gentile"? So does it not refer to the person [so that a gentile may not acquire the person of the Israelite, but only his labor], and the All-Merciful has said, "you may buy of them," even their persons!*
- G. *R. Aha questioned this: "[Permitting the purchase of the person of a gentile] may refer to purchase by means of money and immersion."* [Slotki: as a slave of a Jew; but what proof is there that a gentile does not acquire his freedom if he performed immersion with the object in particular of gaining his manumission thereby?]
- H. *That's a problem.*

I.19. A. Said Samuel, "[When one immerses a gentile slave to initiate him into Judaism], it is necessary to hold him firmly in the water."

- B. *That was done with Menyamin, slave of R. Ashi, whom [Ashi] wanted to immerse. He handed him over to Rabina and R. Aha b. Raba. He said to the, 'See to it that I shall claim him from you [if anything goes wrong].'* *They put a chain around his neck, loosened it, and tightened it. They loosened it so that there would be no interposition between the water and his skin, and they tightened it again so that he could not go ahead and declare, "Lo, I immerse myself so as to gain my freedom."*
- C. *As he was raising his head from the water, they put on him a bucket of clay on his head and said to him, "Go, carry this bucket to the house of your master."*

I.20. A. Said R. Pappa to Raba, "Has the master seen how the members of the household of Pappa bar Abba lay out money in behalf of people for their head taxes and then force them into working for them. Once they have served out their indenture, do they have to have a deed of freedom or not?"

- B. *He said to him, "So if I were dead, I could not have said this ruling to you — this is what R. Sheshet said, 'The surety for these people is deposited in the government archive, and the government has*

made the law that whoever does not pay his head tax serves as a slave for him who pays it for him.’ [So a deed of emancipation is required.]”

- I.21.** A. R. Hiyya bar Abba came to Gabla. He saw Israelite women who had become pregnant by gentiles who had been circumcised but not immersed. He saw Israelite wine that gentiles had mixed, being drunk by Israelites. He saw lupines boiled by gentiles and eaten by Israelites. And he said nothing whatsoever to them.
- B. He came before R. Yohanan. He said to him, “Go and proclaim concerning their children that they are mamzers, their wine that that it is subject to prohibition by reason of being libation-wine, their lupines that they are subject to prohibition by reason of having been cooked by gentiles, for the people are not disciples of the Torah.”
- C. “their children that they are mamzers:” R. Yohanan is consistent with views expressed elsewhere, for said R. Yohanan, “A person is not deemed a proselyte until he is circumcised and immersed, and if he has not immersed, he remains a gentile.
- D. And said Rabbah bar bar Hannah said R. Yohanan, “A gentile or a slave who had sexual relations with an Israelite woman — the offspring is a mamzer.”
- E. [“their wine that that it is subject to prohibition by reason of being libation-wine:”] He made a decree against their wine as libation wine, on the principle, on the principle of, “We say to a Nazirite, ‘keep off, go around the vineyard and do not approach it.’”
- F. “their lupines that they are subject to prohibition by reason of having been cooked by gentiles, for the people are not disciples of the Torah:” *is the operative consideration that the people are not disciples of the Torah? Then had they been disciples of the Torah, would the lupines have been permitted? Has not* R. Samuel b. R. Isaac said Rab said, “Whatever is eaten as is, fresh, is not subject to prohibition by reason of having been cooked by gentiles”? And lo, lupines cannot be eaten raw, so the prohibition of food cooked by gentiles does pertain.
- G. R. Yohanan takes the position of the following version of the same matter, for R. Samuel b. R. Isaac said Rab said, “Whatever is not served on kings’ tables as a relish with bread is not subject to prohibition by reason of having been cooked by gentiles.”
- H. *So, as a matter of fact, the operative consideration that the people are not disciples of the Torah, and had they been disciples of the Torah, would the lupines have been permitted.*

I.22. A. Our rabbis have taught on Tannaite authority:

- B. A proselyte who was circumcised but did not immerse —
- C. R. Eliezer says, “Lo, this one is a valid proselyte. For so we find in the case of our fathers that they circumcised themselves but did not immerse.”

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

I.23. A. *Now why does R. Joshua not invoke the analogy of the fathers, or R. Eliezer the analogy of the mothers? And should you say, we do not invoke an analogy concerning what is possible from what is not possible, and has it not been taught on Tannaite authority:*

- B. R. Eliezer says, “How on the basis of Scripture do we know the rule covering the Passover offering, that it derives only from unconsecrated animals? We find a reference to the offering of a Passover offering to be presented in Egypt, and a reference to the offering of a Passover offering for generations to come. Just as the Passover offering that was presented in Egypt could derive only from what was unconsecrated, so the Passover offering that was to be presented in generations to come might derive only from what was unconsecrated.”
- C. Said to him R. Aqiba, “But is it right to derive the rule governing what is possible from a case involving what is not possible [Cashdan, *Menahot* to 82A: for at that time the law of the second tithe had not been promulgated, and even later, when it was given, it came into force only when the Israelites had entered the promised land. So in Egypt there was no possibility of presenting the Passover offering from a beast designated as second tithe.]”
- D. He said to him, “Even though it was not possible, it does represent probative evidence, so that we should derive the rule from that case.”
- E. Rather, **[46B]** *in the case of one who has immersed and not circumcised himself, all concur. Where they differ concerns the case of circumcision without immersion. R. Eliezer derives the governing analogy from the case of the fathers. R. Joshua maintains that in the case of the fathers too, immersion was done.*
- F. *So how does he know it? If we say it is from the verse, “Go to the people and sanctify them today and tomorrow and have them wash their garments”*

(Exo. 19:10), now if in a case in which washing the clothing is not required [e.g., after an involuntary ejaculation], immersion is required [Lev. 15:16], in a case in which washing the garments is required [Israel's receiving the Torah is their conversion], how much the more so should immersion be required! *but that may have had as its consideration the matter of cultic cleanness [not conversion]*.

- G. Rather, it is from the following: "And Moses took the blood and sprinkled it on the people" (Exo. 24: 8), *and there is a tradition that sprinkling is done only where there has been immersion.*
- H. *And how does R. Joshua know that the mothers immersed?*
- I. *It stands to reason, for otherwise, how could they have come under the wings of the Presence of God [through their conversion]?*

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

- B. *So what else is new? Where you have a dispute between a named opinion and an unattributed majority, the decided law accords with the position of the majority [that is, sages in the context of Eliezer and Joshua]!*
- C. *But who are "sages" here? R. Yosé. For it has been taught on Tannaite authority:*
- D. "Lo, if someone came and said, 'I circumcised myself but did not immerse,' they immerse him, and it makes no difference [that the circumcision was done earlier]," the words of R. Judah.
- E. R. Yosé says, "They do not immerse him."
- F. Therefore "They immerse a proselyte on the Sabbath," the words of R. Judah.
- G. R. Yosé says, "They do not immerse on the Sabbath." [Slotki: thus it has been shown that the author of the view that both immersion and circumcision are required is Yosé.]

I.25. A. The master has said: Therefore "They immerse a proselyte on the Sabbath," the words of R. Judah —

- B. *That is obvious. Since R. Judah takes the view that one of the two actions, either immersion or circumcision, suffices, isn't it self-evident that, if the circumcision has been performed in our presence, he is permitted to immerse? So why say "therefore..."?*
- C. *What might you otherwise have supposed? That from R. Judah's perspective, immersion is principal, so that immersion is not to take place on the Sabbath, since in that way a person improves his situation [and one may not change one's status on the Sabbath].*

So we are informed that R. Judah requires either the one or the other equally.

I.26. A. R. Yosé says, “They do not immerse on the Sabbath” —

B. *That is obvious. Since R. Yosé takes the view that we require both actions in connection with conversion, immersion may not take place, since in that way a person improves his situation [and one may not change one’s status on the Sabbath].*

C. *What might you otherwise have supposed? That from R. Yosé’s perspective, circumcision is principal, and there the operative consideration is that the circumcision was not performed in our presence; but if circumcision were done in our presence, one might have supposed that, under such conditions, the convert may immerse even on the Sabbath. So we are informed that R. Yosé requires both actions equally.*

I.27. A. Said Rabbah, “There was a case at the household of R. Hiyya bar Rabbi — and R. Joseph repeated it as R. Oshaia b. Rabbi, and R. Safra repeated it as R. Oshaia bar Hiyya — in which a convert came before him who had circumcised himself but not immersed. He said to him, ‘Wait here until tomorrow, and we shall immerse you.’”

B. *There are three rulings that are to be deduced from that case:*

C. *A proselyte has to have a court of three men.*

D. *A proselyte achieves conversion only through circumcision and immersion.*

E. *They do not immerse a proselyte at night.*

F. *Well, why not draw the inference that expert scholars are required?*

G. *Maybe that was sheer coincidence.*

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

I.29. A. *Our rabbis have taught on Tannaite authority:*

B. *If someone came along and said, “I am a convert,” might one suppose that we accept that statement?*

C. *Scripture says, “...with you...” (Lev. 19:33), meaning, it is only when he is well known to you.*

D. *If he came with witnesses as to his status with him, how do we know the rule that he is accepted forthwith?*

E. *Scripture states, “And if a proselyte sojourn...in your land” (Lev. 19:33).*

F. **[47A]** *I know that that is so only within the land of Israel. How do I know that the same rule applies overseas?*

G. *Scripture says, “with you,” meaning, wherever you may be.*

- H. “If so, why is it said, ‘in the land’?”
- I. “In the land it is necessary to produce proof. Abroad it is not necessary to produce proof,” the words of R. Judah.
- J. And sages say, “Whether in the land or abroad, it is necessary to produce proof.”

I.30. A. “If he came with witnesses as to his status with him, how do we know the rule that he is accepted forthwith?”

- B. How come I need a verse of Scripture to make this point?
- C. *Said R. Sheshet, “If they say, ‘We heard that he was accepted as a convert in such and such a court,’ it might have entered your mind not to accept that testimony. So we are informed that you do.”*

I.31. A. Scripture states, “And if a proselyte sojourn...in your land” (Lev. 19:33). I know that that is so only within the land of Israel. How do I know that the same rule applies overseas?”

- B. Scripture states, “with you,” meaning, wherever he is with you.
- C. *But this language “with you” has already been expounded for another purpose?*
- D. One lesson derives from “with you” in the singular (Lev. 19_33) the other, “with you” in the plural (Lev. 19:34).

I.32. A. And sages say, “Whether in the land or abroad, it is necessary to produce proof.”

- B. But lo it is written, “In your land” (Lev. 19:33)!
- C. *That is required to make the point that even in the Land of Israel they accept converts. For it might have entered your mind to suppose that, because of the advantages of the Land of Israel, they became proselytes, and at the present time, when there is no advantage [the land being poor], they still might be attracted by the consideration of collecting a share of the gleanings, forgotten sheaf, corner of the field, and poorman’s tithe. So we are told that, nonetheless, they are accepted.*

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

- B. *So what else is new?!* Where there is an opinion attributed to a single individual and one that appears without attribution and so in the name of the majority, the law accords with the majority.
- C. *What might you have supposed? That R. Judah’s position stands to reason, because a variety of verses of Scripture support him? So we are informed that that is not the case.*

I.34. A. *Our rabbis have taught on Tannaite authority:*

- B. “And judge righteously between a man and his brother and the proselyte that is with him” (Deu. 1:16):
- C. On this basis said R. Judah, “A proselyte who converts in court, lo, this is a valid proselyte; but one who converts all by himself is not regarded as a proselyte.”

I.35. A. There was a case in which someone came before R. Judah and said to him, “I converted while all by myself.”

- B. Said to him R. Judah, "Do you have witnesses?"
- C. He said to him, "No."
- D. "Do you have children?"
- E. He said to him, "Yes."
- F. He said to him, "You are trusted to invalidate yourself, but you are not believed to invalidate your children." [The offspring of the union of a gentile and an Israelite woman are mamzerim.]

I.36. A. Did R. Judah say that a convert is not believed as regards his children?
Has it not been taught on Tannaite authority:

- B. "He shall acknowledge the firstborn" (Deu. 21:17) — even to others [letting the know who is firstborn].
- C. In this connection said R. Judah, "A man is believed to state, 'This son of mine is firstborn.' And just as he is believed to state, 'This son of mine is firstborn,' so he is believed to state, 'This son of mine is the son of a divorcée or the son of a woman who has performed the rite of removing the shoe.'"
- D. And sages say, "He is not believed."
- E. *Said R. Nahman bar Isaac, "This is the sense of what he said to him: 'In accord with what you have said, you are a gentile, and a gentile cannot give testimony.'"*
- F. *Rabina said, "This is the sense of what he said to him: 'Do you have children?' 'Yes.' 'Do you have grandchildren?' 'Yes.' 'You are believed to invalidate your children, but you are not believed to invalidate your grandchildren.'"*
- G. *So too it has been taught on Tannaite authority: R. Judah says, "A person is believed to say concerning his minor son [what his status is], but he is not believed to say concerning his grown-up son."*
- H. And said R. Yohanan, "The meaning is not actually 'the minor' or 'the adult,' but the minor who has children is regarded as an adult, and an adult who has no children is regarded as a minor."
- I. *And the decided law is in accord with R. Nahman bar Isaac.*
- J. *But has it not been taught on Tannaite authority in accord with Rabina?*
- K. *That has been stated in connection with the rule governing acknowledgment. [An Israelite can testify that his son is firstborn, etc.]*

I.37. A. *Our rabbis have taught on Tannaite authority:*

- B. A person who comes to convert at this time — they say to him, "How come you have come to convert? Don't you know that at this time the Israelites are forsaken and harassed, despised, baited, and afflictions come upon them?" If he said, "I know full well, and I am not worthy [of sharing their suffering]," they accept him forthwith. And they inform him about some of the lesser religious duties and some of the weightier religious duties. He is informed about the sin of neglecting the religious duties involving gleanings, forgotten sheaf, corner of the field, and poorman's tithe. They further inform him about the penalty for not keeping the commandments.

- C. They say to him, “You should know that before you came to this lot, if you ate forbidden fat, you would not be penalized by extirpation. If you violated the Sabbath, you would not be put to death through stoning. But now if you eat forbidden fat, you are punished with extirpation. If you violate the Sabbath, you are punished by stoning.”
- D. And just as they inform him about the penalties for violating religious duties, so they inform him about the rewards for doing them. They say to him, “You should know that the world to come is prepared only for the righteous, and Israel at this time is unable to bear [47B] either too much prosperity or too much penalty.”
- E. They do not press him too hard, and they do not impose too many details on him.
- F. If he accepted all this, they circumcise him immediately. If any shreds that render the circumcision invalid remain, they do it a second time.
- G. Once he has healed, they immerse him right away.
- H. And two disciples of sages supervise the process and inform him about some [more] of the lesser religious duties and some of the weightier religious duties.
- I. He immerses and comes up, and lo, he is an Israelite for all purposes.
- J. In the case of a woman, women sit her in the water up to her neck, and two disciples of sages stand therefor her outside, and inform her about some [more] of the lesser religious duties and some of the weightier religious duties.
- K. All the same are a proselyte and a freed slave.
- L. And in a place in which a woman immerses a proselyte and a freed slave immerse.
- M. And whatever would be deemed an invalidating interposition in the case of an immersion is deemed an invalidating interposition in the case of a proselyte and a freed slave.

I.38. A. The master has said: A person who comes to convert at this time — they say to him, “How come you have come to convert? Don’t you know that at this time the Israelites are forsaken and harassed, despised, baited, and afflictions come upon them?” If he said, “I know full well, and I am not worthy [of sharing their suffering],” they accept him forthwith. And they inform him about some of the lesser religious duties and some of the weightier religious duties. He is informed about the sin of neglecting the religious duties involving gleanings, forgotten sheaf, corner of the field, and poorman’s tithe. They further inform him about the penalty for not keeping the commandment—

- B. *How come?*
- C. *So that if he goes his way, he goes his way.*
- D. for said R. Helbo, ““proselytes are as hard for Israel as a scab: ‘And the proselyte shall join himself with them and they shall cleave to the house of Jacob’ (Isa. 14: 1).”

I.39. A. He is informed about the sin of neglecting the religious duties involving gleanings, forgotten sheaf, corner of the field, and poorman’s tithe:

- B. *How come?*

- C. Said R. Hiyya bar Abba said R. Yohanan, “A child of Noah would rather be put to death on account of something worth less than a penny rather than spend as much as a penny that he cannot get back.”
- I.40.** A. They do not press him too hard, and they do not impose too many details on him:
- B. Said R. Eleazar, “What verse of Scripture makes that point? It is written, ‘And when she saw that she was steadfastly minded to go with her, she left off speaking to her’ (Rut. 1:18).
- C. “She said to her, ‘It is forbidden for us to go beyond the Sabbath boundary.’
- D. “She said to her, ‘Where you go, I will go’ (Rut. 1:16).”
- E. “‘It is forbidden to us to be alone with men.’
- F. “‘Where you spend the night, I will spend the night.’
- G. “‘Six hundred thirteen commandments have been assigned to us.’
- H. “‘Your people will be my people’ (Rut. 1:16).
- I. “‘We are forbidden to worship idols.’
- J. “‘And your God, my God.’
- K. “‘**Four modes of inflicting the death penalty have been assigned to the court**’ [M. **San. 7:1A**].’
- L. “‘Where you die, I will die.’
- M. “‘Two graveyards have been assigned for the use of the court.’
- N. “‘And there I will be buried.’
- O. “‘When she saw that she was steadfastly minded....’”
- I.41.** A. If he accepted all this, they circumcise him immediately:
- B. *How come?*
- C. *In no way do we postpone carrying out a religious duty.*
- I.42.** A. If any shreds that render the circumcision invalid remain, they do it a second time:
- B. *So we have learned in the Mishnah: These are the shreds [of the foreskin, if they remain] which render the circumcision invalid: flesh which covers the greater part of the corona — and such a one does not eat heave offering. And if he was fat [so the corona appears to be covered up], one has to fix it up for appearance’s sake. [If] one circumcised but did not tear the inner lining [the cut did not uncover the corona, since the membrane was not split and pulled down], it is as if he did not perform the act of circumcision [M. **Shab. 19:6**]. And said R. Jeremiah bar Abba said Rab, “It is flesh that covers the greater part of the height of the corona.”*
- I.43.** A. Once he has healed, they immerse him right away:
- B. *Only after he is healed by not before? how come?*
- C. *Water irritates the wound.*

I.44. A. And two disciples of sages supervise the process and inform him about some [more] of the lesser religious duties and some of the weightier religious duties:

B. But lo, said R. Hiyya said R. Yohanan, “A proselyte’s conversion has to have three men present”?

C. *But lo, said R. Yohanan to the Tannaite authority: “Repeat: three.”*

I.45. A. He immerses and comes up, and lo, he is an Israelite for all purposes:

B. *For what practical purpose is this decided law set forth?*

C. *If he retracted but then betrothed an Israelite woman, he is regarded as a faithless Israelite, but his act of betrothal remains valid.*

I.46. A. All the same are a proselyte and a freed slave:

B. *Assuming that the comparison pertaining to the proselyte and the slave applies to the acceptance of the yoke of the commandments [both having to know some of them at the time of the immersion], a contradiction is to be raised: At the time of the immersion, a proselyte has to declare that he accepts the commandments, but a freed slave does not have to do so [since at the time he became an Israelite’s slave, he is immersed].*

C. Said R. Sheshet, there really is no contradiction. The one represents the position of R. Simeon b. Eleazar, the other of rabbis. For it has been taught on Tannaite authority:

D. “‘And bewail her father and her mother’ (Deu. 21:13) — under what circumstances? When she did not accept the yoke of the commandments. But if she has accepted the yoke of the commandments, from the moment of immersion, he is permitted to marry her immediately.

E. “R. Simeon b. Eleazar says, ‘Even though she did not accept the yoke of the commandments, one forces her to be immersed for the sake of becoming a female slave, then another immersion for the sake of being freed from that status, and he then frees her [48A] and is permitted to marry her forthwith.’”

F. *Said Raba, “What is the scriptural basis for the position of R. Simeon b. Eleazar? ‘Every man’s slave that is bought for money’ (Exo. 12:44) — does this mean the slave of a man and not the slave of a woman? Rather: the slave of a man may be circumcised against his will, but no son of a man may be circumcised against his will. [Slotki: the son of a gentile who is not a slave or the son of a proselyte if he is of age may not be forcibly circumcised.]”*

G. And rabbis?

H. Said Ulla, “Just as you cannot forcibly circumcise the son of a man against his will, so you may not forcibly circumcise a slave of a man against his will.”

I. But it is written, “Every man’s slave”!

J. *That is required to make the point of Samuel, for said Samuel, “He who declares his slave to be ownerless property — the slave goes forth to freedom and does not require a writ of emancipation, as it is said, ‘Every*

man's slave that is bought for money' (Exo. 12:44) — does this mean the slave of a man and not the slave of a woman? Rather: a slave whose master exercises possession of him is called a slave, but one the master of whom does not exercise possession of him is not called a slave."

- K. *Objected R. Pappa, "Might I say that rabbis heard [the rule that one does not forcibly convert someone to Judaism] in regard to 'the woman of goodly form' (Deu. 21:11) because to her do not pertain religious duties. But a slave, to whom religious duties do pertain, even rabbis would concur [that he does not have to state his acceptance and may be required to keep the religious duties]. For lo it has been taught on Tannaite authority: all the same are a convert and a slave bought from a gentile — they have to make a verbal acceptance of the religious duties. Lo, one that is bought from an Israelite does not have to make such a declaration. Now who can be the authority behind this ruling? It cannot be R. Simeon b. Eleazar, for has he not said, 'One purchased from a gentile also does not have to make such a declaration'? So is it not rabbis? And it would then follow that a slave that is purchased from a gentile has to make a declaration of accepting the commandments, but a slave purchased from an Israelite does not have to do so? And that then poses a problem to the statement: All the same are a proselyte and a freed slave."*
- L. *That Tannaite formulation was set forth only with regard to immersion.*

I.47. A. *Our rabbis have taught on Tannaite authority:*

- B. **"...and she shall trim her hair, pare her nails:"**
- C. **R. Eliezer says, "She should cut them.**
- D. **R. Aqiba says, "She should let them grow."**
- E. **Said R. Eliezer, "Here 'paring' is said, and elsewhere, 'paring the nails.' Just as 'paring' stated in connection with the head means that one cuts it, so 'paring' here means that one cuts the nails."**
- F. **R. Aqiba says, "'Paring' is stated in connection with the head, and 'paring' is stated in connection with the nails. Just as in connection with the head, the sense is to make the head ugly and disheveled, so in connection with the nails, it means the same."**
- G. **Proof for R. Eliezer's view: "And Mephibosheth, son of Saul, came down to meet the king, and he had neither dressed his feet nor trimmed his beard" (1Sa. 19:25) [Sifré Deu. CCXII:1.2].**
- H. *What is the meaning of "doing"? Removing.*

I.48. A. *Our rabbis have taught on Tannaite authority:*

- B. **"And bewail her father and her mother" (Deu. 21:13) —**
- C. **[48B] "That is, 'her father and her mother,' meant literally," the words of R. Eliezer.**

- D. R. Aqiba says, “‘Her father and mother’ refers only to idolatry, as it is said, ‘Saying to a piece of wood, you are my father’ (Jer. 2:27).”
- E. “...a month’s time:”
- F. **Thirty days [Sifré to Deu. CCXIII:I.2-3]**
- G. R. Simeon b. Eleazar says, “Ninety days: ‘a month’ — thirty days; ‘full’ — thirty days; ‘and after that’ — thirty days.”
- H. *Objected Rabina, “Then say: ‘a month’ — thirty days; ‘full’ — thirty days; ‘and after that’ — equivalent to the foregoing [sixty, thus one hundred twenty in all].”*
- I. *That’s a question?!*

I.49. A. *Our rabbis have taught on Tannaite authority:*

- B. “People may keep uncircumcised slaves,” the words of R. Ishmael.
- C. R. Aqiba says, “People may not keep uncircumcised slaves.”
- D. Said to him R. Ishmael, “Lo, it is written, ‘And the son of your handmaid may be refreshed’ (Exo. 23:12).”
- E. “That speaks of a slave bought at twilight, when there was not enough time to perform the act of circumcision.”
- F. *But all parties concur, in any event, that “And the son of your handmaid may be refreshed” (Exo. 23:12) refers to an uncircumcised slave. On what basis?*
- G. *It is on the basis of that which has been taught on Tannaite authority:*
- H. **“your manservant or your maidservant:”**
- I. **This refers to those who are within the covenant [that is, Israelites].**
- J. **You maintain that this refers to those who are covered by the covenant. But perhaps reference is to an uncircumcised slave?**
- K.
- L. **When Scripture says, “And the son of your slave-girl and the stranger may be refreshed” (Exo. 23:12), lo, the uncircumcised slave is covered.**
- M. **You say that it refers to the uncircumcised slave. But perhaps it refers only to a circumcised slave?**
- N. **When Scripture says, “So that your manservant and your maidservant may rest as well as you,” the circumcised slave has been covered. Then to what does the phrase, “And the son of your slave-girl and the stranger may be refreshed” (Exo. 23:12), refer?**
- O. **It must be to an uncircumcised slave.**
- P. **“And the stranger,”**
- Q. **This refers to a resident alien.**
- R. **But perhaps it refers to the righteous proselyte?**
- S. **“nor your stranger who is within your gates” lo, this refers to the righteous proselyte. So to what does the phrase “And the stranger” refer? I must address the resident alien [Mekhilta 53: Bahodesh 7/LIII.1.14-15]**

- I.50.** A. Said R. Joshua b. Levi, “He who buys a slave from a gentile and did not want to circumcise him may postpone the matter for twelve months. If he has not circumcised him by that time, he goes and resells him to gentiles.”
- B. *This was stated by rabbis before R. Pappa: “In accord with whose position? It cannot accord with that of R. Aqiba. For if it were R. Aqiba’s, has he not said, ‘People may not keep uncircumcised slaves’?”*
- C. *Said to them R. Pappa, “You may even say that it represents the view of R. Aqiba. The statement made by R. Aqiba pertains to a case in which the slave never gave permission to be circumcised [and to accept the obligations of an Israelite slave (Slotki)], but in a case in which he assented to the matter, he has assented” [and one may keep the slave for twelve months, assuming he will assent again (Slotki)].*
- D. *Said R. Kahana, “I stated this tradition before R. Zebid of Nehardea. He said to me, ‘If so, then, instead of R. Aqiba’s replying [to Ishmael’s objection] that the text speaks of a slave that has been bought at twilight, he should have given this reply!’”*
- E. *He stated to him one of two possible reasons for his position.*
- F. *Rabin sent in the name of R. Ilai, “And all my masters have stated the matter to me in his name: ‘What is the definition of an uncircumcised slave that one may retain? It is one that was purchased by his master with the intention of not circumcising him.’”*
- G. *Rabbis stated this before R. Pappa: “In accord with which authority? For if it were R. Aqiba’s, has he not said, ‘People may not keep uncircumcised slaves’?”*
- H. *Said to them R. Pappa, “You may even say that it represents the view of R. Aqiba. The statement made by R. Aqiba pertains to a case in which he made no stipulation with the slave [that he would not circumcise him]. But in a case in which such a stipulation was made, that stipulation governs.”*
- I. *Said R. Kahana, “I stated this tradition before R. Zebid of Nehardea. He said to me, ‘If so, then, instead of R. Aqiba’s replying [to Ishmael’s objection] that the text speaks of a slave that has been bought at twilight, he should have given this reply!’”*
- J. *Even so, he stated to him one of two possible reasons for his position.*

I.51. A. R. Hanina bar Pappi, R. Ammi, and R. Isaac Nappaha happened to go into session in the doorway of R. Isaac Nappaha, and in session they stated: “There was a town in the Land of Israel, where the slaves did not want to be circumcised, and after postponing the matter for twelve months, they went and resold them to gentiles. Now in accord with which authority did they act in this manner? It is in accord with the Tannaite authority responsible for that which has been taught as a Tannaite formulation: He who buys a slave from a gentile and did not want to circumcise him may postpone the matter for twelve months. If he has not circumcised him by that time, he goes and resells him to gentiles. R. Simeon b. Eleazar says, ‘They do not postpone the matter involving him when the case is in the Land of Israel, on account of the loss of food requiring preparation in conditions of cultic cleanness [which will be made unclean by his touch]. But in a town near the frontier, they do not postpone the matter concerning him for a single moment, lest he hear something and go and tell his gentile friend.’”

I.52. A. *It has been taught on Tannaite authority:*

- B. R. Hanania b. Rabban Gamaliel says, “How come gentiles at this time are harassed, and suffering comes upon them? Because they have not carried out [even] the seven religious duties assigned to the children of Noah.”
- C. R. Yosé says, “A proselyte at the moment of conversion is like a new-born baby. So why are they harassed? Because they are not expert in the details of the religious duties as Israelites are.”
- D. Abba Hanan says in the name of R. Eleazar, “It is because they do [their religious duties] not out of love of God but out of fear of God.”
- E. Others say, “Because they postponed coming under the wings of the Presence of god.”
- F. *Said R. Abbahu and some say R. Hanina, “What is the pertinent verse of Scripture? ‘The Lord recompense your work and be your reward complete from the Lord, the God of Israel, under whom you have come to take refuge’ (Rut. 2:12).”*

4:13

- A. [49A] What is the definition of a “mamzer”?
- B. “[The offspring of] any [marriage of near of kin — the rubric, ‘He shall not come into the congregation of the Lord’ (Deu. 23: 3),” the words of R. Aqiba.
- C. Simeon of Teman says, “[The offspring of] any [marriage] for which the participants are liable to extirpation by Heaven.”
- D. And the law follows his opinion.
- E. R. Joshua says, “[The offspring of] any [marriage] for which the participants are liable to be put to death by a court.”
- F. Said R. Simeon b. Azzai, “I discovered a family register in Jerusalem, in which was written: ‘Mr. So-and-so is a mamzer, [having been born of an illicit union] of a married woman [and someone other than her husband]”
-
- G. so supporting the opinion of R. Joshua.
- H. (1) His wife who died —
- I. he is permitted to marry her sister.
- J. (2) [If] he divorced her and afterward she died,
- K. he is permitted to marry her sister
- L. (3) [If] she was married to someone else and died,
- M. he is permitted to marry her sister.
- N. (4) His deceased childless brother’s widow who died —
- O. he is permitted to marry her sister.
- P. (5) [If] he performed the rite of removing the shoe with her and she died,
- Q. he is permitted to marry her sister.

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

- B. “A man shall not take his father’s wife and shall not uncover his father’s skit” (Deu. 23: 1) — he shall not uncover the skit that his father has seen.”
- C. *And [Aqiba] concurs with the view of R. Judah, who has said that the verse speaks of a woman whom his father has raped, and who is classified among those forbidden to him merely under the penalty of violating a negative a commandment. Now, since in juxtaposition is this: “A mamzer shall not enter the assembly of the Lord,” it is obvious that the offspring of such a union is a mamzer.*
- D. *And from the perspective of R. Simai, who extends the law to the offspring of any other marriage that is forbidden by a negative commandment, even though not consanguineous relationships, and accord to R. Yeshebab, who extends the category of mamzer even to the offspring of a marriage forbidden under a positive commandment, the scriptural basis for classifying those offspring as mamzerim is the language, “And... not...” (Deu. 23: 1).*
- E. And Simeon of Teman?
- F. He concurs with rabbis, who have said that Scripture there refers to the woman awaiting levirate marriage with his father, and who is classified among those forbidden to him merely under the penalty of extirpation. *Now, since in juxtaposition is this: “A mamzer shall not enter the assembly of the Lord,” it is obvious that the offspring of such a union the penalty of which is extirpation is a mamzer.*
- G. And R. Joshua?
- H. *Scripture then should have written, “...shall not uncover,” and that would have sufficed. Why add, “shall not take”? Is it not for this purpose: only the offspring of a union explicitly mentioned between the words “shall not take” and “shall not uncover” are held to be mamzerim, but others are not held to be mamzerim.*

I.2. A. Said Abbayye, “All concur in the case of one who has sexual relations with a menstruating woman [49B] and with a woman accused of adultery, that the offspring of such a union is not classified as a mamzer. *In the case of the menstruating woman, it is because a valid act of betrothal can take place with her, in line with the language, “and her impurity be upon him” (Lev. 15:24), meaning, even when she is menstruating, a valid act of betrothal can take place with her. And so too with a woman accused of adultery, a valid act of betrothal can take place with her.*”

- B. *So too it has been taught on Tannaite authority: All concur in the case of one who has sexual relations with a menstruating woman and with a woman accused of adultery and with a woman awaiting levirate marriage, that the offspring of such a union is not classified as a mamzer.*
- C. *And Abbayye [in respect to the added item]?*
- D. *As to the woman awaiting levirate marriage, he was in doubt as to whether the law accords with Rab or with Samuel [on the validity of the betrothal in such a case].*

II.1 A. Said R. Simeon b. Azzai, “I discovered a family register in Jerusalem, in which was written: ‘Mr. So-and-so is a mamzer, [having been born of an illicit union] of a married woman [and someone other than her husband].’”

B. *A Tannaite statement:*

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

II.2. A. *Said Raba, "He brought him to trial and then killed him. He said to him, 'Your lord, Moses, said, "For men shall not see me and live" (Exo. 33:20), but you have said, "I saw the Lord sitting on a throne, high and lifted up" (Isa. 6: 1). Your lord, Moses, said, "For what great nation is there that has God so near to them, as the Lord our God is whenever we call upon him" (Deu. 4: 7), and you have said, "Seek the Lord when [only] he may be found [which is not always]" (Isa. 55: 6). Your lord, Moses, said, "The number of your days I will fulfill" (Exo. 23:26), but you said, "And I will add to your days fifteen years" (2Ki. 20: 6).'*

B. *"Isaiah said, 'I know that he will not accept anything I say to him, and if I reply, I will turn him into a deliberate murderer. He therefore pronounced the Divine Name and was swallowed up by a cedar. So they brought the cedar and sawed it in half. When the saw reached his mouth, he died, for having said, 'And I dwell in the midst of a people of unclean lips' (Isa. 6: 5)."*

C. *Still, the contradictions among the verses of Scripture stand!*

D. "I saw the Lord sitting on a throne, high and lifted up" (Isa. 6: 1) — *that is to be read in line with what has been taught on Tannaite authority:* All of the prophets looked at God through a dirty mirror, but our lord, Moses, looked through a clear mirror.

E. "Seek the Lord when he may be found" (Isa. 55: 6) — *one verse [Isa. 55A:6] refers to an individual, the other, to the community.*

F. *Then when is the time for the individual?*

G. Said R. Nahman said Rabbah bar Abbuha, "This refers to the ten days that are between the New Year and the Day of Atonement."

H. "The number of your days I will fulfill" (Exo. 23:26) — *that represents a conflict among Tannaite formulations, for it has been taught on Tannaite authority:* "'The number of your days I will fulfill' (Exo. 23:26) — this refers to the years assigned to generations [at birth]. **[50A]** If one gains supererogatory favor, he has his full assigned period of years, but if not, he loses some of the time," the words of R. Aqiba.

I. And sages say, "If one gains supererogatory favor, he is given more than his assigned period of years, but if not, he loses some of the time."

J. They said to R. Aqiba, "Lo, Scripture says, 'And I will add to your days fifteen years' (2Ki. 20: 6)."

K. He said to them, "They added what was coming to him anyhow. You may know that that is the fact, since the prophet went and said, 'Behold a son shall be born to the

house of David, Josiah by name' (1Ki. 13: 2), and Manasseh [Josiah's father] had not yet been born."

L. And the rabbis?

M. *Is it written* "from Hezekiah"? *It is written*, "to the house of David," meaning, *he might be born from Hezekiah or from anybody else.*

III.1 A. (1) His wife who died — he is permitted to marry her sister. (2) [If] he divorced her and afterward she died, he is permitted to marry her sister. (3) [If] she was married to someone else and died, he is permitted to marry her sister. (4) His deceased childless brother's widow who died — he is permitted to marry her sister. (5) [If] he performed the rite of removing the shoe with her and she died, he is permitted to marry her sister:

B. Said R. Joseph, "Here Rabbi taught a Mishnah-paragraph that is hardly required" [Slotki: since the laws therein enumerated are self-evident, in line with Lev. 18:18.]