

XIII.

BAVLI YEBAMOT CHAPTER THIRTEEN

FOLIOS 107A-112B

13:1

- A. The House of Shammai say, “Only girls who are [merely] betrothed exercise the right of refusal.”
 - B. And the House of Hillel say, “Those who are betrothed and those who are married.”
 - C. The House of Shammai say, “[The right of refusal is exercised] against the husband, but not against the levir.”
 - D. And the House of Hillel say, “Against the husband and against the levir.”
 - E. The House of Shammai say, “[It must be exercised only] in his presence.”
 - F. And the House of Hillel say, “In his presence and not in his presence.”
 - G. The House of Shammai say, “[It must be exercised] in a court.”
 - H. And the House of Hillel say, “In a court and not in a court.”
 - I. Said the House of Hillel to the House of Shammai, “She may exercise the right of refusal while she is a minor, even four or five times.”
 - J. Replied to them the House of Shammai, “Israelite girls are not to be tossed around like so much ownerless property.
 - K. “But: She exercises the right of refusal and waits until she reaches maturity, or she exercises the right of refusal and remarries [forthwith].”
- I.1** A. [The House of Shammai say, “Only girls who are [merely] betrothed exercise the right of refusal”:] Said R. Judah said Samuel, “*What is the operative consideration in the mind of the House of Shammai?* It is because a stipulation may not be attached to a marriage, so if a girl who is married should

exercise the right of refusal, *people will come to maintain that* a stipulation may be attached to a marriage.

- B. “If the girl had entered the marriage canopy but not had sexual relations, *however, what is to be said?*”
- C. “It is because a stipulation may not be attached to entry into the marriage canopy.
- D. “If the father had already handed over the daughter to the agent of the husband, *however, what is to be said?*”
- E. “*Rabbis made no such distinction [as to the phases of the marriage procedure].*”
- F. “*What is the operative consideration in the mind of the House of Hillel?*”
- G. “*People in general are informed that the marriage of a minor is only on the strength of rabbis’ authority.*”

I.2

- A. *Rabbah and R. Joseph both say, “The operative consideration in the mind of the House of Shammai is that a man does not treat an act of sexual relations on his part as one of mere fornication.*
- B. “If the girl had entered the marriage canopy but not had sexual relations, *however, what is to be said?*”
- C. “*It is because the husband doesn’t want his marriage canopy to involve a forbidden act.*”
- D. “If the father had already handed over the daughter to the agent of the husband, *however, what is to be said?*”
- E. “*Rabbis made no such distinction [as to the phases of the marriage procedure].*”
- F. “*What is the operative consideration in the mind of the House of Hillel?*”
- G. “*Since the process involves a betrothal and a marriage contract, people are never going to say that an act of sexual relations on his part is one of mere fornication.*”

I.3

- A. *R. Pappa said, “The operative consideration in the mind of the House of Shammai is on account of the usufruct [of the plucking property that belongs to the minor].*
- B. “*And the operative consideration in the mind of the House of Hillel also is on account of the usufruct [of the plucking property that belongs to the minor].*”
 - C. “*The operative consideration in the mind of the House of Shammai is on account of the usufruct: for if you say that a married*

girl has the right of refusal, her husband will grab the fruit and eat it up, since she may leave him any time.

D. *“The House of Hillel? To the contrary, if you say that she may exercise the right of refusal, he is going to improve the property, thinking that, if not, her relatives will advise her and take her from him.”*

I.4 A. *Raba said, “This is the operative consideration of the House of Shammai: A man will not go to the trouble of making a banquet and then lose all he has spent.*

B. *“And the House of Hillel? Both parties are glad to be married to one another, so that they may be known as married.”*

II.1 A. **The House of Shammai say, “[The right of refusal is exercised] against the husband, but not against the levir.” And the House of Hillel say, “Against the husband and against the levir”:**

B. *Said R. Oshayya, “A girl may exercise the right of refusal to a connection effected by the levir’s act of bespeaking, but she may not exercise the right of refusal in regard to his levirate connection [which can be cut only by the rite of removing the shoe].”*

C. *Said R. Hisda, “What is the operative consideration behind the ruling of R. Oshayya? An act of bespeaking, which is carried out with her knowledge and consent, she may uproot; the levirate connection, which is binding willy nilly, she has not got the power to uproot.”*

D. *But lo, there is the act of sexual relations, which takes place willy nilly, [107B] and she can uproot it!*

E. *Rather, an act of acquisition effected by sexual relations or by an act of bespeaking she may uproot, because the levir is the one who does it; but the levirate bond, to begin with, which the All-Merciful has assigned to her, she cannot uproot.*

F. *Ulla said, “She may exercise the right of refusal even of the levirate bond. How come? By doing so all she is doing is uprooting the initial marriage [to the deceased, and had he lived, she would have had every right to do that].”*

G. *Objected Raba to Ulla: “And any [young girl] who can exercise the right of refusal and has not exercised the right of refusal – her co-wife performs the rite of removing the shoe and does not enter into levirate marriage [M. 1:2J]. Now why should*

that be the rule? Let her now exercise the right of refusal and so nullify the marriage to her first husband, and then let the co-wife enter into levirate marriage?"

H. *The co-wife of a girl who stands in a consanguineous relationship to the levir is in a different situation, for Rammi bar Ezekiel repeated as a Tannaite formulation: "If she exercised the right of refusal against her husband, she is permitted to marry his father; if it was against her levirate brother-in-law, she cannot marry his father." Therefore, from the moment at which she became subject to levirate marriage, she is regarded as the father's daughter-in-law; here, too, from the moment that she became subject to levirate marriage, she is regarded as the co-wife of his daughter.*

- II.2** A. Said Rab, "If a minor exercised the right of refusal against one of the levirs, she may not marry any of the others, *a case comparable to the situation of one who has received a writ of divorce, namely: as the recipient of a writ of divorce may not marry any of the brothers as soon as she is forbidden one of them, so here, too, there is no distinction.*"
- B. And Samuel said, "If a minor exercised the right of refusal against one of the levirs, she may marry any of the others, *and it is not comparable to the situation of one who has received a writ of divorce. For in that case, he took the action against her, but here, she took the action against him, saying, 'I don't like you and I don't want you; you're the one I find loathsome, but I like your fellow.'*"
- C. R. Assi said, "If a minor exercised the right of refusal against one of the levirs, she may marry even him."
- D. *May we say that he concurs with R. Oshayya, who has said, "[A girl may exercise the right of refusal to a connection effected by the levir's act of bespeaking, but] she may not exercise the right of refusal in regard to his levirate connection [which can be cut only by the rite of removing the shoe]"?*
- E. *In respect to a single levir she may be able to annul the levirate bond, but here we have two of them, and the operative consideration is that no exercise of the right of refusal serves against only one half of the levirate connection.*
- F. *When Rabin came, he said R. Yohanan [said], "If she exercised the right of refusal against this one, she is*

permitted to marry the other brothers,' but they did not concur with him."

G. *So who didn't concur with him?*

H. Said Abbayye, Rab."

I. Raba said, "R. Oshayya, and some say, R. Assi."

III.1 A. The House of Shammai say, "[It must be exercised only] in his presence." And the House of Hillel say, "In his presence and not in his presence":

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

C. Said the House of Hillel to the House of Shammai, "But isn't there the case of Pishon, the Camel driver? His wife exercised the right of refusal in his absence."

D. Said the House of Shammai to the House of Hillel, "Pishon the Camel driver used a false measure [using property of the wife that he had no right too], so they used a false measure against him."

E. *Since he was enjoying the usufruct of her plucking property, it is obvious that she was married to him? And then did not the House of Shammai say, "A girl who has already been married may not exercise the right of refusal at all"?*

F. *They tied him up twice [penalizing him two ways].*

IV.1 A. The House of Shammai say, "[It must be exercised] in a court." And the House of Hillel say, "In a court and not in a court":

B. *There we have learned in the Mishnah: The rite of removal of the shoe and the exercise of the right of refusal are done before three judges [M. San. 1:3C].*

C. *Who is the Tannaite authority behind this unattributed rule?*

D. *Said Rabbah, "It is the House of Shammai."*

E. *Abbayye said, "You may even maintain that it is the House of Hillel. The House of Hillel take the view that they do only to indicate that experts are not required, but we do indeed require three persons. For it has been taught on Tannaite authority: As to the exercise of the right of refusal, the House of Shammai say, 'It is done with a court of experts,' and the House of Hillel say, 'With a court and also not with a court of experts.' But this party and that party concur that there must be three persons. R. Yosé b. R. Judah and R. Eleazar b. R. Yosé declare valid a court of two persons. And said R. Joseph bar Minyumi said R. Nahman, 'The decided law is in accord with that pair.'"*

- V.1** A. Said the House of Hillel to the House of Shammai, “She may exercise the right of refusal while she is a minor, even four or five times.” Replied to them the House of Shammai, “Israelite girls are not to be tossed around like so much ownerless property. But: She exercises the right of refusal and waits until she reaches maturity, or she exercises the right of refusal and remarries [forthwith]”:
- B. *But lo, she has already exercised the right of refusal once [as a minor, why does she do it again after she has come of age]?*
- C. Said Samuel, “The meaning is, **and waits until she reaches maturity**, and then says, ‘I affirm my original exercise of the right of refusal.’”
- D. *Ulla said, “There are two Tannaite formulations in hand: Either she exercises the right of refusal and when she grows up is betrothed; or she exercises her right of refusal and then she consummates a marriage forthwith.”*
- E. *There is no problem in understanding from the position of Ulla the meaning of the language, **She exercises the right of refusal and waits until she reaches maturity**. But from the perspective of Samuel, what it should say is, “until she reaches maturity, and then she says....”*
- F. *That’s a valid question.*

13:2

- A. Who is the sort of girl who must exercise the right of refusal?
- B. Any girl whose mother or brothers have married her off with her knowledge and consent.
- C. [If] they married her off without her knowledge and consent,
- D. she does not have to exercise the right of refusal [but simply leaves the man].
- E. R. Haninah b. Antigonus says, “Any child who cannot keep watch over her betrothal gift does not have to exercise the right of refusal.”
- F. R. Eliezer says, “The deed of a minor is null. But she is deemed like one who has been seduced.
- G. “[If it is] an Israelite girl with a priest, she does not eat heave-offering.
- H. “[If it is] a priest girl with an Israelite, she [continues to] eat heave-offering.”

13:3

- A. R. Eliezer b. Jacob says, “Any hindrance [in the marriage] which derives from the man – it is as if she is his wife.
- B. “And any hindrance [in the marriage] which does not derive from the man – it is as if she is not his wife.”

I.1 A. Said R. Judah, *and some say it has been set forth in a Tannaite statement*: “**At first they would write out a writ of divorce effected through the right of refusal [T. Yeb. 13:1A-B],** in this language: ‘*I don’t like him, I don’t want him, I don’t want to be married to him.*’ But when people realized that the formula was too elaborate, they were concerned that **[108A]** people would confuse the document for a writ of divorce, so they formulated it as follows: ‘On such and such a day, Miss So-and-so, the daughter of Mr. Such-and-such, exercised the right of refusal *in our presence.*’”

- I.2** A. *Our rabbis have taught on Tannaite authority*:
- B. **What is the definition of an exercise of the right of refusal?**
 - C. **If she said, “I don’t want So-and-so, my husband,” “I don’t want the betrothal that my mother and brothers have arranged for me.”**
 - D. **More than this, said R. Judah: “Even if she was sitting in a palanquin and went to the one who betrothed her to him and said to him, ‘I don’t care for this man, Mr. So-and-so, my husband’ – there is no statement of refusal more effective than that.”**
 - E. **More than this said R. Judah, “Even if the wedding guests were reclining in the house of her husband and she was standing and pouring wine for them but said to them, ‘I don’t want Mr. So-and-so, my husband,’ lo, this is a valid exercise of the right of refusal.”**
 - F. **More than this said R. Yosé b. R. Judah, “Even if her husband sent her to the storekeeper to get something for him, and she said, ‘I don’t want Mr. So-and-so, my husband,’ you have no exercise of the right of refusal more effective than that” [T. Yeb. 13:1F-K].**

- II.1** A. **R. Haninah b. Antigonus says, “Any child who cannot keep watch over her betrothal gift does not have to exercise the right of refusal”:**
- B. Said R. Judah said Samuel, “The decided law accords with the position of R. Hanina b. Antigonus.”

- II.2** A. *A Tannaite statement: A minor who did not exercise the right of refusal but went and married herself off again – in the name of R. Judah b. Beterah they said, “her marriage itself constitutes her exercise of the right of refusal.”*
- II.3** A. *The question was raised: If she betrothed herself, what is the law?*
 B. *Come and take note: A minor who did not exercise the right of refusal but went and married herself off again – in the name of R. Judah b. Beterah they said, “her marriage itself constitutes her exercise of the right of refusal.”*
- II.4** A. *The question was raised: Did rabbis differ from R. Judah b. Beterah or not? If you choose to say that they differed, then was this only in regard to the betrothal or even in regard to marriage? And if you should prefer to maintain that they differed even in regard to marriage, the question is, Does the decided law concur with him or not? And if you should wish to conclude that the decided law concurs with him, then is this in regard to marriage or also in regard to betrothal?*
 B. *Come and take note: Said R. Judah said Samuel, “The decided law accords with the position of R. Hanina b. Antigonus.” Now, since it was necessary to pronounce a decision on the decided law, it must follow that there were those who differed from him.*
- II.5** A. *Still, the question is to be asked: Is this a minor who, to begin with, was married, or was she only betrothed [that no further act of exercise of the right of refusal was required]?*
 B. *Come and take note: The daughters-in-law of Abedan rebelled against their husbands [refusing to have sexual relations with them]. Rabbi sent a pair of rabbis to investigate them. The wives said to them, “See, your husbands are coming.”*
 C. *They said to them, “Let them be your husbands.”*
 D. *Said Rabbi, “You have no greater exercise of the right of refusal than that.”*
 E. *Does this not mean that they were already married?*
 F. *No, they were only betrothed.*
 G. *And the decided law accords with R. Judah b. Beterah, and that is so even where the marriage with the first husband is in place.*
- III.1** A. **R. Eliezer says, “The deed of a minor is null. But she is deemed like one who has been seduced. [If it is] an Israelite girl with a priest, she does not eat heave-offering. [If it is] a priest girl with an Israelite, she [continues to] eat heave-offering”:**

- B. Said R. Judah said Samuel, “**I have reviewed sages’ rulings from all sides, and I have found no one so consistent in his rulings regarding the minor girl as R. Eliezer** [T. **Yeb. 13:4A**]. For R. Eliezer has treated the minor girl as one taking a walk with him in his courtyard, who, when she rises from his bosom, immerses and may eat priestly rations in the evening” [if her father is a priest and the husband an Israelite; she is not a wife in any aspect whatsoever].

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

- B. **R. Eliezer says, “The deed of a minor is null. Her husband has no right to keep anything she finds nor to keep her wages nor to remit her vows nor to inherit her estate, nor does he contract corpse uncleanness to bury her if he is a priest. The governing principle: She is not in the status of his wife for any purpose at all, though she has to exercise the right of refusal.”**
- C. **And R. Joshua says, “Her husband does have the right to keep anything she finds, to keep her wages, to remit her vows, and to inherit her estate, and he does contract corpse uncleanness to bury her if he is a priest. The governing principle: She is not in the status of his wife for any purpose at all, though she does get to leave him, if she chooses, through the exercise of the right of refusal” [T. **Yeb. 13:3C-K**].**
- D. **Said Rabbi, “I prefer the opinion of R. Eliezer over that of R. Joshua, because R. Eliezer is consistent in his rulings regarding the minor girl, and R. Joshua has made distinctions.”**

III.3 A. *How does he make distinctions?*

- B. *If she really is his wife, then she should get a writ of divorce!*
- C. *The same applies to R. Eliezer; if she really is not his wife, then she also should not have to exercise the right of refusal!*
- D. *So do you want her to leave with formalities at all?!*

IV.1 A. **R. Eliezer b. Jacob says, “Any hindrance [in the marriage] which derives from the man – it is as if she is his wife. And any hindrance [in the marriage] which does not derive from the man – it is as if she is not his wife”:**

- B. *What is the definition of a hindrance that derives from the man or a hindrance that does not derive from the man?*
- C. Said R. Judah said Samuel, “If she was asked to marry [while living with the original husband], and she said, ‘I can’t, because of Mr. So-and-so, my

husband,’ that falls into the category of **a hindrance that derives from the man**. If she said, ‘...because the men who are candidates are not appropriate for me,’ that is **a hindrance that does not derive from the man**.”

- IV.2** A. *Abbaye bar Abin and R. Hanina bar Abin both say*, “If he gave her a writ of divorce, that is **a hindrance that derives from the man**. Therefore **he is prohibited from marrying her kinswomen, and she is prohibited from marrying his kinsmen. And he has invalidated her for marriage into the priesthood**. If she exercised the right of refusal, that is **a hindrance that does not derive from the man**. **He is permitted to marry her kinswomen, and she is permitted to marry his kinsmen. And he has not invalidated her for marriage into the priesthood**.”
- B. *But lo, this is stated below in so many words*: **She who exercises the right of refusal against a man – he is permitted to marry her kinswomen, and she is permitted to marry his kinsmen. And he has not invalidated her for marriage into the priesthood. [If] he gave her a writ of divorce, he is prohibited from marrying her kinswomen, and she is prohibited from marrying his kinsmen. And he has invalidated her for marriage into the priesthood**.
- C. *The latter clause serves as an amplification of the present one.*

13:4

- A. **She who exercises the right of refusal against a man –**
- B. **he is permitted to marry her kinswomen, and she is permitted to marry his kinsmen.**
- C. **And he has not invalidated her for marriage into the priesthood.**
- D. **[If] he gave her a writ of divorce,**
- E. **he is prohibited from marrying her kinswomen, and she is prohibited from marrying his kinsmen.**
- F. **And he has invalidated her for marriage into the priesthood.**
- G. **[If] he (1) gave her a writ of divorce and (2) then took her back,**
- H. **[if] then she (3) exercised the right of refusal against him and (4) married someone else, and (5) was widowed or divorced –**
- I. **she is permitted to go back to him.**
- J. **[If] she (3) exercised the right of refusal and (2) he took her back,**

- K. [if] he [then] (1) gave her a writ of divorce and she (4) married someone else and (5) was widowed or divorced,
- L. she is prohibited from going back to him.
- M. [108B] This is the general rule: In a case of a writ of divorce following the exercise of the right of refusal, she is prohibited from returning to him.
- N. In a case of exercise of the right of refusal after a writ of divorce, she is permitted to go back to him.

13:5

- A. She who exercises the right of refusal against a man [1] and was remarried to another, who divorced her [2] –
- B. [and who went and was assigned to yet] a third man, and she exercised the right of refusal against him,
- C. [and who went and was assigned to yet] a fourth, who divorced her,
- D. [and who went and was assigned to yet] a fifth, and she exercised the right of refusal against him –
- E. any of the men from whom she went forth with a writ of divorce [A2, C] – she is prohibited from going back to him.
- F. [And any of the men from whom she went forth] by exercising the right of refusal [A1, B, D] – she is permitted to go back to him.

- I.1** A. [In a case of exercise of the right of refusal after a writ of divorce, she is permitted to go back to him:] *Therefore the exercise of the right of refusal has the power to nullify the divorce. But by way of contradiction: She who exercises the right of refusal against a man – he is permitted to marry her kinswomen, and she is permitted to marry his kinsmen. And he has not invalidated her for marriage into the priesthood. [If] he gave her a writ of divorce, he is prohibited from marrying her kinswomen, and she is prohibited from marrying his kinsmen. And he has invalidated her for marriage into the priesthood. [If] he (1) gave her a writ of divorce and (2) then took her back, [if] then she (3) exercised the right of refusal against him and (4) married someone else, and (5) was widowed or divorced – she is permitted to go back to him. [If] she (3) exercised the right of refusal and (2) he took her back, [if] he [then] (1) gave her a writ of divorce and she (4) married someone else and (5) was widowed or divorced, she is prohibited from going back to him. It follows from this*

that the exercise of the right of refusal has not got the power to nullify the divorce.

- B. Said R. Judah said Samuel, “*Split up the passage. The authority who repeated this part did not formulate that.*”
- C. *Said Raba, “But what’s the problem? Maybe the right of refusal [in our opening clause] cancels the writ of divorce that the same man issued, but the right of refusal against someone else [the second statement] does not cancel his writ of divorce.”*
- D. *So what differentiates the right of refusal exercised against the other fellow from the one exercised against him, that it should not nullify the writ of divorce that he has issued?*
- E. *Since the girl knows all his little games of seduction, he might inveigle her to marry him again.*
- F. *Well, then in the case of her exercising the right of refusal against the man himself, that, too, should not nullify his writ of divorce, for the same reason operates, namely, since the girl knows all his little games of seduction, he might inveigle her to marry him again.*
- G. *Well, he’s already tried to inveigle her, but she obviously was not impressed.*
- H. *Rather, if there really is a contradiction, it concerns the rulings concerning his fellow, one of which contradicts the other, namely: **[If] she (3) exercised the right of refusal and (2) he took her back, [if] he [then] (1) gave her a writ of divorce and she (4) married someone else and (5) was widowed or divorced, she is prohibited from going back to him.** So the operative consideration is that she was widowed or divorced. Lo, if she had exercised the right of refusal, she would have been permitted to return to him. Therefore the right of refusal exercised against the other fellow has the power to nullify his own divorce. And by way of contradiction: **She who exercises the right of refusal against a man [1] and was remarried to another, who divorced her [2], [and who went and was assigned to yet] a third man, and she exercised the right of refusal against him, [and who went and was assigned to yet] a fourth, who divorced her, [and who went and was assigned to yet] a fifth, and she exercised the right of refusal against him – any of the men from whom she went forth with a writ of divorce – she is prohibited from going back to him. [And any of the men from whom she went forth] by exercising the right of refusal – she is permitted to go back***

to him. *Therefore the right of refusal exercised against the other fellow has not got the power to nullify his own divorce.*

- I. Said R. Eleazar, *"Split up the passage. The authority who repeated this part did not formulate that."*
- J. *Ulla said, "Rather, it would deal with a case where she was divorced three times, so she appears like an adult."*

I.2

A. *What Tannaite authority [stands behind the several clauses]?*

B. Said R. Judah said Rab, *"What is the meaning of that which is written: 'We have drunk our water for money, our wood comes to us for a price' (Lam. 5: 4). [What should be free costs money.]*

C. *"At the time of danger, this law was requested: Lo, if a girl left the first husband with a writ of divorce and the second through the right of refusal, may she return to the first husband?"*

D. *"They hired a man for four hundred zuz, and he brought the question to R. Aqiba in prison, and he forbade her to return.*

E. *"They addressed the same question to R. Judah b. Beterah in Nisibis, and he forbade her to return."*

F. Said R. Ishmael b. R. Yosé, *"For such a purpose we had no need to go asking questions: If in respect to a prohibition punishable with extirpation, he is permitted to remarry her [if the wife is a minor who exercised the right of refusal], all the more so should he be permitted to do so when the penalty is only transgression of a commandment that is a negative one [marriage to a man who divorced her, with an intervening marriage]. [Slotki: Thus it is shown that the author of the first statement is Rab, and the second, Ishmael b. R. Yosé.]*

G. *"But this is the question that they asked: Lo, if the girl was the wife of his mother's brother, so forbidden to him as consanguineous in the second remove, and his brother on his father's side married her and died, may she now exercise the right of refusal and so nullify the first marriage [ending the forbidden relationship with the levir] and so enter into levirate marriage? Is the right of refusal valid after the husband has died, where the possibility of carrying out a religious duty is present, or is that not the case?"*

H. “They hired two men for four hundred zuz, and they came and addressed the question to R. Aqiba in prison, and he declared the matter forbidden.

I. “They addressed the same question to R. Judah b. Beterah in Nisibis, and he forbade as well.”

J. Said R. Isaac bar Assayyan, “And Rab concurs that she is permitted to marry the brother of the man who she is forbidden to remarry.” [Slotki: Though her right of refusal does not alter her status of divorcée in respect to her former husband himself, it does remove it so far as marriage with his brother is concerned; she is, as a result of her exercising the right of refusal, no longer regarded as his brother’s divorcée.]

K. *That’s obvious! He’s the one whose little games of seduction she knows, not his brother* [and that is what caused the prohibition, which therefore does not apply (Slotki)].

L. *What might you otherwise have supposed? We should make a precautionary decree against the one on account of the other? So we are informed that that is not the case.*

M. *There are those who say:* said R. Isaac bar Assayyan, “Just as she is forbidden to him, so she is forbidden to the other brothers.”

N. *But she knows nothing of their little games of seduction!*

O. *It is a precautionary decree against them on account of him.*

13:6

- A. **He who divorces his wife and took her back – [if he dies childless], she is permitted to a levir.**
- B. **[109A] And R. Eliezer prohibits [her from entering levirate marriage with her deceased, childless husband’s brother].**
- C. **And so: He who divorces an orphan [not married off by her father, so whose marriage is not firm] and took her back – she is permitted to the levir.**
- D. **And R. Eliezer prohibits.**

- E. **A minor whose father married her off and who was divorced is deemed an orphan while her father is yet alive.**
- F. **[If] he took her back, the opinion of all parties is that she is prohibited to the levir.**

- I.1**
- A. *Said Ifa, "What is the operative consideration behind the position of R. Eliezer? It is because for one moment she was forbidden to him [as a woman his brother has divorced]."*
 - B. *Rabbis said to Ifa, "If so, then there also should be no requirement of a rite of removing the shoe! And should you say that that is indeed the case, has it not been taught on Tannaite authority: In the name of R. Eliezer they have said, 'She performs the right of removing the shoe'?"*
 - C. *Rather, said Ifra, "As to R. Eliezer, I don't know what lies behind his ruling."*
 - D. *Said Abbaye, "This is the operative consideration behind the ruling of R. Eliezer: He is in doubt whether it was the death of the childless husband that has imposed upon her the levirate connection or the initial marriage that did so. If it was death that imposed upon her the levirate connection, then she of course is subject to levirate marriage; if it was the original marriage that did so, then there was a period in the interim that she was forbidden to the levir [and may not marry him]." [Still, because of the first possibility, the rite of removing the shoe is required (Slotki).]*
 - E. *Raba said, "In point of fact it was clear to R. Eliezer that it was death that imposed the levirate connection. But, while everybody around knows full well about the divorce that has taken place, not everybody knows about the remarriage."*
 - F. *To the contrary! The remarriage is well known because the woman is living with him!*
 - G. *But aren't we dealing with a case in which he remarried her the prior night and died in the morning? [Of course such a case has to come under the law, in which case who is going to know about the remarriage?]*
 - H. *R. Ashi said, "This is the operative consideration behind the ruling of R. Eliezer: [The cases of the remarried women of which the Mishnah's rule speaks] are subject to a precautionary decree on account of the case of the remarriage of a minor in her father's lifetime" [who may not be taken by the levir, since she is classified as a divorcée (Slotki)]. And that stands to reason, since the latter clause states: **A minor whose father married her off and who was divorced is deemed an orphan while her father is yet alive. [If]***

he took her back, the opinion of all parties is that she is prohibited to the levir. *Now what's the point? It's too obvious to require specification. But is this not what the formulation is meant to tell us: The operative consideration behind the ruling of R. Eliezer is that [the cases of the remarried women of which the Mishnah's rule speaks] are subject to a precautionary decree on account of the case of the remarriage of a minor in her father's lifetime?"*

I. *That is decisive.*

J. *So, too, it has been taught on Tannaite authority in accord with the position taken by R. Ashi:*

K. **Sages concur with R. Eliezer in the case of a minor whose father married her off and who was divorced is deemed an orphan while her father is yet alive, that lo, she is classified as an orphan in the lifetime of her father. If the husband then remarried her, she is forbidden to the levir, because the divorce that she has received is completely valid, but the remarriage is not completely valid. Under what circumstances? If he divorced her when she was a minor and remarried her when she was a minor. But if he divorced her when she was a minor and married her after she had matured, or if he remarried her when she was a minor and she matured while living with him, and then he died, she may either perform the rite of removing the shoe or enter into levirate marriage. In the name of R. Eliezer they have said, "She performs the rite of removing the shoe but does not enter into levirate marriage" [T. Yeb. 13:5E-J].**

- I.2** A. *Raba asked R. Nahman, "What is the law concerning her co-wife?"*
B. *He said to him, "She herself is forbidden as a precautionary measure, so shall we now go and add another precautionary measure to a precautionary measure?"*
C. *But lo, it has been taught on Tannaite authority: In the name of R. Eliezer they have said, "She and her co-wife perform the rite of removing the shoe but does not enter into levirate marriage"!*
D. *She and her co-wife, do you honestly think?! Rather, is it not, either she or her co-wife perform the right of removing the shoe? [So how can anyone say that the co-wife may enter into levirate marriage?]*
E. *You still have to explain the matter!*

- F. *This is the explanation:* She performs the rite of removing the shoe; her co-wife either performs the rite of removing the shoe or enters into levirate marriage.

13:7

- A. Two brothers married to two sisters [who are] minor orphans,
- B. and the husband of one of them died [childless] –
- C. she [the widow] goes forth [without levirate rites] on the count of being the sister of [his] wife.
- D. And so two deaf-mutes.
- E. An adult and a minor –
- F. the husband of the minor died [childless] –
- G. the minor goes forth on grounds of being the sister of his wife.
- H. [If] the husband of the adult died [childless],
- I. R. Eliezer says, “They instruct the minor to exercise the right of refusal against him [the surviving brother, her husband].”
- J. Rabban Gamaliel says, “If she exercises the right of refusal, she exercises the right of refusal [without instruction, and it is valid].
- K. “But if not, let her wait until she reaches maturity. Then the other one [the widow, later on] goes forth on grounds of being the sister of [his] wife.”
- L. R. Joshua says, “Woe to the man on account of his wife, and woe to the man on account of the wife of his brother!
- M. “He puts away his wife with a writ of divorce, and the wife of his brother with a rite of removing the shoe.”

- I.1** A. *But is it permitted [to instruct a minor to exercise the right of refusal at all]? And did not Bar Qappara teach as a Tannaite statement, “A person should always cleave to three things and avoid three things.*
- B. “A person should always cleave to three things: the rite of removing the shoe, making peace, and remitting vows;
 - C. “and avoid three things: the exercise of the right of refusal; bailments; and serving as a surety for loans.”
 - D. *When there is an exercise of the right of refusal involving a religious duty [here: the levir gets to consummate the levirate marriage] the case is exceptional.*

I.2

- A. *Reverting to the body of the foregoing:*
- B. *Bar Qappara taught as a Tannaite statement*, “A person should always cleave to three things and avoid three things. A person should always cleave to three things: the rite of removing the shoe, making peace, and remitting vows; and avoid three things: the exercise of the right of refusal; bailments; and serving as a surety for loans.”
- C. “Rite of removing the shoe”: *That is in line with that which has been taught on Tannaite authority*: “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.”
- D. “Making peace”: As it is written, “Seek peace and pursue it” (Psa. 34:15). **[109B]** And said R. Abbahu, “There is a verbal analogy to be drawn through the common occurrence of the word, ‘pursue.’ Here it is written, ‘Seek peace and pursue it,’ and elsewhere, ‘he who pursues after righteousness and mercy finds life, prosperity, and honor’ (Pro. 21:21).”
- E. “And remitting vows”: *That is in line with R. Nathan, for it has been taught on Tannaite authority*: R. Nathan says, “He who takes a vow is as though he built a high place, and he who carries it out is as though he offered an offering on it.”
- F. “And avoid three things: the exercise of the right of refusal”: *Perhaps when she grows up, she will regret it.*
- G. “Bailments”: *This speaks of those made by a fellow townsman, who will regard his house as though it were his own.*
- H. “And serving as a surety for loans”: *This speaks of the sureties of Shalsion.*
- I. *For said R. Isaac*, “What is the meaning of the verse, ‘He who is surety for a stranger will hurt for it’ (Pro. 11: 5)? Hurt after hurt comes upon those who receive proselytes, on the sureties of Shalsion, and upon him who nails himself to a matter of law.”

I.3

- A. “...those who receive proselytes”: *In line with R. Helbo, for said R. Helbo*, “Proselytes are as hard on Israel as a scab.”

B. “On the sureties of Shalsion”: *Under that rule they pull out [the debtor from the obligation] and push in [the creditor].*

C. “And upon him who nails himself to a matter of law”: For it has been taught on Tannaite authority: R. Yosé says, “Whoever says he has no [knowledge of] the Torah has no [knowledge of] the Torah.”

D. *Yeah, so what else is new?*

E. *This is the sense of the statement:* “Whoever says he has only [knowledge of] the Torah has only [knowledge of] the Torah.”

F. *Yeah, so what else is new?*

G. *This is the sense of the statement:* “...even Torah he does not have.”

H. *Why not?*

I. Said R. Pappa, “Said Scripture, ‘That you may learn them and observe to do them’ (Deu. 5: 1) – whoever is involved in observance is involved in study, but whoever is not involved in observance also is not involved in study.”

J. *And if you prefer, I shall say, in point of fact it is as you stated at the outset:* “Whoever says he has only [knowledge of] the Torah has only [knowledge of] the Torah.” *And that statement is required to cover the case in which he teaches others and they go and carry out the law. What might you have supposed? That he gets reward for himself? So we are informed that that is not the case.*

K. As to the statement, “and upon him who nails himself to a matter of law,” *if you wish, I shall say, this speaks of a judge who, faced with a case, if he has learned a law pertinent to it, draws an analogy from case to case, even though he has a teacher, not going to him to ask. [That is someone who nails himself to the law he has learned, rather than asking about the peculiarities of a given case.]*

L. For said R. Samuel bar Nahmani said R. Jonathan, “A judge should always imagine that a sword is hanging between his loins [ready to cut him into two], and Gehenna is

open beneath him, [7B] as it is said, ‘Behold, it is the litter of Solomon [Shachter: standing for the presence of God], and round about it are three score of the mighty men of Israel [disciples of sages]; they all handle the sword and are expert in war, and every man has his sword upon his flank because of the dread of night’ (Son. 3:7-8) – the dread of Gehenna, which is like the night.”

- II.1 A. Rabban Gamaliel says, “If she exercises the right of refusal, she exercises the right of refusal [without instruction, and it is valid]. But if not, let her wait until she reaches maturity. Then the other one goes forth on grounds of being the sister of [his] wife”:**
- B. *R. Eleazar asked Rab, “What is the operative consideration behind the ruling of Rabban Gamaliel? Is it because the betrothal of a minor remains suspended, and when she matures, the betrothal matures with her, even though the husband has not yet had sexual relations with her? [Slotki: As the validity of the original betrothal is thus made retrospective, the provisional levirate bond between the levir and the elder sister may be regarded as never having existed.] Or is it that he maintains that, he who betroths the sister of his sister-in-law, the sister-in-law exempts her in that way but only in that way [by the betrothal that took place when the minor had grown up, not the original betrothal, which is null], on account of which, only if there has been a sexual relation is the elder sister exempt from the levirate connection, but if not, she is not exempt?”*
- C. *He said to him, “This is the operative consideration in the mind of Rabban Gamaliel: It is because he takes the view that, he who betroths the sister of his sister-in-law, the sister-in-law exempts her in that way but only in that way [by the betrothal that took place when the minor had grown up, not the original betrothal, which is null], on account of which, only if there has been a sexual relation is the elder sister, but not if there has been none.”*
- D. *Said R. Sheshet, “I think that when Rab made that statement, he was drowsy or sleeping. For it has been taught on Tannaite authority: ‘He who betroths a minor – her betrothal is held in suspense.’ Now what is the sense of is held in suspense? It obviously means that, when she matures, the betrothal matures with her, even though the husband has not yet had sexual relations with her.”*

E. Said to him Rabin b. R. Nahman, “The matter of the betrothal of a minor remains held in suspense. If there had been an act of sexual relations, it is valid, if not, not; for in the absence of sexual relations, she supposes, ‘He has an advantage over me [since he can divorce me whenever he wants], but I have an advantage over him [since I can exercise the right of refusal any time she wants].’” [Slotki: The uncertainty in her mind as to the durability of the union causes it to remain in a suspended condition until the act of taking possession through sexual relations, after she comes of age, has been carried out.]

II.2 A. And does Rab really take the view that only if there was an act of sexual relations is the betrothal valid, but otherwise not? And has it not been stated:

B. A minor who did not exercise the right of refusal but has come of age went and married someone else –

C. Rab said, “She does not have to get a writ of divorce from the second husband” [since the marriage was null anyhow].

D. And Samuel said, “She does have to get a writ of divorce from the second husband” [since the marriage was valid].

E. **[110A]** Now is not what is at issue in this dispute a case in which there was no act of sexual relations [after she matured? Hence, from Rab’s viewpoint, the first marriage was valid.]

F. No, it is a case in which there had been an act of sexual relations.

G. Well, if there had been an act of sexual relations, what is the reasoning of Samuel?

H. He takes the view that whoever has sexual relations does so depending upon the original act of betrothal [Slotki: which was invalid, so the marriage to the second husband is valid].

I. But lo, they have already had a dispute on that very subject, for it has been stated:

J. If the man betrothed a woman on the basis of a stipulation but then consummated the marriage without further condition,

K. Rab said, “She does have to get a writ of divorce from the second husband” [since the marriage was valid].

L. And Samuel said, “She does not have to get a writ of divorce from the second husband” [since the marriage was invalid].

M. Rab said, “She does have to get a writ of divorce from the second husband” – *having married her, he has remitted his stipulation.*

N. And Samuel said, “She does not have to get a writ of divorce from the second husband” – whoever has sexual relations does so depending upon the original act of betrothal.

O. *Both versions of the dispute are required. For if the dispute had been stated only for the case of the minor who has not exercised the right of refusal, I might have supposed that it is in that case in particular that Rab takes the position that he does, because no stipulation is attached to the betrothal, but in the other case, where a stipulation has been attached, he concurs with Samuel [Slotki: that the original condition remains in force even after the marriage has been consummated]. And if the latter case alone had been given, I might have supposed that it is only in that case in which Samuel takes the position that he does [since the condition was attached to the original act of betrothal (Slotki)], but in the former he concurs with Rab. Accordingly, both formulations are necessary.*

II.3 A. *And did Rab take the view that if the husband had sexual relations with the minor once she has come of age, then she has to get a writ of divorce from him, but if not, she does not have to get a writ of divorce? And lo, there was a case in Nersh, in which a man betrothed a girl while she was a minor, and when she reached her majority, and he sat her on the bridal chair, someone else came along and snatched her away from him. Now present on the occasion were Rab’s disciples, R. Beruna and R. Hananel, and they did not require the girl to*

get a writ of divorce from the second party. [Slotki: Obviously because they regarded the first marriage as valid, even though no sexual relations had taken place, so how can we suppose that Rab requires a writ of divorce only where an act of sexual relations has taken place?]

B. *Said R. Pappa, "In Nersh they consummated the marriage first and then put the girl on the bridal chair" [so the marriage to the first husband was already valid and consummated].*

C. R. Ashi said, "The second party acted improperly, and therefore they dealt with him improperly *and rabbis deprived him of the right of a valid betrothal.*"

D. *Said Rabina to R. Ashi, "Well, that may be all right in the case in which he betrothed through a money exchange, but if he betrothed through an act of sexual relations, what is to be said?"*

E. *"Rabbis treated his act of sexual relations as mere fornication."*

- II.4** A. Said R. Judah said Samuel, "The decided law accords with R. Eliezer."
B. And so said R. Eleazar, "The decided law accords with R. Eliezer."

13:8

- A. He who was married to two minor orphans and who died –
- B. the act of sexual relations or the performance of the rite of removing the shoe on the part of one of them exempts her co-wife [from the levirate connection altogether].
- C. And so two deaf-mutes.
- D. [He who was married to] a minor and a deaf-mute –
- E. the act of sexual relations on the part of one of them does not exempt her co-wife.
- F. A woman of sound senses and a deaf-mute –
- G. the act of sexual relations of the woman of sound senses exempts the deaf-mute.
- H. But the act of the sexual relations of the deaf-mute does not exempt the woman of sound senses.

I. An adult and a minor – the act of sexual relations of the adult exempts the minor.

J. But the act of sexual relations of the minor does not exempt the adult.

- I.1** A. *But is a deaf-mute woman permitted to participate in the rite of removing the shoe? And have we not learned in the Mishnah: A deaf-mute boy with whom the rite of removing the shoe was carried out, a deaf-mute girl who performed the rite of removing the shoe, she who performs the rite of removing the shoe with a minor – her performance of removing the shoe is invalid?*
- B. Said R. Giddal said Rab, “The reference to two deaf women here pertains only to the act of sexual relations.”
- C. *Raba said, “You may even maintain that it makes reference to the rite of removing the shoe. The passage before us, which allows a deaf woman to perform the rite, speaks of a deaf-mute who was originally deaf, the other [which holds that a deaf woman may not perform the rite of removing the shoe] speaks of a woman who had sound hearing but became deaf. As to the deaf woman, to begin with, just as she entered the marriage, so she leaves it. But if she had hearing and then lost it, that is not the case, since at that point, the fact that she cannot recite the ritual invalidates it.”*
- D. *Objected Abbaye, “But is it the fact that a woman who, to begin with, was deaf can perform the rite of removing the shoe? And have we not learned in the Mishnah: Two brothers, one a deaf-mute and one of sound senses [M. 14:3F], married to two women unrelated to one another, one a deaf-mute and one of sound senses [M. 14:3C + H] – [if] the deaf-mute married to the deaf-mute woman should die, what should the husband of sound senses married to the woman of sound senses do? He should marry the widow, but if he wants to put her away, he puts her away. If the husband of sound senses married to the woman of sound senses should die, what should the deaf-mute man married to the deaf-mute woman do? He marries her and does not put her away for all time [M. 14:4EE-II]? Now does this not speak of a woman who was deaf to begin with, and is it not taught as the Tannaite rule that he may marry her [110B] but may not enter into the rite of removing the shoe with her?*
- E. *No, it speaks of a woman who had hearing but became deaf.*
- F. *Come and take note: Two brothers of sound senses married to two women unrelated to one another, one of sound senses and one a deaf-mute – [If]*

the husband of sound senses married to the deaf-mute dies, what should the husband of sound senses married to the woman of sound senses do? He should marry her, and if he wants to put her away, he puts her away. [If] the husband of sound senses married to the woman of sound senses should die, what should the husband of sound senses married to the deaf-mute woman do? He either performs the rite of removing the shoe or enters into levirate marriage. *Is this not a case in which, just as the man was, to begin with, possessed of sound senses, so she was, to begin with, deaf, and nonetheless it is stated that he may marry her but may not enter the rite of removing the shoe with her?*

- G. *What sort of fabricated parallel to you see here? Each clause may have its own sense.*
- H. *An objection was raised: Two brothers, one of them a deaf-mute and one of sound senses [M. 14:3F], married to two sisters, one of them a deaf-mute and one of sound senses [M. 14:3C] – [If] the deaf-mute husband married to the deaf-mute wife should die, what should the husband of sound senses married to the sister of sound senses do? She [the widow] should go forth because of being the sister of his wife. [If] the husband of sound senses married to the wife of sound senses should die, what should the deaf-mute husband married to the deaf-mute sister do? He puts away his wife with a writ of divorce, and the wife of his brother is prohibited [to remarry] for all time [M. 14:4P-T]. Now should you say that here, too, we deal with a man who had sound senses but later on became deaf, can such a man issue a writ of divorce? Have we not learned in the Mishnah: A man of sound senses who married a woman of sound senses, and the woman became a deaf-mute – if he wanted, he puts her away. And if he wanted, he confirms the marriage. [If] she became an idiot, he may not put her away [M. 14:1F-I]. So is this not the case of a man who was deaf to begin with, and since he was originally deaf, the woman, too, should be one who was originally deaf, and since the sisters were originally deaf, the unrelated women also were originally deaf? But in the case of the unrelated one, we have learned that the levir may marry in a levirate connection but he may not enter into the rite of removing the shoe. [Slotki: She is forbidden to her brother-in-law since she is his wife's or divorcée's sister, and she is forbidden to other men, since, as a deaf-mute who is unable to recite the prescribed formulas, her brother-in-law is precluded from submitting to the rite of removing the shoe with her, and in consequence she remains attached to him*

by the levirate bond. Now as the levir's deafness is an affliction that he suffered prior to his marriage, the deafness in the prior cases must refer to afflictions that commenced prior to marriage, an objection against Raba.]

- I. *He shut up.*
- J. *When Abbayye visited R. Joseph, [Joseph] said to him, "How come you replied to him on the strength of cases in which he could respond to you that the sisters were originally deaf, and the unrelated women were originally of sound senses who lost their hearing later on? You should have objected to him from the following: Two brothers who were deaf married to two sisters of sound senses, or to two deaf sisters, or to two sisters, one of sound senses, the other deaf; and so also, two deaf sisters married to two brothers of sound senses, or to two deaf brothers, or to two brothers, one of sound senses, the other deaf – lo, these women are exempt from having to enter into levirate marriage and from the rite of removing the shoe. If the sisters were unrelated, however [to one another], then the levirs must marry them [but they may not carry out the rite of removing the shoe, since one of the parties to the rite may not be able to make the required declarations]. And if they wanted to divorce them, they may do so. Now, how shall we imagine the circumstances of this case? If we suppose that we deal with brothers who, to begin with, had sound senses but then lost their hearing, could they ever divorce their wives? Have we not learned in the Mishnah: [If] he...became an idiot, he may never put her away [M. 14:1J]? So it must refer to brothers who, to begin with, prior to the marriage, were deaf, and since they were originally deaf, the women also must have been originally deaf, and still, it was taught as the Tannaite statement: But if they were unrelated to one another, they enter into marriage [M. 14:3H-I]. So they enter into marriage but do not perform the rite of removing the shoe! Is this not a refutation of Rabbah?"*
- K. *It certainly is.*

- II.1**
- A. **A woman of sound senses and a deaf-mute – the act of sexual relations of the woman of sound senses exempts the deaf-mute. But the act of the sexual relations of the deaf-mute does not exempt the woman of sound senses:**
 - B. *Said R. Nahman, "I came across R. Ada bar Ahbah and R. Hana, his son-in-law, in session in the marketplace of Pumbedita, and they were exchanging arguments, and stating: 'Lo, we have learned in the Mishnah: [He who was married to] a minor and a deaf-mute – the act of sexual relations on the*

part of one of them does not exempt her co-wife. *That is the case in which the widows became subject to the levirate connection with him [the deceased brother] through a brother of his who was of sound senses, since we do not know whether the deceased brother was more satisfied with the minor or with the deaf-mute.*

- C. *“If the deceased brother was more satisfied with the minor, because she would reach the age of intelligence;*
- D. *“If the deceased brother was more satisfied with the deaf-mute, because even now she is fully mature and ready for sexual relations.*
- E. *“If, however, the widows fell to his lot through his deaf brother, then there is no doubt that the deceased brother was more satisfied with the deaf-mute wife, since she was already of age for sexual relations and moreover was of his own kind.’*
- F. *“And I said to them, ‘Even if she fell to his lot through a deaf brother of his, the preference is still subject to doubt.’”*
- G. What is to be done to repair the situation [Slotki: since one does not exempt the other, in line with our Mishnah’s rule, and the dear woman cannot undertake the rite of removing the shoe? If the levir married the deaf widow and had a rite of removing the shoe with the minor after she reached maturity, the former would be forbidden to him by the rite of removing the shoe of her co-wife, since the marriage of the deaf woman would not be valid so as to sever the levirate bond with the minor]?
- H. Said R. Hisda said Rab, “He marries the deaf woman and divorces her with a writ of divorce, and the minor girl should wait until she grows up and then performs the rite of removing the shoe” [and both are freed of the levir].

II.2 A. *Said R. Hisda, “That ruling yields the inference that Rab takes the view that a deaf wife is only partially acquired by her husband [only part of her person being legally regarded as a wife (Slotki)], but a minor is subject to doubt as to whether or not she is wholly acquired by her husband at all. For if it should enter your mind that a deaf wife is subject to doubt as to whether or not she is wholly acquired by her husband at all, and that a minor is only partially acquired by her husband, then in the case of the deaf wife, why does he marry her and then divorce her with a writ of divorce? [111A] Let her just sit there as his wife in any event. For how would you want to settle matters? If she is fully acquired by him, lo, she is fully required, and if she is not,*

then lo, she is unrelated. And should you say, as to a minor, why should she wait until she grows up and then perform the rite of removing the shoe? Let her sit with him as his wife. If she is acquired by him, lo, she is acquired, and if she is not acquired, she is unrelated – if so, how in the world is the deaf wife to be released?” [Slotki: She cannot perform the rite of removing the shoe, and he cannot marry her after he has married the minor; hence the necessity for Rab’s ruling that provides redress for the minor as well as the deaf widow.]

B. *Said R. Sheshet, “The answer that R. Hisda gave in connection with the position of Rab indeed stands to reason, for it has been taught on Tannaite authority: Two brothers married to two orphan sisters, one a minor, the other a deaf woman – if the husband of the minor dies, the deaf woman goes forth with a writ of divorce, and the minor waits until she grows up and then performs the rite of removing the shoe. If the husband of the deaf woman dies, the minor goes forth with a writ of divorce, and the deaf woman is forbidden for all time to remarry. But if the levir had sexual relations with the deaf woman, he gives her a writ of divorce and she is permitted to remarry. Now if you maintain that the operative principle is, a deaf wife is only partially acquired by her husband, but a minor is subject to doubt as to whether or not she is wholly acquired by her husband at all, that is the consideration that, if the levir has sexual relations with the deaf woman, he gives her a writ of divorce and she is permitted to remarry, for you may say, which way do you want it? If the minor is fully acquired, then she goes forth on the grounds of being the sister of the wife, and if she is not fully acquired, then the levir quite properly has sexual relations with the other. But if you take the view that a deaf wife is subject to doubt as to whether or not she is wholly acquired by her husband at all, and that a minor is only partially acquired by her husband, then when the levir has sexual relations with the deaf woman, why does he give her a writ of divorce and she is released? This was an act of sexual relations that was invalid, and an act of sexual relations that was invalid does not free the woman from the levirate connection!”*

C. *Lo, who is the authority behind this statement? It is R. Nehemiah, who takes the view that even an act of sexual relations that is invalid nonetheless exempts the widow from having to perform the*

rite of removing the shoe [and that explains why the deaf widow may marry again after she has been divorced (Slotki)].

D. *If it is R. Nehemiah, then let me call attention to the concluding part of the same formulation:*

E. If a man was married to two orphan women, one a minor, the other a deaf woman, and he died, and the levir had sexual relations with the minor and then he went and had sexual relations with the deaf woman, or [if after he had sexual relations with the minor,] his brother had sexual relations with the deaf woman, both of them are forbidden to him. What is to be done for them? The deaf-mute he puts away with a writ of divorce, and the minor is to wait until she grows up and then is to perform the rite of removing the shoe. *Now if you maintain that a deaf wife is only partially acquired by her husband, but a minor is subject to doubt as to whether or not she is wholly acquired by her husband at all, and this sets forth the position of rabbis [who differ from Nehemiah and say that the improper act of sexual relations does not exempt the levirate widow from levirate marriage or the rite of removing the shoe], so there is no problem in explaining why the minor is to wait until she grows up and then is to perform the rite of removing the shoe. For it is possible that the levir may have sexual relations first of all with the deaf widow, and the later sexual relations with the minor would be invalid [Slotki: since it followed that of the deaf widow, who, having been at least partially acquired, is the minor's co-wife, and the two co-wives may not be married; as in such a case the minor could not be free before she came of age and performed the rite of removing the shoe, a similar restriction has been imposed in the former case also]. But if you maintain that it represents the position of R. Nehemiah, lo, he has said that an act of sexual relations that is invalid nonetheless exempts the widow from having to perform the rite of removing the shoe. So does it not follow that it represents the position of rabbis?*

F. *That certainly does follow.*

G. *Said R. Ashi, "On the basis of the first part of the formulation as well, it also is to be inferred that before us is the position of rabbis [and not Nehemiah], for the Tannaite formulation reads: But if the levir had sexual relations with the deaf woman, he gives her a writ of divorce and she is permitted to remarry. But the passage does not*

state, If he had sexual relations with the minor, he gives her a writ of divorce and she is permitted to remarry.” [Slotki: But that would be the law according to Nehemiah, who ruled that an unlawful act of sexual relations exempts the woman from the levirate obligation; so it must represent the view of rabbis; and the reason that the minor cannot be released by a writ of divorce is that sexual relations with her are unlawful, since she is the sister of the levir’s partially acquired wife, while she herself, if she is fully acquired, is subject to the levirate bond, from which the marriage with her deaf sister, whose acquisition to the husband was only partial, cannot exempt her.]

H. *If that’s all that’s there, then there isn’t much there; for as to a deaf woman, who has no redress, it was necessary to make mention of a mode of redress through an act that is forbidden [that’s the only way she could ever remarry]; but as to the minor, who really can have a lawful means of egress from the connection, is not going to be subject to a remark about a forbidden act.*

13:9

- A. He who was married to two [unrelated] minor orphans and who died –
- B. the levir came and had sexual relations with the first, and then he came and had sexual relations with the second –
- C. or another brother came and had sexual relations with the second –
- D. [111B] he has not invalidated the first [from marriage with him].
- E. And so in the case of two deaf-mutes.
- F. A minor and a deaf-mute –
- G. the levir came and had sexual relations with the minor, and then he came and had sexual relations with the deaf-mute –
- H. or another brother came and had sexual relations with the minor –
- I. he has not invalidated the minor.
- J. [If] the levir came and had sexual relations with the deaf-mute, and then went and had sexual relations with the minor,
- K. or another brother came and had sexual relations with the minor –
- L. he has invalidated the deaf-mute.

13:10

- A. A woman of sound senses and a deaf-mute –
- B. the levir came and had sexual relations with the woman of sound senses, then went and had sexual relations with the deaf-mute –
- C. or another brother came and had sexual relations with the deaf-mute –
- D. he has not invalidated the woman of sound senses.
- E. [If] the levir came and had sexual relations with the deaf-mute, and then went and had sexual relations with the woman of sound senses,
- F. or another brother came and had sexual relations with the deaf-mute –
- G. he has invalidated the deaf-mute.

13:11

- A. An adult and a minor –
- B. the levir came and had sexual relations with the adult, and then went and had sexual relations with the minor –
- C. or another brother came and had sexual relations with the minor –
- D. he has not invalidated the adult.
- E. [If] the levir came and had sexual relations with the minor, and then came and had sexual relations with the adult –
- F. or another brother came and had sexual relations with the adult –
- G. he has invalidated the minor.
- H. R. Eleazar says, “They instruct the minor to exercise the right of refusal against him.”

I.1

- A. Said R. Judah said Samuel, “The decided law is in accord with R. Eliezer.”
- B. And so said R. Eleazar, “The decided law is in accord with R. Eliezer.”

C. *And both statements of the decided law were required, for if the statement had been made only with reference to the passage before us here, it might have been supposed that here alone did Samuel maintain that the decided law accords with R. Eliezer, because the levir has not carried out the religious duty of levirate marriage [the minor is told to exercise the right of refusal so the levir may carry out the religious duty with the elder wife], but in the other case, where the religious duty of the levirate marriage has been carried out, I might have supposed that both wives are to be released by a writ of divorce [and the minor does not exercise the right of refusal]. And if I had*

had only the second statement of the decided law, I might have supposed that only there is the law in agreement with him, because the elder of the two women is subject to levirate marriage, but not in the other instance. So both formulations of the decided law were required.

13:12

- A. A minor levir who had sexual relations with a minor widow [of a deceased, childless brother] –
- B. they should grow up with one another.
- C. [If a minor levir] had sexual relations with an adult widow, she should raise him.
- D. The deceased childless brother's widow who claimed within thirty days, "I have not yet had sexual relations [with my levir]" –
- E. they force the levir to perform the rite of removing the shoe with her.
- F. [If she so claimed] after the thirty days,
- G. they request from him that he perform the rite of removing the shoe for her.
- H. So long as he admits [her claim] even after twelve months, they force him to perform the rite of removing the shoe for her.

13:13

- A. She who vows against deriving benefit from her levir –
- B. [if she does so] while her husband is yet alive,
- C. they force him [the levir, after the husband dies without offspring] to perform the rite of removing the shoe with her.
- D. [If she so vows] after her husband's death, they request from him that he perform the rite of removing the shoe for her.
- E. And if that was her very intention, even [if she took the vow] while her husband was yet alive,
- F. they request him to perform the rite of removing the shoe for her.

- I.1** A. [A minor levir who had sexual relations with a minor widow [of a deceased, childless brother] – they should grow up with one another. [If a minor levir] had sexual relations with an adult widow, she should raise him:] *May we say that our Mishnah paragraph is not in accord with R. Meir, for it has been taught on Tannaite authority:*

- B. "A minor male and a minor female do not go through the rite of removing the shoe and do not enter into levirate marriage," the words of R. Meir.
- C. *You may even say that it accords with R. Meir. When R. Meir made that statement, it pertained to an adult woman and a minor boy, or a minor girl and an adult man, for one of them involves sexual relations that are prohibited. But if there is a case of a minor boy who had sexual relations with a minor girl, in which instance both are in the same status, then he did not make that statement.*
- D. *But lo, the Tannaite formulation is explicit to the contrary: **If a minor levir had sexual relations with an adult widow, she should raise him!***
- E. *Said R. Hanina, of Khuzistan, "If he had already had sexual relations, the law is different."*
- F. *But lo, the statement speaks of the future: **she should raise him** – even though each act of sexual relations violates a prohibition!*
- G. *Rather, it is better to conclude that our Mishnah passage does not accord with the position of R. Meir.*

I.2

- A. *Should we not invoke here the verse, "to raise up unto his brother a name" (Deu. 25: 7) – and such a minor is not able to do that?*
- B. *Said Abbaye, "Said Scripture, 'Her husband's brother shall go in unto her' (Deu. 25: 5) – whoever it may be."*
- C. *Raba said, "Even without this verse, you could never have said the contrary [that a minor may not enter into levirate marriage]. For is there any act that at one time is forbidden but later on is permitted in connection with the levirate marriage? That is not at all possible, for said R. Judah said Rab, 'Any levirate widow whom I do not classify at the time of her coming into the levirate connection under the verse, "her levirate brother-in-law shall come unto her" – lo, she is in the status of the wife of a brother who has children and is forbidden [for all time].' And you would then have to say the same thing here!"*
- D. *Said Scripture, "When brothers dwell together" – even if one of the brothers is only a day old [he is still a contemporary].*

II.1

- A. **[If she so claimed] after the thirty days, they request from him that he perform the rite of removing the shoe for her. So long as he admits [her**

claim] even after twelve months, they force him to perform the rite of removing the shoe for her:

- B. *What authority takes the view that, for up to thirty days, a man may restrain himself from having sexual relations [but not beyond that point]?*
- C. *Said R. Yohanan, "It is R. Meir, for it has been taught on Tannaite authority:*
- D. *"The claim against a bride's virginity may be brought during the first thirty days of marriage,' the words of R. Meir.*
- E. *"R. Yosé says, 'If the woman was left alone with him, it must be brought immediately; if she was not left alone with him, then even after some years the husband may bring the complaint.'"*
- F. *Rabbah said, "You may even say it represents the view of R. Yosé. R. Yosé took the position that he did there only in the case of a betrothed woman, with whom he was familiar, but as to his brother's wife, [112A] with whom one preserves a certain reserve [he would not maintain the same view]."*

- III.1** A. **[They force him to perform the rite of removing the shoe for her:]** Instead of forcing him to perform the rite of removing the shoe with her, why should we not force him to perform the levirate marriage deed with her?
- B. *Said Rab, "It is a case in which she puts forward her writ of divorce." [Slotki: After a divorce by the levir, the levirate marriage is forbidden; we now assume that the writ of divorce is one by which the levir has severed their union after the consummation of the marriage.]*
 - C. *An objection was raised: A levirate woman who said within thirty days, "I have not yet had sexual relations," whether he says, "I did have sexual relations with her," and whether he says, "I did not have sexual relations with her," they force him to perform the rite of removing the shoe with her. If this was after thirty days, they request him to do so. If she says, "I have had sexual relations with him," but he says, "I did not have sexual relations with her," lo, this one must put her away with a writ of divorce. If he says, "I had sexual relations with her," and she says, "I did not have sexual relations with him," even though he retracted and said, "I did not have sexual relations with her," he has to issue a writ of divorce and also undertake the rite of removing the shoe.*
 - D. *Said R. Ammi, "[Here, too:] He has to issue a writ of divorce and also undertake the rite of removing the shoe."*
 - E. *R. Ashi said, "There the writ of divorce was given in regard to his levirate connection; here the writ of divorce is required in connection with his act of sexual relations."*

III.2 A. *A couple both of whom concurred that sexual relations had not taken place in the levirate marriage came before Raba. Raba said to the disciples, "Perform the rite of removing the shoe for her and dismiss the case."*

B. *Said R. Sherabayya to Raba, "But has it not been taught on Tannaite authority he has to issue a writ of divorce and also undertake the rite of removing the shoe?"*

C. *He said to him, "If it has been taught on Tannaite authority, so be it."*

III.3 A. Hon b. R. Nahman, asked R. Nahman, "What is the law as to her co-wife?"

B. He said to him, "Now will the rival be forbidden again to remarry because we compel or request the levir?" [Slotki: The co-wife is free to do as she likes.]

IV.1 A. **She who vows against deriving benefit from her levir – [if she does so] while her husband is yet alive, they force him [the levir, after the husband dies without offspring] to perform the rite of removing the shoe with her. [If she so vows] after her husband's death, they request from him that he perform the rite of removing the shoe for her. And if that was her very intention, even [if she took the vow] while her husband was yet alive, they request him to perform the rite of removing the shoe for her:**

B. *There we have learned in the Mishnah: Aforetimes they did rule: Three sorts of women go forth and collect their marriage contract: (1) she who says, "I am unclean for you," (2) "Heaven [knows] what is between you and me [namely, your impotence]," (3) "I am removed from [having sexual relations with] all the Jews." They reverted to rule – so that a woman should not covet someone else and spoil [her relationship with] her husband, but: (1) she who says, "I am unclean for you," must bring proof for her claim. (2) [She who says], "Heaven [knows] what is between you and me" – let them find a way to appease her. (3) [She who says], "I am removed from all the Jews," let him annul his share [in the vow], so that she may have sexual relations with him, but let her be removed from all the other Jews [M. [Ned. 11:12](#)].*

C. *The question was raised: [She who says], "I am removed from all the Jews" – what is the law with regard to the levir? Has it entered her mind that the husband might die and she might fall before the levir, or is this not the case?*

D. Rab said, "The levir is not in the same classification as the husband."

E. Samuel said, "The levir, lo, he is in the same classification as the husband."

F. Said Abbayye, *“The view of Rab stands to reason, for we have learned in the Mishnah: **She who vows against deriving benefit from her levir – [if she does so] while her husband is yet alive, they force him [the levir, after the husband dies without offspring] to perform the rite of removing the shoe with her.** Now if it were the fact that it has entered her mind that the husband might die and she might fall before the levir, the language that should have been used is, [112B] they request him to do so.”* [It’s her fault, not his, so he cannot be compelled (Slotki).]

G. *Here with what situation do we deal? It is a woman who already has children, in which case under such circumstances such a remote notion will not have entered her mind.*

H. *But if she had no children, what would the law have been? Would he be requested? But, then, instead of formulating matters in the language, **And if that was her very intention, even [if she took the vow] while her husband was yet alive, they request him to perform the rite of removing the shoe for her,** the passage can have been formulated with a distinction made in the body of the text, as follows: Under what circumstances? If she has children. But if she does not have children, then they request.... So, it must follow, there is no distinction as to whether or not she has children; the levir is forced to submit to the rite of removing the shoe in accord with Rab.*

I. *Yup.*