

# XI.

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## BAVLI YEBAMOT CHAPTER ELEVEN

### FOLIOS 97A-100B

#### 11:1

- A. They marry the kinswomen of a woman whom one has raped or seduced.
- B. He who rapes or seduces the kinswoman of his wife, however, is liable.
- C. A man marries the woman raped by his father or seduced by his father, raped by his son or seduced by his son.
- D. R. Judah prohibits in the case of the one raped by his father or seduced by his father.

- I.1** A. *What we have as a Tannaite statement here is in line with that which our rabbis have taught on Tannaite authority: A rapist is permitted to marry the daughter of the woman he has raped; if he married the woman, he may not marry her daughter.*
- B. *By way of contradiction: He who is suspected of having intercourse with a woman may not marry her mother, daughter, or sister [T. Yeb. 4:5K].*
- C. *That prohibition is merely on the authority of rabbis [so as not to make it easier to get at the woman by marrying one of her relatives].*
- D. *And is it the fact that in any case in which a prohibition derives from rabbis, even to begin with They marry [the kinswomen of a woman whom one has raped or seduced]!?*
- E. *When our Mishnah paragraph is set forth, it pertains to the time after the woman's death [in which case the woman whom one has raped or seduced will not be able to facilitate the man's access to the relatives that the man lusts after].*

- I.2** A. *What is the source in Scripture for our rule?*  
 B. *It is in line with that which our rabbis have taught on Tannaite authority:*  
 C. In the case of all other prohibited consanguineous relations, the word “lie with” is used, but here the language is “take” [comparing Lev. 20:11, 12, to the reference to marrying a woman and her mother, or other relatives forbidden because of one’s wife, as at Lev. 18:17, 18, 20:14, 17 (Slotki)], and that tells you that only when the intercourse was in the manner of “taking,” that is, a lawful marriage, are the female relatives of the woman forbidden.”
- I.3** A. *Said R. Pappa, “Then what about the case of her sister, in which it is written, ‘And if a man shall take his sister, his father’s daughter or his mother’s daughter’ (Lev. 20:17) – here, too, we find a reference to ‘taking’ her, in which instance it is forbidden, but then would she be permitted if it is merely in the manner of ‘lying’?” [Obviously not!]*  
 B. He said to him, “When reference is made in the Torah to ‘taking’ without further explanation, then that ‘taking’ means an appropriate action of that category, but one where ‘lying’ pertains, means ‘lying’ in the normal course of events [even illicitly].”
- I.4** A. *Raba said, “That someone who has raped a woman may marry her daughter derives from this verse: ‘The nakedness of your son’s daughter or your daughter’s daughter you shall not uncover’ (Lev. 18:10), so it follows that the daughter of her son and the daughter of her daughter may be uncovered; but it is written, ‘You shall not uncover the nakedness of a woman and her daughter; you shall not take her son’s daughter or her daughter’s daughter’ (Lev. 18:17). So how do these fit together? The one passage speaks of rape, the other, marriage.”*  
 B. *Maybe it’s the opposite?*  
 C. *In respect to consanguineous relatives, “kin” is written (Lev. 18: 6), and kinship is possible only through marriage, but not through a mere rape.*
- II.1** A. **R. Judah prohibits in the case of the one raped by his father or seduced by his father:**  
 B. Said R. Giddal said Rab, *“What is the scriptural basis for the position of R. Judah? As it is written, ‘A man shall not take his father’s wife and shall not uncover his father’s skirt’ (Deu. 23: 1), meaning that he may not uncover a*

skirt which his father has seen. *And how do we know that the text speaks of a woman whom his father has raped? It is written, 'Then the man that lay with her shall give to the father' (Deu. 22:29). And juxtaposed is: 'A man shall not take' (Deu. 23: 1)."*

- C. *And rabbis? [Slotki: How do they allow marriage of a woman outraged or seduced by one's father?]*
- D. *If the text really were juxtaposed, matters would be as you have said. But since the verses are not juxtaposed, [Slotki: "A man shall not take his father's wife" being written between them, the context speaks of a woman awaiting the decision of the levirate brother-in-law].*
- E. *[Rather, rabbis continue,] it is required in line with what R. Anan said, for said R. Anan said Samuel, "The verse speaks of a woman awaiting the decision of the levirate brother-in-law. The meaning of 'his father's skirt' (Deu. 23: 1) is, 'he shall not uncover the skirt' that is designated for his father." [Slotki: Such a woman is permitted to marry only his father unless she performs the rite of removing the shoe with the father.]*
- F. *But why not derive the prohibition of marrying the widow subject to levirate marriage with the father on the count that she is his aunt [Lev. 20:20]?*
- G. *The verse serves to impose upon him guilt on two counts of violating negative commandments.*
- H. *But why not derive the prohibition of marrying the widow subject to levirate marriage with the father on the count that she is simply a levirate widow and not free to marry any person?*
- I. *The verse serves to impose upon him guilt on three counts of violating negative commandments.*
- J. *But if you prefer, I shall say, it pertains to the time after the father has died [when the prohibition of marriage to the widow is not because she may not marry an outsider, and only two prohibitions pertain].*

### **Riddles of Consanguinity**

- II.2** A. **[97B]** [A riddle of consanguinity:] He is my brother on my father's side but not on my mother's side, and he is the husband of my mother, *and I am the daughter of his wife* [that is, the daughter was born of a rape by the father, where the son of the man by another wife has subsequently married her mother (Slotki)] –

- B. *said Rammi bar Hama, "That would not accord with the position of R. Judah in our Mishnah."*

**II.3** A. *"He whom I carry on my shoulder is my brother and my son and I am his sister":*

- B. *A gentile had sexual relations with his daughter, [and a son was born; the mother of the child states the riddle (Slotki)].*

**II.4** A. *"Hi, son! I am the daughter of your sister":*

- B. *You would find such a case when a gentile had sexual relations with the daughter's daughter.*

**II.5** A. *"Water drawers, we ask you a riddle you can't resolve: He whom I carry is my son and I am the daughter of his brother":*

- B. *You would find such a case when a gentile had sexual relations with the son's daughter.*

**II.6** A. *"Woe, woe for my brother who is my father, he is my husband and son of my husband; he is the husband of my mother and I am the daughter of his wife; he provides no food for his orphan brothers, children of his daughter":*

- B. *You would find such a case when a gentile had sexual relations with his mother and fathered a daughter from her; he had sexual relations with the daughter; then the grandfather [the gentile's father] had sexual relations with the daughter and produced sons from her.*

**II.7** A. *"You and I are brother and sister, your father and I are brother and sister, your mother and I are sisters":*

- B. *You would find such a case where a gentile had sexual relations with his mother and produced two daughters, had sexual relations with one of his daughters and got a son; when the son's mother's sister carries him, she speaks to him in that language.*

**II.8** A. *"You and I are the children of sisters, your father and I are the children of brothers, your mother and I are the children of brothers":*

- B. *You should find such a case in a legal marriage, for example, Reuben had two daughters, Simeon married one, the son of Levi married the other. So the son of Simeon may speak to the son of the son of Levi.*

## **11:2**

- A. **The convert whose sons converted with her – they [the sons] neither perform the rite of removing the shoe nor enter into levirate marriage,**

B. even if the conception of the first was not in a state of sanctity and the birth was in a state of sanctity, and the second was conceived and born in a state of sanctity.

C. And so is the law in the case of a slave girl whose sons converted with her.

I.1

A. When the sons of Yudan, the slave woman, were emancipated, R. Ahia b. Jacob permitted them to marry one another's wives.

B. Said to him Raba, "But lo, R. Sheshet forbade such a thing!"

C. He said to him, "So he forbade it. I permit it."

D. In the case of proselyte brothers who have the same father but not the same mother, all parties [Sheshet, Aha] concur that the marriage is permitted; if it is the same mother and the same father, all parties concur that it is forbidden. Where they differ, it is in the case of converts who have the same father and mother. The one who permits maintains that the children are assigned to the father, being called "child of Mr. So-and-so." R. Sheshet says they are also called "children of Mrs. So-and-so" [so they might be assumed to be lawful brothers, and if marriage of the brother's wife is permitted in their case, someone might draw the wrong conclusion (Slotki)].

E. There are those who state the matter as follows: R. Aha bar Jacob differs even where it is brothers only from the same mother. How come? A man who is a convert is like a newborn child.

F. We have learned in the Mishnah: **The convert whose sons converted with her – they [the sons] neither perform the rite of removing the shoe nor enter into levirate marriage.** Is not the operative consideration that they cannot marry the brother's wife?

G. No, it is because the widow herself is not subject to the considerations of removing the shoe or levirate marriage. She is as a matter of fact permitted to outsiders to the family, and the brothers are permitted to marry her.

H. But this language is used: **Even if the conception of the first was not in a state of sanctity and the birth was in a state of sanctity, and the second was conceived and born in a state of sanctity!** Now, if you maintain that the brothers are forbidden, that would make sense of the language, even if the

**conception of the first was not in a state of sanctity and the birth was in a state of sanctity, and the second was conceived and born in a state of sanctity.** *That is to say, the two are regarded as sons of two distinct mothers, but they are forbidden. But if they are permitted, then what can be the meaning of the language, even if the conception of the first was not in a state of sanctity and the birth was in a state of sanctity, and the second was conceived and born in a state of sanctity?!*

I. **Even if both of them were born in the condition of sanctification, so people might confuse them for Israelites, the widow nonetheless may marry an outsider.**

J. *There are those who say: "It stands to reason that they are permitted to marry each other's wives, for it is taught, even.... Now if you take the position that they are permitted, then it makes good sense to say even if. That is to say, even if the birth of both of them was in a state of sanctification and people might confuse them for Israelites, even so they are permitted. But if you hold that they are forbidden to marry one another's wives, then what can be the meaning of even if?*

K. **Even if the conception of the first was not in a state of sanctity and the birth was in a state of sanctity, and the second was conceived and born in a state of sanctity, so that they might be regarded as sons of two mothers, still they are forbidden.**

L. *Come and take note: Twin brothers, converts, and so, too, freed slaves, do not perform the rite of removing the shoe or enter into levirate marriage; they are not liable to penalty on the count of marrying the wife of a brother; if they were conceived not in a condition of sanctification but born in a condition of sanctification, they do not perform the rite of removing the shoe or enter into levirate marriage; but they are liable on the count of marrying the wife of a brother. If they were conceived and born in a condition of sanctification, lo, they are in the status of Israelites for all matters pertaining to them. Now, in any event, it is stated, they are not liable to penalty on the count of*

marrying the wife of a brother. *So it follows that while there is no penalty, [98A] still, a rabbinical prohibition is still present.*

*M. Not at all, the law is that even a prohibition is not present, but since the framer of the passage wished to formulate at the end of his Tannaite statement, but they are liable on the count of marrying the wife of a brother, he included a reference by way of balance in the beginning, they are not liable to penalty on the count of marrying the wife of a brother.*

- I.2** A. *Said Raba, “As to what rabbis have said, an Egyptian has no legal father, do not suppose that that is because, being drunk on sexuality, they don’t know who the father is, and if they know, we take it into consideration. Rather, even if it is known we do not take it into consideration, because lo, in regard to twin brothers who originated in a single drop of semen that divided into two, still, it is stated in the final clause, **they neither perform the rite of removing the shoe nor enter into levirate marriage.** It follows that the All-Merciful has declared the Egyptians’ seed to be utterly beyond responsible identification, as it is written, ‘Whose flesh is as the flesh of asses, and whose issue is like the issue of horses’ (Eze. 23:20).”*
- B. *Come and take note, for said R. Yosé, “There was the case of Nyptis the proselyte, who married the wife of his brother on his mother’s side, and the case came before sages, and they said, ‘A proselyte has no status as to marriage [prior to conversion].”*
- C. *Then is it the fact that, if a proselyte betrothed a woman, the betrothal takes no effect? [Obviously that is absurd.] Rather: say, “The prohibition of the wife of the brother does not apply to a proselyte.” Now does this not speak of a case in which the brother married her while he was a convert [and yet is not subject to the prohibition of the brother’s wife]?*
- D. *No, he married her when he was a gentile.*
- E. *Well, if he married her when he was a gentile, what sort of statement is supposed to be made by this case [for it is obvious that there is no recognition of family ties among gentiles]?*
- F. *What might you otherwise have supposed? That a decree should be made as a precaution, covering the time when he was a gentile, on account of the rule pertaining once he has become a proselyte? So we are informed that that is not the case.*

- G. *Come and take note, for* said Ben Yasyan, “When I went to the seacoast towns, I found a proselyte who married the wife of his brother on his mother’s side. I said to him, ‘My son, who permitted you to do that.’”
- H. “He said to me, ‘Lo, the woman and her seven children; on this bench R. Aqiba went into session and said two things: “A proselyte may marry the wife of his brother on his mother’s side,” and he said, “And the word of the Lord came to Jonah the second time, saying...”’ (Jon. 3: 1). A second time, then, did the Presence of God speak with him, but a third time did the Presence of God not speak with him?....”
- I. *So, in any event, he set forth as a Tannaite rule:* A proselyte may marry the wife of his brother on his mother’s side. *Now is this not that his brother had married her when he was a proselyte?*
- J. *No, he married when he was a gentile.*
- K. *Well, if he married her when he was a gentile, what sort of statement is supposed to be made by this case [for it is obvious that there is no recognition of family ties among gentiles]?*
- L. *What might you otherwise have supposed? That a decree should be made as a precaution, covering the time when he was a gentile, on account of the rule pertaining once he has become a proselyte? So we are informed that that is not the case.*
- M. *But [in the situation addressed by Aqiba’s ruling], is the proselyte’s testimony accepted anyhow? And has not R. Abba said R. Huna said Rab said, “Any disciple of a sage who gave a practical decision and the case actually comes up, if this is prior to the actual case that he made the statement, he is obeyed, but if not, he is not obeyed”?*
- N. *If you wish, I shall say, “He made the statement and then the case came up,” and if you wish, I shall say, “it was because he said, ‘Lo, the woman and her seven children,’” and if you wish, I shall say, “this case is exceptional, because along with it, he spoke of a prior incident.”*

**I.3** A. ““The master has said: “And the word of the Lord came to Jonah the second time, saying...” (Jon. 3: 1). A second time, then, did the Presence of God speak with him, but a third time did the Presence of God not speak with him?....” –

B. But lo, it is written, “He restored the border of Israel from the entrance of Hamath to the sea of the Arabah, according to the word of



the Lord...which he spoke by the hand of his servant Jonah the son of Amittai, the prophet" (2Ki. 14:25)!

C. *Said Rabina, "Reference is made in the prior passage only to the matter of Nineveh."*

D. *R. Nahman bar Isaac said, "This is the sense of his statement: ...According to the word of the Lord...which he spoke by the hand of his servant Jonah the son of Amittai, the prophet: Just as his attitude toward Nineveh turned from bad to good, so in the time of Jeroboam son of Joash, his attitude toward Israel turned from bad to good."*

**I.4** A. *Come and take note:* A proselyte whose mother, when she conceived him, was not in a state of sanctification but who [because, while pregnant, the mother had converted to Judaism] was [then] born in a state of sanctification, is subject to the laws of consanguinity on his mother's side, but he is not subject to the laws of consanguinity on his father's side.

B. How so? If he married his sister on his mother's side [a half-sister, born of his mother and a different father], he must divorce her. [If it was] a [half-] sister on his father's side [born of a different mother], he may keep her [as his wife].

C. If it was his father's sister by his father's mother, he must put her away. **[98B]** If it was his father's sister by his father's father, he may remain wed to her. If it was his mother's sister by her mother, he must put her away.

D. If it was his mother's sister by her father, R. Meir says, "He must put her away."

E. But sages say, "He may keep her."

F. For R. Meir held, "In the case of any consanguineous relationship on the mother's side, he must put away [such a woman]. If it is on his father's side, he may keep her. [Freedman, *Sanhedrin*, 58A, p. 394, n. 1: The guiding principle in all this is: 'a proselyte is as a newborn babe,' who stands in absolutely no relationship to any pre-conversion relation. Consequently, his brothers and sisters, father, mother, etc. from before his conversion lose his relationship on his conversion. Should they, too, subsequently become converted, they are regarded as strangers to him, and he might marry, for example, his mother or sister. This is the Biblical law. But since heathens themselves recognized the law of incest in respect of maternal relations, the Rabbis decreed that

this should hold good for a proselyte, too, i.e., that he is forbidden to marry his maternal relations who were forbidden to him before his conversion, so that it should not be said that he abandoned a faith with a higher degree of sanctity than the one he has embraced (since he cannot be expected to understand the principle of complete annulment of relationships). In this case, since he was born in sanctity, he is really not a proselyte at all. He is so styled because he, too, is legally a stranger to all his father's and mother's pre-conversion relations. As for his mother's paternal sister, R. Meir held that since she is partly maternally related, she is forbidden, as otherwise it would be thought that a proselyte is permitted to marry his maternal relations. But the Rabbis held that there was no fear of this, and since the relationship is in its source paternal, it is not forbidden.]

G. "And he is permitted to marry his brother's wife [Freedman, p. 394, n. 3: even his brother by his mother], his father's brother's wife, and all other relations deemed consanguineous by affinity of marital ties are permitted to him,

H. "including the wife of his father.

I. "If he has [already] married a woman and her daughter, he may consummate the marriage with one of them and put away the other. But to begin with, he should not do so at all.

J. "If his wife died, he may marry his mother-in-law."

K. Others say [in his view], "He may not marry her." [Freedman, p. 384, n. 5: Now in this passage a number of relations forbidden to Jews on pain of death, for example, his father's wife and his mother-in-law, are permitted to the proselyte, and hence to heathens in general; whilst a number of relations not forbidden on pain of death, for example, his sister, his paternal and maternal aunts, are prohibited to him. This, taught in R. Meir's name, contradicts his other ruling that all forbidden degrees of consanguinity punishable by death are forbidden to heathens.]

L. [Reverting to A:] *So in any event, the Tannaite formulation states: He is permitted to marry his brother's wife. Now does this not speak of his brother having married her when he had already converted?*

M. *No, he married when he was a gentile.*

- N. *Well, if he married her when he was a gentile, what sort of statement is supposed to be made by this case [for it is obvious that there is no recognition of family ties among gentiles]?*
- O. *What might you otherwise have supposed? That a decree should be made as a precaution, covering the time when he was a gentile, on account of the rule pertaining once he has become a proselyte? So we are informed that that is not the case.*

**I.5** A. The master has stated: "If he has [already] married a woman and her daughter, he may consummate the marriage with one of them and put away the other. But to begin with, he should not do so at all":  
 B. *So if he has to divorce her, is it necessary to tell us that to begin with, he should not marry her?!*  
 C. *The statement pertains to the prior clause, and this is the sense: that woman, about whom rabbis have ruled that he may remain wed to her, to begin with, should not be married by him.*

**I.6** A. "If his wife died, he may marry his mother-in-law." Others say [in his view], "He may not marry her":  
 B. *The one version accords with the principle of R. Ishmael, the other, R. Aqiba. The one who forbids the marriage accords with R. Ishmael, who has said, "A mother-in-law after the wife's death is subject to the prior prohibitions," and in the context of the proselyte a precautionary decree was made. The authority who permits the marriage accords with R. Aqiba, who has said, "The prohibition against marrying one's mother-in-law is weakened after the wife's death," so in the context of the proselyte no precautionary decree was made.*

### 11:3

- A. **Five women [each of whom already has a son and then produced another], whose [other] offspring became confused with one another –**
- B. **they grew up in this state of confusion –**
- C. **and married wives and died –**
- D. **four [of the surviving brothers, whose mothers are known] perform the rite of removing the shoe with one widow, and one of them [the fifth] enters levirate marriage with her.**

- E. He and three [of the brothers] enter into the rite of removing the shoe with another, and one [other] enters into levirate marriage with her [and so on].
- F. It turns out that there are four rites of removing the shoe and one levirate marriage for each of the surviving widows.

**I.1** A. [Four [of the surviving brothers, whose mothers are known] perform the rite of removing the shoe with one widow, and one of them enters levirate marriage with her:] *It is the rite of removing the shoe that must take place first of all, precisely, with the levirate union following; but the levirate union must not take place first, since one might thereby touch upon the possibility of violating the law against a levirate widow's marriage with an outsider.*

**II.1** A. **It turns out that there are four rites of removing the shoe and one levirate marriage for each of the surviving widows:** *So what's the point?* [Slotki: The same brother who contracted the first levirate marriage is surely entitled to contract similar marriages with all the widows, as soon as the other four brothers performed the rite of removing the shoe.]

B. *It is so that you should not maintain that only one of the brothers should enter into levirate marriage with all of them. But each one of them may enter into levirate marriage with one of the widows, in a case in which it is possible that his own sister-in-law may end up coming before him for marriage.*

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

B. **If some of them were brothers and some not, those that are brothers perform the rite of removing the shoe, and those that are not brothers enter into levirate marriage [T. Yeb. 12:3B-C].**

**II.3** A. *What's the sense of this statement?*

B. *Said R. Safra, "This is the sense of the statement: If some of the brothers who were not confused were brothers on the father's side of the ones that were confused and now dead, and some were brothers on the mother's side, then the brothers on the mother's side perform the rite of removing the shoe, and the brothers on the father's side may enter into levirate marriage."*

**II.4** A. **If some of them were priests and some of them were not, the priests undergo the rite of removing the shoe** [Slotki: The levirate marriage is forbidden to them because any one of them might happen to marry the widow who was not a sister-in-law to him but to one of the other brothers, and who,

by the rite of removing the shoe with her brother-in-law, has become a woman who has performed the rite of removing the shoe, whom, like a divorcée, a priest may not marry.], and those who were not priests may enter into levirate marriage. If some of them were priests and some brothers on the mother's side, both classes enter into the rite of removing the shoe but do not contract levirate marriage [T. **Yeb. 12:3D-G**].

- II.5** A. **[99A:]** *Our rabbis have taught on Tannaite authority:*
- B. There is he who by reason of doubt performs the rite of removing the shoe with his mother, by reason of doubt performs the rite of removing the shoe with his sister, by reason of doubt performs the rite of removing the shoe with his daughter.
- C. How so?
- D. His mother and another woman have two males – they went into hiding, where they had two male sons, and the offspring are confused by reason of lack of access to light – the first two went and married the mother of one another and died without offspring – this one performs the rite of removing the shoe with both of the widows, and that one performs the rite of removing the shoe with both of them. It turns out that this one performs the rite of removing the shoe by reason of doubt with his mother.
- E. What is the sort of case in which a man performs the rite of removing the shoe by reason of doubt with his sister? His mother and another woman – and they have two male offspring – they went into hiding and produced two female offspring, and they married the two brothers from the same father but not from the same mother – and the brothers died without offspring – this one performs the rite of removing the shoe with both of them, and that one performs the rite of removing the shoe with both of them. It turns out that, by reason of doubt, a man performs the rite of removing the shoe with his sister.
- F. What is the sort of case in which a man by reason of doubt performs the rite of removing the shoe with his daughter? His wife and another woman produced two female offspring in hiding, and the two were married to two brothers from the same father, and they died without offspring – he performs the rite of removing the shoe with both of them. It turns out that this man by reason of doubt performs the rite of removing the shoe with his daughter [T. **Yeb. 12:4-5**].

- II.6** A. *It has been taught on Tannaite authority:*  
B. **R. Meir would say, “There are a husband and a wife who may produce children belonging to five castes [Heb.: ‘nations’]. How so?**  
C. **“An Israelite man who bought a slave boy and a slave girl, and they have two children, and one of them converted – lo, [1] one is a proselyte and [2] one is a gentile. If their master immersed them for the sake of conversion by reason of slavery, and they then produced a son, then [3] the offspring is a slave. If the slave girl is freed and the slave boy had sexual relations with her and they produced a son, [4] the son is a mamzer. And if both of them are freed and they produced a son, then the son is [5] a freed slave” [T. Qid. 5:11-12].**

**II.7** A. *So what’s the point?*

B. If a gentile and a slave had sexual relations with an Israelite, the offspring is a mamzer.

- II.8** A. *Our rabbis have taught on Tannaite authority:*  
B. **There is he who may sell his father so as to pay her marriage contract to his mother.**  
C. **How so?**  
D. **He who has a slave boy and a slave girl who produced a son –**  
E. **he freed the slave girl and married her and wrote over his property to her son –**  
F. **then it is he who sells his father to pay his mother her marriage contract [T. Qid. 5:13].**

**II.9** A. *So what’s the point?*

B. *The entire passage represents the position of R. Meir; a slave is classified as movable property; and movable property is mortgaged for payment of the marriage settlement.*

C. *If you prefer, I shall say, what it teaches us is that a slave is classified as real property [which, all authorities agree, not just Meir, is mortgaged for payment of the marriage settlement].*

### **11:4**

- A. **The woman whose offspring was confused with the offspring of her daughter-in-law –**  
B. **they grew up in a state of confusion,**

- C. and married wives and died –
- D. the sons of the daughter-in-law perform the rite of removing the shoe and do not enter into levirate marriage,
- E. for it is a matter of doubt concerning whether it is the wife of his brother or the wife of the brother of his father.
- F. And the sons of the old lady either perform the rite of removing the shoe or enter into levirate marriage,
- G. for it is a matter of doubt concerning whether it is the wife of his brother or the wife of the son of his brother.
- H. [If] the valid ones died,
- I. the sons who were confused perform the rite of removing the shoe and do not enter into levirate marriage with the [widows of the childless] sons of the old lady,
- J. for it is a matter of doubt concerning whether it is the wife of his brother or his father.
- K. And the sons of the daughter-in-law – one of them performs the rite of removing the shoe and one enters into levirate marriage [with the widow, etc.] .

### 11:5

- A. A priest girl whose offspring was confused with the offspring of her slave girl –
- B. (1) lo, these [men] eat heave-offering.
- C. (2) And they [take and] divide a single share at the threshing floor.
- D. [99B] (3) And they do not contract uncleanness by contact with corpses [of those whom priests are obligated to bury].
- E. (4) And they do not marry wives,
- F. whether valid or invalid [for marriage into the priesthood].
- G. [If] the confused children grew up and freed one another,
- H. (4) they marry wives suitable for marriage into the priesthood.
- I. (3) And they do not become unclean by contact with corpses.
- J. And if they become unclean, they do not incur forty stripes,
- K. (1) And they do not eat heave-offering.
- L. And if they ate it, they do not pay back principal and an added fifth.
- M. (2) And they do not take a portion at the threshing floor.

- N. But they sell heave-offering.
- O. And the proceeds are theirs.
- P. And they do not take a share in the Holy Things of the sanctuary.
- Q. And they do not give them Holy Things, but they do not take [their Holy Things] back from them.
- R. And they are free from the obligation to give the shoulder, cheeks, and maw [to a priest].
- S. And their firstling [animal] should be put out to pasture until it suffers a blemish.
- T. And they apply to them the strict rules of the priesthood and the strict rules pertaining to ordinary Israelites.

- I.1** A. [If] the valid ones died, the sons who were confused perform the rite of removing the shoe and do not enter into levirate marriage with the [widows of the childless] sons of the old lady, for it is a matter of doubt concerning whether it is the wife of his brother or his father:
- B. *But are the others, because they were confused with these, invalid?*
  - C. *Read: If those certain of their parentage died....*

- II.1** A. And the sons of the daughter-in-law – one of them performs the rite of removing the shoe and one enters into levirate marriage:
- B. *It is the rite of removing the shoe that must take place first of all, precisely, with the levirate union following; but the levirate union must not take place first, since one might thereby touch upon the possibility of violating the law against a levirate widow's marriage with an outsider.*

- III.1** A. A priest girl whose offspring was confused with the offspring of her slave girl – (1) lo, these [men] eat heave-offering. (2) And they [take and] divide a single share at the threshing floor:
- B. *...a single share?! That's obvious!*
  - C. *Read: One share together.*

- III.2** A. *Our Mishnah passage has been formulated in accord with him who says, A share of priestly rations is accorded to a slave only if his master is with him.*
- B. *For it has been taught on Tannaite authority:*
  - C. **“A share of priestly rations is accorded to a slave only if his master is with him,” the words of R. Judah.**



- D. **R. Yosé says, “He may say to him, ‘If I am a priest, give it to me on my own account, and if I am a priest’s slave, then give it to me on the count of my lord” [T. Yeb. 12:6G-H].**

E. In the locale of R. Judah, they would promote someone to the status of priest on account of evidence that a person had eaten priestly rations. But in the locale of R. Yosé they would not promote someone to the status of priest on account of having eaten food in the status of priestly rations.

**III.3** A. *It has been taught on Tannaite authority:*

B. Said R. Eleazar b. R. Sadoq, “In my entire life I gave testimony on a matter of genealogy only one time, and through my testimony they ended up promoting a slave to the priesthood.”

**III.4** A. *Do you really think that “they promoted” is what happened? Now, if through the beasts of the righteous, the Holy One, blessed be He, does not allow disorder to come about, through the righteous themselves all the more so!*

B. Rather: “They wanted to promote a slave to the priesthood on the strength of my testimony.”

**III.5** A. *He saw the event where R. Yosé lived, but he gave his evidence where R. Judah lived.*

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

- B. **There are ten classes of people to whom they do not pass out food in the status of priestly rations at the threshing floor, and these are they:**
- C. **deaf mutes, imbeciles, minors, people of doubtful sexual traits, androgynes, wives of priests and slaves of priests, uncircumcised priests, unclean priests, priests who marry women unfit for marriage into the priesthood.**
- D. **But as regards all of them, a householder may give them food in the status of priestly-offering from within his house, except in the case of unclean priests and those who marry women unfit for marriage into the priesthood [T. Ter. 10:18].**

- III.7** A. *Now there is no problem in understanding the exclusion of the (1) the deaf mute, (2) the idiot, and (3) the minor, for they are held not to possess the power of intentionality.*
- B. *As to people of doubtful sexual traits and androgynes, [100A] these are sui generis.*
- C. *As to a slave, too, there is no problem understanding the rule, for there is the possibility that, because priestly rations are given to him, he may be raised in his genealogical status. As to the uncircumcised person and the unclean person, it is because they are disgusting. As to a priest who has married a woman inappropriate to his caste, that is an extrajudicial penalty. But why exclude a woman?*
- D. *There is a dispute on the matter between R. Pappa and R. Huna b. R. Joshua.*
- E. One said, “Out of the consideration that a divorced woman may come and collect it on her own.”
- F. The other said, “Out of the consideration of avoiding giving the opportunity for men and women to go off in private together.”
- G. *So what’s at issue between them?*
- H. *At issue between them is a threshing floor that is near a town but not populated, or one that is far from town but populated. [Slotki: One that is near town will have people who know the woman is divorced, but one that is far from town or near town but not populated will be one where a woman may go off in private.]*

**III.8** A. **But as regards all of them, a householder may give them food in the status of priestly-offering from within his house, except in the case of unclean priests and those who marry women unfit for marriage into the priesthood:**

- B. *Well then, may food in the status of priestly rations really be sent to an uncircumcised person? How come? Is it because he is in that condition under constraint [being physically unable to tolerate circumcision]? Well, an unclean person is also in that condition not through his own fault.*
- C. *In the case of the former, the circumstances are considerable, in the latter, not.*

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

- B. To neither a slave nor a woman do people give a share in priestly rations at the threshing floors; but in a place in which a share is given, it is given to the woman first and she is sent away.

**III.10** A. *So what's this all about?*

B. *This is the sense of the statement:* In a place in which they give out poor man's tithe in town, they give it to the woman first.

C. *How come?*

D. *So as not to embarrass her.*

E. *Said Raba, "To begin with, when a man and a woman would come to court, first I would deal with the man's suit, because I thought that a man is subject to carry out the religious duties, but once I heard this statement, I have come to dispose of the woman's suit first, so as to save her from embarrassment."*

**IV.1** A. **[If] the confused children grew up and freed one another:**

- B. *Does that [If...freed one another] mean that is only if they wanted to do so, but if they did not want to do so, they don't have to emancipate one another? But why should that be the case? Then neither of them may marry either a slave or a free woman?*
- C. Said Raba, "Say: They force them to free one another."

**V.1** A. **And they apply to them the strict rules of the priesthood and the strict rules pertaining to ordinary Israelites:**

- B. *For what practical purpose is this law stated?*
- C. Said R. Pappa, "This has to do with a meal-offering that they may bring. A handful is taken out of it, as is the case with a meal-offering brought by an Israelite, but it is not eaten, as is the case with the meal-offering of the priests. Then what to do? The handful is offered up on its own, and the residue is offered up on its own."
- D. *But the verse of Scripture should be invoked here that indicates that any offering, a portion of which has been put on the fire of the altar, is subject to the prohibition, "you shall not burn" (Lev. 2: 1)!*
- E. *Said R. Judah b. R. Simeon b. Pazzi, "They are burned as wood, in line with the ruling of R. Eleazar."*
- F. *For it has been taught on Tannaite authority:*
- G. R. Eleazar says, "'For a sweet smell' (Lev. 2:12) you may not use [the stated substance] upon the altar, but you may offer it up as fuel."

H. That explanation, then, is satisfactory from the viewpoint of R. Eleazar, who maintains the stated position.

I. But as to rabbis, who do not concur with what he has explained, what is there to be said?

J. They treat the residue in accord with the view of R. Eleazar b. R. Simeon.

K. For it has been taught on Tannaite authority:

**L. R. Eleazar b. R. Simeon says, “The handful is offered by itself, and the residue is scattered” [T. Sot. 2:6I].**

M. And even rabbis differ from R. Eleazar b. R. Simeon only in the case of the meal-offering of a sinner who was a priest, because such a meal-offering is subject to being offered up [completely].

N. But in the present case, even rabbis concur.

### 11:6

- A. She who did not delay three months after her husband [divorced her or died] and remarried [M. 4:10] and gave birth,
- B. and it is not known whether the offspring is nine months old, belonging to the former husband, or seven months old, belonging to the latter,
- C. [if] she had sons by the first and sons by the second –
- D. they perform the rite of removing the shoe [with his widow] and do not enter into levirate marriage.
- E. And so, too, he [the son of B] performs the rite of removing the shoe but does not enter into levirate marriage in relationship to them [children of the two marriages].
- F. [100B] [If] he had brothers by the first marriage and brothers by the second, but not from the same mother –
- G. he performs the rite of removing the shoe or enters into levirate marriage.
- H. But as to them, one of them [from one marriage] performs the rite of removing the shoe, and one of them [from the other marriage] enters into levirate marriage,

## 11:7

- A. [If] one of them [the husbands of M. 11:6A-B] was an Israelite and one a priest,
- B. he [of M. 11:6B] marries a woman appropriate for marriage into the priesthood.
- C. He does not become unclean by contact with corpses.
- D. And if he was made unclean, he does not incur forty stripes.
- E. And he does not eat heave-offering,
- F. If he ate it, he does not pay back the principal and added fifth.
- G. And he does not take a share at the threshing floor.
- H. But he sells [his own] heave-offering, and the proceeds are his.
- I. He does not take a share in the Holy Things of the sanctuary.
- J. And they do not give him Holy Things.
- K. But they do not remove his [Holy Things] from his own possession.
- L. And he is exempt from the requirement to give the priest the shoulder, cheeks, and maw.
- M. And a firstling belonging to him should be put out to pasture until it is blemished.
- N. And they apply to him the strict rules applicable to the priesthood and the strict rules applicable to Israelites.
- O. If both of them [A] were priests, he performs the rites of mourning for them, and they perform the rites of mourning for him.
- P. He does not become unclean for them, and they do not become unclean for him.
- Q. He does not inherit them, but they do inherit him.
- R. And he is exempt for the transgression of smiting or cursing this one or that one [M. 11:6A-B, 11:7A, O].
- S. And he goes up to the Temple for the priestly watch of this one and of that one.
- T. But he does not take a share in the priestly dues of either watch.
- U. If both of them belonged to a single priestly watch, then he does take a single portion [in the share of that watch].

**I.1** A. *It is the rite of removing the shoe that must take place first of all, precisely, with the levirate union following; but the levirate union must not take place*

*first, since one might thereby touch upon the possibility of violating the law against a levirate widow's marriage with an outsider.*

### **Independent Proposition, Analysis of Which Utilizes the Mishnah-Materials at Hand**

- I.2** A. Said Samuel, "Ten priests who were standing together, and one of them wandered off and had sexual relations with someone – the offspring is in the status of a silenced one."
- B. *Why should he be a silenced one? Should I say that they silence him from laying any claim to the property of his father? That's obvious, do we really know who his father is?*
- C. *But, rather, they silence him from any claim of rights to the priesthood. How come? Scripture says, "And it shall be unto him and to his seed after him" (Num. 23:13). We require that the seed be validly assigned to his fatherhood after him, and that condition is not met here.*
- D. *Objected R. Pappa, "But what about this verse that speaks of Abraham: 'To be a god to you and to your seed after you' (Gen. 17: 7) – concerning what does the All-Merciful admonish him?"*
- E. *This is the sense of the matter: "Don't marry a gentile or a slave girl, so that your seed will not be assigned to her status."*
- F. *It was objected: **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 worthy 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].** *But lo, we require that it be seed that is properly assigned to him afterward, and that consideration has not been met!**
- G. *That the child be traced to the father is a rule deriving from the authority of rabbis, for which the verse of Scripture is a mere proof-text. And when rabbis made their precautionary decree, it had to do with fornication. But with respect to marriage, no such measure was adopted by rabbis.*

H. *But have we not learned in the Mishnah: **She who did not delay three months after her husband and remarried [M. 4:10] and gave birth?** Now what is the meaning of **after her husband**? If we say, after the husband's death, then see what comes then: **If both of them were priests, he performs the rites of mourning for them, and they perform the rites of mourning for him.** Now there is no problem understanding conditions under which he would perform the rites of mourning for them, namely, in the case of marriage with a second husband, on the occasion of the secondary burial of the bones of the first [and the son on that day observes the laws pertaining to one who has suffered a bereavement but not yet buried his deceased, such as are referred to here; that would take place even after the mother has remarried and is living with a second husband]. But under what circumstances would there be an occasion in which **they perform the rites of mourning for him**, if the first husband is dead? And if, moreover, we propose that the passage speaks of a divorced woman, and that the meaning of "**after her husband**" is, **after her husband** divorced her, then note what comes later: **He does not become unclean for them, and they do not become unclean for him!** Now there is no problem understanding why **they do not become unclean for him**, for that is a stringent ruling pertaining to each of the sins, since it is possible that he is not his son. But why should it be the rule that **He does not become unclean for them**? While, to be sure, he should not contract corpse uncleanness on account of the second son, for the first he should be allowed to contract corpse uncleanness one way or the other. For however you want it, it works out that way: If he is his son, then of course he may contract corpse uncleanness on his account; and if he is the son of the second [who married the mother when she was divorced], he may contract uncleanness for him, since he is of tainted priestly seed. So it must follow that our Mishnah speaks of a case of fornication [neither of the men having a valid marriage with her; her son is a legitimate priest, who must observe the laws of the priesthood, and may not contract corpse uncleanness for either of the two men; death and divorce being excluded as factors in the separation of the woman from the first man, it is also possible that the son should be in the position of a mourner for them, and they for him (Slotki)]. Then the meaning of the phrase, **after her husband** must be, *after she separated from the man who had sexual relations with her, and yet it is stated at the end: **And he goes up to the Temple for the priestly watch of this one****

**and of that one.** *Does that not refute Samuel's thesis* [in disqualifying such a child from the priesthood (Slotki)]?

- I. *Said R. Shemayya, "Our Mishnah paragraph refers to a minor who has exercised the right of refusal."* [Slotki: Such a minor requires no writ of divorce, so she can be separated from her first husband and yet remain suitable to marry a priest; her son would be subject to the restrictions spoken of in our Mishnah paragraph.]
- J. *So can a girl so young as to be able to exercise the right of refusal be able to give birth? And has not R. Bibi repeated as a Tannaite statement before R. Nahman:* **"Three classes of women have intercourse with an absorbent contraceptive device: a girl under age, a pregnant woman, and a nursing mother. A girl under age – lest she become pregnant and die. What is a girl under age? From eleven years and one day until twelve years and one day. One younger than that or older than that – one has intercourse in the normal way. Therefore one has intercourse in the normal way and does not scruple,"** the words of R. Meir. And sages say, **'In all cases, one has intercourse in the normal way, and the Omnipresent will look out for him, as it is said, "the Lord guards the innocent" (Psa. 116: 6)'** [T. **Nid. 2:6A-E**]?
- K. *You would find such a case as would be covered by our Mishnah's rule in the instance of a betrothal that was carried out in error* [in such a case a woman may leave her husband without a writ of divorce and therefore remains valid to marry into the priesthood; her son is a legitimate priest, subject to the restrictions of the Mishnah (Slotki)], *in line with what R. Judah said Samuel said, for* said R. Judah said Samuel in the name of R. Ishmael, **"And she be not seized' (Num. 5:13) – then she is forbidden. Lo, if she had been seized, she would have been permitted. But there is another class of women who even though she has been seized, she is still forbidden. And who is that? It is the woman whose betrothal was mistaken [for example, a condition was attached to the betrothal but not met], who, even carrying her son on her shoulder, may exercise the right of refusal and just take off."**

**II.1** A. **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 from them, but they do inherit from him. And he is exempt for the transgression of smiting or cursing this one or that one:**



- B. *Our rabbis have taught on Tannaite authority:*
- C. **If one hit first of all a husband of his mother, then the other husband of the same woman** [she divorced the first husband and remarried quickly and turned out to be pregnant, and we do not know whether the child was a premature child of the second husband or a mature one of the first; the warning against injuring a parent as a capital offense (Lev. 21:15) is subject to doubt, since we do not know to which husband the law applied (Lazarus, *Makkot* 16B)]; **or if he cursed this one and then went and cursed that one; or if he hit both of them simultaneously or cursed both of them simultaneously, he is liable.**
- D. **R. Judah says, “If he did so simultaneously, he is liable, but if it was sequentially, then he is exempt” [T. Yeb. 12:7H-K].**
- E. *But has it not been taught on Tannaite authority:* R. Judah says, “If he did it simultaneously, he is exempt”?
- F. *There are two Tannaite formulations with respect to R. Judah’s opinion.*

**II.2** A. *What is the reasoning behind the position of him who exempts?*

B. Said R. Hanina, “We find reference to ‘curing’ in regard to parents down below [at Exo. 21:17], and ‘cursing’ in respect to Heaven above [at Lev. 24:15]. Just as when ‘cursing’ is spoken of in reference to Heaven, there is no fusion of curses [but only when the curse refers to God alone is it punishable], so, down below, there is no fusion, and, moreover, hitting is comparable to cursing [so the acts are not fused].”

**III.1** A. **And he goes up to the Temple for the priestly watch of this one and of that one:**

- B. *But if he does not receive a share, why should he go up?*
- C. *Why should he go up? Why not? Has he not said that he wants to carry out a religious duty?*
- D. *But the point is otherwise: What is stated here is not, if he went up, but, he goes up.* And that means, willy nilly.
- E. Said R. Aha bar Hanina said Abbayye said R. Assi said R. Yohanan, “It is because of the possible imputation of a flaw on his genealogy if he does not go up.”

**IV.1** A. **If both of them belonged to a single priestly watch, then he does take a single portion in the share of that watch:**

- B. *What differentiates the case of two priestly watches, so that, in the one case he does not get a share, in the other he does? So when he comes to one watch, he is driven out, and when he comes to another watch, he is again driven out? Then even in the case of one watch, if he comes up with one family cohort, he is driven out, but when he goes with another, he is also driven out!*
- C. Said R. Pappa, *“This is the sense of the statement: **If both of them belonged to a single priestly watch and a single family cohort, then he does take a single portion in the share of that watch.**”*