

NOTES

Then the Lord warned concerning His land, etc. – **וַיִּקְנָא ה' לְאַרְצוֹכֵי**: Rashi interprets this verse to mean that God, as it were, orders the locusts, mentioned previously in the verses as consuming the produce, to leave the land. The *Devar Shaul* adds that since this order concerns locusts, it clearly doesn't have any implications of anger, as it is not possible that God was angry with locusts. Rather, it clearly indicates an admonition without any antagonistic connotation. The Meiri explains that the presence of the locusts had been a warning given to the land, indicating that if repentance was not forthcoming, an even harsher punishment would be imposed.

A spirit of folly – **רוּחַ שְׁטוּת**: The *Iyyun Ya'akov* explains that this refers to the ability of one to convince himself that his actions are not being observed by God, and therefore he can sin. Alternatively, in the *Tanya* it is explained that this spirit of folly is a mechanism employed to allow one to avoid the cognitive dissonance engendered by believing that he is not a sinner while simultaneously committing a transgression.

אֲלֵמָא קִסְבְּרִי, דְּאָסוּר לְקַנְאָתִי.

וּמֵאֵן דְּאָמַר: מוֹתֵר לְקַנְאָתִי, מְהוּ לְשׁוֹן קִינּוּי? אָמַר רַב נַחֲמָן בְּרַי יִצְחָק: אֵין קִינּוּי אֲלָא לְשׁוֹן הַתְּרָאָה, וְכֵן הוּא אֹמֵר: "וַיִּקְנָא ה' לְאַרְצוֹ".

תַּנְיָא, הָיָה רַבִּי מֵאִיר אֹמֵר: אֲדָם עוֹבֵר עֲבִירָה בְּסֵתֵר וְהַקְדוּשׁ בְּרוּךְ הוּא מְכַרְזֵי עָלָיו בְּגִלּוּי, שְׁנֵאָמַר: "וְעָבַר עָלָיו רוּחַ קַנְאָה", וְאֵין עֲבִירָה אֲלָא לְשׁוֹן הַכְרָזָה, שְׁנֵאָמַר: "וַיִּצַּח מֹשֶׁה וַיַּעֲבִירוּ קוֹל בְּמַחֲנֵה".

רִישׁ לְקִישׁ אָמַר: אֵין אֲדָם עוֹבֵר עֲבִירָה אֲלָא אִם בֵּן נִכְנֵס בּוֹ רוּחַ שְׁטוּת, שְׁנֵאָמַר: "אִישׁ אִישׁ כִּי תִשְׁטֶה אֶשְׁתּוֹ", "תִּשְׁטֶה" בְּתִיבָה.

תַּנְיָא דְּבִי רַבִּי יִשְׁמַעֵאל: מִפְּנֵי מָה הָאֵמִינָה תוֹרָה עַד אֶחָד בְּסוּטָה? שְׂרָגְלִים לְדָבָר, שְׁהֵרִי קִינָא לָהּ וְנִסְתְּרָה, וְעַד אֶחָד מֵעִידָה שְׁהֵיָא טְמֵאָה.

אָמַר לֵיהּ רַב פַּפָּא לְאַבְי: וְהָא כִּי בְּתִיבָה קִינּוּי – בְּתֵר סְתִירָה וְטוּמְאָה הוּא דְּכִתְבָּה!

אָמַר לֵיהּ: "וְעָבַר", וְכִבְרַ עָבַר.

אֲלָא מֵעַתָּה, "וְעָבַר לָכֶם כָּל חַלּוּץ", הָכִי נִמְי'

Apparently, both Reish Lakish and Rav Yeimar bar Rabbi Shelemya hold that it is prohibited to issue a warning. Both are of the opinion that the word *kinnui* is a term for anger. Since causing anger is a negative trait, it follows that it is prohibited to issue a warning.

The Gemara asks: **And according to the one who says that it is permitted for him to issue a warning, what is the meaning of the term *kinnui*?** Rav Nahman bar Yitzhak says: The term *kinnui* means nothing other than a term of forewarning, and so it says: **"Then the Lord warned [*vayekanneh*] concerning His land^N and had pity for His people"** (Joel 2:18). As detailed in that passage, the Lord ordered the locusts to stop destroying Eretz Yisrael.

It is taught in a *baraita* that Rabbi Meir would say: **A person commits a transgression in private and the Holy One, Blessed be He, proclaims about him openly, i.e., in public, that he transgressed, as it is stated concerning a *sota*, who transgressed in private: "The spirit of jealousy came [*avar*] upon him" (Numbers 5:14); and the term *avira* means nothing other than a term of proclamation, as it is stated: "And Moses gave the commandment, and they caused it to be proclaimed [*vaya'aviru*] throughout the camp" (Exodus 36:6).**

Reish Lakish says: **A man commits a transgression only if a spirit of folly [*shetut*]^N enters him, as it is stated: "If any man's wife goes aside [*tisteh*]" (Numbers 5:12).** The word *tisteh* is written with the Hebrew letter *shin*, affording an alternative reading of *tishte*, which is related to the term for folly, the word *shetut*.

S The Gemara discusses why the testimony of one witness suffices with regard to defilement. **The school of Rabbi Yishmael taught a *baraita*: For what reason did the Torah deem credible a single witness with regard to the defilement of a *sota*? It is because there is a basis for anticipating the matter, as there is strong circumstantial evidence that she committed adultery. What is the basis for anticipating the matter? As he warned her not to seclude herself with a specific man, and she nevertheless secluded herself with him, and one witness testifies that she is defiled, then the combination of her behavior and the testimony renders it reasonable to assume that she has in fact committed adultery.**

Rav Pappa said to Abaye: But when the warning is written in the Torah, it is written in the verse after seclusion and defilement are mentioned, indicating that the circumstance in which one witness is deemed credible with regard to defilement is even when there was no previous warning. The order in which the Torah describes the *sota* process seems to indicate that the husband's warning is issued only after the wife already secluded herself with the other man and was defiled, as the verses state: "And a man lie with her carnally, and it was hidden from the eyes of her husband, and she was defiled secretly, and there is no witness against her, and she was not taken. And the spirit of jealousy came [*ve'avar*] upon him, and he warned his wife, and she had become defiled" (Numbers 5:13–14).

Abaye said to him in response: That which the verse states: **"And the spirit of jealousy came [*ve'avar*] upon him,"** means: **And it had already come upon him, that the husband warned his wife not to seclude herself with a specific man prior to her seclusion and defilement.**

The Gemara asks: **If that is so, that "*ve'avar*" is referring to a matter that already occurred, then in the case of the agreement between Moses and the tribes of Gad and Reuben before they entered Eretz Yisrael, where he stated: "And every armed man of you will pass over [*ve'avar*] the Jordan" (Numbers 32:21), so too did he mean that they had already crossed? Moses was stipulating a condition with regard to the future; they had yet to cross the Jordan.**

A spirit of impurity, etc. – רוח טומאה וכו' – Some commentaries have suggested that both opinions cited in the Gemara are correct, and refer to two situations. If the woman will in fact commit adultery, then a spirit of purity caused him to warn her, enabling him to end his marriage, while if his wife will not commit adultery, then a spirit of impurity had caused him to issue a warning to his wife unnecessarily, causing the name of God to be erased and his wife to be shamed (*Or HaYashar*; Iyyun Ya'akov).

With regard to the entire Torah, etc. – בקל – התורה כולה וכו' *Tosefot HaRosh* and the Meiri explain that the questioner was referring only to the mitzvot in the Torah where the wording employed in the verse is ambiguous as to whether it is mandatory or not, as Rabbi Yishmael certainly cannot hold that there are no mandatory mitzvot in the entire Torah. *Tosafot* note that while according to this Gemara, Rabbi Akiva would count three mitzvot not counted by Rabbi Yishmael, this does not mean that Rabbi Yishmael disagrees with the well-known statement (see *Makot* 23b) that there are 613 mitzvot in the Torah. Rather, there must be three other mitzvot that are counted as mitzvot by Rabbi Yishmael but not by Rabbi Akiva.

HALAKHA

"And he warned his wife"... is mandatory – וקנא את אשתו... חובה: It is a mitzva by rabbinic law for a man who sees his wife engaging in promiscuous behavior (*Arukh HaShulhan*) to issue a warning to her. The Sages say that a man issues a warning to his wife only if a spirit of purity enters him.

The *Kesef Mishne* questions why the Rambam does not rule in accordance with the opinion of Rabbi Akiva, i.e., that it is a mitzva by Torah law, as his rulings are generally accepted as *halakha* over those of his disputants. He explains that the Rambam may have based his ruling on the Jerusalem Talmud, or he may have held that Rabbi Yehoshua agrees with Rabbi Yishmael that it is optional (Rambam *Sefer Nashim, Hilkhot Ishut* 15:17 and *Hilkhot Sota* 4:18; *Shulhan Arukh, Even HaEzer* 178:21).

"For her may he become impure"... is mandatory – לה יטמא... חובה: A priest is obligated to participate in the burial of any of the relatives for whom the Torah permits him to do so, including his wife, even though his participation renders him impure, and he may even be coerced into doing so. This is in accordance with the opinion of Rabbi Akiva (Rambam *Sefer Shofetim, Hilkhot Evel* 2:6; *Shulhan Arukh, Yoreh De'a* 373:3).

"Of them may you take your bondmen forever"... is mandatory – לעולם בהם תעבדו... חובה: It is prohibited to emancipate a Canaanite slave, in accordance with the opinion of Rabbi Akiva. One who does so transgresses a positive mitzva. However, under certain exigent circumstances one is permitted to emancipate a slave, e.g., in order to facilitate the performance of a significant mitzva, even one by rabbinic law. Similarly, one is obligated to emancipate his female slave if by doing so he will enable her to marry, thereby preventing her from engaging in promiscuous behavior with others (Rambam *Sefer Kinyan, Hilkhot Avadim* 9:6; *Shulhan Arukh, Yoreh De'a* 267:79).

The Gemara answers: **There, from the fact that it is written: "And the land be subdued before the Lord, and you return afterward"** (Numbers 32:22), it is clear that it teaches concerning the future. **But here, if it enters your mind** that the verses should be understood as they are written in the Torah, that "*ve'avar*" (Numbers 5:14) is after the defilement and seclusion, then why do I need a warning? If the woman had already secluded herself with the man and become defiled, the husband's warning would be irrelevant, as she had already become forbidden to him. Therefore, the word *ve'avar* in this context must be referring to a past event, i.e., the husband issuing a warning to his wife prior to the seclusion.

The school of Rabbi Yishmael taught: **A man issues a warning to his wife only if a spirit entered him, as it is stated: "And the spirit of jealousy came upon him, and he warned his wife"** (Numbers 5:14). The Gemara asks: Of what spirit does Rabbi Yishmael speak?

The Rabbis say: **A spirit of impurity**,ⁿ as one should not issue a warning to one's wife. **Rav Ashi says: A spirit of purity**, as issuing a warning indicates that he will not tolerate promiscuous behavior.

The Gemara comments: **And it stands to reason like the one who says that Rabbi Yishmael was speaking of a spirit of purity, as it is taught in a baraita: "And he warned his wife,"** i.e., the issuing of the warning, is optional, that the husband is neither enjoined to nor prohibited from issuing a warning; this is the statement of Rabbi Yishmael. **Rabbi Akiva says: It is mandatory**,ⁿ as one who sees his wife behaving in an inappropriate manner with another man is obligated to warn her. The Gemara explains: **Granted, if you say that Rabbi Yishmael was speaking of a spirit of purity**, then it is well, as it may be optional, or even mandatory, to issue a warning. **But if you say that he was speaking of a spirit of impurity**, can it be optional or mandatory for a person to introduce a spirit of impurity into himself? The Torah would not require a husband to act in a manner that results from having a spirit of impurity enter him.

§ The Gemara discusses the matter itself. **"And he warned his wife,"** i.e., the warning, is optional; this is the statement of Rabbi Yishmael. **And Rabbi Akiva says: It is mandatory.** The Gemara notes that Rabbi Yishmael and Rabbi Akiva engage in a similar dispute with regard to several other verses. Although under normal circumstances it is prohibited for a priest to become ritually impure through contact with a corpse, the verse states that he may do so for the sake of burying his relatives. The *baraita* teaches: **"For her may he become impure"** (Leviticus 21:3), i.e., for a priest to participate in the burial of his sister, despite the fact that he will contract ritual impurity, is optional; this is the statement of Rabbi Yishmael. A priest is not obligated to participate, but he may. **And Rabbi Akiva says: It is mandatory**ⁿ for him to do so.

The verse states: **"Of them may you take your bondmen forever"** (Leviticus 25:46), i.e., keeping one's Canaanite slave forever, is optional, this is the statement of Rabbi Yishmael. One is not enjoined against emancipating a Canaanite slave, but one is permitted to keep his Canaanite slaves forever. **Rabbi Akiva says: It is mandatory**,ⁿ and it is prohibited for one to free his Canaanite slave.

Rav Pappa said to Abaye, and some say that Rav Mesharshiyya said to Rava: **Shall we say that Rabbi Yishmael and Rabbi Akiva disagree in this manner with regard to the entire Torah?**ⁿ In other words, is it so that whenever there is a statement where it is unclear whether it is referring to an optional or mandatory act, that one master, Rabbi Yishmael, says that it is optional, and the other master, Rabbi Akiva, says that it is mandatory. Abaye said to Rav Pappa in response: **Here**, in these particular cases, **they disagree with regard to the meaning of these specific verses**, but it is not a general dispute.

התם, מדכתיב: "ונבשטה הארץ לפני ה' ואחר תשובו", משמע דלהבא. אלא הכא אי סלקא דעתך בדכתיבי, "ועבר" בטר טומאה וסתירה, קינאי למה לי?

תנא דבי רבי ישמעאל: אין אדם מקנא לאשתו אלא אם כן נכנסה בו רוח, שנאמר: "ועבר עלי רוח קנאה וקנא את אשתו". מאי רוח?

רבנן אמרי: רוח טומאה. רב אשי אמר: רוח טהרה.

ומסתברא כמאן דאמר רוח טהרה, דתנא: "וקנא את אשתו" – רשות, דברי רבי ישמעאל, רבי עקיבא אומר: חובה. אי אמרת בשלמא רוח טהרה – שפיר, אלא אי אמרת רוח טומאה, רשות וחובה לעילוי לאיניש רוח טומאה בנפשיה?

גופא: "וקנא את אשתו" – רשות, דברי רבי ישמעאל, ורבי עקיבא אומר חובה. "לה יטמא" – רשות, דברי רבי ישמעאל, ורבי עקיבא אומר: חובה.

"לעולם בהם תעבדו" – רשות, דברי רבי ישמעאל, רבי עקיבא אומר: חובה.

אמר ליה רב פפא לאבוי, ואמרי לה רב משרשייא לרבא: לימא, רבי ישמעאל ורבי עקיבא בכל התורה כולה הכי פליגי, דמר אמר: רשות, ומר אמר: חובה? אמר ליה: הכא בקראי פליגי.

What is the reason of Rabbi Yishmael – מאי טעמא דרבי ישמעאל? The Gemara here is questioning why Rabbi Yishmael would interpret specifically this verse in the Torah as being optional rather than mandatory, and explains that since there is reason to prohibit a husband from issuing a warning to his wife, it was necessary for the verse to state that he may in fact do so (*Tosefot HaRosh*).

”וְקָנָה אֶת אִשְׁתּוֹ” – רְשׁוּת, דְּבַר רַבִּי יִשְׁמַעְאֵל. רַבִּי עֲקִיבָא אָמַר: חֻבָּה.

מאי טעמא דרבי ישמעאל? סבר לה כי האי תנא; דתנא: רבי אליעזר בן יעקב אומר, כלפי שאמרה תורה: “לא תשנא את אחיך בלבבך”, יכול כגון זו? תלמוד לומר: “ועבר עליו רוח קנאה וקנא את אשתו”.

ורבי עקיבא? קינוי אחרניא כתיב.

ורבי ישמעאל? אידי דבעי למיכתב “והיא נטמאה”, “והיא לא נטמאה”, כתיב נמי “וקנא את אשתו”.

לכדתנא דבי רבי ישמעאל, דתנא דבי רבי ישמעאל: כל פרשה שנאמרה ונישנית, לא נישנית אלא בשביל דבר שנתחדש בה.

”לה ישמא” – רשות, דברי רבי ישמעאל. רבי עקיבא אומר: חובה.

מאי טעמא דרבי ישמעאל? אידי דכתיב: “אמר אל הכהנים בני אהרן ואמרת אליהם לנפש לא ישמא בעמיו”, איצטריכא למיכתב “לה ישמא”.

ורבי עקיבא? מכי אם לשאר? נפקא. לה ישמא” למה לוי לחובה.

The Gemara explains their dispute in these specific contexts, beginning with the dispute concerning a man’s warning to his wife: “**And he warned his wife,**” the warning is **optional**; this is **the statement of Rabbi Yishmael**. **Rabbi Akiva says:** It is **mandatory**.

What is the reason of Rabbi Yishmael?¹⁹ He holds in accordance with the statement of this *tanna*, as it is taught in a *baraita*: Rabbi Eliezer ben Ya’akov says: With regard to that which the Torah said: “You shall not hate your brother in your heart” (Leviticus 19:17), one might have thought that this prohibition applies in a case such as this one, when one sees his wife behaving improperly with another man, and the verse would instruct the husband to avoid conflict and strife. Therefore, **the verse states:** “**And the spirit of jealousy came upon him, and he warned his wife**” (Numbers 5:14), teaching that it is permitted for one to issue a warning to his wife in such a case.

The Gemara asks: **And** how does **Rabbi Akiva** derive that it is mandatory? The Gemara answers: There is **another warning written** in the same verse, as the entire verse reads: “And the spirit of jealousy came upon him, and he warned his wife, and she be defiled; or if the spirit of jealousy came upon him, and he warned his wife, and she be not defiled.” Therefore, the first half of the verse teaches that it is permitted to issue a warning, and the second half teaches that it is in fact mandatory.

The Gemara asks: **And** how does **Rabbi Yishmael** explain the repetition? The Gemara answers: **Since it needed to write** in this verse both possibilities as to whether the woman was unfaithful: “**And she be defiled,**” and also: “**And she be not defiled,**” to teach that although it is uncertain whether she had become defiled, she is still forbidden to her husband, therefore, **it is also written:** “**And he warned his wife,**” a second time. This repetition should not be interpreted as rendering the issuance of the warning as mandatory.

This manner of interpreting verses is **as taught by the school of Rabbi Yishmael**, as the school of Rabbi Yishmael taught: **Every passage in the Torah that was stated and repeated was repeated only for the novel element introduced therein.** Although the Torah could have merely mentioned the element necessary to teach an additional *halakha*, one should not interpret the repetition of a previously mentioned matter as teaching a second additional *halakha*, as the style of the Torah is to repeat a passage even to teach only one additional *halakha*. In the case of the passage concerning a *sota* as well, the repetition of the warning does not teach a new *halakha*.

The Gemara discusses the second dispute between Rabbi Yishmael and Rabbi Akiva. The *baraita* teaches: “And for his sister a virgin, that is near to him, that has had no husband, **for her may he become impure**” (Leviticus 21:3), i.e., for a priest to participate in the burial of his sister despite the fact that he will contract ritual impurity is **optional**; this is **the statement of Rabbi Yishmael**. A priest is not obligated to participate, but he may do so. **Rabbi Akiva says:** It is **mandatory** for him to do so.

What is the reason of Rabbi Yishmael? Since it is written: “**Speak to the priests, the sons of Aaron, and say to them: There shall none become impure for the dead among his people**” (Leviticus 21:1), indicating that a priest is enjoined from contact with the dead, it was **necessary to be written:** “**For her may he become impure,**” which teaches that a priest may become impure at the burial of a relative.

The Gemara asks: **And** how does **Rabbi Akiva** derive that it is mandatory? The Gemara answers: He **derives** that it is permissible from the previous verse, which states: “**Except for his kin,** that is near to him” (Leviticus 21:2). Since it is derived that it is permitted from that verse, **why do I need** the additional verse: “**For her may he become impure**”? To teach that it is **mandatory**.

But he may not become impure to bury one of her limbs – רַאִין מִיִּטְמֵא לְאִיבְרִיהָ – Rashi interprets this to mean that it is prohibited for a priest to become ritually impure in order to bury a limb detached from a living person, e.g., as a result of illness, amputation, or accident, as a detached limb from a living individual imparts impurity just as does a limb from a corpse. The *Tosefot HaRosh* notes that the same would be the case with regard to a limb from a corpse.

HALAKHA

The Gemara asks: **And how does Rabbi Yishmael explain the repetition?** The Gemara answers: He explains that the verse teaches that **he may become impure for her, but he may not become impure to bury only one of her limbs.**^{NH} This additional verse teaches that a priest may become ritually impure to bury a relative only in the case of burying a complete body.

He may not become impure to bury one of her limbs – אין מיטמא לְאִיבְרִיהָ: It is prohibited for a priest to contract ritual impurity as a result of burying a limb from a living relative, and it is also prohibited for him to bury any of his relatives' bones. A priest is also prohibited from becoming ritually impure to bury the corpse of a relative if one of the deceased's limbs is missing, as it is permitted for a priest to become ritually impure only to bury a complete corpse.

There are those who say that the prohibition against becoming ritually impure to bury the corpse of a relative that is missing a limb applies only if the limb was detached after death. If, however,

the deceased was missing a limb while alive, then the priest may become ritually impure to bury the corpse. The Rema records an opinion that a priest may not become ritually impure to bury the corpse of a relative who was decapitated, as the corpse is missing a limb, and he rules that it is proper to be stringent in this matter. All these limitations refer to instances where there are others to tend to the corpse. However, for a corpse with no one available to bury it, a priest may become ritually impure in all cases, even in the case of one who is not a relative (Rambam *Sefer Shofetim, Hilkhot Evel* 2:14–15; *Shulhan Arukh, Yoreh De'a* 373:9).

Perek I

Daf 3 Amud b

וְרַבִּי עֲקִיבָא? אִם כֵּן, לִיכְתוּב רַחֲמָנָא "לָהּ" וְלִישׁתוּק, "וְיִטְמֵא" לָמָּה לִּי? שְׁמַע מִינָהּ.

And what does Rabbi Akiva respond to this claim? The Gemara answers: **If so**, that the verse serves to render it prohibited for a priest to become impure to bury a limb, then **let the Merciful One write:** "And for his sister a virgin, that is near to him, that has had no husband, **for her**," and then **be silent.** **Why do I** need the verse to write: "May he become impure"? **Learn from** the additional phrase that making himself impure is mandatory.

וְרַבִּי יִשְׁמַעֵאל? אֵיִדִּי דְכַתְּבַת "לָהּ", כְּתַב נִמְי "וְיִטְמֵא": לְכַדְתֵּנּוּ דְבִי רַבִּי יִשְׁמַעֵאל, דְּתַנָּא דְבִי רַבִּי יִשְׁמַעֵאל: כֹּל פְּרֻשָּׁה שְׁנֵאמְרָה וְנִישְׁתִּית, לֹא נִישְׁתִּית אֲלָא בְּשִׁבִיל דְּבַר שְׁנַתְּחַדְּשׁ בָּהּ.

And how does Rabbi Yishmael explain the additional phrase? **Since** the verse wrote: "For her," it also wrote: "May he become impure," for the same reason as was taught by the school of Rabbi Yishmael. **As the school of Rabbi Yishmael taught:** Every passage in the Torah that was stated and repeated, was repeated only for the novel element introduced therein. Therefore, it is possible that the verse serves to teach the *halakha* that a priest may not become impure in order to bury a limb, and that would account for the repetition of the phrase "may he become impure" as well.

"לְעֵלָם בְּהֵם תַּעֲבֹדוּ" – רְשׁוּת דְּבַרֵּי רַבִּי יִשְׁמַעֵאל, רַבִּי עֲקִיבָא אָמַר: חֻבָּהּ.

The Gemara discusses the third dispute between Rabbi Yishmael and Rabbi Akiva. The verse states: "Of them may you take your bondmen forever" (Leviticus 25:46), i.e., the *halakha* that one keeps his Canaanite slave forever, is optional; this is the statement of Rabbi Yishmael. One is not enjoined against emancipating a Canaanite slave, but one is permitted to keep a Canaanite slave forever. **Rabbi Akiva says:** It is mandatory, and one is prohibited from freeing his Canaanite slave.

מֵאֵי טַעְמָא דְרַבִּי יִשְׁמַעֵאל? אֵיִדִּי דְכַתְּבַת: "לֹא תַחֲיֶהּ כֹּל נְשָׁמָה", אֵיצְטְרִיךְ נִמְי לְמִכְתָּב "לְעֵלָם בְּהֵם תַּעֲבֹדוּ", לְמִישְׁרֵי אֶחָד מִכָּל הָאוּמוֹת שֶׁבָּא עַל הַכְּנַעֲנִית וְהוֹלִיד מִמֶּנָּה בֶּן, שְׂאֵתָהּ רִשְׁאֵי לְקִנּוּתוֹ.

What is the reason of Rabbi Yishmael? Since it is written with regard to Canaanites: "You shall save alive nothing that breathes" (Deuteronomy 20:16), it was necessary to write: "Of them may you take your bondmen forever" (Leviticus 25:46), as well, in order to permit one from any of the other, non-Canaanite nations who engaged in sexual intercourse with a Canaanite woman and she bore him a child. This verse teaches that you are permitted to purchase the child as a slave, as he is not included in the mitzva "You shall save alive nothing that breathes" that was stated with regard to full-fledged Canaanites. Therefore, this verse cannot be teaching that it is mandatory.

One from the nations, etc. – אֶחָד מִן הָאוּמוֹת וְכוּ׃ The Rambam writes that when a man from another nation engages in sexual intercourse with the female Canaanite slave of a Jew, their child is a Canaanite slave. By contrast, if a male Canaanite slave of a Jew engages in sexual intercourse with a gentile woman, their child is not a Canaanite slave. The Ra'avad, in agreement with Rashi, disagrees with this interpretation, based on the Gemara here. Apparently, the Rambam interpreted this passage as discussing the principles of determining lineage, rather than discussing the *halakhot* of whom one may own as a slave. The *Kesef Mishne* explains that the Rambam had a different text of the Gemara. The *Lehem Mishne* holds that the Rambam agrees that the *baraita* is primarily addressing the issue of whether one is allowed to let different Canaanite children live as slaves, and his conclusions with regard to lineage are not connected to this Gemara (Rambam *Sefer Kinyan, Hilkhot Avadim* 9:3).

דִּתְנִי: מִיָּמִין לְאַחַד מִן הָאוּמוֹת שֶׁבָּא עַל הַכְּנַעֲנִית וְהוֹלִיד מִמֶּנָּה בֶּן, שֶׁאֵתָהּ רִשְׁאֵי לְקִנּוּתוֹ לְקִנּוּתוֹ בְּעֶבֶד? תִּלְמוּד לומר: ״וְגַם מִבְּנֵי הַתּוֹשְׁבִים הַגֵּרִים עִמָּכֶם מֵהֶם תִּקְנוּ״.

יְכוּל אִף הַכְּנַעֲנִי שֶׁבָּא עַל אֶחָת מִן הָאוּמוֹת וְהוֹלִיד מִמֶּנָּה בֶּן, שֶׁאֵתָהּ רִשְׁאֵי לְקִנּוּתוֹ בְּעֶבֶד? תִּלְמוּד לומר: ״אֲשֶׁר הוֹלִידוּ בְּאַרְצְכֶם״, מִן הַנּוֹלָדִים בְּאַרְצְכֶם וְלֹא מִן הַגֵּרִים בְּאַרְצְכֶם.

וְרַבִּי עֲקִיבָא? מִ״מֵּהֶם תִּקְנוּ״ נִפְקָא. ״לְעֵלָם בְּהֶם תִּעֲבְדוּ״ לָמָּה לִּי? לְחֻבָּה.

וְרַבִּי יִשְׁמַעֵאל? בְּהֶם – וְלֹא בְּאַחֵיכֶם.

וְרַבִּי עֲקִיבָא? בְּאַחֵיכֶם מְסִיפָא דְקָרָא נִפְקָא: ״וּבְאַחֵיכֶם בְּנֵי יִשְׂרָאֵל אִישׁ בְּאֶחָיו לֹא תִרְדֶּה בוּ בְּפִרְךָ״.

וְרַבִּי יִשְׁמַעֵאל? אֵינְדִי דְכְּתִיב ״וּבְאַחֵיכֶם״, כְּתִיב נְמִי ״בְּהֶם״; לְכַדְתֵּנִי דְבֵי רַבִּי יִשְׁמַעֵאל, דְּתַנָּא דְבֵי רַבִּי יִשְׁמַעֵאל: כֹּל פְּרִשָׁה שֶׁנֶּאֱמָרָה וְנִשְׁנִית, לֹא נִשְׁנִית אֶלָּא בְּשִׁבְלֵי דְבַר שְׁנַתְּחַדֵּשׁ בָּהּ.

This is as it is taught in a *baraita*: From where is it derived that in the case of one from any of the other, non-Canaanite nations⁴¹ who engaged in sexual intercourse with a Canaanite woman, and she bore him a child, that you are permitted to purchase the child as a slave? The verse states: “Moreover, of the children of the strangers that do sojourn among you, of them may you buy” (Leviticus 25:45). This verse permits the purchase of slaves from among those individuals who are not members of the Canaanite nations, even if they settle in Eretz Yisrael.

The *baraita* continues: One might have thought that even in the case of a Canaanite man who engaged in sexual intercourse with a woman from one of the other nations and she bore him a child, that you are permitted to purchase the child as a slave, despite the fact that his father is a Canaanite. Therefore, the same verse states: “Which they have given birth to in your land,” teaching that one is permitted to purchase slaves only from the ones who are born in your land but whose paternal origins are from other lands, but not from the ones who already reside⁴² in your land, i.e., ones who have a Canaanite father.

The Gemara asks: And how does Rabbi Akiva derive this *halakha*? The Gemara answers: He derives it from the words in the same verse: “Of them may you buy.” Once the *halakha* is already taught that one may purchase as a slave the child of a Canaanite woman and a man from another nation, why do I need the verse to state: “Of them may you take your bondmen forever” (Leviticus 25:46)? It is stated to teach that it is mandatory to enslave a Canaanite slave forever.

The Gemara asks: And what does Rabbi Yishmael derive from this verse? The Gemara answers: “Of them may you take your bondmen forever,” teaches that you can enslave “of them,” but not of your brethren, i.e., it is prohibited to enslave a fellow Jew, even a slave, forever.

The Gemara asks: And how does Rabbi Akiva derive this *halakha*? The Gemara answers: The prohibition against enslaving your brethren is derived from the latter phrase of the verse, where it is explicitly stated: “But over your brethren the children of Israel you shall not rule, one over another, with rigor” (Leviticus 25:46).

The Gemara asks: And what does Rabbi Yishmael derive from this verse? The Gemara answers: He holds that since it is written: “But over your brethren,” which explicitly states that it is prohibited to subjugate a Jew forever, it also writes with regard to Canaanites “of them,” but that phrase does not teach any novel *halakha*, because of the reason that was taught by the school of Rabbi Yishmael. As the school of Rabbi Yishmael taught: Every passage in the Torah that was stated and repeated, was repeated only for the novel element introduced therein. Therefore, it is possible that the verse serves to teach the *halakha* that one may enslave a Canaanite forever, and that would account for the ostensibly superfluous phrase “of them.”

NOTES

41: לֹא מִן הַגֵּרִים וְכוּ׃ – Not from the ones who already reside, etc. The distinction is between those who were born in Eretz Yisrael to fathers from other nations and those children of Canaanite males who had resided in Eretz Yisrael. The Meiri explains that it was common for a husband to reside in his wife’s homeland. As such, it was common for there to be children born of Canaanite

women whose fathers were not Canaanites, and conversely, it was common for there to be children of Canaanite men who married non-Canaanite women. *Tosafot* explain that this is the source of the principle that the genealogy of the father is the deciding factor in determining the lineage of gentile children.

Worm [*karya*] – קריא: The root of this word and its meaning are not clear. It has been suggested that it is based on the Latin *caries*, meaning lack, rot, or decay.

§ The Gemara discusses matters related to sin and sexual impropriety. Rav Hisda says: Licentious behavior in a home causes damage like a worm [*karya*]⁴ causes damage to sesame [*shumeshema*].^N And Rav Hisda says: Anger in a home^N causes damage like a worm causes damage to sesame. The Gemara comments: Both this and that, i.e., that licentious behavior and anger destroy a home, were said with regard to the woman of the house, but with regard to the man, although these behaviors are improper, we do not have the same extreme consequences with regard to it, as the woman's role in the home is more significant, resulting in a more detrimental result if she acts improperly.

And Rav Hisda says: Initially, before the Jewish people sinned, the Divine Presence resided with each and every one^N of them, as it is stated: “For the Lord your God walks in the midst of your camp” (Deuteronomy 23:15). Once they sinned, the Divine Presence withdrew from them, as it is stated in that same verse: “That He see no unseemly matter in you, and turn away from you” (Deuteronomy 23:15), teaching that when there is an “unseemly matter” among the Jewish people, the Divine Presence no longer resides among them.

Rabbi Shmuel bar Nahmani says that Rabbi Yonatan says: Any one who fulfills one mitzva in this world, that mitzva precedes him and goes before him to the World-to-Come, as it is stated: “And your righteousness shall go before you, the glory of the Lord shall be your reward” (Isaiah 58:8). And anyone who commits one transgression in this world, it shrouds him and goes before him to the Day of Judgment, as it is stated: “The paths of their way do wind, they go up into the waste, and are lost” (Job 6:18).

Rabbi Elazar says: The transgression is chained to him and accompanies him like a dog, as it is stated concerning Joseph's refusal to commit adultery with the wife of Potiphar: “That he listened not to her, to lie by her, or to be with her” (Genesis 39:10), which is understood to mean: If he would agree “to lie by her” in this world, the result would be that he would have “to be with her” forever, as the transgression would accompany him to the World-to-Come.

§ The Gemara returns to its discussion of the number of witnesses necessary for different elements of the process of a woman becoming a *sota*. We learned in a mishna elsewhere (31a) with regard to the credibility of one witness who testifies concerning a woman's infidelity: The *halakha* that one witness is deemed credible concerning defilement needs to be stated, as, by right, it should not have been deemed credible based on the following *a fortiori* inference:

NOTES

Like a worm [*karya*] to sesame [*shumeshema*] – לְשׂוּמֵשֶׁמָּא – בי קריא לְשׂוּמֵשֶׁמָּא: Rashi explains this to mean: Like a worm consuming sesame. The *Arukh* explains similarly, though he may understand *karya* as referring to decay or spoilage. Others hold that the word *shumeshema* refers to the worm itself and *karya* means the heat or cold that kills the worm (*Tosefot HaRash*).

Anger in a home – תוקפא בביתא – Rashi translates this as anger, and the *Arukh* similarly defines it as strife. According to Rashi this means that the woman is easily angered and quarrelsome. The Meiri

explains that a woman who is constantly angered by her husband may neglect her household chores.

The Divine Presence resided with each and every one, etc. – היתה שכינה שורה עם כל אחד ואחד וכו': The Meiri explains this passage in a general sense, that divine providence is granted to those who act properly. One who transgresses loses this divine providence, and this, in and of itself, is a punishment for the transgression. In addition, one who transgresses will be judged in the World-to-Come.

וְבָהּ יַעֲדוּת הָרֵאוּשׁוּנָה שְׂאִין אוֹסְרֶתָהּ
אִיסוּר עוֹלָם – אֵינָה מְתַקֵּימַת בְּפָחוּת
מִשְׁנַיִם; עֵדוּת הָאֲחֵרוֹנָה שְׂאוֹסְרֶתָהּ אִיסוּר
עוֹלָם – אֵינּוּ דִין שְׁלֵל תְּתַקֵּימִים בְּפָחוּת
מִשְׁנַיִם?

תְּלַמּוּד לֹאמַר: "וְעַד אֵין בָּהּ", כֵּל שֵׁישׁ בָּהּ.

וְקַל וְחֹמֶר לְעֵדוּת הָרֵאוּשׁוּנָה מֵעֵתָהּ: וּמָה
עֵדוּת הָאֲחֵרוֹנָה שְׂאוֹסְרֶתָהּ אִיסוּר עוֹלָם –
מְתַקֵּימַת בְּעַד אֶחָד; עֵדוּת הָרֵאוּשׁוּנָה
שְׂאִין אוֹסְרֶתָהּ אִיסוּר עוֹלָם – אֵינּוּ דִין
שְׂתַתְּקִימִים בְּעַד אֶחָד?

תְּלַמּוּד לֹאמַר: "כִּי מִצָּא בָּהּ עֵרוֹת דְּבָר",
וְלִהְיוֹן הוּא אוֹמַר: "עַל פִּי שְׁנַיִ עֵדִים אוֹ
עַל פִּי שְׁלֹשָׁה עֵדִים יָקוּם דְּבָר". מַה דְּבָר
הָאָמוּר לְהֵלֶן עַל פִּי שְׁנַיִם עֵדִים, אֵף כֵּאֵן
עַל פִּי שְׁנַיִם.

הֵאֵי מִ"כִּי מִצָּא בָּהּ עֵרוֹת דְּבָר" נִפְקָא?
מִ"בָּהּ" נִפְקָא: "בָּהּ" – וְלֹא בְּקִינּוּי, "בָּהּ" –
וְלֹא בְּסִתְיָרָה, מִיבְעֵי לִיָּה!

הֵכִי נִמְי קָאָמַר: תְּלַמּוּד לֹאמַר: "בָּהּ",
"בָּהּ" – וְלֹא בְּקִינּוּי, "בָּהּ" – וְלֹא בְּסִתְיָרָה.

וְטוּמְאָה בְּעֵלְמָא בְּלֹא קִינּוּי וּבְלֹא סִתְיָרָה
דְּלֹא מְהִימֵן עַד אֶחָד מִנְלָן? נִאָמַר כֵּאֵן:
"כִּי מִצָּא בָּהּ עֵרוֹת דְּבָר", וְנִאָמַר לְהֵלֶן:
"עַל פִּי שְׁנַיִ עֵדִים אוֹ עַל פִּי שְׁלֹשָׁה עֵדִים
יָקוּם דְּבָר". מַה דְּבָר" הָאָמוּר לְהֵלֶן עֵדִים
שְׁנַיִם, אֵף כֵּאֵן עֵדִים שְׁנַיִם.

תְּנֵן רַבְנֵן: אֵי זֵו הִיא עֵדוּת הָרֵאוּשׁוּנָה? זֵו
עֵדוּת סִתְיָרָה. עֵדוּת אֲחֵרוֹנָה? זֵו עֵדוּת
טוּמְאָה.

And just as with regard to the first testimony concerning seclusion, which does not forbid her to her husband with an irrevocable prohibition, as the woman can be found innocent, permitting her again to her husband by drinking the bitter water, it is not established with fewer than two witnesses, as that mishna is written in accordance with the opinion of Rabbi Yehoshua, who stated (2a) that testimony of two witnesses must be provided by two witnesses, then with regard to the final testimony concerning defilement, which forbids her with an irrevocable prohibition, is it not logical that it not be established with fewer than two witnesses?

Therefore, to counter this derivation, the verse states: "And there is no witness against her" (Numbers 5:13), teaching that any testimony that there is against her with regard to her defilement is sufficient, and two witnesses are not required.

The mishna asks: And now that it is established that one witness suffices to testify with regard to defilement, an *a fortiori* inference can be made with regard to the first testimony of seclusion: And just as with regard to the final testimony concerning defilement, which forbids her with an irrevocable prohibition, yet it is established with one witness, then with regard to the first testimony, which does not forbid her with an irrevocable prohibition, is it not logical that it should be established with only one witness?

Therefore, to counter this derivation, the verse states: "If a man marries a woman and lives with her and it will be that she not find favor in his eyes, because he has found some unseemly matter [*davar*] about her" (Deuteronomy 24:1), and there, in the verses concerning the *halakhot* of monetary matters, it states: "By the mouth of two witnesses or by the mouth of three witnesses shall a matter [*davar*] be established" (Deuteronomy 19:15). This teaches that just as the "matter" stated there is established by the mouth of two witnesses, so too here, the "matter" of her seclusion must be established by the mouth of two witnesses.

The Gemara asks: Is this need for two witnesses derived from: "Because he has found some unseemly matter about her" (Deuteronomy 24:1)? It is derived from: "And there is no witness [*ed*] against her [*bah*]" (Numbers 5:13), which was explained to mean there were not two witnesses, but only one, who testified concerning her defilement (2a). The Gemara above (2b) derives from the term "*bah*," which could also be understood as: With regard to it, that in this matter of defilement one witness suffices, but not with regard to the warning. And one also derives: With regard to it, but not with regard to the seclusion. Therefore, there must be two witnesses to testify about both the warning and the seclusion. The mishna should have given this inference as the source for requiring two witnesses for seclusion, and not the juxtaposition of "matter" and "matter."

The Gemara answers: That is also what he is saying. The mishna should read: The verse states: "And there is no witness against her [*bah*]," teaching that: With regard to it [*bah*], but not with regard to the warning. And one also derives: With regard to it, but not with regard to the seclusion.

The Gemara comments: And with regard to defilement in general, without a prior warning and without witnesses to seclusion, from where do we derive that one witness is not deemed credible? Here it is stated: "Because he has found some unseemly matter about her" (Deuteronomy 24:1), and there it is stated: "By the mouth of two witnesses or by the mouth of three witnesses shall a matter be established" (Deuteronomy 19:15), teaching that just as the "matter" stated there is established by two witnesses, so too here, with regard to defilement it is established by two witnesses.

The Sages taught (*Tosefta* 1:1): In the mishna quoted above, which is the first testimony? This is referring to the testimony of seclusion. Which is the final testimony? This is referring to the testimony of defilement.