

## NOTES

They either drink the bitter water or they do not collect payment of their marriage contracts – או שותות או לא נוטלות כתובה: The Gemara explains elsewhere (*Ketubot* 81a) that only the husband can bring the *sota* to the Temple to drink. The Mishna's intention here is that since the *sota* women must drink the bitter water in order to collect payment of their marriage contracts, and they cannot do so once their husbands have died, they consequently do not collect payment of their marriage contracts.

A woman who was pregnant with the child of another, etc. – מעוברת חבירו וכו': The Sages prohibited one from marrying a pregnant or nursing woman until the child is born and weaned, as the woman is liable to become pregnant and cease lactating. This could endanger the child's life, since his sustenance must be claimed from the former husband or from his estate, and the second husband might be lax in his efforts to ensure proper care of a child who is not his own. The *tanna'im* elsewhere disagree with regard to the length of time required until the woman may remarry; however, the *halakha* is in accordance with the opinion that states that this stricture is in effect until a child is twenty-four months old.

יכול הוא להפרישה – יכול הוא להפרישה: According to the Rabbis, even if one married a pregnant or nursing woman when it was prohibited to marry her, he is permitted to separate from her and remarry her after the requisite time has elapsed. Rabbi Meir, however, disagrees with the Rabbis, and holds that since the man married the pregnant or nursing woman when he was prohibited from doing so, he is required to divorce her and may never remarry her, and therefore, this constitutes a prohibited marriage with regard to the *halakha* of a *sota* (Rambam's Commentary on the Mishna).

ונתנה לישראל, ובת ישראל לממזר ולנתין – לא שותות ולא נוטלות כתובה.

ואלו לא שותות ולא נוטלות כתובה: האומרת "טמאה אני", ושפאו לה עדים שהיא טמאה, והאומרת "איני שותה".

אמר בעלה "איני משקה", ושבעלה בא עליה בדרך – נוטלות כתובה ולא שותות.

מתו בעליהן עד שלא שתו – בית שמאי אומרים: נוטלות כתובה ולא שותות, ובית הלל אומרים: או שותות או לא נוטלות כתובה.

מעוברת חבירו ומניקת חבירו – לא שותות ולא נוטלות כתובה, דברי רבי מאיר; ונחכמים אומרים: יכול הוא להפרישה ולהחזירה לאחרי זמן.

or Gibeonite woman who was married to a Jew of unflawed lineage, or a Jewish woman of unflawed lineage who was married to a *mamzer* or a Gibeonite, all of these women neither drink the bitter water nor collect payment of their marriage contracts, as the *sota* ritual applies only to permitted marriages.

And the following women neither drink the bitter water nor collect payment of their marriage contracts: A woman who confesses and says: I am defiled,<sup>H</sup> and a woman with regard to whom witnesses came<sup>H</sup> and testified that she is defiled, and a woman who says: I will not drink the bitter water,<sup>H</sup> even if she does not confess her guilt.

However, a woman whose husband said: I will not have her drink,<sup>H</sup> and a woman whose husband engaged in sexual intercourse with her on the way to the Temple, collect payment of their marriage contracts even though they do not drink the bitter water, as it is due to the husbands that they do not drink.

If the husbands of *sota* women died before their wives drank<sup>H</sup> the bitter water, Beit Shammai say: They collect payment of their marriage contracts and they do not drink the bitter water. And Beit Hillel say: They either drink the bitter water or they do not collect payment of their marriage contracts.<sup>N</sup>

A woman who was pregnant with the child of another<sup>N</sup> man<sup>H</sup> at the time of her marriage and a woman who was nursing the child of another man at the time of her marriage neither drink the bitter water nor collect payment of their marriage contracts. This is because by rabbinic law they may not marry for twenty-four months after the baby's birth, and therefore these also constitute prohibited marriages. This is the statement of Rabbi Meir. And the Rabbis say: He can separate from her,<sup>N</sup> and remarry her after the time of twenty-four months has elapsed, and therefore these are considered permitted marriages, and the women can drink the bitter water.

## HALAKHA

A woman who confesses and says, I am defiled – האומרת טמאה – אני: A woman who secluded herself with another man after being warned is not forced to drink the bitter water. Therefore, if she confesses and says: I am defiled, she does not drink. Her husband is required to divorce her, she forfeits payment of her marriage contract, and she is forbidden to him forever (Rambam *Sefer Nashim, Hilkhot Sota* 2:1).

And a woman with regard to whom witnesses came, etc. – ושפאו: If witnesses testified that a *sota* was defiled, she does not drink the bitter water. Her husband is required to divorce her, she forfeits payment of her marriage contract, and she is forbidden to him forever (Rambam *Sefer Nashim, Hilkhot Sota* 1:14).

And a woman who says, I will not drink the bitter water, etc. – והאומרת איני שותה וכו': A woman who does not want to drink the bitter water is not forced to drink, even if she maintains that she is innocent of adultery. However, her husband must divorce her, and she does not collect payment of her marriage contract, and she is forbidden to him forever (Rambam *Sefer Nashim, Hilkhot Sota* 2:1).

A woman whose husband said, I will not have her drink, etc. – אמר בעלה איני משקה וכו': If a woman secluded herself with another

man after she was warned but her husband does not want to have her drink, or if her husband engaged in sexual intercourse with her after the seclusion, she does not drink the bitter water. Her husband is required to divorce her and pay her the sum of her marriage contract, and she is forbidden to him forever (Rambam *Sefer Nashim, Hilkhot Sota* 2:1).

If the husbands of *sota* women died before their wives drank – מתו בעליהן עד שלא שתו: A *sota* whose husband died before she drank the bitter water does not drink it. She also does not collect payment of her marriage contract, in accordance with the opinion of Beit Hillel (Rambam *Sefer Nashim, Hilkhot Sota* 2:7).

A woman who was pregnant with the child of another man, etc. – מעוברת חבירו וכו': In this case, either a man married a woman who was pregnant with the child of another man, or he married a woman who was nursing the child of another man, in violation of the rabbinic prohibition against such a marriage. Subsequently, the woman secluded herself with a different man, after being warned. The woman is required to drink the bitter water, as her marriage, though prohibited, could be rectified, in accordance with the opinion of the Rabbis (Rambam *Sefer Nashim, Hilkhot Sota* 2:9).

A sexually underdeveloped woman who is incapable of bearing children [*ailonit*] – **אֵילוֹנִית**: The Talmud discusses the *halakhot* of an *ailonit* in great detail, primarily in tractate *Yevamot*. It appears from these discussions that an *ailonit* is a woman with a genetic disorder that renders her incapable of bearing children. This condition is viewed as being distinct from that of other women, who have suffered from medical complications or defects that subsequently rendered them infertile, although their physical and sexual development was normal. By contrast, the *ailonit* can be recognized by certain abnormal physical traits, including a lack of secondary sex characteristics such as pubic hair. There appear to be several types of medical situations in which a woman is considered to be an *ailonit*, including women who suffer from a surplus of male hormones and those who suffer from Turner syndrome.

The halakhic literature contains many discussions with regard to the status of the *ailonit*, primarily due to the fact that her secondary sex characteristics are either entirely absent or appear only at an older age. One of the discussions concerns the age at which the *ailonit* reaches her majority.

One whose husband became a deaf-mute or became an imbecile – **מִי שֶׁנִּתְחַרֵּשׁ בְּעֵלָהּ אוֹ נִשְׁתַּטָּה**: In the past, individuals who were deaf and mute were generally unable to communicate with their surroundings, and as a result, their intellectual development was extremely limited. The categories of a deaf-mute, an imbecile, and a minor are frequently grouped together in the Talmud, as they were viewed as sharing the characteristics of limited intellectual capacity and the lack of ability to act responsibly. As a result, they are exempt from the obligation to perform mitzvot, and are not held responsible for any damage they may cause. They also lack the legal capacity to act as agents. Although these categories are often mentioned together, there are many differences between the *halakhot* governing each of them. The later authorities discuss the legal status of a deaf-mute who acquires the ability to communicate and is therefore not considered to be comparable to an imbecile.

A sexually underdeveloped woman who is incapable of bearing children [*ailonit*],<sup>b</sup> and an elderly woman,<sup>h</sup> and a woman who is incapable of giving birth for other reasons, neither collect payment of their marriage contracts nor drink the bitter water, as marrying a woman who cannot give birth constitutes a violation of the mitzva to be fruitful and multiply. **Rabbi Elazar says: He can marry another woman and procreate through her;** therefore, these are considered permitted marriages, and women in these categories can drink the bitter water.

**And all other women either drink the bitter water or do not collect payment of their marriage contracts. The wife of a priest drinks,<sup>h</sup> and if she is found to be innocent of adultery, she is permitted to her husband. The wife of a eunuch also drinks.<sup>h</sup>**

A husband can issue a warning to his wife forbidding her to seclude herself with any man, even with regard to all those men with whom relations are forbidden,<sup>h</sup> e.g., her father or brother, with the exception of a minor and of one who is not a man, i.e., in a situation where a man suspects his wife of bestiality.

**And these are the women to whom the court issues a warning<sup>h</sup> in place of their husbands: One whose husband became a deaf-mute or became an imbecile,<sup>b</sup> or was incarcerated in prison. The Sages said that the court warns her not in order to have her drink the bitter water if she disobeys the warning, but in order to disqualify her from receiving payment of her marriage contract. Rabbi Yosei says: The court's warning also serves to have her drink, and when her husband is released from prison he has her drink.**

#### HALAKHA

A sexually underdeveloped woman and an elderly woman, etc. – **אֵילוֹנִית וְזָקִינָה וְכוּ**: With regard to one who married a woman who is unable to conceive, including a woman who is sexually underdeveloped or elderly; if he has not yet fulfilled the mitzva of procreation and does not have another wife who is fertile, and he issues a warning to his wife and she nevertheless secludes herself with another man, she does not drink the bitter water and she does not collect payment of her marriage contract. However, if the husband has already fulfilled the mitzva of procreation or if he has another wife who is fertile, and he issues a warning to his wife who is unable to conceive, she may drink the bitter water. This ruling is in accordance with the unattributed mishna, as explained in the Gemara (Rambam *Sefer Nashim, Hilkhot Sota* 2:9).

The wife of a priest drinks – **אִשְׁתּוֹ בִּהְיוֹתָהּ**: A *sota* who drank the bitter water and did not die immediately is permitted to her husband, even if he is a priest. She is permitted to her husband even if her health begins to deteriorate, as long as she is not afflicted in her belly and thighs in the manner described in the Torah (see Numbers 5:27) with regard to a *sota* who was defiled (Rambam *Sefer Nashim, Hilkhot Sota* 3:21).

The wife of a eunuch drinks – **אִשְׁתּוֹ סָרִיס שׁוֹתָהּ**: The wife of a eunuch drinks the bitter water. This *halakha* applies both with regard to someone who was born a eunuch and to someone who was castrated, provided that the woman was permitted to marry him (Rambam *Sefer Nashim, Hilkhot Sota* 2:6).

A husband can issue a warning with regard to all those with whom relations are forbidden, etc. – **עַל יְדֵי כָּל עֲרִיּוֹת**: A husband issues a warning to his wife by cautioning her before two witnesses not to seclude herself with a particular man. He may issue a warning to his wife with regard to any man who has reached majority, even with regard to forbidden relatives, e.g., her father or brother, or with regard to a gentile. One may even warn her with regard to a man who is incapable of completing sexual intercourse. However, if one issues a warning to his wife with regard to a minor or with regard to an animal, this is not considered a valid warning (Rambam *Sefer Nashim, Hilkhot Sota* 1:1, 6; *Shulhan Arukh, Even HaEzer* 178:2).

And these are the women to whom the court issues a warning, etc. – **וְזָאֵלוֹ שְׁבִיט דִּין מְקַנְיָן לְהָן וְכוּ**: If a husband becomes a deaf-mute or an imbecile, or if he is in another country or incarcerated in prison, and the court hears rumors concerning the promiscuous behavior of his wife, the court summons her and warns her not to seclude herself with a particular man. If she then secludes herself with that individual, the court forbids her to her husband and tears up her marriage contract. If the husband is capable of divorcing her, he must do so; he cannot make her drink the bitter water, as he did not issue the warning himself, in accordance with the opinion of the unattributed mishna (Rambam *Sefer Nashim, Hilkhot Sota* 1:10–11; *Shulhan Arukh, Even HaEzer* 178:13).

Rabbi Yoshiya – רבי יאשיה: A fourth-generation *tanna*, Rabbi Yoshiya was one of the younger students of Rabbi Yishmael, and the colleague and regular disputant of Rabbi Yonatan. It appears that he lived a long life, as he also appears in disputes with Rabbi Yehuda HaNasi.

גמ' מישתא הוא דלא שתויא, הא קנוי מקני לה. מנא הני מילי? דתנו רבנן: "דבר אל בני ישראל ואמרת" – לרבות ארוסה ושומרת יבם לקינוי;

**GEMARA** The mishna states that a betrothed woman and a widow awaiting her *yavam* do not drink the bitter water. The Gemara infers: **She does not drink, but the husband or *yavam* can warn her** against secluding herself with another man, and if she violates his warning, she is forbidden to him. The Gemara asks: **From where are these matters derived?** The Gemara answers: This is derived as the **Sages taught** with regard to the verse: **"Speak to the children of Israel and say unto them: If the wife of any man goes astray, and acts unfaithfully against him"** (Numbers 5:12). The superfluous phrase "and say unto them" is an amplification, and serves to **include a betrothed woman and a widow awaiting her *yavam* in the *halakhot* of warning.**

ומתניתין מני? רבי יונתן היא, דתנא: "תחת אישך" – פרט לארוסה. יכול שאני מוציא אף שומרת יבם? תלמוד לומר: "איש איש", דברי רבי יאשיה;

**And whose opinion is expressed in the *mishna*? It is the opinion of Rabbi Yonatan, as it is taught** in a *baraita* with regard to the verse: "And the priest shall cause her to swear, and shall say to the woman: If no man has lain with you, and if you have not gone aside to defilement while under your husband" (Numbers 5:19). This excludes a betrothed woman, who does not yet live with her betrothed, from the ritual of the bitter water. One might have thought that I exclude even a widow awaiting her *yavam*; therefore, the verse states: "If the wife of any man goes astray" (Numbers 5:12). The term "any man" serves to include a widow awaiting her *yavam* in the ritual of the bitter water. This is the statement of Rabbi Yoshiya.<sup>p</sup>

רבי יונתן אומר: "תחת אישך" – פרט לשומרת יבם. אוציא שומרת יבם ולא אוציא את ארוסה? תלמוד לומר: "אשר תשטה אשה תחת אישה" – פרט לארוסה.

Rabbi Yonatan says: The phrase "while under your husband" excludes a widow awaiting her *yavam* from drinking the bitter water. Lest one would say that I will exclude a widow awaiting her *yavam* but I will not exclude a betrothed woman, the verse therefore states: "This is the law of jealousy, when a wife, while under her husband, goes astray, and is defiled" (Numbers 5:29). The term "while under her husband" excludes a betrothed woman from drinking the bitter water.

מר אלימא ליה ארוסה, דקידושי דידיה וסוקלין על ידו;

The Gemara explains the dispute: One Sage, Rabbi Yonatan, holds that the bond with the betrothed woman is stronger, as it is his own betrothal, whereas in the case of a widow awaiting her *yavam*, the bond stems from his brother's betrothal. And furthermore, if the betrothed woman commits adultery, she is stoned due to her bond with him, whereas a widow awaiting her *yavam* who engages in sexual intercourse with another man is liable only to receive lashes. Since the bond with the betrothed woman is stronger, Rabbi Yonatan derives from the phrase "while under your husband" that a widow awaiting her *yavam* is excluded with respect to the bitter water, whereas a betrothed woman is excluded only because of the phrase "and say unto them."

ומר אלימא ליה שומרת יבם, דלא מחסרא מסירה לחופה.

And one Sage, Rabbi Yoshiya, holds that the bond with the widow awaiting her *yavam* is stronger, as she is not lacking entry into the wedding canopy, as her marriage to the *yavam* is completed through sexual intercourse alone. Rabbi Yoshiya therefore excludes only a betrothed woman from drinking the bitter water.

ורבי יונתן, האי "איש איש" מאי עביד ליה? מיבעי ליה: לרבות אשת חרש, ואשת שוטה, ואשת

The Gemara asks: **And Rabbi Yonatan**, who excludes both a betrothed woman and a widow awaiting her *yavam* from drinking the bitter water, **what does he do with this term "any man"?** What does it serve to include? The Gemara answers: Rabbi Yonatan requires it in order to include the wife of a deaf-mute and the wife of an imbecile, and the wife of

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## NOTES

A mentally ill person [*shiamum*] – שיעמום: The term *shiamum* refers to a form of mental illness in which one might cease functioning due to severe depression or melancholy. It is used to refer both to the illness and to the sick individual.

שיעמום. ורבי יאשיה, האי "תחת אישה" מאי עביד ליה? מיבעי ליה: להקיש איש לאשה ואשה לאיש.

a mentally ill person [*shiamum*],<sup>n</sup> whom the court warns on behalf of the husband. The Gemara asks: **And according to Rabbi Yoshiya, what does he do with this term "while under her husband"?** The Gemara answers: Rabbi Yoshiya requires it in order to compare a man to a woman and a woman to a man, as explained later (27a).

When sexual intercourse with the husband preceded, etc. – משקדמה שכיבת בעל וכו' – With regard to a married woman who secluded herself with another man after being warned, if the seclusion occurred before her husband engaged in sexual intercourse with her, she does not drink the bitter water. Her husband is required to divorce her, she forfeits payment of her marriage contract, and she is forbidden to him forever (Rambam *Sefer Nashim, Hilkhot Sota* 2:5).

He has acquired her as his wife for all aspects of marriage – קנה לכל – A *yavam* who engages in sexual intercourse with his *yevama* acquires her as his wife with regard to all aspects of marriage, as the *halakha* is in accordance with Rav in his disputes with Shmuel, with the exception of disputes concerning monetary matters. He acquires her as his wife irrespective of whether he engaged in sexual intercourse with her intentionally, unwittingly, or even under duress, and irrespective of whether the intercourse was complete or partial.

However, this ruling applies only with regard to a *yevama* who had been married to the brother of the *yavam*. In the case of a *yevama* who had only been betrothed to the brother of the *yavam*, if the *yavam* engages in sexual intercourse with her unwittingly or under duress, he does not acquire her as his full-fledged wife; furthermore, if the *yavam* is a priest, he does not enable her to partake of *teruma*. In addition, some say that if the *yavam* engaged in intercourse with her unwittingly or under duress, he does not acquire her as his wife with regard to inheriting from her, becoming ritually impure for her when she dies if he is a priest, or nullifying her vows. Some authorities add that the same is true with regard to a *yavam* who performed only the initial stage of intercourse (Rambam *Sefer Zera'im, Hilkhot Terumot* 8:6 and *Sefer Nashim, Hilkhot Yibbum VaHalitza* 2:3; *Shulhan Arukh, Even HaEzer* 166:7, 9).

The Gemara asks: But according to both opinions, the reason for the exclusion of a betrothed woman is that these verses are written; if it were not so, I would say that a betrothed woman drinks. But when Rabbi Aḥa bar Ḥanina came from the South,<sup>b</sup> he came and brought the following *baraita* with him: The verse states: “But if you have gone astray while under your husband, and if you are defiled, and some man has lain with you besides your husband” (Numbers 5:20). This indicates that the *halakhot* of a *sota* apply only when sexual intercourse with the husband preceded<sup>h</sup> sexual intercourse with the paramour, and not in a case when sexual intercourse with the paramour preceded intercourse with the husband. In the case of a betrothed woman who committed adultery, intercourse with the paramour preceded intercourse with the betrothed, and this verse excludes her from drinking the bitter water of the *sota*.

Rami bar Ḥama said: You find the necessity for an additional exclusion in a case where her betrothed engaged in sexual intercourse with her in her father's house, i.e., before they were married, and before the sexual intercourse with the paramour.

The Gemara questions this explanation: In the corresponding situation with regard to a widow awaiting her *yavam*, whom Rabbi Yonatan excludes from the *sota* ritual due to the exclusion from the phrase “while under your husband,” is the necessity for this exclusion due to a case where the *yavam* engaged in sexual intercourse with her in her father-in-law's house before the levirate marriage took place? But do you call that woman a widow awaiting her *yavam*? She is his full-fledged wife, as didn't Rav say: If a widow awaiting her *yavam* engaged in sexual intercourse with her *yavam*, even without the intention of implementing a levirate marriage, he has acquired her as his wife with respect to all aspects of marriage,<sup>h</sup> including the *halakhot* of a *sota*.

The Gemara answers: Rabbi Yonatan's opinion is in accordance with the opinion of Shmuel, as Shmuel says: A *yavam* who engages in sexual intercourse with his *yevama* without intending to consummate the levirate marriage does not acquire her as his wife except with regard to those matters that are stated in the passage in the Torah that deals with levirate marriage, i.e., that he inherits his brother's estate, and he can free the widow with a bill of divorce without *halitza* (see *Yevamot* 56a). He is not considered fully married to the woman, and, according to Rabbi Yonatan, the *halakhot* of a *sota* do not apply to her.

The Gemara asks: If so, let us say that Rav stated his opinion in accordance with the opinion of Rabbi Yoshiya, and Shmuel stated his opinion in accordance with the opinion of Rabbi Yonatan. The Gemara rejects this interpretation: Rav could have said to you: I state my opinion even according to the opinion of Rabbi Yonatan. Since it was necessary for the verse to exclude a *yevama* who engaged in sexual intercourse with her *yavam* from the *sota* ritual, by inference one may derive that she is his full-fledged wife with regard to all other matters.

#### BACKGROUND

Came from the South – אַתָּא...מִדְרוֹמָא: This refers to Judea, which is south of the Galilee. After the bar Kokheva revolt, the land of Judea was almost completely devastated and the center of Jewish life in Eretz Yisrael shifted to the Galilee. Despite this, there remained some important centers of learning in Judea, including Lod, and further south, in the vicinity of Beit Guvrin. These centers preserved many ancient traditions that were unknown in the Galilee, and at times Sages from there traveled to the Galilee and reported these traditions to the Sages in the Galilee.



Ruins of ancient synagogue in Susya, southeast of Beit Guvrin

אֵלָּא טַעֲמָא דְכַתְּיבֵי הֵינִי קָרָאִי, הָא לֹא הָכִי, הוּדָה אֲמִינָא אַרוֹסָה שְׁתֵּינָא, וְהָא כִּי אֲתָא רַבִּי אַחָא בְּרַ חֲנִינָא מִדְרוֹמָא, אֲתָא וְאִיִּיתֵי מִתְּנִיתָא בִּידְיָה: “מִבְּלַעֲדֵי אִישׁוֹךְ” – מִשְׁקִדְמָה שְׁכִיבַת בְּעַל לְבוּעַל, וְלֹא שְׁקִדְמָה שְׁכִיבַת בּוֹעַל לְבוּעַל!

אָמַר רַמִּי בְּרַ חָמָא: מִשְׁכַּחַת לָהּ, בְּגוֹן שְׂבָא שְׂבָא עָלֶיהָ אַרוֹס בְּבֵית אָבִיהָ.

דְּכּוֹתָה גַּבֵּי שׁוֹמֵרַת יָבִם, בְּגוֹן שְׂבָא עָלֶיהָ יָבִם בְּבֵית חָמִיָּה. הָא שׁוֹמֵרַת יָבִם קְרוּיָה לָהּ? אֲשֶׁתּוֹ מַעֲלִייתָא הִיא. דְּהָאֵמַר רַב: קָנָה לְכָל!

בְּשִׁמוּאֵל, דְּאָמַר: לֹא קָנָה אֵלָּא לְדְבָרִים הָאֲמוּרִים בְּפִרְשָׁהּ.

אִי הָכִי, לִימָא, רַב דְּאָמַר בְּרַבִּי יֹאשִׁיָּהּ, וְשִׁמוּאֵל דְּאָמַר בְּרַבִּי יוֹנָתָן! אָמַר לָךְ רַב: אָנָּא דְּאָמְרֵי אֲפִילוּ לְרַבִּי יוֹנָתָן, מִדְּאִיצְטְרִיךְ קָרָא לְמַעֲוֹטָה, מִכְּלָל דְּאֲשֶׁתּוֹ מַעֲלִייתָא הִיא.