

HALAKHA

A woman who confesses and says, I am defiled to you, etc. – **האומרת עמא אַי לך וכו'**: If, before the handful is removed from the meal-offering, the woman confesses that she is defiled; or if she says: I will not drink; or if her husband does not want to force her to drink; or if witnesses come and say that she is defiled; or if either the man or the woman dies; then the entire meal-offering is burned. If any of these events occur after the handful is removed, then the remainder of the meal-offering is eaten (Rambam *Sefer Nashim, Hilkhot Sota* 4:14).

The meal-offering of a priest is not eaten – **מנחת נאכלת**: The handful is not removed from any of the meal-offerings brought by priests, neither from voluntary meal-offerings or from obligatory meal-offerings. Their meal-offerings are burned on the altar in their entirety (Rambam *Sefer Avoda, Hilkhot Ma'aseh HaKorbanot* 2:9).

The daughter of a priest can become disqualified, etc. – **כהנת מתחללת וכו'**: If the daughter of a priest engaged in sexual intercourse with someone forbidden to her, she is disqualified from marrying a priest and from partaking of *teruma*. If a priest engaged in sexual intercourse with a woman forbidden to him, he does not become desacralized (Rambam *Sefer Zera'im, Hilkhot Terumot* 6:7 and *Sefer Kedusha, Hilkhot Issurei Bia* 19:1; *Shulhan Arukh, Even HaEzer* 7:13).

האומרת "טמאה אני לך"; ושָׁבַא לָהּ עֲדִים שְׁהִיא טִמְאָה; וְהָאוֹמֶרֶת "אֲיִנִי שׁוֹתָה"; וְשָׁבַע לָהּ אִינוּ רוֹצֵה לְהִשְׁקוֹתָהּ, וְשָׁבַע לָהּ בָּא עֲלֶיהָ בְּדֶרֶךְ.

וְכָל הַנְּשׂוֹאוֹת לְכֹהֲנִים – מִנְחוֹתֵיהֶן נִשְׂרָפוֹת. בֵּת יִשְׂרָאֵל שֶׁנִּשְׁאָת לְכֹהֵן – מִנְחָתָהּ נִשְׂרָפָה, וְכֹהֲנֵת שֶׁנִּשְׁאָת לְיִשְׂרָאֵל – מִנְחָתָהּ נֹאכֶלֶת.

מֵה בֵּין כֹּהֵן לְכֹהֲנֵת? מִנְחַת כֹּהֲנֵת נֹאכֶלֶת וּמִנְחַת כֹּהֵן בֵּין אִינָה נֹאכֶלֶת, כֹּהֲנֵת מִתְחַלֶּלֶת וְכֹהֵן אִין מִתְחַלֶּל.

A woman who confesses and says: I am defiled, and therefore prohibited to you;^h and a woman with regard to whom witnesses came and testified that she is defiled; and a woman who says: I will not drink the bitter water of a *sota*, even if she does not confess her guilt; and a woman whose husband changed his mind and does not want to force her to drink; and a woman whose husband engaged in sexual intercourse with her on the way to the Temple.

And all the women who are married to priests,ⁿ their meal-offerings are always burned, as the verse states: "And every meal-offering of a priest shall be completely burned; it shall not be eaten" (Leviticus 6:16). An Israelite woman who is married to a priest, her meal-offering is burned; and the daughter of a priest who is married to an Israelite, her meal-offering is eaten.

The mishna asks a general question: What are the differences between a priest and the daughter of a priest? The meal-offering of the daughter of a priest is eaten by the priests, but the meal-offering of a priest is not eaten.^h The daughter of a priest can become disqualified^{hn} from marrying a priest and from partaking of *teruma* by engaging in sexual intercourse with someone forbidden to her, but a priest does not become desacralizedⁿ by engaging in sexual intercourse with a woman forbidden to him.

NOTES

And all the women who are married to priests, etc. – **וְכָל הַנְּשׂוֹאוֹת**: וְכָל הַנְּשׂוֹאוֹת וכו' **לְכֹהֲנִים**: According to Rashi this principle applies to any meal-offering, both obligatory and voluntary, brought by the wife of a priest. The commentaries find this explanation difficult; if she brings a meal-offering from her own money, why should it be considered the meal-offering of a priest? Although generally anything acquired by a woman belongs to her husband, there are instances where a woman might own possessions to which her husband has no rights. Some suggest that in a case where the meal-offering belongs entirely to the woman, Rashi would agree that it is not burned (*Devar Shaul*). However, in the Jerusalem Talmud it is explained that this principle applies only to the meal-offering of a *sota*, in which the husband certainly has a share (see *Keren Ora*).

The daughter of a priest can become disqualified – **כהנת מתחללת**: This *halakha* applies to any woman who engages in forbidden sexual intercourse, not only to the daughter of a priest. Nevertheless, since a priest does not become desacralized in this manner, this *halakha* is listed among the differences between a priest and the daughter of a priest (*Tosefot HaRosh*).

A priest does not become desacralized – **כהן אין מתחלל**: Although a priest does not become desacralized by engaging in forbidden sexual intercourse, as long as he remains married to a woman forbidden to him he is unfit to serve in the Temple (Rambam's Commentary on the Mishna).

What are the halakhic differences between a man and a woman – **מה בין איש לאשה**: *Tosafot* note that this list is not comprehensive, and many additional differences are listed in the *Tosefta*.

A man can vow that his minor son shall be a nazirite – **האיש מדיר את בנו בניור**: According to Rashi, the father's vow continues to obligate the son even after the son reaches the age of majority. Conversely, *Tosafot* (*Nazir* 30a) and the Rambam hold that once the son reaches the age of majority, his father ceases to have authority over him, and therefore the father's vow cannot obligate him against his will.

But a woman cannot vow, etc. – **ואין האשה מדירת וכו'**: The Radak asks how Hannah could vow that if she gave birth to a son, he would be a nazirite all his life (see 1 Samuel, chapter 1), as a woman cannot vow that her son shall be a nazirite. Some commentaries answer that her declaration did not effect the vow; her intention was that she would entreat her husband until he imposed the vow on their son (*Tiferet Yisrael*). In any event, Hannah's vow certainly falls outside the general *halakhot* of naziriteship, as she took the vow before her son was even conceived, and a vow taken with regard to an entity that is not yet in the world does not take effect.

The daughter of a priest may become impure^H with impurity imparted by a corpse, but a priest may not become impure with impurity imparted by a corpse except for the burial of his seven closest relatives. A priest may eat from offerings of the most sacred order,^H but the daughter of a priest may not eat from offerings of the most sacred order.

What are the halakhic differences between a man and a woman?^N A man lets his hair grow and rends his garments^H when he is a leper, but a woman does not let her hair grow or rend her garments when she is a leper. A man can vow that his minor son shall be a nazirite,^{HN} obligating the son to remain a nazirite even during his adulthood, but a woman cannot vow^N that her son shall be a nazirite. A man can shave^H at the culmination of his naziriteship by using offerings originally designated for his father's naziriteship, i.e., if one's father was also a nazirite and he died having already designated offerings for the culmination of his naziriteship; but a woman cannot shave at the culmination of her naziriteship by using offerings designated for her father's naziriteship.

A man can betroth his daughter^H to another man while she is a minor, but a woman cannot betroth her daughter even while she is a minor. A man can sell his daughter^H as a maidservant while she is a minor, but a woman cannot sell her daughter as a maidservant even while she is a minor. A man is stoned naked, but a woman is not stoned naked. A man is hanged after he is stoned for certain transgressions, but a woman is not hanged. A man is sold for his committing an act of theft in order to pay his debt, but a woman is not sold for her committing an act of theft.

GEMARA The Sages taught (*Tosefta* 2:6): All the women who are married into the priesthood, their meal-offerings are burned. How so? With regard to the daughter of a priest, or the daughter of a Levite or an Israelite woman who is married to a priest, her meal-offering is not eaten due to the fact that her father or husband, respectively, has a share in the meal-offering, and it is therefore treated as the meal-offering of a priest, which is not eaten. But it is not completely burned without removing a handful from it, as the Torah states with regard to the meal-offering of a priest, due to the fact that she also has a share in it. Rather, the handful is sacrificed by itself, and the remainder of the meal-offering is sacrificed by itself.

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The daughter of a priest may become impure, etc. – **כהנת**: **מהמאָה וכו'**: A priest is prohibited from becoming impure with impurity imparted by a corpse, except in the case of the burial of his seven closest relatives or of a corpse with no one to bury it. This prohibition does not apply to the daughter of a priest (Rambam *Sefer Shofetim*, *Hilkhot Evel* 3:1, 11; *Shulhan Arukh*, *Even HaEzer* 369:1).

A priest may eat from offerings of the most sacred order, etc. – **כהן אוכל בקדשי קדשים וכו'**: The sin-offering, the guilt-offering, and the remainder of the meal-offering are offerings of the most sacred order. They are eaten only by the males of the priesthood (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 10:3).

A man lets his hair grow and rends his garments, etc. – **האיש**: **פורע ופורם וכו'**: It is a positive mitzva for the leper to cover his head and upper lip in the manner of a mourner throughout the period of his confirmed leprosy. He must also rend his garments. A female leper does not let her hair grow or rend her garments, and she does not cover her upper lip (Rambam *Sefer Tahara*, *Hilkhot Tumat Tzara'at* 10:6, 8).

A man can vow that his minor son shall be a nazirite – **האיש**: **מדיר את בנו בניור**: A man can vow that his minor son shall be a nazirite, even before the son reaches the age at which his own vows are valid. A woman cannot vow that her son shall be a nazirite (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 2:13).

A man can shave, etc. – **האיש מגלח וכו'**: If a man vowed to be a nazirite, and his father was also a nazirite but died before he finished his naziriteship, then at the culmination of the son's naziriteship he can sacrifice the offerings that his father designated for his own naziriteship, and he can shave on account of them. However, a woman cannot shave at the culmination of her naziriteship by using offerings designated for her father's naziriteship (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 8:15).

A man can betroth his daughter, etc. – **האיש מקדש את בתו וכו'**: A father can betroth his daughter to another man even without her knowledge, as long as she is a minor or a young woman. However, a mother does not have the authority to betroth her daughter even while she is a minor. In the case of a minor girl who has no father, if her mother or her brothers marry her off with her consent, the marriage is valid by rabbinic ordinance. In that case, if upon reaching majority she does not wish to remain with her husband she does not require a bill of divorce, and her refusal to remain married to him is sufficient in order to annul the marriage (Rambam *Sefer Nashim*, *Hilkhot Ishut* 3:11 and *Hilkhot Geirushin* 11:1; *Shulhan Arukh*, *Even HaEzer* 37:1, 155:1).

A man can sell his daughter – **האיש מוכר את בתו**: A minor girl who was sold by her father is considered a Hebrew maidservant (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 4:1).

Any offering which is meant to be partly burned on the flames of the altar – **כָּל שֶׁהוּא מִמֶּנּוּ לְאִישִׁים** – It is prohibited to burn on the altar anything that is not fit for burning on the altar, e.g., the flesh of sin-offerings and guilt-offerings or the remainder of meal-offerings, as there is a *halakha* transmitted by tradition that prohibits burning the remainder of any offering that is meant to be partly burned on the altar (Rambam *Sefer Avoda, Hilkhot Issurei Mizbe'ah* 5:5).

You may burn them for the purpose of firewood – **אֶתְּהָ מִעֲלִיהוּ לְשׁוֹם עֲצִים**: In a case where one burned leaven or honey by itself on the altar, if one burned it only as firewood, he is exempt from punishment, as although it is prohibited to burn these as an offering to God, it is permitted to burn them as firewood (Rambam *Sefer Avoda, Hilkhot Issurei Mizbe'ah* 5:3).

אִיקָרִי כָּאֵן: כָּל שֶׁהוּא מִמֶּנּוּ לְאִישִׁים – הֲרִי הוּא בְּבֹל תְּקִטְרוּ אָמַר יְהוָה בְּרִיחַ דְּרַבִּי שְׁמַעוֹן בֶּן פִּזִּי: דְּמַסִּיק לְהוּ לְשׁוֹם עֲצִים. בְּרַבִּי אֶלְיעֶזֶר. דְּתַנַּי. רַבִּי אֶלְיעֶזֶר אוֹמֵר: לְרִיחַ נִיחוּחַ אִי אֶתְּהָ מִעֲלֵהָ, אֲבָל אֶתְּהָ מִעֲלִיהוּ לְשׁוֹם עֲצִים.

הַנִּחָא לְרַבִּי אֶלְיעֶזֶר, דְּאִית לֵיהּ הָאִי סְבָרָא. אֲלֵא לְרַבְנָן דְּלִית לְהוּ הָאִי סְבָרָא. מֵאִי אִיכָא לְמִימַר? דְּעַבְדִּי לְהוּ כְּרַבִּי אֶלְעֶזֶר בְּרַבִּי שְׁמַעוֹן. דְּתַנַּי. רַבִּי אֶלְעֶזֶר בְּרַבִּי שְׁמַעוֹן אוֹמֵר: הַקּוֹמֵץ קָרֵב בְּעַצְמוֹ, וְהַשִּׁירִים מִתְפָּרִים עַל בֵּית הַדָּשָׁן.

The Gemara asks: One should apply here the principle that in the case of any offering that is meant to be partly burned on the flames of the altar,^h one who burns the remainder of the offering is subject to the prohibition: **Do not burn**. This prohibition is derived from the verse: “You shall not burn of it as an offering made by fire unto the Lord” (Leviticus 2:11). **Yehuda, son of Rabbi Shimon ben Pazi, said that the priest burns the remainder not as an offering but for the purpose of firewood**. This is permitted, in accordance with the opinion of Rabbi Eliezer, as it is taught in a *baraita* that **Rabbi Eliezer says: With regard to those parts of an offering which may not be burned, for a pleasing aroma you may not burn them; however, you may burn them on the altar for the purpose of firewood.**^h

The Gemara continues: **This works out well according to the opinion of Rabbi Eliezer, who holds in accordance with this reasoning and permits burning the remainder of an offering as firewood; however, according to the Rabbis, who do not hold in accordance with this reasoning, what can be said?** How is the remainder burned on the altar? The Gemara answers: **With regard to the remainder, they act in accordance with the opinion of Rabbi Elazar, son of Rabbi Shimon, as it is taught in a baraita: Rabbi Elazar, son of Rabbi Shimon, says with regard to the meal-offering of a sinner who is a priest: The handful is removed from the meal-offering and sacrificed by itself, and the remainder is neither eaten nor burned on the altar; rather, it is scattered on the place of the ashes.**

Perek III
Daf 23 Amud b

HALAKHA

In this case even the Rabbis agree, etc. – **בְּהָ אֶפִּילוּ**: In the case of a woman who is married to a priest, whether she is the daughter of a priest or an Israelite, the remainder of her meal-offering is not eaten on account of the share of her husband, who is a priest; neither is it burned, on account of her share. Rather, the handful is sacrificed by itself, and the remainder is scattered on the place of the ashes, in accordance with the conclusion of the Gemara. This applies both to the meal-offering of a *sota* and to any other meal-offering brought by the wife of a priest (Rambam *Sefer Avoda, Hilkhot Ma'aseh HaKorbanot* 12:12 and *Sefer Nashim, Hilkhot Sota* 4:15).

A priest but not to the daughter of a priest – **כִּהֵן וְלֹא**: The meal-offering of the daughter of a priest is sacrificed in the manner of all other meal-offerings; the handful is sacrificed on the altar and the remainder is eaten (Rambam *Sefer Avoda, Hilkhot Ma'aseh HaKorbanot* 2:10).

NOTES

And he shall not disqualify etc. – **וְלֹא יִחַלֵּל וכו'**: The Gemara here presents the interpretation of these verses in an abbreviated form. Elsewhere (*Kiddushin* 77a) the Gemara explains fully why a priest who engages in sexual intercourse with a woman forbidden to him does not become desacralized, yet the woman with whom he engages in intercourse is disqualified from marrying a priest.

וְאֶפִּילוּ רַבְנָן לֹא פְּלִיגִי עֲלֵיהּ דְּרַבִּי אֶלְעֶזֶר בְּרַבִּי שְׁמַעוֹן אֲלֵא בְּמִנְחַת חוּטָא שְׁלַ כִּהֵנִים דְּבֵית הַקְּרֵבָה הִיא, אֲבָל בְּהָא – אֶפִּילוּ רַבְנָן מוּדוּ.

”בֵּית יִשְׂרָאֵל הִנְשׂוּאָה וְכוּ”. מֵאִי טַעְמָא? דְּאָמַר קְרָא: ”וְכֹל מִנְחַת כִּהֵן פְּלִיל תִּהְיֶה, לֹא תֹאכְלוּ” – כִּהֵן וְלֹא כִּהֵנָת.

”כִּהֵנָת מִתְחַלֵּלָת, כִּהֵן אֵין מִתְחַלֵּל”. מִנְלֵן? דְּאָמַר קְרָא: ”וְלֹא יִחַלֵּל זָרְעוֹ בְּעַמִּי” – זָרְעוֹ מִתְחַלֵּל וְהוּא אֵינוֹ מִתְחַלֵּל.

”כִּהֵנָת מִטְּמֵאָה” כּוּ. מֵאִי טַעְמָא? אָמַר קְרָא: ”אָמַר אֵל כִּהֵנִים בְּנֵי אֶהְרֹן” – בְּנֵי אֶהְרֹן” וְלֹא בְּנוֹת אֶהְרֹן.

And even the Rabbis do not disagree with Rabbi Elazar, son of Rabbi Shimon, except with regard to the meal-offering of a sinner who is a priest, as they hold that it is fit to be sacrificed in its entirety without removing a handful. However, in this case, i.e., in the case of the meal-offering of a *sota* who is married to a priest, even the Rabbis agree^h that its remainder is scattered on the place of the ashes, since the handful is removed from the offering.

S The mishna states: In the case of an **Israelite woman who is married to a priest, her meal-offering is burned; and in the case of the daughter of a priest who is married to an Israelite, her meal-offering is eaten**. The Gemara asks: **What is the reason for this?** This is as the verse states: **“And every meal-offering of a priest shall be completely burned; it shall not be eaten”** (Leviticus 6:16). One can infer that this applies to a **priest, but not to the daughter of a priest.**^h

The mishna states: **The daughter of a priest can become disqualified from marrying a priest and from partaking of *teruma* by engaging in sexual intercourse with someone forbidden to her, but a priest does not become desacralized by engaging in sexual intercourse with a woman forbidden to him**. The Gemara asks: **From where do we derive this?** It is as the verse states with regard to a priest who marries a woman forbidden to him: **“And he shall not disqualifyⁿ his offspring among his people”** (Leviticus 21:15), indicating that **his offspring from forbidden intercourse are desacralized, but he is not personally desacralized through his actions.**

The mishna states: **A daughter of a priest may become impure with impurity imparted by a corpse, but a priest may not**. The Gemara asks: **What is the reason for this?** The Gemara answers: **The verse states: “Speak to the priests, the sons of Aaron, and say to them: None shall become impure for the dead among his people”** (Leviticus 21:1). The verse indicates that this applies to **the sons of Aaron and not to the daughters of Aaron.**

When it says, and the leper, etc. – **בְּשֵׁהוּא אֹמֵר** – **וְהַצְרוּעַ וְכוּ**: The later commentaries write that the *baraita* derives this from the term: And the, which is apparently superfluous and comes to include women in these *halakhot* (see *Minḥa Hareva*).

HALAKHA

There are two individuals indicated here – **הָרִי בָּאֵן** – **וְהָרִי בְּאֵן**: Even if a woman or a eunuch grows a beard, it can become impure with leprosy of the beard (Rambam *Sefer Tahara, Hilkhot Tumat Tzara'at* 8:1).

The term him, without his garment, etc. – **אוֹתוֹ בְּלֹא** – **וְתַלְיֵת אוֹתוֹ**: When one is taken to be stoned, he is first stripped of his clothes, and his nakedness is covered on his front. A woman is not stoned naked; rather, she wears a single robe (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 15:1).

Hang him...but not her – **וְתַלְיֵת אוֹתוֹ...וְלֹא אוֹתָהּ** – It is a positive mitzva to hang the body of a blasphemer or an idol worshipper after he is stoned. Only a man is hanged, but a woman is not (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 15:6).

The mishna states: A priest may eat from offerings of the most sacred order, but a daughter of a priest may not eat from offerings of the most sacred order. The Gemara explains: This is derived as it is written with regard to the meal-offering, which is an offering of the most sacred order: “Every male among the children of Aaron may eat of it” (Leviticus 6:11).

§ The mishna states: And what are the halakhic differences between a man and a woman? A man lets his hair grow and rends his garments when he is a leper, but a woman does not. The Sages taught: The verse states: “He is a leprous man, he is impure” (Leviticus 13:44). I have derived only that the *halakhot* of a confirmed leper apply to a man; from where do I derive that they apply to a woman? When it says in the subsequent verse: “And the leperⁿ in whom the plague is, his clothes shall be rent, and the hair of his head shall grow wild and he shall cover his upper lip; and he shall cry: Impure, impure” (Leviticus 13:45), there are two individuals indicated here,^h as this verse did not need to restate “and the leper,” as the subject of the verse was clear from the previous verse.

If so, what is the meaning when the verse states: A leprous “man”? This is referring to the matter of rending one’s clothes and letting one’s hair grow wild, which is stated in the verse below, and teaches that a man lets the hair of his head grow and rends his garments, but a woman does not.

The mishna states: A man can vow that his minor son shall be a nazirite, but a woman cannot vow that her son shall be a nazirite. Rabbi Yoḥanan says: This is a *halakha* transmitted orally to Moses from Sinai with regard to the nazirite, and it is not derived from the Bible. The mishna states: A man can shave at the culmination of his naziriteship by using offerings designated for his father’s naziriteship, but a woman cannot shave by using offerings designated for her father’s naziriteship. Rabbi Yoḥanan says: This is a *halakha* transmitted orally to Moses from Sinai with regard to the nazirite, and it is not derived from the Bible.

The mishna states: A man can betroth his daughter to another man while she is a minor, but a woman cannot betroth her daughter. The Gemara explains: This is as it is written: “And the father of the maiden shall say to the elders: I gave my daughter to this man as a wife” (Deuteronomy 22:16), indicating that it is only the father who has the power to betroth his daughter. The mishna states: A man can sell his daughter as a maidservant but a woman cannot sell her daughter. The Gemara explains: This is derived as it is written: “And if a man sells his daughter to be a maidservant” (Exodus 21:7), indicating that only a man can sell his daughter, while a woman cannot.

§ The mishna states: A man is stoned naked, but a woman is not stoned naked. The Gemara asks: What is the reason for this? The Gemara answers: The verse states: “And let the entire congregation stone him” (Leviticus 24:14). What does the term “him” come to exclude? If we say this means that they stone him but not her, i.e., that a woman is not stoned at all, but isn’t it written: “And you shall take out that man or that woman, who did this evil thing, to your gates, that man or that woman; and you shall stone them with stones, and they shall die” (Deuteronomy 17:5). Rather, the term “him” excludes his garment, indicating that he is stoned without his garment.^h And a woman is excluded from this *halakha*, as one may infer from the term “him” that they do not stone her without her garment.

The mishna states: A man is hanged, but a woman is not hanged. The Gemara asks: What is the reason for this? The verse states: “And if a man has committed a sin worthy of death, and he is put to death, and you shall hang him on a tree” (Deuteronomy 21:22). The verse indicates that one should hang “him,” a man, but not her,^h a woman.

“כֹּהֵן אוֹכֵל בְּקֹדֶשׁ קֹדְשִׁים” דְּכַתִּיב: “כָּל יָכַר בְּבֵן אֶהְרֹן יִכְלְנָה”.

“וַיִּמָּה בֵּין אִישׁ” כּוּ. תִּנּוּ רַבֵּנּוּ: “אִישׁ” – אֵין לִי אֶלָּא אִישׁ. אֵשָׁה מִנֵּי? בְּשֵׁהוּא אֹמֵר: “וְהַצְרוּעַ אֲשֶׁר בּוֹ” – הָרִי בָּאֵן שְׁנַיִם.

אֵם בֶּן מַה תִּלְמוּד לומר “אִישׁ”? לְעַנּוּן שְׁלֵמֶטָה: “אִישׁ פּוֹרֵעַ” וכוּ.

“הָאִישׁ מִדִּיר אֶת בְּנוֹ בְּנִיר, וְאֵין הָאִשָּׁה מִדִּירָת בְּנָה בְּנִיר.” אָמַר רַבִּי יוֹחָנָן: הֲלֹכָה הִיא בְּנִיר. “הָאִישׁ מְגַלַּח עַל נְזִירוֹת אָבִיו, וְאֵין הָאִשָּׁה מְגַלַּחַת עַל נְזִירוֹת אָבִיהָ.” אָמַר רַבִּי יוֹחָנָן: הֲלֹכָה הִיא בְּנִיר.

“הָאִישׁ מְקַדֵּשׁ אֶת בִּתּוֹ, וְאֵין הָאִשָּׁה מְקַדֶּשֶׁת אֶת בִּתּוֹ,” דְּכַתִּיב: “אֶת בִּתִּי נִתַּמְתִּי לְאִישׁ הַזֶּה.” הָאִישׁ מוֹכֵר אֶת בִּתּוֹ, וְאֵין הָאִשָּׁה מוֹכֶרֶת אֶת בִּתּוֹ,” דְּכַתִּיב: “וְכִי יִמְכּוֹר אִישׁ אֶת בִּתּוֹ”.

“הָאִישׁ נִסְקָל עָרוֹם” כּוּ. מֵאֵי טַעְמָא? וְרַגְמוּ אוֹתוֹ. מֵאֵי “אוֹתוֹ”? אֵילִימָא “אוֹתוֹ” – וְלֹא אוֹתָהּ, וְהַכְּתִיב: “וְהוֹצֵאתָ אֶת הָאִישׁ הַהוּא אוֹ אֶת הָאִשָּׁה הַהִיא!” אֶלָּא אוֹתוֹ בְּלֹא כְסוּתוֹ, וְלֹא אוֹתָהּ בְּלֹא כְסוּתָהּ.

“הָאִישׁ נִתְלָה וְאֵין” כּוּ. מֵאֵי טַעְמָא? אָמַר קְרָא: “וְתַלְיֵת אוֹתוֹ עַל עֵץ,” “אוֹתוֹ” – וְלֹא אוֹתָהּ.

HALAKHA

He is sold for his theft, etc. – בְּגֵיבַתּוֹ וְכוּ' – A man is sold for committing an act of theft, but a woman is not sold for committing an act of theft (Rambam *Sefer Nezikim, Hilkhot Geneiva* 3:12).

”הָאִישׁ נִמְכָּר בְּגֵיבַתּוֹ, וְאִין הָאִשָּׁה
נִמְכָּרַת בְּגֵיבַתָּהּ.” מַאי טַעְמָא? אָמַר
קָרָא: ”וְנִמְכָּר בְּגֵיבַתּוֹ”, “בְּגֵיבַתּוֹ” –
וְלֹא בְּגֵיבַתָּהּ.

הדרן עלך היה נוטל

The mishna states: **A man is sold for his committing an act of theft, but a woman is not sold for her committing an act of theft.** The Gemara asks: **What is the reason for this? The verse states:** “If the sun rose upon him, there is blood-guilt for him; he shall make restitution; if he has nothing, **then he shall be sold for his theft**” (Exodus 22:2). The verse indicates that he is sold **for his theft,**^H **but she is not sold for her theft.**

מתני' ארוסה ושומרת יבם לא שותות ולא נוטלות כתובה, שנאמר: "אשר תשטה אשה תחת אישה", פרט לארוסה ושומרת יבם.

MISHNA With regard to a betrothed woman^B who secluded herself with another man after being warned by her betrothed, and a widow waiting for her brother-in-law [*yavam*] to perform levirate marriage who secluded herself with another man after being warned by her *yavam*,^N they neither drink the bitter water nor collect payment of their marriage contracts.^{NH} The reason they are not entitled to payment of their marriage contracts is that the betrothed woman became forbidden to her betrothed or the widow became forbidden to her *yavam* due to her own actions of entering into seclusion with the paramour. And the fact that they do not drink the bitter water is as it is stated: "This is the law of jealousy, when a wife, while under her husband, goes astray, and is defiled" (Numbers 5:29). The verse excludes a betrothed woman and a widow awaiting her *yavam*; since they are not yet married, neither is considered as "under her husband."

אלמנה לכהן גדול, גרושה וחלוצה לכהן הדיוט, ממזרת

The mishna delineates cases where the woman's marriage was prohibited in the first place: With regard to a widow who was married to a High Priest,^H or a divorcée or *halutza*^B who was married to a common priest,^B or a *mamzeret*

BACKGROUND

A betrothed woman – ארוסה: A Jewish wedding is divided into two distinct parts: Betrothal and marriage. The betrothal is the first stage and is usually effected with money or a monetary equivalent, such as a ring, which the man gives the bride. After the betrothal, the woman is considered a married woman who does not yet reside with her husband. She therefore cannot marry another man without first receiving a bill of divorce. Although they are legally married, the couple may not yet live together as man and wife, and most of their mutual obligations do not yet apply. If a betrothed woman engages in sexual intercourse with another man, both have violated the prohibition against adultery and are liable to be executed.

The second stage of the marriage process is the marriage ceremony. Marriage is effected by having the bride and groom come under the bridal canopy, and it confers upon the couple both the rights and the responsibilities associated with marriage.

In talmudic times it was not unusual for a year to elapse between betrothal and marriage, allowing the bride and groom to prepare for the wedding. However, later it became the accepted practice to perform both the betrothal ceremony

and the marriage ceremony at the same time, in order to prevent many halakhic and practical difficulties.

Halutza – חלוצה: A *yevama* who performed the *halitza* ritual, releasing her from her levirate bond, is known as a *halutza*. The term *halitza* is derived from the central element of this ritual, in which the widow removes a special sandal from the foot of one of her deceased husband's brothers, as when the verse states the mitzva for her to remove his sandal, it uses the term "*vaḥaletzta*" (Deuteronomy 25:9).

A widow who was married to a High Priest or a divorcée or halutza who was married to a common priest – אלמנה לכהן גדול, גרושה וחלוצה לכהן הדיוט: By Torah law, it is prohibited for a priest to marry a divorcée and it is prohibited for a High Priest to marry a widow (Leviticus 21:7, 14). By rabbinic law, it is also prohibited for a priest to marry a *halutza*. Since these prohibitions are not punishable by *karet*, if a priest betroths one of these women, the betrothal takes effect; however, it is still prohibited for them to live together, and the offspring of this union are *halalim*, priests disqualified due to flawed lineage.

HALAKHA

A betrothed woman and a widow waiting for her brother-in-law...nor collect payment of their marriage contracts – ארוסה ושומרת יבם...ולא נוטלות כתובה: With regard to a betrothed woman or a widow awaiting her *yavam*, whose betrothed or *yavam* issued a warning to her and who was then observed by witnesses to seclude herself with the other man, even if she wishes to drink the bitter water and the betrothed or the *yavam* wants her to drink it, she cannot drink it. Rather, she is divorced without receiving payment of her marriage contract (Rambam *Sefer Nashim, Hilkhot Sota* 2:2).

A widow who was married to a High Priest – אלמנה לכהן גדול: With regard to a man whose wife was forbidden to him, such as a High Priest who was married to a widow, if he issued a warning to her and she then secluded herself with the other man, she does not drink the bitter water. Rather, she is divorced without receiving payment of her marriage contract. This *halakha* applies whether his wife was forbidden to him by an explicit prohibition, by a prohibition stated as a positive mitzva, or even by rabbinic law, e.g., the husband and wife were secondary relatives (Rambam *Sefer Nashim, Hilkhot Sota* 2:9).

NOTES

And a widow waiting for her brother-in-law who secluded herself after being warned by her *yavam* – ושומרת יבם: The commentaries raise a difficulty: The Gemara (18b) concludes that if a widow awaiting her *yavam* engaged in sexual intercourse with another man, she is not forbidden to the *yavam*. If so, why does she forfeit payment of her marriage contract? Rashi explains that although the *yavam* is permitted to marry her, he can refuse to marry her due to her promiscuous behavior, and since his refusal is prompted by her actions, she forfeits payment of her marriage contract.

Many commentaries question Rashi's understanding and offer alternative explanations. *Tosafot* note that according to the Gemara (24b), the mishna is referring to a case where the *yavam* already engaged in sexual intercourse with the widow. In this case, by engaging in sexual intercourse with another man, the widow becomes prohibited to the *yavam*, and therefore she forfeits payment of her marriage contract.

Other early commentaries explain that this mishna is not in accordance with the *halakha*. Rather, it is in accordance with the opinion of Rabbi Akiva, who equates women who are forbidden by a standard Torah prohibition to women who are forbidden on penalty of *karet*. Since a widow awaiting her *yavam* is prohibited to everyone else, Rabbi Akiva holds that if she engages in sexual intercourse with another man she becomes prohibited to the *yavam* (*Tosefot HaRash; Tosefot HaRosh*).

A betrothed woman...nor collect payment of their marriage contracts – ארוסה...ולא נוטלות כתובה: Although there is an amoraic dispute as to whether a betrothed woman is entitled to a marriage contract, all agree that under normal circumstances, if her betrothed wrote her a marriage contract, she is entitled to collect at least the main sum, which is one hundred dinars for a widow or a divorcée and two hundred dinars for a virgin. This is what she stands to lose if she secludes herself with another man after being warned by her betrothed.

The phrase "while under her husband" (Numbers 5:29) excludes these women only from drinking the bitter water, but not from the *halakha* that prohibits a *sota* to her husband until the bitter water evaluates her fidelity, and since she cannot drink the bitter water, divorce is the only alternative. Since the woman put herself in this position, she loses her right to collect payment of her marriage contract, even though there is no certainty that she was defiled. For this reason, even Beit Shammai, who hold that a woman who cannot drink the bitter water due to her husband's death collects payment of her marriage contract, concede that in this case she does not collect payment of her marriage contract.