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Babylonian Talmud: Tractate Yebamoth

Folio 98a

but that a [Rabbinical] prohibition is 'nevertheless involved!¹ — The law, in fact, is that even a [Rabbinical] prohibition is not involved; only, because it was desired to state in the final clause, 'but are guilty [of a punishable offence]', it was stated in the first clause also, 'they are not guilty [of a punishable offence]'.

Raba stated: With reference to the Rabbinical statement that [legally] an Egyptian has no father,² it must not be imagined that this is due to [the Egyptians'] excessive indulgence in carnal gratification, owing to which it is not known [who the father was], but that if this were known³ it is to be taken into consideration;⁴ but [the fact is] that even if this is known it is not taken into consideration. For, surely, in respect of twin brothers, who originated in one drop that divided itself into two, it was nevertheless stated in the final clause,⁵ that they 'neither participate in *halizah* nor perform levirate marriage'.⁶ Thus it may be inferred that the All Merciful declared their children to be legally fatherless,⁷ for [so indeed it is also] written, Whose flesh is as the flesh of asses, and whose issue is like the issue of horses.⁸

Come and hear what R. Jose related: It once happened with the proselyte Niphates⁹ that he married the wife of his [deceased]¹⁰ maternal brother,¹¹ and when the case was submitted to the Sages their verdict was that the law of matrimony does not apply to a proselyte. But then, should a proselyte betroth a woman, would also the betrothal be invalid? — Say then rather: The prohibition of a brother's wife does not apply to a proselyte. Now does not [this refer to the case] where his brother¹¹ had married her while he was a proselyte?¹² — No; where he married her while he was still an idolater.¹³ But if [betrothal took place] while he was still an idolater, what [need is there] to state it?¹⁴ — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte, hence we were taught [that no such measure was enacted].

Come and hear what Ben Yasyan¹⁵ related: When I went to the coastal towns¹⁶ I came across a certain proselyte who had married the wife of his maternal brother. 'Who, my son', I said to him, 'permitted you [this marriage]?' 'Behold', he replied. 'the woman and her seven children';¹⁷ on this bench sat R. Akiba when he made two statements: 'A proselyte may marry the wife of his maternal brother', and he also stated, 'And the word of the Lord came unto Jonah the second time, saying,¹⁸ only a second time did the *Shechinah* speak to him; a third time the *Shechinah* did not speak to him.'"¹⁹ At any rate, it was stated here that 'a proselyte may marry the wife of his maternal brother'. Does not [this refer to a case] where his brother married her while he was a proselyte! — No; where he married her while he was still an idolater.²⁰ What [need then was there] to state [such an obvious law]? — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte. hence we were taught [that no such measure was enacted].

Is he,²¹ however, believed? Surely R. Abba stated in the name of R. Huna in the name of Rab: Wherever a scholar gives directions²² on a point of law and such a point comes up for a practical decision, he is obeyed if he made the statement²³ before the event²⁴ but if it was not so made, he is not obeyed!²⁵ — If you wish I might say: The incident occurred after he made his statement. If you prefer, I might say: Because he stated, 'Behold the woman and her seven children'.²⁶ And if you prefer I might say: Here it is different²⁷ because with it he related another incident.²⁸

The Master said, 'And the word of the Lord came to Jonah a second time, saying,²⁹ only a second time did the *Shechinah* speak unto him, a third time the *Shechinah* did not speak to him'. But surely it is written in Scripture, He restored the border of Israel from the entrance of Hamath unto the sea of the Arabah, according to the word of the Lord, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet!³⁰ — Rabina replied: He³¹ referred to the affairs of Nineveh.

R. Nahman b. Isaac replied, It is this that was meant:³² According to the word of the Lord ... which He spoke by the hand of his servant, the prophet,³³ as his intention towards Nineveh was turned from evil to good, so was his intention towards Israel, in the days of Jeroboam the son of Joash, turned from evil to good.

Come and hear: A proselyte who was born in holiness³⁴ but was not conceived in holiness³⁵ has [legally] maternal consanguinity but no paternal consanguinity. For instance:³⁶ If he married his

maternal sister;³⁷ he must divorce her;³⁸ if his paternal one, he may retain her.³⁹ His father's maternal sister he must divorce;⁴⁰

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Original footnotes renumbered. See [Structure of the Talmud Files](#)

1. Lit., 'guilt there is not but a prohibition there is'. The Rabbis had instituted a preventive measure against the possibility of taking such a marriage as a precedent for allowing similar marriages to proper Israelites. Objection then against R. Aha!
2. Not only where he became a proselyte himself in which case he is regarded as newly born (v. *supra*), but even where he was only conceived before his mother became a proselyte and was born subsequently.
3. If, for instance, his father and mother were confined under lock and key, where it was impossible for any other man to have had intercourse with the woman.
4. And, if the child was born after his mother had become a proselyte (v. *supra* p. 670, n. 10), he is to be regarded legally as having a father.
5. Which speaks of proselytes who were born after their mother had become a proselyte.
6. *Supra* 97b end.
7. Lit., 'made them free', 'ownerless'.
8. Ezek. XXIII, 20.
9. [G] So MS.M. Cur. edd. 'Niphatem'. The suggestion to read [G] is rejected by Golds.
10. V. Rashi, a.l. s.v. [H].
11. Who was a proselyte.
12. And yet it was stated that the prohibition of 'brother's wife' does not apply.
13. When his betrothal has no validity; and after he had become a proselyte he no longer cohabited with her.
14. The law being self-evident.
15. MS.M., 'R. Jose b. Yasin'.
16. Mercantile ports (Jast.).
17. Proselytes whom R. Akiba (v. *infra*) permitted to marry brothers' wives.
18. Jonah III, 1.
19. Mekilta, Bo.
20. V. *supra* p. 671, n. 11.
21. A proselyte in the circumstances of the one who reported R. Akiba's ruling.
22. Basing his ruling on a tradition he received from his teachers.
23. In the course of his discourses.
24. Before the law was required in connection with a practical issue.
25. Much less should an ordinary proselyte be relied upon in a case in which he himself is involved. v. *supra* 770.
26. An incident which had obviously occurred 'before he made his statement.
27. From the case of the scholar's ruling spoken of by Rab.
28. R. Akiba's discourse on Jonah III, 1 while he was sitting on a certain bench. As the one statement could be safely accepted, the other also was accepted.
29. Jonah III, 1.
30. II Kings XIV, 25, which shews that He spoke a third time.
31. R. Akiba, in stating that the *Shechinah* spoke to him only twice.
32. By the text of II Kings cited.
33. Ibid.
34. I.e., after his mother became a proselyte.
35. I.e., before his mother became a proselyte.
36. Lit., 'how'.
37. Though she was born while their mother was still an idolatress, and though he, as a proselyte, is regarded as a newly born child.
38. As a preventive measure against the possibility of marrying a sister, who like himself was born after their mother's conversion. Such a marriage, since brother and sister were born 'in holiness', is punishable by *kareth*.
39. No preventive measure in this case is necessary, since, a proselyte having legally no father, any daughter that may be begotten by his father, even after his conversion, would not be legally his sister.
40. A preventive measure against marriage with his own maternal sister. Cf. *supra* n. 13.

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his paternal one he may retain. His mother's maternal sister he must divorce. As to her paternal sister, R. Meir said: He must divorce her,¹ and the Sages said: He may retain her.² R. Meir maintaining that any woman forbidden on account of maternal consanguinity must be divorced, but if on account of paternal consanguinity he may retain her. He is also permitted [to marry] his brother's wife,³ and the wife of his father's brother. All other forbidden relatives are also permitted to him, including his father's wife. If [a proselyte]⁴ married a woman and her daughter⁵ she may⁶ retain⁷ one, but must release the other.⁸ In the first instance he may not marry⁹ her.⁹ If his wife died, he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-in-law.¹⁰ At all events, it was here stated that he is 'permitted [to marry] his brother's wife'; does not [this apply to a woman] whom his brother had married while he was a proselyte! — No; where he married her while he was still an idolater. What [need was there] to state it?¹¹ — It might have been assumed that [in the case of a brother's marriage] while he was still an idolater a preventive measure¹² should be enacted to preclude [the same thing being done] where he is already a proselyte, hence were we taught [that in such a case a brother's wife was permitted].

The Master stated, 'If [a proselyte] married a woman and her daughter, he may retain one but must release the other; in the first instance he may not marry her'. Now, if he must even release her, is there any need [to speak of a prohibition to marry her] from the outset?¹³ — It refers to a previous clause,¹⁴ and the meaning is this: That [woman], concerning whom the Rabbis ruled that he¹⁵ may retain her,¹⁶ may nevertheless not be married by him from the outset.

'If his wife died he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-in-law'. One is in agreement with R. Ishmael and the other is in agreement with R. Akiba. He who forbade the marriage agrees with R. Ishmael who stated: A man's mother-in-law after [his wife's] death retains the former prohibitions;¹⁷ and in respect of a proselyte a preventive measure was enacted.¹⁸ He, however, who permits the marriage follows R. Akiba who stated that

measure was enacted. — He, however, who permits the marriage follows R. Akiba who stated that the prohibition [to marry] one's mother-in-law is weakened after [one's wife's] death;¹⁹ and, consequently, no preventive measure has been enacted by the Rabbis in respect of a proselyte.

MISHNAH. IF THE [MALE] CHILDREN OF FIVE WOMEN WERE MIXED UP²⁰ AND, WHEN THESE INTERCHANGED CHILDREN GREW UP, THEY TOOK WIVES AND THEN DIED, FOUR²¹ SUBMIT TO *HALIZAH* FROM ONE [OF THE WIDOWS]²² AND ONE²³ CONTRACTS WITH HER THE LEVIRATE MARRIAGE.²⁴ [THEN] HE²⁵ AND THREE [BROTHERS]²¹ SUBMIT TO *HALIZAH* FROM ONE [OTHER OF THE WIDOWS]. AND ONE²⁶ CONTRACTS WITH HER²⁷ THE LEVIRATE MARRIAGE.²⁸ THUS²⁹ EVERY ONE [OF THE WIDOWS] PERFORMS *HALIZAH* FOUR TIMES AND CONTRACTS THE LEVIRATE MARRIAGE ONCE.

GEMARA. Only the *halizah* [must take place³⁰ first] and the levirate marriage afterwards; the levirate marriage, however, must not take place first, since, thereby, one³¹ might infringe the prohibition against a sister-in-law's marriage with a stranger.³²

What [was the object of the statement], HE AND THREE [BROTHERS] SUBMIT TO *HALIZAH* FROM ONE [OTHER OF THE WIDOWS]³³ — That it be not suggested that one brother only should contract levirate marriage with all of them. Rather let every brother contract levirate marriage with only one [of the widows], when it is possible his own [sister-in-law] might happen to fall to his lot.

Our Rabbis taught:³⁴ 'If some of them³⁵ were brothers³⁶ and some were no brothers,³⁶ the brothers submit to *halizah* while those who are no brothers contract the levirate marriage.' What does this exactly mean? — R. Safra replied. It is this that is meant: If some of them³⁵ were paternal brothers³⁶ and some were [also] maternal brothers,³⁷ the maternal brothers submit to *halizah*³⁸ and the paternal brothers may [also] contract levirate marriage.³⁹ 'If some of them⁴⁰ were priests and some were non-priests, the priests submit to *halizah*⁴¹ and those who are non-priests may [also] contract levirate marriage. If some of them⁴² were priests and some maternal brothers, the former as well as the latter submit to *halizah* but may not contract levirate marriage.⁴³

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Original footnotes renumbered. See [Structure of the Talmud Files](#)

1. The reason is given presently.
2. No preventive measure being necessary in such a case which is quite unlike that of a maternal sister.
3. Cur. edd. insert 'from his mother' which is to be deleted with BaH a.l. The proselyte is, in fact, permitted to marry the wife of his paternal brother as well as the wife of his maternal brother if the latter was born before the conversion. A preventive measure (cf. *supra* p. 673, n. 13) was not instituted in the case of a relationship which is not due to consanguinity but is dependent on betrothal.
4. Before his conversion. One born 'in holiness' is forbidden to marry a mother and her daughter.
5. Who were also converted.
6. After his conversion.
7. Lit., 'bring in', sc. to his home.
8. This is a preventive measure against marriage with an Israelitish mother and daughter.
9. This sentence is explained *infra*.
10. V. Sanh., Sonc. ed., p. 394. notes.
11. The law being so obvious.
12. Forbidding his wife to his brother.
13. Why, then, was the superfluous clause, 'In the first instance he may not marry her', inserted.
14. Lit., 'there he stands'.
15. The proselyte.
16. E.g., his paternal sister.
17. V. *supra* 94b, Sanh. 76b.
18. To prevent such a marriage in the case of an Israelite.
19. It is no longer punishable by the severe penalty of burning. v. *supra* 94b.
20. And each woman had also another son who was not involved in the confusion.
21. Of the five brothers who were not mixed up with these. V. *supra* note 6.
22. Since everyone of them might be her brother-in-law.
23. Of the five brothers (v. *supra* n. 7) i.e., the fifth who had not submitted to *halizah*.
24. As four brothers have, by their *halizah*, severed their levirate bond with the widow mentioned, the fifth may marry her either as her brother-in-law (in case it was his brother who was her husband) or as a stranger (if her husband was a brother of one of the four who had now set her free).
25. The brother who contracted the levirate marriage.
26. Of the brothers (v. *supra* n. 7) who had submitted to *halizah* from the first widow.
27. The second widow.
28. For reasons similar to those explained *supra* n. 10.
29. Lit., 'it is found'. The same procedure being followed in respect of all the five widows.
30. In our Mishnah, in respect of every widow.
31. Should a brother happen to marry the widow who was not the wife of his deceased brother.
32. Lit., 'for he met a sister-in-law for the market'.
33. The same brother who contracted the first levirate marriage is, surely, entitled to contract similar marriages with all the widows, as soon as the other four brothers had submitted to their *halizah*.
34. So BaH. Cur. edd. omit.
35. Of the brothers who were not involved in the confusion.
36. Of those who were mixed up and are now dead.
37. I.e., paternal brother to one and maternal brother to another.
38. Thereby setting free the widows of their paternal brothers. They may not contract levirate marriage even after the widows had performed *halizah* with all the other brothers, since, should one of them happen to marry the widow of his maternal brother, he would thereby incur the penalty of *kareth*.
39. With any of the widow's, after each of the other brothers had submitted to her *halizah*.
40. of the brothers who were not involved in the confusion.
41. The levirate marriage is forbidden to them because any one of them might happen to marry the widow who was not a sister-in-law to him but to one of the other brothers. and who, by the *halizah* with her brother-in-law, has become a *haluzah* whom a priest is forbidden to marry.
42. Of the brothers who were not involved in the confusion.
43. Tosef. Yeb. XII. Cf. *supra* p. 676. n. 9 (re maternal brothers) and *supra* n. 1 (re priests).

