

Marrying the Kohen:
One Ineligible Woman's Search for
Meaning
(A Study of Rabbinic Conceptions)

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Submitted in partial fulfillment of the requirements for Ordination

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April 2017

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INTRODUCTION

In 2009, I got married to my high school boyfriend. It was a big, fancy, formal affair; we had gold place settings and fabric swagging the walls. Less than 10 months after the big day, I was finding a lawyer to represent me in our divorce. The circumstances are complicated but suffice it to say that we were too young to get married and too young to know what we wanted. A few months after our civil divorce was finalized, I found myself an awkward guest of the Kollel on Miami Beach, ready to close the last door on my divorce. As I prepared to receive my get^o, a Jewish divorce decree, I was emotionally exhausted. I was ready for the whole process to be over – and without children and with no disputed assets, this step was the last. I expected to leave the Kollel feeling whole again.

And then, the ceremonial proceedings began. I stood watching while the scribe filled in the missing pieces of the document, previously written at the Kollel in Colorado, where my ex-husband lived. He had appointed an agent to represent him in Miami and when the Get was finished, the agent stood in front of me and dropped the document into my hands. Once I held it in my hands, I was directed to walk to the other side of the room and back to indicate that I had lawfully taken possession of the document. Then the rabbis took it back and cut it, much like an expired driver's license, so that there would be no mistake that it had already been used.

I was then provided with a document called a Ptur,^o which is essentially a receipt. Also considered a formal document, all the members of the Beit Din^o signed the Ptur to testify that the divorce was finalized and both parties were free to pursue other

marriages. The moment I accepted that Get into my hands, the divorce was final. As the ceremony wound down and the atmosphere became more relaxed, the head rabbi of the Beit Din gave me my parting instructions: I was not allowed to remarry for 90 days and I was not allowed to marry a Kohen, ever.

Wait, what? As I left the Kollel, this final sentence echoed in my brain. I had anticipated a feeling of liberation – of finality and freedom. Instead, I walked out of that tiny, poorly lit Kollel with the knowledge that whether they were conscious of it or not, those rabbis had just declared me damaged goods, permanently damaged, required to drag my status as a divorcee behind me for the rest of my life. I had anticipated that the label would not stick to me – after all, I was 25 and we had no children – and instead I found it felt glued to my chest like a big scarlet D. Who knew if I would even *get married again*, much less to a Kohen. And yet, knowing that I was forbidden made me feel so much more broken and damaged than I had felt before that day.

This thesis is intended to help understand what it means to be a newly divorced woman in an Orthodox Beit Din. Every woman who stands in those shoes is given the same instructions – she must wait 90 days and she cannot marry a Kohen. Logically, the 90 days is understandable from a biblical or rabbinic standpoint. In the days before DNA and paternity testing, this was a safeguard against questions of paternity. It would be confusing, legally and emotionally, for a woman to remarry immediately and immediately show signs of pregnancy, which would leave it unclear whether the child belonged to the first husband or the second. The relevance of the waiting period today might bear less legal weight, as we do have the advantage of both pregnancy and

paternity tests, but perhaps there is an emotional relevance to the mandatory pause as well.

Her inability to marry a Kohen is much clearer legally – as we will see shortly, it is written in the Torah. But I found it much harder to understand from a rational perspective. What is it about the divorcee that makes her unacceptable? This thesis will explore the evolution of the law prohibiting Kohanim from certain marriages from the time of the Torah into modern practice. But before we can take that journey, we must first understand two things: the first is the definition and nature of a Kohen, and the second is the definition and nature of Halacha, both in biblical times and in modern times.

Language and Sources

A note about language: I use Hebrew terminology throughout this thesis. I do so for two reasons. The first is that English translations (words like Priest, Temple, Sacrifice) bring up images of concepts that do not relate to the topic. There are allusions to both Christian culture and Pagan culture in some of the words and phrasing that English uses. To avoid these connotations, I will use the Hebrew names and words. Every time there is a new Hebrew word or concept introduced, I will follow it with the symbol^o indicating that it can be found in the glossary at the end of the document.

A note about sources: the chronological trajectory of this thesis is based upon major textual sources rather than personalities. We begin with **the Torah** in chapter one, and move on to the **Mishnah**, **Talmud**, **Mishneh Torah** and **Shulchan Aruch** in chapter

two. Though many rabbis and commentators will be cited in both chapters, their place and time in history is relevant only in understanding the context of their perspective. The arc of this paper is intended to trace major texts, sources and legal codes rather than individual rabbinic opinions and commentaries. Thus, the reader may find that when medieval commentators and contemporary scholars are cited together it feels anachronistic. The reader should attempt to keep in mind that this approach focuses on understanding the particulars of the sources and traces the evolution and development of published halacha through history.

The Kohen

A Kohen^o (s) is a priest, and the Kohanim (pl) are the priests who find their origin in the Torah. There are a number of references to priests in general in the Torah, in Genesis and Exodus, but it is not until Exodus 28:1 when God commands the creation of the priesthood, specifically naming Aaron and his sons. God then begins to explain the role and responsibilities of the priesthood, from its clothing¹ to the priests role in the ritual observance of Israel² as the ones who will offer sacrifices on behalf of the people. There are many laws that govern the behavior of the Kohanim, both in the desert while the people are still wandering and also once the Beit HaMikdash,^o or the Temple, is built in Jerusalem.

As previously mentioned, much about the Kohanim is regulated, from dress to

1. *JPS Tanakh: the Holy Scriptures*. Philadelphia, PA: Jewish Publication Society, 2008. Exodus 28:6-43

2. Exodus 29 (JPS)

behavior to marriage. Kohanim are prohibited from being near a dead body³ and exhibiting the behaviors of mourning, except in the case of the death of immediate family members. Kohanim who have physical blemishes or imperfections are also prohibited from serving in the Beit HaMikdash.⁴

Many of the laws for Kohanim have to do with preserving the lineage. The Kohanim are classified as the “sons of Aaron”⁵ and are understood to be direct descendants of Aaron, the first Kohen Gadol^o or High Priest. Rabbi Yohanan Lombard teaches that Aaron merited becoming the first Kohen because he felt genuine joy at another person’s success, as he did at his brother Moses’ leadership.⁶ Because of this generosity of spirit, Aaron was granted the mitzvah^o (commandment) of blessing the Israelite people.⁷ Other traditions teach that Aaron had other qualities that made him deserving of the sanctification of his lineage; he loved peace and pursued it, and he loved people and he brought them closer to Torah.⁸

The rabbinical sages of the first centuries after the destruction of the Second Temple justified these qualities of Aaron’s as proof of his worth as High Priest and that such sanctification was to be the legacy of his male descendants. Because of how intentional this designation was, the preservation of the lineage is a very important element of the Kehunah^o or priesthood.

3. Leviticus 21:1-6 (JPS)

4. Leviticus 21:17-21 (JPS)

5. Exodus 28:1 (JPS)

6. Yohanan Lombard, and David Munk. *The Kohen's Handbook: a Complete Guide to Help Today's Kohen Maintain his Spiritual Distinction*. Jerusalem: Jerusalem Publications, 2005. P.20

7. Ibid.

8. Pinhas Kehati. *The Mishnah: A New Translation with a Commentary Everyman's Mishnah series*. Jerusalem, Israel: Eliner Library, Department for Torah Education and Culture in the Diaspora of the World Zionist Organization, 1989. Mishnah Avot 1:12

Halacha

A Midrash⁹ teaches that “God looked into the Torah and created the world.”⁹ There are many Jews who believe that Halacha^o - the complete system of Jewish rituals, practices and beliefs - preceded creation itself, and the patriarchs and matriarchs followed Halacha before the Torah was even given to the People Israel on Mt. Sinai. Halacha is translated Literally as “the way” and is often described as a guidebook for Jews are supposed to live.

Many of the Halachot are found in the Torah – or they are based there – and their interpretation, evolution and application can be traced from the Torah to the Oral Law^o and into rabbinic commentaries and medieval legal codes. As Judaism developed, these laws required further interpretation as Jewish religious leaders struggled to apply them to specific moments in history. Additionally, halachot are also created – some from customs that become codified and some from modern responsa^o that explain how we’re supposed to live our lives today.

Traditionally, Halachically observant Jews understand themselves as bound by halacha and obligated to follow these laws. While their application can be open to interpretation from experts (as will be clear in chapters one and two), the existence of the laws and Jewish adherence to them is non-negotiable throughout the medieval time period.

As Progressive Judaism^o evolved over the last two centuries, the relationship Jews have with Halacha has changed. In the early 19th century, liberal Jews rejected the

9. J. Theodor and Chanoch Albeck. *Midrash Bereshit Rabba*. Jerusalem: Wahrmann Books, 1965. Bereshit Rabbah 3:5 And 64:8

binding nature of halacha. Over time, their heirs have redefined halacha as a type of conversation rather than an imperative. Liberal Jews have been imbued with autonomy about how, when and in what ways they adhere to halacha. A discussion of this conversation takes place in chapter three.

It is with this information that I begin an investigation of the restrictions for marriage that apply to the Kohanim. This thesis looks into their inception, evolution, application and ultimately, their contemporary relevance for today's Jews.

The CCAR^o published a Responsa on the topic of remarriage in 1960. It reads in part:

One should always be cautious about abolishing or disregarding an old law, especially in questions of marriage. Yet, if there is some way in which we can do what, according to our conscious, is justice, we should do it whenever we can. Let us, therefore, look into the old law to understand its reason and extent.¹⁰

With that in mind, my organizing question becomes **how can we understand the laws of marriage for Kohanim, both in biblical and in modern times? If those laws can remain relevant, how can we bring the spirit of these laws back into Progressive Judaism?**

10. Solomon B Freehof. *Reform Responsa*. Cincinnati: Hebrew Union College Press, 1960. P. 163

CHAPTER ONE: BIBLICAL ORIGINS

The Torah Text (JPS Translations)

Leviticus 21:7

(7) They shall not take a woman that is a harlot, or profaned; neither shall they take a woman put away from her husband; for he is holy unto his God.

Leviticus 21:13-15

(13) And he shall take a wife in her virginity.

(14) A widow, or one divorced, or a profaned woman, or a harlot, these shall he not take; but a virgin of his own people shall he take to wife.

(15) And he shall not profane his seed among his people; for I am the LORD who sanctify him.

Ezekiel 44:22

(22) And he shall not profane his seed among his people; for I am the LORD who sanctify him.

Ezra 2:61-63

(61) And of the children of the priests: the children of Habaiah, the children of Hakkoz, the children of Barzillai, who took a wife of the daughters of Barzillai the Gileadite, and was called after their name.

(62) These sought their register, that is, the genealogy, but it was not found;

therefore, were they deemed polluted and put from the priesthood.

(63) And the Tirshatha said unto them, that they should not eat of the most holy things, till there stood up a priest with Urim and with Tummim

Understanding Prohibitions in a Biblical Context

The Nature of the Kohanim

There are two critical elements of the initial discussion of marriage for the Kohanim in Leviticus. The first piece involves the list of prohibited partners for marriage and the second element is the statement of reason. The verse states, “They shall not marry prohibited women. For they are holy to their God.” Part A: They shall not marry woman A, B or C. Part B: For they are holy to their God.

The previous chapter (Leviticus 20) discussed the holiness of the entirety of the nation of Israel and gave laws that required the nation to separate itself from other nations. This chapter further separates the Kohanim as a way of accounting for their heightened level of holiness. The phrasing depicting holiness is used repeatedly in the surrounding verses, and serves as both a prelude to restrictions or a succeeding commentary. This holiness seems to be the only explanation offered in the chapter to account for any of the restrictions. Sforno,^o a sixteenth century Italian Torah commentator explains the weight of the holiness, teaching that every member of the tribe [of Kohanim] is seen as a distinguished person among his people. If he violates one of his prohibitions, he is no longer entitled to the sanctity that that tribe and

birthright gives him - and expects him to preserve.¹¹ Twenty first century Conservative rabbi, Jonathan Magonet,^o compares the Kohen in the temple to a surgeon in an operating room. He has to remain sterile to be effective at his job.¹²

Biblical scholars see this holiness as an integral part of the identity of the Kohanim. Most notably, Jacob Milgrom^o talks about their natural state of sanctity. Milgrom explains that there is a difference between Kohanim and the rest of Israel.¹³ Where Israel was consistently on a quest to sanctify themselves and become holy, the Kohanim were innately holy. Where Israel was constantly striving to *attain* a state of holiness (kedushah), the Kohanim were working to *maintain* their natural state of kedushah.¹⁴

Given the hereditary nature of the Kehunah* (priestly status), one could argue that the innate holiness was viewed as a genetic quality. Elevated kedushah was the natural state for members of priestly lineage.

Thus, if Kehunah is genetic, one must have a mechanism for validating a Kohen's claim to that lineage. The text in Leviticus originates at a time when ancient families would possess and pass down extensive documentation of status. Israelites knew to which tribe they belonged and from what ancestors they descended.¹⁵ In the post biblical period those records became harder to find and lineage much more difficult to

11. Obadiah Ben Jacob Sforno, and Ralph Pelcovitz. *Sforno: commentary on the Torah. Be'ur 'al ha-Torah le-rabi 'Ovadyah Sforno*. Brooklyn, NY: Mesorah, 1987. Leviticus 21:7

12. Jonathan Magonet. *A Rabbi Reads the Torah*. London: SCM Press, 2013. P.88

13. Jacob Milgrom. *Leviticus: A Book of Ritual & Ethics*. Minneapolis, MN: Fortress Press, 2004. p.264

14. Jacob Milgrom. *The Anchor Bible: Leviticus 1-16*. New York: Doubleday, 1991.p. 21:7

15. Nossan Scherman, Hersh Goldwurm, Avie Gold, & Meir Zlotowitz. *ArtScroll Chumash. Hamishah Humshei Torah*. Brooklyn, NY:Mesorah Publications Ltd., 2008. Rashi on Numbers 18:1

prove.

Leviticus introduces the idea that being a Kohen has its privileges and its price. Much later, medieval French commentator Solomon Ben Isaac (Rashi)^o explained that the holiness is not an option, rather, the priests will be holy whether they want to be or not - and the court will be expected to enforce these rules. If a Kohen refuses to adhere, he will be punished.¹⁶

The Nature of the Prohibitions

Because the rules deal with some of the more significant and emotional moments in a human life – love, death, physical handicap – they are specific, detailed and carry a significant emotional weight. To keep those moments holy and pure requires one to elevate oneself above baser human instincts. A Kohen cannot allow himself to grieve deeply or to love freely in the way another person can. He must always be aware of the ramifications of his emotions and actions.

Rabbi Magonet explains that sex and death are at the core of the priestly restrictions because of the Kohen's unique – and separate – role in society. As he argues, sex brings people together and death tears them apart. In order for the Kohanim to remain separated, they must be “untouched” by these experiences.¹⁷ This lack of vulnerability does not imply a need for celibacy or asceticism, but rather forces a preeminent dedication to God over man.

In his early 20th century commentary, Charles Ellicott^o addresses the same

16. *ArtScroll Chumash*, Rashi, 21:6 And 21:8

17. Magonet, 89

connection between the living and the dead, which he explains as follows: If there is a possibility of defilement by the dead (whose bodies have become inanimate objects that cannot speak or act), then Kohanim must be equally (if not more) cautious about their alliances with the living, who are autonomous beings and interactions with them may have more serious consequences.¹⁸ Ellicott implies a severity to sexual transgressions that doesn't apply to other paths to impurity, evidenced by the hereditary status of those who engage in or are the product of sexual misconduct.

Milgrom points out that other cultures of the same historical period also managed priestly marriage. For example, Hindus mandated that the first wife of the Brahman must be a "virgin of a pious and healthy family from his caste."¹⁹

Marriageable women for the Kohanim were limited to Israelite women who had not participated in deviant sexual behavior nor been divorced. In short, the women who were eligible for marriage were those who could ensure that there was neither innuendo of unacceptable behavior nor even the *suspicion* of the presence of another man's seed.²⁰

Categories of Prohibited Women

Zonah

The first woman forbidden to a priest (Pesulei Kehunah^o) is called a Zonah. The most common translation of Zonah (זונה) in the Bible is "harlot" or "whore." BDB^o

18. Charles John Ellicott. *A Bible Commentary for English Readers*. By various writers. Edited by Charles John Ellicott. London: Cassell & Co., 1905. P. 1073

19. Milgrom, *Anchor Bible*, Lev. 21:7

20. Adele Berlin and Marc Zvi Brettler, eds. *Jewish Study Bible, Second Edition*. New York, NY: Oxford University Press, 2014. P. 239

defines Zonah as one who acts like a harlot,²¹ which can be further defined as a prostitute or a promiscuous woman.²² This definition indicates that a Zonah has clearly violated a sexual prohibition in some way, though which and how are not clear. The modern understanding of “harlot” or “whore” insinuates an economical relationship with sex and connotes prostitution. Colloquially, calling someone a whore (or less commonly, a harlot) is pejorative, and projects loose morality and judgment and indiscriminate sex.

Rashi describes a Zonah as a woman who engaged in prohibited sex with someone who would be an improper husband.²³ An improper husband is defined as a man that the woman was not allowed to marry according to Jewish law. While this definition seems straightforward, there is quite a bit to be found in what Rashi does not say. If a woman has extramarital sex with someone whom she cannot marry, then she becomes a Zonah. Which implies that a woman who has sex (even extramaritally) with someone that she *could* legally marry is NOT a Zonah. Thus, Rashi’s perspective seems to indicate that the prohibition is less about sex and more about the person with whom the woman has intercourse.

Maimonides^o has a much broader definition of Zonah. He explains a Zonah as any woman who has *lived* with a man who is prohibited to her through a *negative*

21. Brown, Francis, S. R. Driver, Charles A. Briggs, G. R. Driver, Wilhelm Gesenius, Wilhelm Gesenius, Emil Roediger, and Edward Robinson. *A Hebrew and English lexicon of the Old Testament: with an appendix containing the Biblical Aramaic*. Oxford: Clarendon Press, 1952. זונה

22. "Harlot." Dictionary.com Unabridged. Accessed March 16, 2017.

<http://www.dictionary.com/browse/harlot>>.

23. Rashi on Leviticus 21:7

commandment.²⁴ This definition widens Rashi's net considerably. In saying that a woman's status changes by virtue of living with a prohibited man, he reinforces the idea that the critical protection is for the Kohen's reputation. If the woman is put into a situation where sex with a prohibited man could be assumed, the rabbinic opinion proceeds as if she has done it.

Contemporary biblical scholarship takes two main paths to understanding the Zonah. The first is to pick up where the rabbis of biblical commentaries left off, clarifying the definition of "one who engaged in prohibited sex." In this vein, Milgrom offers a more expansive understanding than the rabbis and defines a Zonah as any woman who has engaged in any premarital sex in any context.²⁵ Using sources in the Qumran documents,²⁶ he adds that a Zonah refers not just to Israelite women who have had prohibited sex but also to gentile women.²⁷ We already know from Deuteronomy 7:3 that Israelites are forbidden from marrying gentiles, as it says "you shall not marry them, you shall not give your daughter to their son and you shall not take his daughter for your son."²⁷ Milgrom is including them in the biblical definition of Zonah, which commentators and sources will include much later. This evidence in the Qumran documents implies that the Gentile women were incorporated in biblical times.

Biblical scholars also look at the Bible as a whole, and connect different uses of the word Zonah throughout the entire text. The Zonah is mentioned more frequently

24. Nosson Scherman and Hersh Goldwurm. *Vayikra/Leviticus, ArtScroll Tanach Series*. Brooklyn, NY: Mesorah Publications, 2012. Rambam on Leviticus 21:7, p. 372 (*A negative commandment is a prohibition, or a law that begins with "you shall not." It emphasizes an action one should NOT take, whereas a positive commandment emphasizes an action that one should take*).

25. Milgrom, 264

26. *Anchor Bible, Qumran Documents*, Leviticus 21

27. Deuteronomy 7:3 (JPS)

than any other class of women. The root is used to express acts of sex and prostitution and is also references Israel as a whole in regard to worshipping foreign Gods.²⁸ The Zonah has often been regarded in contemporary scholarship as a religious prostitute involved with cult worship and fertility rites.²⁹

Interestingly, Phyllis Bird^o explains that there are other categories of words for prostitutes, whores, harlots and adulteresses, as well as other sexual designations used for women who have intercourse outside of approved marriages.³⁰ She notes a difference about the negative connotation associated with the Zonah and references the linguistic connection of the Zonah's ineligibility for priestly marriage to the idolatrous behavior of Israel throughout the Bible. In making that connection, Bird suggests the Zonah no longer reflects a simple priestly preference for purity, but represents human desire at its worst. Indeed she creates an analogy to monotheism; in the same way that idolatry tempts but Judaism asserts its moral inferiority to monotheism, the Zonah's sexuality is tempting yet morally inferior.³¹

Chalalah

The second woman to be Pesulei Kehunah is called a Chalalah. Unlike Zonah, this word does not appear anywhere else in the Bible. There are many variations of the

28. Beatrice A Brooks. "Fertility Cult Functionaries in the Old Testament." *Journal of Biblical Literature* 60, no. 3 (1941): 227. Accessed March 16, 2017. P. 236

29. H. G. May "The Fertility Cult in Hosea." *The American Journal of Semitic Languages and Literatures* 48, no. 2 (1932): 73-98. Accessed March 16, 2017. p, 76

30. Phyllis Bird. "To Play the Harlot: An Inquiry into an Old Testament Metaphor." In *Gender and difference in ancient Israel*, edited by Peggy Lynne. Day. Minneapolis: Fortress Press, 2010.

31. Ibid.

root – חלל – all of which relate to the defiling and profanation of various people and ideas. In the context of a title or status, BDB defines the Chalalah as a woman who has been sexually dishonored.

Influenced by the Talmud, Rashi defines a Chalalah as any woman who is a product of a relationship between a Kohen and a woman forbidden to him, or any woman ineligible to marry a priest because of a previous relationship with a priest. Thus, a woman whose mother was a divorcee and whose father was a priest is a Chalalah. A widow who married a Kohen Gadol (to whom widows are forbidden), and who is widowed by him is also a Chalalah. Indeed, if she were to remarry again, her third husband cannot be a regular priest (even though he may technically marry a widow).

Other scholarship, complicated the answer in other ways. Centuries before Rashi, in his first century commentary on the Pentateuch, Philo^o interprets this verse quite broadly. He writes:

But since the priest was a man before he was a priest, and since he is of necessity desirous to indulge the appetites which prompt him to seek for the connections of love, he procures for him a marriage with a pure virgin, and one who is born of pure parents, and grandfathers, and great-grandfathers, selected for their excellency with reference both to their virtue and to their noble birth. For God does not allow him even to look upon a harlot, or a profane body or soul, or upon any one who, having put away her pursuit of gain, now wears an elegant and modest appearance, because such a one is unholy in respect of her former profession and way of life; though in other respects she may be looked upon as honourable, by reason of her having purified herself of her former evil courses. For repentance for past sins is a thing to be praised; and no one else need be forbidden to marry her, only let her not come near a priest. For the especial property of the priesthood is justice and purity, which from the first beginning of

its creation to the end, seeks a concord utterly irreproachable.³²

Philo's interpretation influenced certain aspects of Jewish understanding.

Though it is clear that no rabbis or halachic^o scholars accepted the requirement that a Kohen marry a "pure virgin," which is neither rooted in the text nor built into the requirements that safeguard against sin, his outline of generational distinction remains significant.

The Mishnah and Talmud also require Kohanim to investigate the lineage of their prospective wives up to four generations, depending on the nature of the woman.³³ Chapter three will discuss contemporary rabbis who use a similar notion of generational tracing and proof for both Kohanim and their prospective wives.

A literary analysis suggests Hendiadys Hypothesis in the meaning of Chalalah. A hendiadys is a figure of speech in which two words are linked by "and" instead of using one as a modifier of the other. Instead of a noun and an adjective, a hendiadys links two nouns by way of a conjunction. One of the most famous examples is the phrase "sound and fury" from Act V, Scene 5 of *Macbeth*. The phrase should be "furious sound" but Shakespeare transformed it into a noun for effect.³⁴ Leviticus 21:7 states that "a Zonah and a Chalalah he shall not take." When read as a hendiadys, the "Chalalah" transforms from the more familiar adjective Chalal (defiled) and qualifies the Zonah to read "a defiled Zonah." Though Milgrom decries the lack of support for this hypothesis,

32. Philo, and Charles Duke Yonge. *The works of Philo: complete and unabridged*. Peabody, MA: Hendrickson, 2008. Laws 1.101 P.198

33. Adin Even-Israel, Adin Steinsaltz, Tzvi Hersh. Weinreb, Shalom Z. Berger, Joshua Schreier, and Rashi. *Koren Talmud Bavli*. Jerusalem: Shefa Foundation, 2012. Kiddushin 4:3

34. "Hendiadys." Merriam-Webster. Accessed March 27, 2017. <https://www.merriam-webster.com/dictionary/hendiadys>.

the language of the hendiadys is often found in English translations of the verse. For example, JPS translates “Zonah v’Chalalah” as a “woman defiled by harlotry.”³⁵

Milgrom supports the translation of Chalalah as “one who was raped.”³⁶ He argues first that the Pesulei Kehunah are listed in order of severity of their ability to profane (compared to the arrangement of the list of women prohibited to the Kohen Gadol in 21:14). Such a reading renders the Zonah the most profane, as she is the one who has transgressed. The divorcee is the least. As a median between these two extremes, Milgrom identifies the woman who was involved in the same transgression (illicit sex) but who did so unwillingly. As the willing transgressor, the Zonah is much more offensive.³⁷ Milgrom’s second reason is a linguistic one. The root of the word Chalalah, חלל, can mean “desecrated” or “profaned” but it can also mean “pierced” or “wounded.” Milgrom reads these two definitions together to describe a woman who was raped, which came with significant stigma in biblical times.³⁸

Despite these creative translations and attempts to understand a word that is only used in this specific context, the rabbis (and later Jewish legal codes) mostly seem to accept the initial understanding of a woman who is the product of a forbidden relationship with a Kohen.

Gerushah

The Gerushah, or divorcee, has a very different status than the Zonah or

35. Leviticus 21:7 (JPS)

36. Milgrom, *Anchor Bible*, Lev 21:7

37. Ibid.

38. Ibid.

Chalalah. There is an abundance of information about what constitutes a divorcee, how divorce works and the changes in a woman's legal status after receiving a get. Most of the biblical commentary related to Gerushah focuses on the reason for the prohibition of marriage to a Kohen.

Many post biblical, rabbinic commentators on the Torah do not mention the Gerushah. The 13th century French rabbi Chizkuni^o clarifies that for a woman to be considered a proper divorcee, her husband has to give her the divorce physically. In a case where the husband (even if he is a Kohen) travels to another country or disappears and the wife *assumes* that he has died and remarries, her second marriage is invalid (in fact, he argues that she wouldn't even require a divorce from the second husband) because she never had a proper divorce from her first marriage. She is innocent in the situation and is permitted to go back to her first husband.³⁹

In his 15th century commentary, Portuguese rabbi Abarbanel^o has a less flattering view of the woman. He ties the Gerushah to the second clause of the verse "for he is holy to his God." Many contemporary editions of medieval commentaries include a grammatical break between the phrase "he shall not marry a woman divorced from her husband" and "for he is holy to his God." Doing so renders the latter clause, "for he is holy to his God" part of the common refrain of holiness that echoes throughout Leviticus and gave this section of the Torah its designation as the Holiness Code. Thus, the Kohen's holiness is the object of protection here. Abarbanel instead reads the sentence in its entirety: "he shall not marry one divorced from her husband – for he is

39. Hezekiah Ben Manoah, and Eliyahu Munk. *Chizkuni: Torah Commentary*. Brooklyn NY: Ktav publishers, 2013. Leviticus, 21:7

holy to his God.” Thus he implies that it is the *husband* who is holy, and therefore it is a defect with the wife that causes the divorce. Thus, the Kohen cannot marry her.⁴⁰

Later scholars disagree about the underlying meaning of the prohibition against marrying the Gerushah. Milgrom states that divorce necessarily comes with a stigma. Otherwise, why would a Kohen be allowed to marry a widow but not a divorcee? They have both previously been married and neither would be considered “pure.” He emphasizes that the text focuses on preserving the reputation of the Kohen, not guaranteeing the virginity of the woman. Milgrom cites other scholars who conjecture about the reason for the divorce. Perhaps they divorced because she is barren,⁴¹ or worse, because she was unfaithful.⁴² Because there is no requirement that the reason be made public, the Kohen should avoid her entirely and preserve his reputation.⁴³

Twenty first century biblical commentator Gary Demarest^o reduces the blame of the woman and explains that the ban on divorced women is not an assumption of guilt in the women. Rather, it serves as a safeguard against conjecture for the Kohen because no one can know the true reason for the divorce, yet we should not assume it was the fault of the wife. This prohibition is representative of the high standards for the Kohanim, not the judgment on the divorced women.⁴⁴ Contemporary scholar Gordon Wenham^o agrees and emphasizes that all of the marriage restrictions of the Kohen were purely a matter of reputation. No matter the innocence of a woman in her divorce (or a

40. Rav Yitzchok Abarbanel. *Abarbanel - Selected Commentaries on the Torah: Vayikra (Leviticus)* . Vol. 3. USA: Createspace Indep Pub, 2015. Leviticus 21:7

41. B. Leigh, *Anchor Bible* Lev 21:7

42. Abarbanel, *Anchor Bible*, Lev 21:7

43. Milgrom, *Anchor Bible*, Lev 21:7

44. Gary W. Demarest, and Lloyd John Ogilvie. *Leviticus*. Nashville, TN: Thomas Nelson, 1987.

woman who was raped or is the child of a forbidden union), *her* reputation and status are in question, thus the prohibition acts as a safeguard, not a judgment.⁴⁵

Wayne Allen^o agrees and furthers this argument by explaining that a Kohen who *does* marry a divorcee still has the capacity to act as a Kohen (for example, his priestly blessing^o is valid). A Kohen who was rendered impure by proximity to a dead body, for example, cannot act as a Kohen during his period of impurity (his priestly blessing would be invalid). Based on these conditions, Allen ascertains that violating this prohibition would constitute a lesser transgression than other prohibitions that testify to the status of the divorced woman.⁴⁶

In contrast, Calum Carmichael translates the Gerushah verse differently. He argues that a Kohen is not allowed to marry a woman who has been “cast out from her husband” (the root of the word Gerushah means to cast out, to expel, or to exile). He believes “divorce” is a mistranslation of the word itself. A woman who has been rejected by her husband represents a host of negative characteristics and certainly more so than the more neutral wording of divorcee.⁴⁷

Kohen Gadol

When the text details the laws of marriage for the Kohen Gadol, most of the restrictions for the ordinary priest are repeated, yet there are just enough minor differences for the rabbinical and later scholars to amass a gold mine of discussion

45. Gordon J. Wenham. *The Book of Leviticus*. Grand Rapids, MI: W.B. Eerdmans, 1979.p. 291

46. Wayne Allen. *Further Perspectives on Jewish Law and Contemporary Issues*. Bloomington, IN: Trafford Publishing, 2011.

47. Calum Carmichael. *Illuminating Leviticus. A Study of Its Laws and Institutions in the Light of Biblical Narratives*. Baltimore: Johns Hopkins University Press, 2008. P. 87

about the differences between the two categories.

The original verse for the ordinary Kohanim, Leviticus 21:7 states: "A Zonah or a Chalalah they shall not take (marry), and a woman divorced from her husband they shall not take. For they are holy to their God." The verses regarding the rules for the Kohen Gadol in Leviticus 21:13-15 read (with JPS translations):

13: "A woman who is a **virgin** he shall take (marry)."

14: "A **widow** or a divorced woman or a Chalalah and Zonah he shall not take.

For a **virgin from his people** he shall take for a wife."

15: "So he does not profane his seed among his people, for I, God, have sanctified him."

The additions above (in bold) extend the prohibitions for the Kohen Gadol far past those for ordinary Kohanim. The Kohen Gadol must marry a betulah (virgin) and she must be from his people. He is also prohibited from marrying a widow.

The changes (underlined) signify three separate modifications. The first is the inclusion of the phrase "so he does not profane his seed" which seems to be a justification for the prohibitions in general. The second is the reversal of the order of the prohibited women. In Leviticus 21:7, they are listed Zonah, Chalalah, Gerushah. In Lev. 21:14 they are listed Almanah (widow), Gerushah, Chalalah, Zonah which is the reverse order. The third change is in the grammar of "Zonah and Chalalah." In Leviticus 21:7, the Hebrew reads "Zonah v'Chalalah." The vav (v') in this context is read as either "and" or "or." In Leviticus 21:14, the Hebrew reads "v'Chalalah Zonah."

12th century Sephardic commentator Ibn Ezra^o notes a number of distinctions in his commentary. First, he acknowledges but disregards the lack of the conjunction between the Zonah and Chalalah. He references other places in the Bible where a similar construct is used. Second, he explains the repetition of the word virgin, “betulah,” as follows. He argues that the next word “b’amav” means from his people which reminds the reader that the captive and the convert are *not* included as acceptable virgins, lest one think that the Kohen Gadol could marry any virgin. Finally, Ibn Ezra clarifies that both the Almanah and Gerushah are forbidden for the Kohen Gadol, regardless of the status or role of their first husband.⁴⁸

Earlier, Sephardic commentator Bahya^o taught that the repetition of the word “virgin” reminded the reader that the woman has to be a virgin when he “takes” (marries) her. That is, he cannot have sex with her before he marries her, not even for the purpose of betrothing her. Premarital sex will change her status and she will be ineligible for the marriage.⁴⁹

Using both Bahya and Ibn Ezra, Chizkuni suggests that the repetition of the terms for prohibited women (Gerushah, Chalalah and Zonah) after the addition of the new prohibition (Almanah) is intended to teach that the son of a Kohen who contravenes these laws is not any worse off than the other. Because they are grouped in pairs (1: Almanah v’Gerushah, 2. V’Chalalah Zonah) the repercussions are equal for

48. Abraham Ibn Ezra, H. Norman Strickman, and Arthur M. Silver. *Ibn Ezra's Commentary on the Pentateuch*. New York: Menorah, 1988. Leviticus 21:15

49. Sampson A. Isseroff, Baruch Epstein, and Baḥya Ben Asher Ben Ḥlava. *Grammatical explanations on the Torah: Based upon Torah Temimah and Rabbeinu Bahya ben Asher with over 200 Elucidations by Rashi*. New York: M.P. Press, 2002. Leviticus 21:15

each group.⁵⁰

Later, in the 12th century, Yaakov Ben Asher noted in the Arba'ah Turim (known as the Tur)^o the reversed order of the prohibitions. In the case of the ordinary Kohen, the Torah follows the pattern of forbidding *not only* a woman who had disqualified herself by her own conduct (the Zonah), but also the women who had been disqualified by accidents of fate or who had once *been* qualified to marry a priest but through divorce no longer could. This interpretation presents the prohibitions in the order of most severe to least severe, as a way of indicating the diminishing culpability of the prohibited woman. The verses for the Kohen Gadol, however, present the categories of women in the opposite order so that the additional prohibition (the Almanah) is highlighted. The latter list starts with a disqualification that is neither genetic nor due to character faults, and the Torah names them from minor infraction to more severe so as to clarify the order of severity and hierarchy of defilement.⁵¹

Contemporary biblical scholarship also reads a large amount into a few words. Charles Ellicott focuses on the phrase “a wife who is a virgin.” First, he interprets the phrase to mean that the Kohen Gadol can only have one wife. Whereas an Israelite and an ordinary Kohen are both allowed to marry more than one wife, the phrasing of “a wife who is a virgin” suggests that the Kohen Gadol can marry only one wife. Second, he argues that she must be a virgin, and at the age of sexual maturity (13). The condition of her virginity implies for him that the woman cannot have been previously

50. Chizkuni, 21:15

51. Tur Ha'aroch, 21:7 (ArtScroll)

betrothed. Finally, he argues that she must be the daughter of two Jewish parents.⁵²

This brings to a close the discussion of the Torah text as an independent source. While impossible to look at the Torah without the influence of any of the subsequent sources, chapter one attempted to bring together the opinions of rabbis, scholars and commentators on the Torah text alone. In order to properly understand the trajectory from Torah to modern application, one must first understand the verses from Leviticus independently from later developments.

With the transition into “the rabbinic period” the focus remains on major texts rather than individuals. This thesis continues to bring in rabbinic commentary to highlight and explain relevant aspects of the major texts.

52. Ellicott, 1075

CHAPTER TWO: RABBINIC TEXTS AND LEGAL CODES

Moving from the biblical period into the rabbinic period, necessitates a clarification of the periods of history. What this paper calls “rabbinic” stretches from 70 CE to approximately 1600 CE. Acknowledging that this is an enormous period of time, there is a purpose for addressing one large unit of time rather than many smaller ones. This “rabbinic period” encompasses the Mishnaic era, Talmudic era, Gaonic^o era, and the time of Rishonim^o and the Achronim.^o To study these different ages as an assemblage allows for a synthesized chronicle of halachic evolution between the Torah and contemporary Judaism. While that may be unrepresentative of some historic truths, for this examination it allows for sufficient understanding of the scope of halachic advancement.

In order to understand the sources of the rabbinic period, one must be acquainted with its inception. After the Second Temple was destroyed in 70 CE, there was a transition away from the leadership and authority of the ruling class of Kohanim. The destruction of the Temple Kohanim stripped the Kohanim of their role as the ritual representatives of the people and therefore they lost authority. The 600 years of Talmudic sages who came to be known as the rabbis began to assert their authority in the vacuum left by the Kohanim. While this transition of power has its roots in the social and religious conflicts amongst sects of Judaism in the Second Temple period, the community leaders known as the Zugot (“pairs”)^o emerged as the legacy that stewarded the transition to Rabbinic Judaism. They engaged in conversations with each

other about law, adaptations to life in exile – a life without the Temple – and their ongoing relationship with the non-Jewish and Christian neighbors around them.⁵³

Rabbinic Judaism became the mainstream form of Judaism by the 9th century CE. As these rabbis processed the reality of life without the Temple, it became clear that the tradition of oral scholarship could not be maintained in exile. The laws and debates regarding proper interpretations were written down and it became the rabbinic understanding that the laws of the Torah needed their Oral counterpart: the Mishnah, and its rabbinic commentary.⁵⁴

As the Oral Law was codified into the Mishnah and Talmud and the concept of Halacha° emerged with its debates, legal codes and commentaries, the rabbis combine scripture and religious practice (often finding text to support practice rather than deriving practice from text) to create an organized way of life for the Jews.⁵⁵

THE MISHNAH

Chronologically speaking, the first redaction of the Oral Law is called the Mishnah° and was completed in the second century by Rabbi Yehudah HaNasi. The Mishnah is divided up into six sections, called orders, and each order deals with a general category of Jewish life, such as festivals, prayer and blessings and laws of women.

Most Mishnaic sources relevant to the current study come from the tractate of

53. Paul Johnson. *A History of the Jews*. New York: Harper & Row, 1987. P. 137-160

54. Hermann L. Strack. *Introduction to the Talmud and Midrash*. Philadelphia: Jewish Publication Society of America, 5705. P.11-2

55. Jacob Neusner. *The Perfect Torah: Vol. 13 of the Brill Reference Library of Ancient Judaism*. Leiden: Brill, 2003. P.2-4

Nashim, meaning “women.” These are laws that generally pertain to marriage and include the wedding ceremony, the nature of the marital relationship (for example, forbidden activities like adultery and incest), divorce and laws about vows and property.

As the rabbis delve into the discussions related to the prohibited women, they offer numerous types of legal interpretation. The rabbis are attempting different initiatives:

1. In writing down what they refer to as the Oral Law, they intended to record and codify the oral tradition.
2. As part of the centuries long adjustment to the post-Temple experience, they must redefine ritual and ethical Judaism without Kohanim, sacrifices or Jerusalem.
3. Their struggle with the tension between the need to adapt and change and to maintain and preserve Torah law forces them to make adaptations to an exilic world view.

One element of the rabbinic ethos that is abundantly clear to us can be seen in Mishnah Horayot.⁵⁶ The very last verse of the tractate gives a listing of the hierarchy of the people of Israel. It reads:

A Kohen supersedes a Levite, a Levite supersedes an Israelite, an Israelite supersedes a mamzer (bastard), a mamzer supersedes a Natin*, a Natin supersedes a convert, and a convert supersedes a freed slave. When? When they are all equal. But if the mamzer is a sage and the high priest is lazy/stupid, the mamzer who is a sage supersedes the high priest who is lazy/stupid.⁵⁶

⁵⁶ “Mishnah Horayot 3:8 | Sefaria.” Sefaria: a Living Library of Jewish Texts Online. Accessed March 27, 2017. http://www.sefaria.org/Mishnah_Horayot.3?lang=bi.

**Natin: member of a caste of Temple servants, historically descended from the Gibeonites*

The rabbinical voice here makes it very clear that the class structure of Israel still matters. They care very much about where people reside on the hierarchy. There is an ongoing interest in maintaining the current power structure, yet the impetus is – no matter where one falls in the caste system – learning Torah and following the laws. If a rabbinic Jew studies and learns, he supersedes them all.

This Mishnah also offers a glimpse at how the rabbis viewed the theological hierarchy in general. There are two different elements of one's station in life. The first is an accident of birth. From Kohen to slave, one's pedigree is biological and cannot be changed. The second (and much more important for the rabbis) is personal achievement. Covenantal identity has the power to "transform and supplant" all that came before."⁵⁷

All this informs the way rabbinic Judaism understands the Kohanim and their role in a temple-less world. By the nature of biology and theology, they find themselves at the top of the hierarchy, yet biology is not the sole determinant in articulating the status of an individual.

This list can also be found in the Mishnah, in tractate Kiddushin.⁵⁸ The same categories of status are mentioned, but in Kiddushin they relate to the laws of marriage, stipulating which classes may marry each other. This list maintains a similar focus on status and the emphasis on the maintenance of status.

57. David Hartman, and Charlie Buckholtz. *The God Who Hates Lies: Confronting & Rethinking Jewish Tradition*. Woodstock, VT: Jewish Lights Publishing, 2014. P.115

58. Mishnah Kiddushin 4:1 (Kehati)

Zeroing in on the marriage laws for Kohanim in the Mishnah, new categories of prohibited women emerge in addition to the expansion of previous categories. There is a clear correlation between the emphasis on status and the expanded interpretation of forbidden marriages.

In following the discussions in the Mishnah and Talmud, one is often left without a satisfactory resolution to a debate. This style of halachic assessment emphasizes the discourse rather than the determination, but can leave the reader feeling unsure of the halachic ruling.

Chalutzah

The Chalutzah^o is the first woman to be forbidden to a Kohen through an Issur D'rabbanan^o or a rabbinic prohibition. A Chalutzah is a "levirate widow" who has been released by her brother-in-law. This status is derived from the Torah and concerns a widow whose late husband was childless. In that situation, the husband's brother is required to marry the widow for the sake of perpetuating the family and line of his deceased brother. This requirement is called "Yibum" or "levirate marriage." The widow is referred to as the yevamah and the brother-in-law as the yavam. If the yavam does not or cannot marry the yevamah, a ceremony called Chalitzah^o must be performed in order to terminate the required marriage. The woman is then referred to as a Chalutzah.

The tractate Yevamot (the treatise on Yibum), begins with a discussion of a woman whose status as Yevamah is in doubt. Hillel and Shammai^o argue about

whether a woman must perform Chalitzah if her status is unclear, and if she is considered a Chalutzah. If so, both Hillel and Shammai agree that she is forbidden to marry a Kohen.⁵⁹

From this point on, it is accepted that a Chalutzah cannot marry a Kohen, as she is considered a subset of Gerushah. The Chalutzah is also referenced in a list of wives forbidden to the Kohen in Mishnah Sotah⁶⁰ and again in Kiddushin.

The Mishnah in Kiddushin discusses the transmission of status from parent to child, and lists the Gerushah and the Chalutzah together,⁶¹ which reinforces the impression that the rabbis were focused on status, power and preservation of social station.

Giyoret

In Mishnah Bikkurim, Rabbi Eliezer Ben Ya'akov lists the classes of people who bring first fruits to the Beit HaMikdash^o but who do not recite the confession that includes the words "the land that You, God, have given me."⁶² Rabbi Eliezer includes a woman who is the daughter of a convert and argues that "she and her daughters for *even ten generations* are not freed from the status" until a daughter has a mother who is an Israelite – and until then, she is not permitted to marry a Kohen.⁶³ 15th century Italian commentator Bartenura^o explains that Rabbi Eliezer Ben Ya'akov is referencing Ezekiel 44 when he includes the convert and daughter of a convert in the list of prohibited

59 Mishnah Yevamot 1:4 (Kehati)

60 Mishnah Sotah 4:1 (Kehati)

61 Mishnah Kiddushin 3:12 (Kehati)

62 Deuteronomy 26:1-15 (JPS)

63 Mishnah Bikkurim 1:5 (Kehati)

wives.⁶⁴

Rabbi Eliezer Ben Ya'akov appears again in Kiddushin 4:7, discussing the children of forbidden women. Here he says that a woman is only unfit to marry a Kohen if *both* of her parents are converts. Rabbi Yose disagrees and says that the daughter of two converts *would be* fit to marry a Kohen – as long as the conversion of the parents happens before the daughter is born.⁶⁵

The implication of this Mishnah is that if a woman whose parent(s) did not convert before she was born would not be fit, one can infer a fortiori that a convert herself would certainly be unfit.

Shevuyah

The Shevuyah, a woman who is taken captive or imprisoned, is the final issur d'rabbanan of the Mishnah. The rabbis assumed that if woman was captured and held prisoner, she would be sexually assaulted or raped while in captivity. If a woman becomes a Zonah *while* she is married to the Kohen, she becomes immediately pasul^o (“forbidden”) to him, even if she is raped or is unwilling. Immediate divorce is required revealing that captivity has implications far beyond a safe return.

In Mishnah Eduyot, a discussion is recorded regarding the wife of a Kohen who was a Shevuyah and whether she may partake of the Terumah^o or “portion of the Kohanim.” If she is not allowed to eat, it indicates the assumption of defilement. The Mishnah relates a discussion regarding the validity of her own testimony and whether

64. Koren Mishnah Sdura Bartenura. Jerusalem: Koren Publishers, 2016. Bikkurim 1:5

65. Mishnah Kiddushin 4:7 (Kehati)

witnesses are required to testify to her defilement or lack thereof.⁶⁶

The same issue is discussed in Ketubot in direct relationship to the marriage of a Shevuyah to a Kohen. The Mishnah teaches that if a woman is held captive by gentiles, the impetus for the captivity decides her status upon release. For example, if she is held on account of money (to collect a debt or to demand a ransom) her purity is assumed. (If they rape her, she is no longer permitted to her husband and he has no incentive to redeem her). If she is held as punishment for her own crime, she becomes forbidden to her husband. In an extreme case, in a town that is conquered by a gentile militia, all of the wives of the priests are rendered forbidden to their husbands *unless* there is a witness to testify that they have not been defiled - and, no husband can testify on behalf of his own wife or a woman he wishes to marry.⁶⁷

This Mishnah reveals two important findings. First, it reaffirms the prioritization of conjecture over veracity from chapter one. The possibility and probability that the Shevuyah was raped renders her *pasul* in order to avoid speculation about her character or her future children. Second, it demonstrates that intent is not a relevant factor in determining status.⁶⁸

Further Halachic Development in the Mishnah

Questions of Status

The Mishnah contains substantial debate about the process of legitimating status,

66. Mishnah Eduyot 3:6 (Kehati)

67. Mishnah Ketubot 2:9 (Kehati)

68. Furst, Rachel. "Captivity, conversion, and communal identity: sexual angst and religious crisis in Frankfurt, 1241." *Jewish History* 22, no. 1-2 (2008): 179-221. p. 188

both of the potential wife of a Kohen and of the Kohen himself. The rabbinic preoccupation with ancestral purity necessitates an investigation into each new generation, demanding the verification of appropriate status for both the Kohen and his wife. Mishnah Ketubot teaches that in a case of doubt, a Kohen's status can be verified by one kosher witness.⁶⁹ A claim of dissatisfaction (interpreted by Maimonides as testimony against the legitimacy of the Kohen's status) requires *two* kosher witnesses.⁶⁹ Furthermore, if two men each declare themselves a Kohen, neither is believed. If two men each testify that the *other* is a Kohen, both are believed.⁷⁰ One can infer from this that the burden of proof for substantiating Kehunah is low, except when the potential for personal gain exists.

Is it inconsistent then, that a woman is *presumed* pasul just by nature of being in an unfavorable situation, even without witnesses? If just the possibility of a forbidden woman could invalidate one's Kehunah, wouldn't it follow that the Kohen would bear the same burden of proof for his own lineage? Yet, that is not the case. One could conclude that the Kohen is innocent until proven guilty, whereas the woman is presumed guilty (often without the opportunity to prove innocence).

In Mishnah Middot, the process of verifying Kehunah is much more intense, but because tractate Middot deals with the Beit HaMikdash, it is often regarded as immaterial during times of exile. During Temple times, a branch of the Sanhedrin^o (rabbinic court) would sit in outside the Beit HaMikdash and judge the Kohanim to see if they were fit to serve. Those that were fit would wear a white robe and enter the

69. Mishnah Ketubot 2:8 (Kehati)

70. Mishnah Ketubot 2:6 (Kehati)

courtyard and those that were unfit would wear black and were forced to leave the Temple.⁷¹

The post-exilic dissolution of the Sanhedrin, the destruction of the Beit HaMikdash and decreasing capacity to prove lineage led the rabbis to lower the burden of proof to establish Kehunah. One of the reasons may be the lack of benefit derived by a Kohen post-destruction. Like today, Kohanim in the rabbinic period were liable for all the prohibitions but because there could be no sacrifice, Ma'aser^o or Terumah,^o Kohanim were awarded few of the benefits. This left little motivation to falsely identify as a Kohen.

Zonah, Chalalah and Gerushah (and Almanah)

In Yevamot 6:2, the Mishnah teaches that if any ordinary man (a non-Kohen) has sex with a woman who is unfit for him to marry, the woman is rendered unfit for a Kohen. It does not matter if it was an issur d'oraita^o or d'rabbanan, if it was typical sex or atypical sex or if it was consensual or not.⁷²

These unfit women are: a widow with a Kohen Gadol, a Gerushah or Chalutzah with a regular Kohen, a Mamzeret^o or Netinah^o with a male Jew, or a Mamzer^o or Netin^o to a female Jew. All of the women in all of these unions are immediately Pesulei Kehunah.^o

The same Mishnah introduces one more unfit woman: the Aylonit^o (a barren woman who cannot have children). The voice of the Mishnah explains that a Kohen *is*

71. Mishnah Middot 5:4 (Kehati)

72. Mishnah Yevamot 6:2 (Kehati)

permitted to marry an Aylonit *if* he already has children, which is the same rule that applies to all men, not just Kohanim. Rabbi Yehudah disagrees, and forbids any Kohen from marrying an Aylonit, even if he has children, as he considers the Aylonit to be the Zonah referenced in Leviticus. The Mishnah disagrees and rules that the Zonah in the Torah is a Giyoret (a convert), a freed maidservant or a woman who had forbidden relations.⁷³

The freed maidservant is a non-Jewish female slave who served as a mistress to a Jewish master. It is forbidden for the master to marry the servant if there is suspicion that they have already had sex, but if he does marry her he does not have to divorce her.⁷⁴ This is another example of an *issur d'rabbanan* that is treated with more leniency than an *issur d'oraita*. The rabbinic structure of *l'chatchilah*° and *b'dieved*° is an example of the difference. *L'chatchilah* (*a priori*), refers to something that is prohibited before it happens (for example, a Kohen cannot marry a freed maidservant). *B'dieved* (*a posteriori*), refers to something that is prohibited before it happens, but if it has already happened, it is met with disapproval but is *not forbidden* and does not have to be reversed (the Kohen cannot marry a freed maidservant. However, if they are already married, they are *not required* to divorce). Because the Torah does not mention the freed maidservant, she is considered a rabbinic addition and is treated more leniently.

Treatment of the Chalalah in the Mishnah is limited to discussions of descent. When a Kohen does violate the law and marries a forbidden woman, what becomes of their children? Mishnah Kiddushin explains that their sons and daughters are treated

73. Mishnah Yevamot 6:5 (Kehati)

74. Grossman, Avraham. *Pious and rebellious: Jewish women in Medieval Europe*. Hanover, NH: Univ. Press of New England, 2004. P.138

differently. Both the son and daughter of a Kohen's prohibited relationship are Chalal – the product of a forbidden marriage, and a Chalal (son) cannot change his status through marriage. However, a Chalalah (daughter) does have the capacity to change her status. If she marries an ordinary Israelite man, he serves to purify her from her status as Chalalah, their children are ordinary Israelites and their daughters are fit to marry Kohanim.⁷⁵

One might infer from this that the status of the child is determined by the father, but Mishnah Kiddushin clarifies: if there is a valid betrothal and *no sin*, then the child follows the male. However, if there is a valid betrothal but there *is sin*, then the status of the child follows the *defective parent*.⁷⁶

The Gerushah is mentioned in the Mishnah in tractate Gittin,^o in an exploration of the requirements for binding divorce. The Mishnah teaches that a woman becomes pasul for a Kohen whether she has a formal get^o (divorce decree) or not. If her husband said to her “you are divorced from me” instead of presenting her with a written document, she is considered pasul for a Kohen. This verbal declaration of divorce is sufficient to render her pasul, but it is *not sufficient* to permit her to remarry (Kohen or otherwise).⁷⁷

75. Mishnah Kiddushin 4:6 (Kehati)

76. Mishnah Kiddushin 3:12 (Kehati)

77. Mishnah Gittin, 9:2 (Kehati)

THE TALMUD

The Talmud^o is an enormous work composed of 63 tractates that record the rabbinic discourse on every dimension of Jewish law. The dialogue of the rabbis can seem tangential and disjointed, yet this text establishes a precedent for halachic treatment and ruling. The Talmud is divided into two sections. The Mishnah and the Gemara.^o The Gemara is the rabbinic commentary on the Mishnah, which is reprinted in small sections that precede the relevant discussion.

In Yevamot 59a/b, the sages engage in a lengthy and somewhat anachronistic discussion of women permitted to marry the Kohen Gadol, and they get stuck on the requirement of virginity. It is not clear what constitutes virginity: is she required to be a “full virgin,” what the rabbis define as a woman under a certain age that has all the physical signs of virginity? Or can she be a partial virgin: though she hasn’t had sex, she is above the age of sexual maturity (13). The rabbis also attempt to find clarity about the kind of sex that constitutes a loss of virginity. Do anal sex, accidental penetration and rape all constitute the same loss of virginity as intentional, consensual, vaginal sex? Rav Shimi Bar Chiya raises the issue of one who lost their virginity through sex with an animal. The rabbis arrive at the conclusion that while a woman is liable for the death penalty if she intentionally engaged in bestiality, she is not considered a Zonah and is fit for a Kohen – even for the Kohen Gadol⁷⁸

These conversations, while ostensibly graphic and irrelevant (as there is no Kohen Gadol without the Beit HaMikdash), demonstrate the style of analysis and the

78. Bavli, Yevamot 59a/b (Koren)

depth of consideration that the rabbis give each legal nuance. Where the Mishnah introduced the topics of status, the role of the Kohanim and the position of the women whom they are forbidden to marry, the Gemara delves into the minutiae.

Status

The Talmud continues the consideration of status, both of the Kohen and the women he can and cannot marry. Rabbi Yochanan teaches that the standard of proof for lineage is higher for the Kohen and his wife due to the duties of the Kohen during the time of the Beit HaMikdash. The Kohanim were responsible for atoning for the sins of the people, a weighty task that required them to be completely pure but also without reproach.⁷⁹ It is because of this legacy that the burden of proof is so high.⁸⁰

The Gemara also raises a question which becomes increasingly relevant as the distance from the Beit HaMikdash grows. How does one “prove” priestly lineage? Does the behavior of a Kohen establish sufficient evidence (if he recites the Birkat Kohanim and refrains from violating prohibitions? Does a properly witnessed loan document (where one of the parties is signified as a Kohen by his name) serve as evidence for Kehunah if the purpose of the document is to record the loan, not to verify priestly lineage?⁸¹ The rabbis deliberate and then then discuss the testimonies of related and unrelated witnesses to a presumptive Kohen for another four full pages of Talmud.

When it comes to determining the status of a woman who is a potential wife for a Kohen, the standard of proof is also raised. The rabbis explain that the Jews keep careful

79. Bavli, Sukkot 55b (Koren)

80. Bavli, Ketubot 13a (Koren)

81. Ibid. 24b

records of mamzerim⁸² (those born out of a biblically forbidden union [separate from prohibitions of marriage for Kohanim]), but they do not keep the same records of Chalalim, so the standards for proving that status are quite high.⁸²

The rabbis also engage in similar debates about accepting testimony regarding a woman's eligibility for a Kohen and arrive at much the same conclusion – it depends on the case, on the woman, on the witness, on the purpose of the testimony and on the situation.⁸³

Repercussions

The Talmud also broaches a new subject: what happens to the Kohen who *does* engage in forbidden marriages?

The rabbis agree that any Kohen who doesn't follow all of the laws applicable to him has no part in the priesthood.⁸⁴ However, this excision isn't permanent. If a Kohen marries a woman that is pasul, he is disqualified from all priestly service and privilege until he makes a formal vow that he will derive no further benefit from her.⁸⁵ Rashi clarifies that even if he hasn't yet divorced her, as long as he has publicly vowed not to have sex with her again, he may return to his service.⁸⁶ If a Kohen is only betrothed to a forbidden woman and not yet married to her, he is not yet liable – the liability follows sex, not betrothal.⁸⁷ However, once the Kohen is formally married, there is the

82. Bavli, Ketubot 14b (Koren)

83. Ibid. 14a/b

84. Bavli, Bechorot, 30b (Koren)

85. Mishnah Bechorot, 7:7 (Kehati)

86. Rashi On Bechorot 45b (Koren)

87. Bavli, Sotah 44a (Koren)

assumption of sex, and he is liable.

If a Kohen marries a forbidden woman and chooses to remain married to her (and leave his priestly duties suspended), the couple is not eligible for the same benefits as if she were permitted to him. For example, if a Kohen's permitted wife dies, he is allowed to go to her funeral. If she is forbidden, he is not released from the prohibition of defilement through contact with the dead and thus is not allowed to attend her funeral.⁸⁸

The rabbis in the Talmud also discuss the technicalities of the transgressions. Rabbi Yehudah argues that if a Kohen Gadol has sex with the Almanah, he is liable for three sets of lashes because there are three different transgressions. He (1) cannot have sex with a widow so he profanes *himself* by violating a transgression. (2), he profanes the Almanah *herself* and (3) he profanes his *offspring*. If she does not get pregnant, then he is not liable for the third transgression and would only get two sets of lashes.⁸⁹

There is a braita^o that clarifies Rabbi Yehudah's statement, suggesting that if a Kohen Gadol marries *three* widows, he is only liable for each of the transgressions above one time. He is not liable for committing the same transgression more than once.⁹⁰ The rabbis conclude that this is not what the braita is arguing – rather, this is the case of one woman who has been widowed *three* times, and in that case he is not liable for each of her husbands.

However, if a Kohen Gadol marries a woman who is a Almanah, Gerushah,

88. Bavli, Yevamot 90b (Sifra, Emor Section 1:15 & Yevamot 22b) (Koren)

89. Bavli, Kiddushin 78a (Koren)

90. Bavli, Kiddushin 77a (Koren)

Chalalah and a Zonah, he is only liable once, for her status as a Zonah.⁹¹ There is a Talmudic principle, “ein issur al ha’issur,” an existent prohibition is not subject to an additional injunction. (An example of this would be a case where someone made an oath that they would not perform an act which is forbidden by the Torah. If they perform the act, they are not liable for the act *and* the violation of the oath. The act is the existing prohibition).⁹²

The important lesson to take from this last section is twofold: first, if a person transgresses more than one prohibition at one time, they are liable only for the most serious of the prohibitions. Second, the Talmud references a Kohen Gadol marrying a woman who fits into all four categories of Pesulei Kehunah. They apply the above principle, and deduce that she is liable for her status as Zonah. This reiterates that the Zonah is the most severely defiled status.

Defining the Women:

As the Talmud delves deeper into the details of halacha, the minutiae of the prohibited women emerges for deliberation. Where the primarily solo voice of the Mishnah was content to give sweeping statements, the Talmud is a glee club, and each member participates in questions of interpretation, analysis and application.

The definition of Zonah changes depending on the time period. Post-Mishnah, pre-Talmud, the Zonah is understood to be a woman who a) had forbidden sex, b) is a convert c) is a freed maidservant.

91. Ibid. and Maimonides, Moses, and Eliyahu Touger. *Mishneh Torah*. New York: Moznaim, 1997. Issurei Biyah 17:8-10

92. Bavli, Makkot, 22a (Koren)

In the Talmud, however, the definition is again widely debated. Rabbi Elazar argues that a Zonah is a Aylonit, or a sexually-underdeveloped woman. This is the same language that the Mishnah uses, but rather than referencing a barren woman, the Aylonit now refers to a minor. The sages rule against Rabbi Elazar, and it is concluded that a minor is not prohibited from marrying a Kohen.⁹³

Rav Huna then raises the issue of Nashim Hamesolelet^o (women who rub up against each other motivated by sexual desire) and inquires as to their eligibility for marriage to a Kohen. Rashi explains that these women are forbidden because their actions would render them Zonot.⁹⁴ Rava disagrees, and even Rabbi Elazar (who takes a hard line on the definition of a Zonah, saying that any unmarried woman who has sex with any unmarried man *not for the sake of marriage* is a Zonah) agrees that only actual intercourse between a man and woman can render a Zonah. Women engaging in lewd behavior with other women only constitutes indecency. It is considered “Pritzuta D’alma”^o meaning the rabbis disapprove strongly but don’t declare the behavior forbidden.⁹⁵

The rabbis explain that if a man (any man, not a Kohen) has sex with his sister (a forbidden relationship listed in the Torah), she becomes a Zonah because she engaged in a Torah-prohibited relationship and is rendered unfit for a Kohen. However, the rabbis add that if she *does* go on to marry a Kohen, she becomes a Chalalah as well. This is a neat agreement that a Chalalah is not just the product of a forbidden relationship with a Kohen, but is the status of *anyone* profaned by a forbidden relationship with a Kohen –

93. Bavli, Yevamot 61b (Koren)

94. Rashi On Yevamot 76a (Koren)

95. Bavli, Yevamot 76a (Koren)

including the female partner herself. Thus, in the case of a Kohen who has sex with his sister, she becomes a Zonah the first time they have sex – she is forbidden to him, *not* because he is a Kohen, but because she is his sister. However, once she becomes a Zonah, she is doubly forbidden to the Kohen (as his sister *and* as a Zonah) and if he has sex with her again, she is rendered a Chalalah.⁹⁶

Moreover, if a man (an ordinary Israelite) and his sister have sex and she is impregnated from the first sexual encounter, the child is a Mamzer. If a Kohen and his sister have sex and she is impregnated from the first sexual encounter, the child is still a mamzer and the woman becomes a Chalalah. If she then has sex with a *different* Kohen and is again impregnated, then that child is a Chalal, not a mamzer.⁹⁷

In another elucidation of rabbinic culture, Tosafot^o elucidates the reason for including the Giyoret in the category of Zonah. Tosafot argues that a convert, even if converted at less than three years old, is considered a Zonah because *anyone* who is coming from a place of idolatry is necessarily “steeped in depravity.” Thus, a Giyoret is forbidden to a Kohen because of the prohibition of Zonah, even if she herself has never acted in a depraved manner.⁹⁸

As the rabbis work to reconcile the inclusion of the Giyoret, they cite the passage in Ezekiel⁹⁹ where the Kohen Gadol is told his wife must be from the seed of Israel,¹⁰⁰ and the rabbis attempt to understand the phrase “seed of Israel.” Rabbi Yehudah suggests that both parents must be from the seed of Israel, so a daughter of one Israelite

96. Bavli, Kiddushin 77b/78a (Koren)

97. Ibid.

98. Tosfot on Yevamot 61a (Koren)

99. Ezekiel 44:22 (JPS)

100. Bavli, Kiddushin 78a (Koren)

and one convert would be pasul. Rabbi Eliezer Ben Ya'akov argues that only *one parent* must be an Israelite, as the verse in Ezekiel says “zera” meaning “seed” not “zare” which would imply multiple seeds. Rabbi Yose interprets zera to mean that the woman must be *conceived* as an Israelite. As long as her parents were done converting before she was conceived, she is eligible. Rabbi Shimon Bar Yochai proposes that the woman must have entered into *puberty* as an Israelite. Ultimately, halacha rejects all of these suggestions and determine that a Kohen cannot marry a Giyoret under any circumstances.¹⁰¹ Most interestingly, this dissection of the passage from Ezekiel serves as a direct link to the Bible, and situates the Giyoret as d’oraita instead of d’rabbanan.

The rabbis treat the Chalal differently because it is the only status that can be inherited by the next generation. The Gemara says a Chalalah is the unfit woman who marries a Kohen and all of her children... and her children’s children. The Mishnaic¹⁰² text asserted that the daughter of a male Chalal and an Israelite woman would be a Chalal, but the daughter of a female Chalalah and an Israelite man inherits the status of the male and she is fit. The Gemara^o expounds and cites both Leviticus 21:15 and 21:4, which prohibit a Kohen, a “man among his people,” from defiling himself so that he does not defile his offspring. From here, the rabbis learn that the status is passed through the male.

Antithetically, while the woman in a forbidden relationship becomes a Chalalah, and their children are Chalalim, the Kohen is not. He is not profaned nor does his status change. He is simply barred from engaging his Kehunah until he ends the the

101. Ibid.

102. Mishnah Kiddushin 4:6 (Kehati)

relationship, at which point he is restored as a Kohen in good standing as if the transgression never happened.¹⁰³

The Gemara also raises the following situation: a woman who is lawfully married to a Kohen and then gets divorced becomes a Gerushah and becomes pasul. If she gets remarried to her Kohen ex-husband (which for non-Kohanim is considered a mitzvah but is forbidden for Kohanim because the woman is a Gerushah), she takes on the additional status of Chalal and her marriage is “an abomination” as it is written in Deuteronomy.¹⁰⁴ However, the children of that marriage are not an abomination,¹⁰⁵ and they would not be considered Chalalim.

The development of the Gerushah in the Gemara deals mostly with questions of unclear status. For example, is her divorce valid (and is she therefore considered to be a Gerushah) if the husband gives her a get but stipulates conditions about who she may remarry? If the get is invalid, can she marry a Kohen? Is she considered a Gerushah independent of the invalid get because her husband *intended* to divorce her?¹⁰⁶

Even further, a situation is discussed in which a woman is given a get of questionable validity. The Gemara teaches that the intent to divorce renders her ineligible for marriage to a Kohen. But, what happens if the first husband dies before the validity of the get is determined? Is she a Gerushah based on the intent to divorce, or is she an Almanah based on the death of her husband while they may have been technically married, or at least not formally divorced. If she is a Gerushah, she is

103. Bavli, Kiddushin 77a (Koren)

104. Deuteronomy 24:4 (JPS)

105. Bavli, Niddah 69b (Koren)

106. Bavli, Gittin 82a (Koren)

ineligible to marry a Kohen, but if she is an Almanah, she is not.¹⁰⁷

The Gemara considers the Chalutzah a subcategory of Gerushah and she is forbidden to marry a Kohen. The rabbis demonstrate, however, that the categories of Pesulei Kohen mentioned in the Torah (Zonah, Chalalah and Gerushah) are treated differently than the Chalutzah, because she is an *issur d'rabbanan*. The rabbis explain the addition of Chalutzah by the verse in Leviticus that states “Neither shall they take a woman who is a Zonah, Chalalah or a Gerushah.” The use of the word “woman” extends the Halacha to the Chalutzah.¹⁰⁸ Because of this, if a Kohen wants to marry a Chalutzah *l’chatchilah*, it is forbidden. But, *b’dieved* if there is any doubt about her status as a Chalutzah, or if they are already married, they are allowed to remain married.¹⁰⁹ This is another example of leniency for a *issur d'rabbanan* similar to the treatment of the Shevuyah.

The Gemara also raises the issue of a woman who gets divorced and fails to wait the requisite ninety days before remarrying or having sex. In the case where she becomes pregnant with a baby boy and the father of her son is uncertain – and one of the men is a Kohen, the son would be a Kohen Safek^o – a Kohen in doubt. A Kohen Safek is liable for all of the prohibitions so he doesn’t transgress in case he *is* a Kohen, but he is not permitted any of the privileges on the off chance that he is *not* a Kohen, so he does not transgress the prohibition for a non-Kohen to participate in priestly rituals.¹¹⁰ This Gemara sets the precedent for how to treat the Kohen Safek, a status that

107. Ibid. 83a

108. Bavli, Yevamot 24a

109. Ibid.

110. Bavli, Yevamot 100b (Koren)

becomes more prevalent in contemporary times.

Finally, the Talmud considers the Shevuyah, another *issur d'rabbanan*.^o In the Mishnah, there was a discussion of the situation in which the wife was kidnapped in order to force a payment from her husband, a Kohen. In that case, it was in the captors' best interest not to rape her. If they did, she would no longer be acceptable as the Kohen's wife which would destroy his incentive to redeem her.¹¹¹

The Talmud gives a more expanded view. One situation in particular is described, in which the Kohen redeems a captive woman by paying her ransom. If he pays the ransom and testifies that she was not defiled, he is allowed to marry her. One can assume his good intentions since he paid the money to redeem her. The rabbis trust that he wouldn't have paid if she were not eligible to be his wife. If he only testifies to her purity but he does not pay her ransom, he is not eligible to marry her. In that case, his testimony is in his own self-interest and the rabbis maintain the assumption that women are sexually abused by their captors.¹¹²

The Shevuyah is also discussed in tractate Ketubot. There is a debate about whether a woman who is secluded with a man who is not her husband is believed when she says she did or did not have sex with him. The rabbis compare this situation to the Shevuyah whose Kohen husband is not believed when he says his wife was not defiled.¹¹³ Testimony on one's own behalf without witnesses is rendered invalid.

The Shevuyah and the Giyoret are similar in this regard. The determination of both statuses has less to do with the actualities of individual situations and is entirely

111. Mishnah Ketubot 2:9

112. Bavli, Ketubot 36b (Koren)

113. Bavli, Yevamot 88b, Ketubot 13b (Koren)

about perception. If the possibility and probability of sex, rape, or other defilement exists, the rabbis “act as if.”

MISHNEH TORAH and SHULCHAN ARUCH

The medieval period brings further attempts at a comprehensive legal code outside of the many volumes of the Talmud. The *Mishneh Torah*^o and the *Shulchan Aruch*^o are very different works, but both were intended to create a concise, consolidated source of Jewish law for questions of halachic observance.

The *Mishneh Torah*, written by Rabbi Moses Ben Maimon, or Maimonides in the late 12th century, consists of 14 books and is intended to be a complete statement of the Oral Law. Maimonides wanted to create a source that supplemented the Tanach^o but would replace all other texts. Much of the criticism against the *Mishneh Torah* came from Maimonides’ decision not to include any source citations, a major departure from popular practice at the time. Some called this a pretentious decision that demonstrated an intent to supersede all previous work.¹¹⁴

The *Shulchan Aruch* is the most well known – and widely accepted – attempt at a consolidated legal code. Written by Yosef Karo in 1563, the *Shulchan Aruch* is divided up into four categories, that each address a different area of Jewish law and life. Unlike Maimonides, Karo included the trajectory of his critical investigation of halacha and

114. "The Work of Maimonides: The *Mishneh Torah* & the *Guide for The Perplexed*." The *Mishneh Torah* & the *Guide for The Perplexed* - Judaic Treasures. Accessed March 28, 2017. <http://www.jewishvirtuallibrary.org/the-mishneh-torah-and-the-guide-for-the-perplexed-judaic-treasures>.

sources.

The element that links the *Mishneh Torah* and *Shulchan Aruch* together so closely is not the author, structure or accepted rulings, rather, it is the motivation behind the texts. Both Karo and Maimonides were nervous about the accessibility of Jewish law to the undereducated and both were afraid that without a more concise compilation of law, Jews would either fall off from observance or follow the wrong laws in the wrong ways.

One main difference between the *Mishneh Torah* and the *Shulchan Aruch* is that the *Mishneh Torah* includes laws which are only applicable during the time of the Beit HaMikdash, while the *Shulchan Aruch* does not. This is relevant in that the Kohanim have very different roles in a society with a Temple than they do in a society without. Thus, the two sources differ on the application of the laws prescribing the behavior of Kohanim.

Both documents do work to clarify questions about marriage for Kohanim. They continue to hone in on specific situations and provide a precedent for future halachic decisions.

There is an entire chapter dedicated to the determination of Kohanic lineage in the *Mishneh Torah*. Maimonides ultimately concludes that because the ancestry of the Kohen cannot be substantiated in this day and age (when there is no Beit HaMikdash or Sanhedrin), there are rights and honors afforded to biblical Kohanim that are no longer relevant (such as Terumah^o and Challah^o).¹¹⁵

115. *Mishneh Torah*, Issurei Biyah 20:1-4 (Touger)

The *Shulchan Aruch*, however, teaches that in order to prove status as a Kohen and become “halachically certified,” one requires the testimony of two kosher witnesses who can attest that he (and his father) unquestionably descend from those *known* to serve in the Temple.¹¹⁶

Beyond that, Maimonides submits that the punishment for a Kohen who transgresses conjugal restrictions is liable for punishment by lashes – but only for marriage. Maimonides extrapolates from the word “yikach” in the biblical text that sex alone is not punishable, and only marriage is prohibited.¹¹⁷

The *Mishneh Torah* also confirms the Talmudic procedure for a Kohen in a forbidden marriage. He cannot serve engage his Kehunah until he goes before a Beit Din and vows that he will not sin again – and then divorces his prohibited wife. Only then can he resume of his priestly duties.¹¹⁸

The *Shulchan Aruch* goes even further and states that any Kohen who marries a woman forbidden to him is required to go through the steps above and additionally, he and his wife are excommunicated and so is anyone who does business with them, until he divorces her.¹¹⁹ The *Shulchan Aruch* upholds the language from the Gemara that distinguishes the issurei d’oraita from the issurei d’rabbanan, and treats the Torah prohibitions more strictly than the rabbinic additions.¹²⁰

The treatment of Zonah in both the *Mishneh Torah* and the *Shulchan Aruch* does away with the prevarication of the Talmud. The *Mishneh Torah* clearly states that the

116. Joseph Ben Ephraim Karo. *Shulchan Aruch: Even Haezer*. Vilna: Rom, 1927. Ha’ezer 6:3 (Tur)

117. *Mishneh Torah*, Issurei Biyah 17:3 (Touger)

118. *Mishneh Torah*, Hilchos Biyas Makdish 6:9 (Touger)

119. *Shulchan Aruch: Even Haezer* 6:6

120. *Shulchan Aruch*, Even Ha’ezer 6:1, See Beit Shmu’el (Ephraim)

Zonah is a non-Jewish woman, a convert, a Jewish woman who had forbidden sex, or a freed female slave. Forbidden sex is further defined as sex with a mamzer,[°] Netin,[°] non-Jew, a man from Ammon, Moab, Egypt or Edom[°], a Pesua Daka[°], a Chalal or a yevamah who has sex with a man that is *not* her yavam.¹²¹ Even clearer, a woman becomes a Zonah the moment the organ penetrates, regardless of whether she is willing, whether the act is on purpose, whether the sex is vaginal or anal, or whether she is a married woman. As long as she is at least three years and one day old and the male is at least nine years and one day old, she is liable.¹²²

The *Shulchan Aruch* agrees with that assessment and adds that if the woman is already the wife of a Kohen when she has sex with another man – even if it is rape – she is forbidden to him and he must divorce her because she is a Zonah now.¹²³

However, the *Mishnah Torah* also clarifies for us who is *not* a Zonah. Not included would be any woman who has the following forms of forbidden sex: a woman who has sex with an animal, a woman who has sex while in Niddah,[°] a woman who has a lot of sex (as long as all of the partners would technically be eligible for marriage), a woman who is an Aylonit (barren), or a woman who has sex with a man who is a forbidden relative.¹²⁴ All of these are forbidden relationships for which there are other punishments – but becoming a Zonah is not one of them.

Also covered in the discussions of Zonah is the subject of testimony to forbidden acts. If a woman engages in sex with a man who then leaves, they ask her who the man

121. *Mishneh Torah*, Issurei Biyah 18:1, 2, 3 (Tauger)

122. *Mishneh Torah*, Issurei Biyah 18:6 (Tauger)

123. *Shulchan Aruch*, Even Ha'ezer 6:9 (Ephraim)

124. *Mishneh Torah*, Issurei Biyah 18:1 (Tauger)

is. If she says he is acceptable, her word is accepted even if she is pregnant, and she is permitted to marry a Kohen – but only if the sexual act took in a town with a good reputation. If she becomes pregnant from an encounter in a place where there is just *one* Chalal, non-Jew, or servant, she is not eligible to marry a Kohen in case this one forbidden man was her partner.¹²⁵ These are the kinds of situations these texts discuss that delve deeply into specifics that will be used in the form of precedent in later halachic decisions.

The *Shulchan Aruch* makes another statement that will turn increasingly relevant. If a woman tells her Kohen husband of an illicit affair or rape, she need not divorce her husband *if he does not accept her testimony*. If he *does* accept it, then she becomes a Zonah, requires a divorce and cannot marry another Kohen.¹²⁶ The husband is forced to choose between believing his wife and being forced to divorce her.

Finally, the *Mishnah Torah* clarifies for us that lesbian relations and behavior are forbidden but the women involved are not Zonot and are eligible to marry a Kohen. A woman also does not become prohibited to her husband if she engages in sexual acts with a woman while she is married to a Kohen.¹²⁷

Regarding the Chalalah, the two texts engage in much the same type of clarification process. The *Mishneh Torah* defines the Chalalah as a woman who engages in a forbidden relationship with a Kohen or a woman who is born from a forbidden relationship with a Kohen. It does not matter if the relationship was coerced or intentional, as long as she is three years and a day and he is nine years and a day old.

125. *Mishneh Torah*, Issurei Biyah 18:13-16 (Tauger)

126. *Shulchan Aruch*, Even Ha'ezer 6:13 (Ephraim)

127. *Mishneh Torah*, Issurei Biyah 21:8 (Tauger)

Maimonides explains that the spiritual blemish brought about by the forbidden relationship has an effect on her regardless of intent. He also clarifies that sex outside of marriage does not make a Chalalah, while marriage without sex does.¹²⁸ The *Shulchan Aruch* argues that when a Chalalah who gained her status through her own actions has a child, that child is Chalal, regardless of whether he is the child of the man who made her a Chalalah.¹²⁹

Maimonides also affirmed the Talmud's stance on lineage. No woman can reverse the status of the male Chalal or his offspring. A female Chalalah *can* change her children's status by marrying a Jewish man in good standing.¹³⁰

We also learn that there are three categories of Chalal – a Chalal d'oraita° - according to biblical law, a Chalal d'rabbanan° - according to rabbinic law and a Chalal Safek° - a Chalal whose status is a matter of doubt or question. If he is a Chalal d'oraita, he is just like any other non-Kohen. He may marry a Gerushah, he may defile himself for the dead, etc. A Chalal d'rabbanan and a Chalal Safek are in different categories. Since it is not from Torah that their status is derived, they must follow the laws both for Kohanim and for regular Israelites. He cannot benefit from any privileges of the Kohanim and he may not violate any of the restrictions.¹³¹

Finally, both texts agree that the Kohen himself cannot be rendered Chalal. If he were to divorce the forbidden woman and marry someone appropriate, their children

128. *Mishneh Torah*, Issurei Biyah 19:1 (Tauger)

129. *Shulchan Aruch*, Even Ha'ezer 7:12 (Ephraim)

130. *Mishneh Torah*, Issurei Biyah 19:14 (Tauger)

131. *Mishneh Torah*, Issurei Biyah 19:10 (Tauger)

would have valid Kohen status.¹³²

For a Gerushah, the texts have less to say. The *Mishneh Torah* reaffirms what we already know, and the *Shulchan Aruch* adds just a few key details. The first is a decision that the spirit of a get is treated like a formal get and invalidates the woman's acceptability. The spirit of a get is defined as a verbal intent to divorce. Even more so, a verbal statement of the intent to divorce a woman with whom a man has declared a verbal intent to betroth is still invalidated for a Kohen and considered a Gerushah.¹³³

However, a minor who is betrothed to someone and refuses her husband upon her coming of age is not considered a Gerushah and she is permitted to marry a Kohen.¹³⁴ Similarly, any other rabbinically originated marriage arrangement can also be annulled, thus saving the woman from becoming a Gerushah.¹³⁵ The *Shulchan Aruch* also considers the validity of the priestly blessing said by a Kohen who is married to a Gerushah. Karo concludes that if he is married to a Gerushah, he should *not* pray on behalf of the community, but if he does, the service is still valid.¹³⁶

The final addition these texts make to this discussion has to do with the Shevuyah and Giyoret. Both are technically rabbinic additions to the forbidden marriages, however, they are treated very differently. The Shevuyah is given leniency because it is d'rabbanan. Any testimony by any witness that she was not defiled renders her acceptable. However, the Giyoret is understood as implied in the Torah text

132. *Mishneh Torah*, Issurei Biyah 19:1 (Tauger)

133. *Shulchan Aruch*, Even Ha'ezer 6:1 (Ephraim)

134. *Shulchan Aruch*, Even Ha'ezer 62 (Ephraim)

135. *Mishneh Torah*, Issurei Biyah 2:2 (Tauger)

136. *Shulchan Aruch*, Orech Hachayim 128:40 (Ephraim)

through the verse discussing the “seed of Israel”¹³⁷ there is no leniency given. Even though the daughter of two converts is conceived in holiness, she is not permitted to a Kohen under any circumstances, and if the information is only made known after the fact, she still must divorce him.¹³⁸

137. Leviticus 21:14 (JPS)

138. *Shulchan Aruch*, Even Ha’ezer 7:21 (Tauger)

CHAPTER THREE: EARLY, MODERN AND CONTEMPORARY RESPONSA

In this final chapter, I explore the Rabbinic rulings that have been made more recently. All of following rulings come from rabbis who lived in the last 100 years. They consider these halachic questions as they become relevant in Orthodox Jewish lives now.

In this section, there will be rabbinic commentary and Piskei Din. Many contemporary rabbis act in the role of Posek,^o which means decisor. That means the rabbi acts as a legal scholar who decides the halacha in cases without precedent or where the application of the law is not clear. The rabbi issues what is called a Psak Din^o or a decision of law. These decisions are recorded in what we call Responsa.^o

There are different kinds of responsa literature, but in Judaism, most of the responsa are recorded in the form of question and answer. As Jewish history progressed into the modern era, denominations of Judaism emerged in their current forms and created their own collections of responsa as well, creating a library of halachic rulings that range from Orthodox to Reform.

In contemporary Judaism, the traditional reading of the law ceases to change or adapt. There are few additions or modifications to the law itself. Instead, rabbis are consumed with the interpretation and application of the law. There is an increase in the use of the halachic loophole, or the rabbinic attempt to preserve the law and find a way around it at the same time. Much of this activity is likely in response to the founding and development of liberal Judaism – and the Orthodox response which pushed the

right wing of Judaism further right.¹³⁹

I begin by looking at the early rabbis and commentators, all of whom lived and wrote after the completion and acceptance of the *Shulchan Aruch*. Interestingly, almost all the commentary and Piskei Din that exist between 1500-1800 have little to do with women forbidden to the Kohanim. Late medieval commentators seem satisfied with the identification of these women. They seem to find questions of the status of the Kohen more interesting. It is obvious to these rabbis that there is no way to trace a Kohen's lineage accurately back to the sons of Aaron or the times of the Beit HaMikdash, so the previous requirements for proving priestly lineage instead prove themselves obsolete.

As a result, the rabbis have a choice: they can rule in favor of doubt and waive the restrictions for these Kohanim, or they can rule in favor of the assumption and maintain the separation and limitations. Almost all of them rule in favor of the assumption of lineage.

The Rivash^o wrote in support: because there is no proof of tribal designations, we are presuming that all Kohanim are not of pure lineage – and yet, we are still committed to using those designations.¹⁴⁰ The Magen Avraham^o makes a sweeping ruling in the 17th century, following this same logic. He contends that Kohanim are no longer to be considered actual Kohanim – each one is a Kohen Safek, because there is no longer

139. Mark Washofsky. "'Responsa and the Art of Writing: Three Examples from the Teshuvot of Rabbi Moshe Feinstein.'" In Peter S. Knobel and Mark N. Staitman, eds., *An American Rabbinate: A Festschrift for Walter Jacob* (Pittsburgh: Rodef Shalom Press, 2001), pp. 149 - 204. Accessed March 28, 2017.

https://www.academia.edu/2945990/_Responsa_and_the_Art_of_Writing_Three_Examples_from_the_Teshuvot_of_Rabbi_Moshe_Feinstein_. P.7

140. Isaac Ben Sheshet Perfet. *Sh. u-t. ha-Ribash*. Brooklyn, NY: Ch. Reich, 1994. Responsum 94 (Lemberg 1805)

genealogical record keeping.¹⁴¹ Because of the current reality, the Chatam Sofer teaches that those who claim to be Kohanim based on their family tradition are to be accepted as authentic, without exception.¹⁴²

The Sefer Bar Sheshet^o explains that because of the absence of the documentary evidence of the priestly title, the special privileges – and the special obligations – are preserved out of custom rather than law.¹⁴³ The Maharashdam^o uses the same logic, explaining that the custom of honoring the Kohen with the first Aliyah during the Torah reading is just that – a custom – but it is intended to keep the ancient tradition of Kehunah alive.¹⁴⁴ The Rema^o clarifies, explaining that because it is a custom, anyone who claims to be a Kohen can have the first Aliyah and can perform Birkat Kohanim.^{o145} The Darchei Moshe^o agrees, but because all status is untraceable and all Kohanim are in doubt, there is no Challah^o, Terumah^o, or Ma'aser.^o The only privileges are the first Aliyah and Birkat Kohanim.

What are the practical implications of all this? Two types of Kohanim have evolved. The first are called Kohanei Chazakah.^o These are the Kohanim understood by tradition to be legitimate even though there exists no way of confirming their lineage or Kehunah. These Kohanim are considered full Kohanim for the purposes of Pidyon Haben,^o the first Aliyah, and the Birkat Kohanim. They are also liable for all of the restrictions. The other category is called Kohanim Meyuchasim.^o These are the

141. Magen Avraham Orech Hachayim Iv:57 Note 9

142. Chatam Sofer, Yoreh Deah 336

143. Sefer Bar Sheshet, *Responsum* 94

144. Shmuel De Medina, David Avitan, and Shemu'el Devir. *She'elot u-teshuvot Maharashdam: ha-shayakhot ba-Tur*. Yerushalayim: Zikhron Aharon, 2007. Even Ha'Ezer 235

145. Rema, Even Ha'Ezer 3:1

Kohanim with traceable lineage; their ancestors can be authenticated and they were, indeed, the sons of Aaron. These are the Kohanim that would be eligible for offering Korbanot in the Beit HaMikdash if it were to be rebuilt.¹⁴⁶ Rabbi Chaim Jachter^o addresses this issue directly. He says that indeed, only Kohanim Meyuchasim would be allowed to bring Korbanot in the third Beit Hamikdash, but today – all of our Kohanim are Kohanei Chazakah. Rabbi Jachter teaches that when Moshiach^o comes¹⁴⁷, all of the Kohanim will be certified as Meyuchasim.¹⁴⁸

There are downsides to this new reality. In Pitchei Teshuvah,^o Rabbi Avraham Tzvi Eisenstat teaches that because one cannot be sure of the lineage of the Kohanim, the rest of Israel has to be careful. For example, during Pidyon HaBen, if a Kohen redeems the firstborn but he is not actually a Kohen, the mitzvah has not been fulfilled. Thus, Rabbi Eisenstat teaches that a father should redeem his son from as many Kohanim as possible lest any Kohen who officiates be of faulty lineage.¹⁴⁹ Additionally, the Maharit^o teaches that one who claims to be a Kohen all his life and acts as such – and then claims that he is mistaken and is actually NOT a Kohen is suspected of ulterior motives, like desiring a forbidden marriage.¹⁵⁰

Rabbi Moshe Feinstein^o in some ways serves as a bridge between all of these rabbis and writings above and the halachic reality of today. It is his book of responsa, Igrot Moshe,^o that sets the precedent for the responsa that come after it. Many of his decisions are considered to be the final arbitration of many aspects of Jewish communal

146. *Aruch Hashulchan* 305:55

147. *Mishneh Torah*, Hilchot Melachim 12:3 (Tauger)

148. Rabbi Howard Chaim Jachter (RCA)

149. *Pitchei Teshuvah* 305:12

150. *Maharit* 1:147

policy. Some in the Orthodox world mourn this change in the style of Rabbinic leadership, calling back to a time when Da'at Torah,^o or the authoritative "torah position" was not a nonnegotiable position to which all were expected to submit.¹⁵¹

Reb Moshe offered a number of responsa on the status of the forbidden women. Most notably, he created a widely accepted loophole on the subject of Kohanim who want to marry a forbidden woman. To Reb Moshe, it seemed that many of these questions of marriage for Kohanim were coming from Jews who were newly religious or did not grow up in an observant home. Those that did knew better than to fall in love with an ineligible woman. But those who did not grow up with the same knowledge often fell in love with women who were not eligible for them. That ineligibility came as a result of previous marriages or sexual relationships or because they too were Ba'alei Teshuvah^o and had engaged in forbidden behavior before they became religious.

In light of these couples, Reb Moshe ruled that the status of any Kohen who came from a non-religious household and had a non-religious father could be called into question.¹⁵² He explained that if the lineage is based on information from a father who is not shomer Shabbat^o, and there is no religious Jew to testify to the father's status, one may declare the family non-Kohanim. The testimony of a parent who is not religious is not deemed credible for Reb Moshe.¹⁵³ In one extreme case, the question arose regarding the status of a newly religious man who had a non-Jewish wife and would have been forced to divorce her based on his understanding that he was a Kohen. Upon further investigation, Reb Moshe discovered that not only was the father

151. Warshofsky, p.9

152. Moses Feinstein. *Igrot Moshe*. Chicago, IL: Davka, 1997. Even Ha'ezer#70

153. *Igrot Moshe*, Even Ha'ezer IV:II, 39

non-religious, but the grandfather was a communist and an atheist from Russia. Reb Moshe ruled this man not just unreliable, but a Rasha,^o meaning he was an evil person with no credibility to discern priestly descent. In this Teshuvah,^o Reb Moshe does place great weight on the fact that if compelled to divorce his wife, the man will likely abandon his new religiosity.¹⁵⁴

Reb Moshe also ruled that the daughter of a convert cannot marry a Kohen, but b'dieved^o they are not compelled to divorce – a decision that was not in keeping with the sages of the medieval period who gave this leniency only to the status of the Chalutzah.

Ultimately, the responsa of Reb Moshe set the stage for the modern views on the halachot of Kohanim. He was concerned with the preservation of tradition, the observance of Halacha, and tried to rule so that even if one had to transgress, they were transgressing the lesser of the possible sins. At the same time, he was also aware of the realities of Jewry in North America and had to balance the need to keep Jews Jewish and we see evidence in some of his rulings of this knowledge.

Halachic Rulings and Responsa

The final section of research in this thesis dives into the responsa from the 19th and 20th centuries, divided up by denomination. This is the final piece of the puzzle that we need to understand exactly how these laws of restriction have evolved – and how they are understood and enforced now.

154. Igrot Moshe Even Ha'ezer IV:II # 39, 5738

Orthodox

Rav Kook,^o the first Chief Rabbi of British Mandatory Palestine taught that the repetition in the original verse in Leviticus, 21:1, in which Moses is told to speak to the Kohanim, the sons of Aaron, is not an accident. Kook teaches that the title “Kohanim” refers to an inherited potential and the lineage, “sons of Aaron” refers to the intrinsic and inherited holiness. He explains the meaning of Chalal, or a Kohen in poor standing. It means that the Kohen retains the inherited sanctity as a “Son of Aaron” but has lost the actualized sanctity of the functioning Kohen. As a Chalal, he is forced to live in limbo, without the capacity to reach any of the potential that is inherited. Rav Kook suggests this reason is primary for why Jews still care about this law today, and why the preservation of the lineage of the Kohanim is still relevant even without the Beit HaMikdash.¹⁵⁵

Rav Yosef Albom^o rejects much of the logic used by the rabbis that precede him. He dislikes the idea of Kohen Safek, in that aspersions on the status of the Kohanim reflect similar aspersions on all claims of Jewish identity which is both dangerous and nonproductive.¹⁵⁶ Rav Albom’s stricter interpretation is evident in another article in Techumin^o in which he rules that based on Kiddushin 78a, which prohibits a Kohen from marrying a convert, a Kohen cannot marry a woman who is conceived with a non-Jewish egg donor.¹⁵⁷

In disagreement, Rabbi Ovadiah Yosef,^o the former Sephardic Chief Rabbi of

155. “Rav Kook On Emor,” Ravkooktorah.Org

156. *Crossroads: Halacha and modern World*. Jerusalem: ZOMET, Torah and Science Research Teams, Alon Shvut-Gush Etzion, in association with the Torah Education Dept., World Zionist Organization, 1987. Rav Yosef Album, Techumin 9:456

157. *Crossroads*, Techumin, 10:280

Israel, allowed Maimonides' argument regarding the status of the child of a convert.

The questions regarding her status question the status of the Kohen's Kehunah (because of the inability to trace the lineage) therefore constructing a double doubt, known as a safek sefeika.[°] Thus, a Kohen is permitted to marry the child of a convert.¹⁵⁸

The Beit Din Lebarur Yahadut[°] in Israel argued that the last name "Cohen" is sufficient to establish the presumption of Kehunah and this generates a Chazakah[°] (the common knowledge of presumptive evidence of status).¹⁵⁹ Rabbi Yisrael Meir Lau,[°] the Chief Rabbi of Tel Aviv and former Chief Rabbi of Israel completely disagrees. He argues instead that absent a family tradition or an existing Chazakah, last name alone is not sufficient to prove Kehunah.¹⁶⁰

A third dispute also exists between Reb Moshe Feinstein and the Israeli Rabbinical Court of Appeals. Reb Moshe ruled, as previously discussed, that Ba'al Teshuvah men who held themselves as Kohanim but whose fathers were not observant may engage in forbidden marriages because the genealogical claims of the non-observant father can be given no halachic credence.¹⁶¹ The Israeli Rabbinical Court of Appeals made a ruling in 5708 (1948) that witnesses need not be fully observant. The Beit Din assumed that witnesses abjure perjury not just because of the divine mandate that would inform an observant witness, but because innately humans can be assumed to tell the truth. Thus, the nonobservant father of the ba'al teshuvah Kohen would have

158. Ovadia Yosef. *Yabia' omer*. Yerushalayim: Hamehaber, 1994, Vii

159. Piskei Din Me-Beit Din Ledinei Mammonot Le'birur Yahadut Shel Harabbanut Harashit L'yerushalayim, 5755

160. R' Lau, *Yahel Yisrael* 1#30

161. *Igrot Moshe*, Even Ha'ezer Iv 39

credibility to testify to his son's status as a Kohen.¹⁶²

These Machlokot^o are reminiscent of the debates of the Talmud, and harken to a time when there is not one accepted halachic authority. Almost all questions of halachic application that get asked require a second opinion from one's own rabbi that removes any accountability for one's possible halachic transgression.

Conservative

The Conservative view is understandably more unified, based on the existence of a central Conservative authority. The following responsa and Piskei Din come from a number of Conservative rabbis and halachic authorities both in North America and abroad.

The questions that are brought up initially involve the marriages of a Kohen to a divorcee, and a Kohen to a convert; they include also a Kohen and a non-Jewish woman who wants to convert. Subsequent questions include whether a rabbi should oversee the future wife's conversion and whether the Kohen be allowed to marry her (or a divorcee). In the discussion of sources and halachic evolution, Rabbi Arthur Goodman explains that Safek Kehunah, the loophole used in most Orthodox communities, does not apply in the Conservative movement. He articulates the hypocrisy of advocating for the role of Kohanim, including the Kohen Aliyah and Birkat Kohanim in their synagogues, while using the doubtfulness of their legitimacy to let them skirt the

162. Osef Piskei Din (5710) P. 137-138

marriage restrictions.¹⁶³ He also asks whether Conservative Judaism wants to support a stigmatized view of divorce, given how prevalent it is.¹⁶⁴

He concludes that a better means of deciding is a Hora'at Sha'ah° or a temporary halachic reason for emergency. He argues that intermarriage rates are so high that it rates the status of a crisis. Ultimately, the Conservative movement has ruled that Conservative rabbis may marry a Kohen to a divorcee or a Kohen to a convert because refusing the marriage of two Jews in this world is not in the best interest of the Jewish people.¹⁶⁵

Rabbi Goodman explains that his ruling as "Akirah°" that is, the uprooting of a biblical prohibition. In doing so, Conservative Jews also remove any status change for the Kohen or for his sons in the case that he marries a biblically prohibited woman. They all remain full Kohanim. He invokes the Rashba's° principle of granting authority to the judges in one's day, but only after careful analysis of contemporary needs.¹⁶⁶

Rabbi Chaim Weiner, a British Masorti° rabbi, reinterprets the question at the base of the current study. For him, the question is not whether a Kohen and a convert be allowed to marry. He asserts that the Torah already makes the answer clear. The more appropriate and accurate question is whether a rabbi should be allowed to perform this marriage even when prohibited? He explains the question not as what is permitted, but rather what should be done. He notes that the refusal to perform the wedding will only

163. *Solemnizing the Marriage Between a Cohen and Divorcee (Rabbinical Assembly)*. Religious Institute. December 17, 2013. Accessed March 28, 2017.

<http://religiousinstitute.org/solemnizing-the-marriage-between-a-cohen-and-divorcee-rabbinical-assembly/>.

164. Goodman, *Solemnizing the Marriage Between a Cohen and Divorcee*

165. Goodman, *Solemnizing the Marriage Between a Cohen and Divorcee*

166. Goodman, *Solemnizing the Marriage Between a Cohen and Divorcee*

drive the couple away from Judaism and when the only result of following a Jewish law is to drive another Jew away and lose him from the community, it is preferable to ignore the one law in favor of all of the rest of the laws that will be followed in the future. He also notes that it is not forbidden to perform these marriages. It is only forbidden to enter into them (Citing Kiddushin 78a and a footnote by Rava).¹⁶⁷

One of the other issues raised, specifically in regard to the marriage between a Kohen and a convert or a Kohen and a non-Jew who wants to convert treats the moral status of a non-Jew. In previous decisions, rabbis forbade all converts from marrying Kohanim because of an understanding that the level of depravity in the non-Jewish world was so high that one could assume it was unsafe for the Kohen. Clearly, this fear no longer applies. Converts, Jews and non-Jews share similar moral codes.¹⁶⁸ This commonality raises a technical question. The blanket accusation that all converts are steeped in depravity directly contradicts the commandment to love the stranger. So which one takes precedence?¹⁶⁹

Another way to look at this same issue is raised by Rabbi David Tzvi Hoffman,^o who reads the prohibition as the profanation of God and a Chillul Hashem.^o When a woman is not accepted for conversion solely for this reason she – and others – could be led to believe that Israel does not care for non-Jews.¹⁷⁰

Another rejection of the prohibition and the logic retaining it comes from Rabbi

167. Rabbi Jeremy Gordon. *On Cohanim and Converts, A Legal Response*. January 01, 1970. Accessed March 28, 2017. <http://rabbionanarrowbridge.blogspot.com/2016/08/on-cohanim-and-converts-legal-response.html>.

168. Rabbi Jeremy Gordon, *Masorti responsa*

169. Rabbi Jeremy Gordon, *Masorti responsa*

170. Rabbi Jeremy Gordon, *Masorti responsa*

Isaac Klein, who explains that while a convert is prohibited by the rabbinic interpretation of the biblical Zonah, in contemporary society, the gentile is not ipso facto a Zonah. To embrace this position would be the chillul hashem and would demean the Torah in the eyes of the gentiles and the Jews. He therefore rejects the rabbinical principle that gentile women are b'chezkat Z'nut^o (assumed to be a Zonah) and therefore asserts that converts can be accepted.¹⁷¹

Ultimately, two decisions are rendered. The global Masorti movement argues that a candidate for conversion should not be turned away if she wants to marry a Kohen, and Conservative rabbis should officiate at those weddings with delight and happiness. The children of a Kohen and a convert are fully Jewish, but they are considered mechallelin^o and thus, the ritual responsibilities of the priesthood do not apply to them.¹⁷² The Conservative movement in the United States agrees that marriages between Kohanim and converts are not prohibited marriages and may be officiated at by Conservative rabbis. Yet, because they understand the convert not to be a Zonah and to be a full member of the Jewish people, they do not consider their children as mechallelin; they are full Kohanim.¹⁷³

171. Arnold Goodman. "Solemnizing a Marriage Between a Kohen and a Convert." Rabbinical Assembly, Halakha. March 12, 1996. Accessed March 27, 2017.
https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/goodman_marriageconvert.pdf.

172. Rabbi Jeremy Gordon, *Masorti Responsa*

173. Goodman, *Solemnizing a Marriage Between a Kohen and a Convert*

Reform

The the Reform view is much simpler to explain. The movement has made clear that they do not acknowledge or support a hereditary priesthood.¹⁷⁴ Because the movement “doesn’t look forward to the rebuilding of the third Beit HaMikdash and the resumption of sacrificial worship, we have no purpose or interest in perpetuating caste distinctions based in the ancient biblical cult.” Additionally, even if the movement wanted to support such distinctions, *safek* is present because of the absence of the genealogical records and it is impossible to know who is a Kohen.¹⁷⁵

In a responsa issued in 1943, Rabbi Israel Bettan^o stated the following:

When, therefore, Reform Judaism chose to ignore the nominal distinction between the ordinary Israelite and the Cohen--a distinction which has persisted to this very day--it did not so much depart from tradition as it did display the resolute will to surrender a notion the validity of which eminent Rabbinic authorities had repeatedly called in question.¹⁷⁶

Thus, as there is no acknowledgement in any Reform service of the role, responsibility or restrictions of the Kohanim and outside of an individual’s attachment to his personal legacy, there is no attention given to anyone’s Kehunah.

174. Simeon J. Maslin and Ismar David. *Gates of Mitzvah / Sha’are Mitsvah, A Guide to the Jewish Life Cycle*. New York: Central Conference of American Rabbis, 1979. P. 72 #19,

175. CCAR 1983 #43 – 5771.4

176. American Reform Responsa, p.435-436

CHAPTER FOUR: REAL LIFE

The following stories are real life examples of the application of these laws in contemporary times. Some of them are word of mouth, some are the stories of people I know, some are anecdotes taken from emails and Websites. What they all have in common is the struggle to find a happy medium between the letter of the law (which in all of these cases would result in the couple breaking up) and the dismissal of the law (which is often not an option in more Orthodox circles). I trace the ultimate decisions of these cases, while also highlighting the logic and reasoning applied by the rabbis.

Some rabbis have chosen to uphold the law, and forbid the marriages in question. In the “Ask a Rabbi” section on the AISH^o website, a man submitted a question stating: “I am a Reform Jew and I am looking to get married. I went to a few Jewish dating sites and I saw some profiles which say ‘permitted to a Kohen.’ I am a Kohen, and therefore this caught my attention. What exactly are they talking about?”¹⁷⁷

The rabbi responded by telling this young man that yes, he is forbidden to marry certain women, and yes, he is responsible for preserving a more scrutinizing level of holiness, and just because a Kohen today does not see himself in such a role his obligation does not diminish. He did bring up the issue of Kohen Safek, and told the Kohen that he may not even be a real Kohen, so he needed to speak with his rabbi or an authority figure to determine.

More interestingly, he offered this logic as reason to forbid the marriages:

A Kohen is forbidden to marry these women, not because she is a bad person,

177. "Kohen Marriages: Marriage - General Response on Ask the Rabbi." AISH . Accessed March 28, 2017. http://www.aish.com/atr/Kohen_Marriages.html.

but because there is metaphysical reality that is created which prevents a Kohen from being able to create the proper bond. Consider that H₂O is water, and H₂O₂ is Hydrogen Peroxide. The difference may seem negligible, but is actually the difference is between life and death.

This rabbi holds that not only is this halacha relevant and applicable today, it is because of the internal, metaphysical makeup of a Kohen which is *so* different from the makeup of a woman forbidden to him that they are structurally incompatible. They are unable to bond as husband and wife.

Similarly, there was an article in Yediot Achronot^o in which a Beit Din^o in Israel ruled that a Charedi^o wife who was raped must divorce her husband, who was a Kohen – even though they wanted to stay married. Had the husband not accepted the wife’s testimony and not believed her, there would be no issue, as halachic precedent determines that he does not have to divorce her if he does not believe her. But this husband, as an honest man, insisted on believing his wife and supporting her through the trauma – and insisted on obtaining a rabbinic ruling about whether they are allowed to stay married or must divorce.¹⁷⁸

The New York Times reports an incident in which a man and woman applied for a marriage license with the Religious Affairs Ministry in Israel and were told that they could not be lawfully married. Her fiancé’s name had appeared on a list of people whom the rabbinical authorities declared “untouchables.” The fiancé’s grandmother had been sent to one concentration camp during the Holocaust and her husband to another. After the war, she never found her husband, so she remarried and began a

178. *Yediot Achronot*, February 25th, 1998

family in Poland with her second husband. After a while, they emigrated to Israel where she discovered that her first husband was alive and also living in Israel. They agreed to get a divorce, which the Beit Din granted, but they also declared the children of the woman's second marriage illegitimate. That title is apparently recorded in government records and is passed down through the civil record. The man and woman were not able to be married in Israel.¹⁷⁹

The same *New York Times* article describes a case where the Israeli rabbinical authorities invalidated the 12-year-old marriage of a couple in Northern Israel because of a transgression committed by the wife's ancestor who lived 2500 years ago. Based on a centuries old rumor that the woman's ancestor had illegally married a divorced woman in 580 BCE, no one in the family had been allowed to marry a Kohen. The Israeli Religious Affairs Ministry warned the couple that they may face criminal charges for deceiving the rabbi who married them, since the bride knew of her family's legendary history.¹⁸⁰

In the 1950's, the Israeli Supreme Court Justice Haim Cohen,^o fell in love with a woman who had been divorced; he was not able to marry her in Israel because she was a divorcee and he was a Kohen. A Supreme Court Justice was forced to marry his wife in London! As described by Jonathan Greenblatt,^o the CEO of the Anti-Defamation League in the United States this situation was far less common then. Now, with so many immigrants with questionable legal status as Jews as considered by the Israeli

179. Clyde Haberman. "Rabbis Decide Some Israelis Cannot Marry." *The New York Times*. December 22, 1994. Accessed March 28, 2017. <http://www.nytimes.com/1994/12/23/world/rabbis-decide-some-israelis-cannot-marry.html>.

180. Haberman, *New York Times*

Orthodox rabbinate, the question of the priestly wedding has become immediate and pressing.¹⁸¹

In contrast, there are rabbis who embrace the rabbinic loophole. This project has traced Orthodox rabbis who believe in the halacha and feel strongly about its relevance and have found ways around it so that couples can marry.

Rav Yehudah Leib Tsirelson,^o the Chief Rabbi of Kishinev received a question from a couple who wished to get married and were already preparing for the wedding. It became apparent that the bride converted and the groom was a Kohen. The wedding was cancelled. In response, the groom threatened to accept baptism in front of everyone if he could not marry his beloved in a Jewish wedding.

Rav Tsirelson's answer was written carefully and with particular reference to the specific couple so as not to set a precedent for subsequent cases. He claimed his response to be a "Hora'at Sha'ah"^o or a one-time decree in case of emergency. He asked that no one learn from this case any leniency in regard to any other case of converts and Kohanim and he permitted the ceremony.¹⁸²

A post on *daatTorah*, an Orthodox blog, describes a Ba'al Teshuvah^o man in Crown Heights who grew up with non religious parents but whose grandparents were observant. The woman he wants to marry is also Ba'alat Teshuvah. During their engagement, the groom's grandfather tells him that he is a Kohen. On these grounds,

181. Jonathan Greenblatt. "ADL Head: Ultra-orthodox Using Hate Speech Against Reform Jews." *Ha'aretz*. March 16, 2016. Accessed March 28, 2017. ADL Head : Ultra-orthodox Using Hate Speech Against Reform Jews read more: <http://www.haaretz.com/opinion/.premium-1.710885>.

182 Rabbi Jeremy Gordon, *Masorti Responsa*

the groom should not be allowed to marry his bride because she is Ba'alat Teshuvah and has likely had a relationship that will make her a Zonah.

The couple went to see their rabbinical authority in Crown Heights who made the following decision: because the man's parents were not religious and his mother had gone to college, he was necessarily Chalal. According to this Rav, "no woman who lived away from her father's house before marriage in American where the majority are not Jewish" could be reliably fit for a Kohen, and therefore the man was Chalal and the wedding could be performed.¹⁸³

The same blogpost relates a different story about a woman who had been previously married to a non-Jewish man who is now engaged to a Kohen. In response to a question regarding his decision to sanction and perform the marriage, the rabbi who did so explained that a marriage between a Jewish woman and a non-Jewish man is not a marriage but a rape. Using opinions that exempt a woman who is raped from Zonah status, this rabbi determined her acceptable to a Kohen. For a woman to be a Zonah, he argued, her behavior has to be knowing and willing. Thus, a woman who becomes Ba'alat Teshuvah is not liable for behavior before she became religious because she cannot understand the consequences of behavior that is considered normal by the American society but which is forbidden by the Torah.¹⁸⁴

Another story involves a Kohen who fell in love with a Soviet immigrant who had a Jewish mother and a non-Jewish father. They were told by the Israeli Rabbinical

183. DaatTorah. "Cohen II - Marrying a Baalas Teshuva." Cohen II - marrying a baalas teshuva. January 01, 1970. Accessed March 28, 2017. <http://daattorah.blogspot.com/2008/10/cohen-ii-marrying-baalas-teshuva.html>.

184. DaatTorah, Cohen and Ba'alas Teshuva

authority that they could not marry because even though the woman had had her Jewish status confirmed and was allowed to marry any Jew, she could not marry a Kohen because her father was not Jewish. However, Chief Sephardic Rabbi Shlomo Amar^o allowed the marriage.

Based on the Prime Minister's intervention, and on account of the groom's service in the army, particularly his participation in and injury in a recent war provided the impetus for the permission to marry his fiancé.¹⁸⁵

Finally, I want to share the story of my friend Ella. Ella is originally from Missouri. She grew up in an actively Christian house, but Christianity never resonated with her. After college, Ella converted to Judaism with a Reform rabbi. She began to live a wonderful Jewish life and got involved teaching and volunteering. After a while, she became more observant and joined an Orthodox synagogue and eventually ended up in Rabbinical School herself. Ella decided at some point during rabbinical school that she wanted to have an Orthodox conversion and she eventually found an Orthodox Beit Din who would convert a female rabbinical student. Shortly after her conversion, Ella met the love of her life, Max. Max Cohen. She met him at their Orthodox shul.

So, Ella and Max were faced with a tough decision. Ella is a convert. Max is a Kohen. Upon meeting with their rabbis, they were given two options. The first option was to determine that Max's status as a Kohen was in doubt. Max's father is not Orthodox, which means that they could rule him a non-kosher witness and cast doubt

185. Amiram Barkat and Haaretz Correspondent. "Rabbinical Court Allows Cohen to Marry Daughter of Non-Jew." *Haaretz.com*. April 03, 2006. Accessed March 28, 2017. <http://www.haaretz.com/news/rabbinical-court-allows-cohen-to-marry-daughter-of-non-jew-1.184567>.

on the Kehunah. The second option was for Ella to declare (publicly, in front of a Beit Din) that she had never had sex with a non-Jew. Neither option felt right to Ella and Max. The first option felt disingenuous – Max’s great grandfather’s grave has clear symbols of the Kohen and even though Max’s dad is not Orthodox, he is neither ignorant nor a liar. The second option felt wrong for multiple reasons, including Max’s own sexual history and the unfairness of two different standards

Ultimately, Ella and Max chose a third option of civil disobedience. They borrowed language from Rabbi Mark Baker of Gann Academy in Boston and from Rabbi Steve Greenberg from CLAL. Using this model, they chose to recognize the law for what it is to them: without merit and morally insulting. Because of their decision, they chose to violate the law and take on whatever consequences would result. Practically, Max maintains the other prohibitions of his Kehunah but accepts none of the benefits. He will not officiate at a Pidyon HaBen, he will not take the Kohen Aliyah (but because he retains his status as a Kohen, he cannot take the Aliyah for Yisrael either). They say that for them, the consequences are a reminder of the xenophobic tendencies of the community that they are trying to change.¹⁸⁶

186. Interview with Friend (Name changed for privacy)

CONCLUSION

And now, I want to return to my story. I walked out of that Kollel in 2010 feeling like the Jewish community considered me damaged goods. And they were the first – and only – ones to make me feel that way. As I made my way through the next few years, I felt less damaged – less like a divorcee and more like every other 27-year-old single woman.

And then, on the first day of rabbinical school, I met Michael. Michael...**Cohen**. The one prohibition I had received was not to fall in love with a Kohen, and I went and fell in love with a Kohen.

When we got engaged, I stressed over how to manage my conflicting emotions and obligations for months. It is likely that we would have had a Reform wedding anyway, but knowing that it was my only option gave it both a shine and a tarnish. On one hand, I was so grateful that there was a place where I could get married without needing rabbinic permission. On the other hand, it felt a little like cheating to ignore a rule that made my life difficult. I do not believe that this kind of circumvention is the intent – or the appropriate use of – Reform Judaism. Reform Judaism is not meant to disregard what feels inconvenient, but rather to empower individuals to have the autonomy to decide what no longer feels relevant. Yet, a lengthy foray into the relevance of a law when it has the capacity to make one miserable felt poorly timed.

So here I am, happily married to a man to whom I was not supposed to be married, with a ketubah that will not be recognized in Israel should my children ever need it to be recognized, and that prompted this deep investigation into understanding

the halachot around marriage for Kohanim.

I have deduced the following ideas:

The adherence to these laws stems from one of three places. They are upheld as an expectation for the coming of Moshiach, which will bring with it the building of the third Beit HaMikdash, at which time Jews *will* need the services of the Kohanim again. That lineage is protected and preserved in the meantime. They are also upheld because of a genuine belief in the physical and spiritual separation of the Kohanim from the other tribes. The restrictions are in place not because of the responsibilities of the Kohanim (or lack thereof), but because of their genetic and metaphysical state. And finally, these laws are valuable simply because there is value in tradition. These are laws from the Torah, which in the Orthodox view are directly given by God. How can humanity decide what is and is not relevant at this time? When God gives Jews a set of instructions, Jews follow them.

It is my inference that the “loophole rabbis” (those that offer the heter,° Piskei din, Hora’at Sha’ah rulings, etc.), the Conservative rabbis and the Reform rabbis all fall into the third category. They view these laws as serving no other purpose but to – at best - maintain and respect tradition and halacha. On the other end of the spectrum, these laws are seen as an outdated attachment to a way of life that has not been relevant in 2,000 years and the weight of halacha is not heavy enough to convince them that these are laws that should be followed.

I return to my original question:

How we can understand the laws of marriage for Kohanim, both in biblical

and in modern times? If those laws can remain relevant, how can we bring the spirit of these laws back into Progressive Judaism? My conclusion to the first question is that it is entirely personal how one understands the laws of marriage for the Kohanim. It depends on the individual understanding of the meaning of Kehunah in the first place. We cannot answer whether the laws are relevant in general, because to some, ALL laws are relevant. But if one does determine that they are relevant and worth upholding (which many clearly do) I think there are some changes to *Rabbinic* laws that could make the lives of these Kohanim and many whom they love much easier. What if the rabbis began to annul marriages that were based on fallacy, lie or misrepresentation, or marriages that lasted less than a year, or marriages where the terms and conditions of the marriage could not be met? We would have many fewer divorcees and they would genuinely not be considered “damaged goods” for anyone. Or, what if converts could go through a special, additional ritual that would separate them from any behavior that happened before conversion that would render them inappropriate for marriage, so that the category as a whole would be acceptable?

The second and third parts of the original question both have to do with maintaining the spirit of the law. Even if one declares this law obsolete in the progressive movements, how can we preserve the original intent?

I think we have room to *create* ritual that celebrates the holiness of the Kohanim without rendering a caste system or a messianic disregard for the now. What if there were special blessings for the wedding of a Kohen, or rituals that he had to go through before marriage – even if those rituals *looked different* if he was marrying a traditionally

forbidden woman.

Finally, I think there is a way to recognize the inherent holiness of the Kohen. And I think we need to repair the forbidden women's holiness. We are the inventors of purity – everything around us is in a constantly supervised state of holy, unholy, pure, impure, temporarily impure – we must be able to create a mechanism by which someone can be restored. Let us reason away the categories of women who are considered “unacceptable,” in favor of describing women whose circumstances require them to pursue additional spiritual elevation in order to marry Kohanim.

All of this to say that ultimately, *I believe* in Jewish marriage, Jewish families and Jewish homes. More than I believe in the role of halacha or the holiness of the Kohanim or the need to preserve tradition (all of which I do believe in), I believe more in the need for Jews to be a welcoming people who *destroys* barriers to entry and obstacles to Jewish happiness rather than upholds them. As rabbis, we have a unique opportunity to affect the landscape of the Jewish future. The more of us who prioritize the happiness, holiness, synthesis, marriage and procreation of Jews over all other factors, the better off all Jews will be.

Glossary

Achronim - The leading rabbis and poskim from the 16th century to the present.

Akirah - The complete uprooting of a Jewish law – to overturn or eradicate a law.

Ammon/Moab/Egypt/Edom - The four nations listed in Deuteronomy forbidden for marriage to Jews, even if they undergo a proper conversion and circumcision.

B'dieved - It means “after the fact,” usually in reference to a halachic situation that is acceptable because it has already happened, but is not the ideal.

Ba'al Teshuvah (Ba'alei, Ba'alat) – literally “master of return” refers to a Jew who embraces Orthodox Judaism or traditional lifestyle later in life.

Beit Din – a Rabbinical court made up of three rabbis qualified to make halachic decisions.

Beit Din L'barur Yahadut – the Rabbinical court in Israel that is dedicated to determining the status and Jewish identity of Israeli citizens and new immigrants.

Beit HaMikdash – the Temple in the Old City of Jerusalem, located on the Temple Mount. Two different temples stood at this location and served as the site of ancient Israelite ritual worship and later Jewish prayer. Both temples were destroyed by enemies of Israel and a third temple has not been (and won't be) built until the coming of the Messiah.

Braita – a section of the Oral Law that was not included in the Mishnah. These are compiled in a document called the Tosefta.

Chalal Safek – A male or female whose status as a Chalal/ah is in question.

Chalitzah/Chalutzah- Chalitzah is the ceremony performed by a childless widow and the brother of her deceased husband within the system of Levirate Marriage. This is the process by which the brother may avoid the obligation to marry the widow.

Challah – A positive commandment from the Torah that requires that you separate a piece of dough from the kneading and give it to a Kohen, who will eat the dough while in a state of ritual purity. This commandment is only in effect while in the land of Israel during the times of the Temple. To commemorate that mitzvah, a small pinch of dough is separated from the kneading and thrown on the floor of the oven to burn.

Charedi – a Charedi Jew is a member of various Orthodox sects that are identified by strict adherence to halacha and the rejection of contemporary secular culture.

Chazakah – a rabbinic concept meaning the presumption of a personal status.

Chillul Hashem – translates to desecration of the name of God, and refers to any behavior or action that would bring shame to Jews, Torah or God.

D'oraita – Aramaic term that refers to any law that is sourced from the Torah. These laws are strictly upheld.

D'rabbanan – Aramaic term that refers to any law that is sourced from the Rabbinic Period following the biblical period. These laws are often held less strictly since they are not considered the direct word of God.

Da'at torah – the practice of Jews seeking the input and approval of the rabbis on all matters, not just matters of Jewish law.

Duchen – the Yiddish word for the recitation of the Priestly blessing by the Kohanim.

Frum – Yiddish word for devout. Colloquially means to be traditionally committed to the observance of Jewish law.

Ga'onim – The accepted spiritual leaders of the Jewish community during the medieval period, from the 7th century to the 11th century

Gadol Hador – refers to the “greatest of the generation.” This is an honor bestowed upon one rabbi who is understood as greater than all the others.

Gemara – The rabbinical commentary on the Mishnah. The Talmud is made up of the Mishnah and the Gemara.

Get – a Jewish divorce decree.

Gittin – a tractate of the Talmud that deals with divorces and other documents.

Halacha – the collective body of Jewish law as derived from the Written Torah and the Oral Torah.

Hora'at Sha'ah – the emergency principle in Jewish law. A temporary halachic ruling that is issued for extreme situations.

Issur D'rabbanan – Something that is prohibited because of a rabbinic decree – often held less strictly than a prohibition that is from the Torah.

Kohanei Chazakah – Kohanim who cannot prove their lineage, but are considered Kohanim through family tradition and the acceptance of the laws of Kohanim. All Kohanim today are considered Kohanei Chazakah because there is no way to prove their descent from Aaron.

Kohanim Meyuchasim – Kohanim that can prove family lineage. In the time of the Temple, only these Kohanim would be able to serve.

Kohen – the Hebrew word for priest, which is used as a title for the Israelite/Jewish priests that descend from Aaron.

Kohen Aliyah – The honor of receiving the first Aliyah to the Torah (opportunity to say a blessing over the Torah reading) is given to the Kohen in the room. This is purely custom, intended to preserve some of the honor given to the Kohanim in the times of the Temple.

Kohen Gadol – The High Priest, the leading religious authority of Judaism until the time of the destruction of the Second Temple.

Kohen Safek – a Kohen whose status is in doubt. These Kohanim are required to abide by all the restrictions of a Kohen but are prohibited from receiving any of the honors/privileges.

Kosher Witness – A male, Torah-observant adult over the age of Bar Mitzvah.

L'chatchilah – the opposite of b'dieved. It refers to something that is prohibited from the outset or before the fact. For example, a marriage that is forbidden before the fact – but if it is already done, it is allowed b'dieved.

Ma'aser – the first tithe is a commandment from the Torah that requires the donation of 1/10th of all produce to the Kohen.

Machloket/Machlokot(pl) – refers to a dispute or a debate in rabbinic literature.

Mamzer – a biblical status that applies to someone who is born from an adulterous relationship by a married Jewish woman and a Jewish man who is not her husband. Also applies to anyone born out of incest – and to someone who has a mamzer as a parent, as the status is passed down.

Masorti – the name given to the Conservative movement outside of North America.

Mechallelin – the status of being categorized as Chalal.

Midrash – rabbinic commentary on the bible.

Mishnah – an influential compendium of exegetical material that makes up the first part of the oral tradition of Jewish law. Also, the first part of the Talmud.

Mishneh Torah – translates to “repetition of the Torah” and is a code of Jewish law written by the Rambam.

Mitzvah – a commandment given in the Torah.

Nashim Hamesolelet – how the rabbis refer to women who engage sexually with other women. Directly, they are said to “rub up against each other motivated by sexual desire” – from Talmud Bavli, Yevamot 76a, and Rashi on Yevamot 76a

Niddah – the term for a woman during the time when she is menstruating, or after she has finished but before she has immersed herself in a ritual bath (mikveh). During this period of time, she and her husband may not engage in sexual relations.

Oral Law – All of the laws that were not given in the Torah. Also called the Torah sh’be’al peh). These laws make up the Mishnah and Talmud.

Pesua Daka - a man who has an injury to his reproductive organ that renders him ineligible for marriage

Pesulei Kehunah – the women who are rendered forbidden for the priesthood, i.e. they are ineligible to marry a Kohen. Pasul, the root of Pesulei, translates as unfit or defective.

Pidyon HaBen – a ceremony in which the firstborn son of a Jewish couple must be redeemed by a Kohen. Originally, it was the firstborn Jewish sons who were considered holy and were destined for the priesthood, because they were the ones spared from the Plague of the Firstborn in Egypt. When the Golden Calf was created and the people (including the firstborn sons) worshipped the Calf, the firstborn gave up their status. The Levites, the tribe from which the Kohanim originate, did not participate in worshipping the Golden Calf. Therefore, every male firstborn Israelite must be redeemed from a Kohen.

Posek – the term for a decisor of Jewish law. This is a scholar who makes determinations of Jewish law in cases where the decision of previous authorities is inconclusive, where circumstances have changed or where there is no halachic precedent.

Pritzuta D’alma – translates to “mere disapproval.” This is a term that is used in the Talmud when the rabbis want to convey their condemnation of certain behavior, but they aren’t declaring it forbidden behavior.

Progressive Judaism – for our purposes, we will define progressive Judaism as non-Orthodox Judaism, referring to denominations that are committed to some form of evolution of Judaism in order to understand the religion within the scope of the modern world.

Psak Din/Piskei Din – the decision of a posek is known as a psak din (ruling of law). Piskei Din is the plural.

Ptur – the document that is given to the husband and the wife upon completion of a divorce that certifies the divorce. The Get is kept by the Beit Din as a formal document to be filed (also to avoid it being used for anyone else). If someone is asked to present their Get (for example, if they are getting remarried) they actually are presenting the ptur.

Qumran Documents – also known as the Dead Sea Scrolls, this is a collection of almost 1000 manuscripts that were originally found in the 1940's in caves in Israel. They offer much missing insight into the lives and practices of the ancient Israelites.

Responsa – these are the answers given by a rabbi or a scholar to a question on a matter of Jewish law.

Rishonim - Rabbis and poskim who lived from the 11th century to the 15th century, in the period before the Shulchan Aruch was written

Safek Sefeika – a halachic term and rabbinic tool that means a double doubt and allows for rulings of leniency. For example, if there is a piece of food that *might* be unkosher but we're not sure – and then we *think* it fell into a pot of food that was cooking, this is a safek sefeika. In order for the pot of food to be unkosher we would have to confirm that the mystery piece of food was indeed non-kosher food, and that it did indeed fall into the pot. Because this is a *lot* to prove, on the basis of safek sefeika, the pot of food is deemed kosher.

Sanhedrin – Court of Judges appointed in every city in the land of Israel, given full authority over people. In Temple and Rabbinic times, the Sanhedrin was the highest ruling authority over Jewish law.

Shomer Shabbat – this term refers to a person who strictly observes the laws of Shabbat. In our context, it is used as a litmus test to determine whether a person is sufficiently Torah observant.

Talmud – the compilation of the Mishnah and the Gemara, this is a body of law that dates from the 5th century CE. The word Talmud literally translates to the 'learning' or 'instruction' and is the source of much of contemporary halacha.

Tanach – the Jewish bible, also known in Christian scholarship as the Old Testament. Composed of three sections: the Torah, the book of Prophets and the book of Writings. Tanach is an acronym for Torah, Nevi'im (prophets) and Ketuvim (writings) – TaNaCH.

Techumin – acronym for Torah Chevrah UMedINa (Torah, Society and State) a Hebrew language journal about Jewish law and modernity, published annually by the Zomet institute.

Terumah/Heave Offering – a kind of offering that was brought to the Temple and given to the priests. Eating the Terumah was a significant marker of someone's status in the priesthood.

Teshuvah – an answer or a rabbinic Responsum.

Yavam/Yevamah – the participants in a levirate marriage. The Yevamah is the childless widow and the Yavam is her brother in law who is obligated to marry her.

Z'nut – the noun form of the actions that make a Zonah – defined as harlotry or prostitution. Can also be defined as the state of being a Zonah – “a woman is b'znut”

Zugot – five pairs of religious teachers that spearheaded the spiritual leadership of the Jews during the time of the Second Temple.

APPENDIX of Figures and Sources

1. Aish HaTorah – Orthodox organization and yeshivah founded as an explicitly outreach-focused movement.
2. Bartenura – Rabbi Ovadiah ben Abraham of Bartenura, 15th century Italy
3. BDB – Brown, Driver and Briggs, a Hebrew/English lexicon published in the 20th century.
4. CCAR – Central Conference of American Rabbis, governing body of Reform Rabbis
5. Charles Ellicott – 19th century English Christian theologian and academic
6. Chizkuni
7. Darchei Moshe – also known as the Rema, 16th century Poland
8. Haim Cohen – Israeli Supreme Court Justice, 20th century
9. Hillel/Shammai – two opposing sages who founded schools of Jewish thought and law.
10. Igrot Moshe – halachic responsa of Reb Moshe Feinstein, 20th Century Russia/America
11. Jonathan Greenblatt – 21st Century CEO/Director of the Anti-Defamation League
12. Magen Avraham – Rabbi Abraham Abele Gombiner, 17th century Poland
13. Maharashdam – Rabbi Samuel ben Moses de Medina, 16th century Greece
14. Maharit – Rabbi Joseph Trani, 16th/17th century Greece
15. Maimonides – Rabbi Moses Ben Maimon/Maimonides, 12th century Sephardic Maghrebi philosopher and Torah scholar.
16. Phyllis Bird – 20th century feminist Methodist biblical scholar, United States
17. Pitchei Teshuvah – Rabbi Avraham Tzvi Eisenstat, 19th century Russia
18. R' Jacob Milgrom – 20th century American Bible scholar and Conservative Rabbi
19. R' Moshe Feinstein – 20th century Rabbi, born Russia, immigrated to America
20. Rabbeinu Bahya – Rabbi Bahya ben Joseph ibn Paquda, 11th century Spain
21. Rabbi Arnold Goodman – 20th/21st century Conservative Rabbi in America

22. Rabbi Avraham Tzvi Eisenstat – 19th century Russia (now Grodno, Belarus)
23. Rabbi Chaim Jachter – 21st century Sephardic Rabbi, sits on Rabbinical Council of America
24. Rabbi Chaim Weiner – 21st century Masorti Rabbi, London and Israel
25. Rabbi David Tzvi Hoffman – 19th century German Orthodox rabbi
26. Rabbi Isaac Klein – 20th century American Conservative rabbi and Halachic authority
27. Rabbi Israel Bettan – 20th century American Reform Rabbi, former president of CCAR
28. Rabbi Jonathan Magonet – 20th/21st Century British theologian and biblical scholar
29. Rabbi Ovadiah Yosef – 20th century Iraqi born scholar, Sephardic Chief Rabbi of Israel
30. Rabbi Shlomo Amar – 21st century Moroccan born, Sephardic Chief Rabbi of Israel
31. Rabbi Yehudah Leib Tsirelson – 19th century Russia, Chief Rabbi of Kishinev
32. Rasha – a wicked person, considered like a criminal. Understood to be morally wicked.
33. Rashba – Rabbi Shlomo ben Aderet, 13th century Spanish banker/Jewish leader
34. Rav Kook – Rabbi Abraham Isaac Kook, 20th century British Mandatory Palestine, first Ashkenazi Chief Rabbi of Israel, philosopher, kabbalist and Torah scholar
35. Rav Yisrael Meir Lau – 21st c Israel, Chief Rabbi of Tel Aviv, Chair of Yad Vashem
36. Rav Yosef Albom – 20th century Israel, Rabbi and halachist
37. Rema – Rabbi Moshe Isserles, 16th century Poland, Ashkenazi Talmudist and posek
38. Rivash – acronym for Rabbi Isaac Bar Sheshet, author of Sefer Bar Sheshet
39. Sefer Bar Sheshet – Rabbi Isaac Bar Sheshet, 14th century Spain/North Africa
40. Tosafot – 13th century compilation of medieval commentaries on the Talmud. Various authors known as the Tosafists
41. Tur Ha'aroch – written by Rabbi Ya'akov Ben Asher, 13th century Germany
42. Yediot Achronot – national daily newspaper in Israel, published in Tel Aviv.

Bibliography

Abarbanel, Rav Yitzchok. *Abarbanel - Selected Commentaries on the Torah: Vayikra (Leviticus)*. Vol. 3. USA: Createspace Indep Pub, 2015.

Barkat, Amiram, and Haaretz Correspondent. "Rabbinical Court Allows Cohen to Marry Daughter of Non-Jew." Haaretz.Com. April 03, 2006. Accessed March 28, 2017. <http://www.haaretz.com/News/Rabbinical-Court-Allows-Cohen-To-Marry-Daughter-Of-Non-Jew-1.184567>.

Berlin, Adele, and Marc Zvi Brettler, Eds. *Jewish Study Bible, Second Edition*. New York, NY: Oxford University Press, 2014.

Bird, Phyllis. "To Play the Harlot: An Inquiry into an Old Testament Metaphor." *In Gender and Difference in Ancient Israel*, Edited by Peggy Lynne. Day. Minneapolis: Fortress Press, 2010.

Brooks, Beatrice A. "Fertility Cult Functionaries in the Old Testament." *Journal of Biblical Literature* 60, No. 3 (1941): 227. Accessed March 16, 2017.

Brown, Francis, S. R. Driver, Charles A. Briggs, G. R. Driver, Wilhelm Gesenius, Wilhelm Gesenius, Emil Roediger, And Edward Robinson. *A Hebrew and English Lexicon of The Old Testament: With An Appendix Containing The Biblical Aramaic*. Oxford: Clarendon Press, 1952.

Carasik, Michael. *The Commentators' Bible: The Rubin JPS Miqra'ot Gedolot / Mikra'ot Gedolot*. Philadelphia, PA: Jewish Publication Society, 2015.

Carmichael, Calum. *Illuminating Leviticus: A Study of Its Laws and Institutions In The Light Of Biblical Narratives*. Baltimore: Johns Hopkins University Press, 2008.

Crossroads: Halacha and Modern World. Jerusalem: ZOMET, Torah and Science Research Teams, Alon Shvut-Gush Etzion, in association with the Torah Education Dept., World Zionist Organization, 1987.

Demarest, Gary W. and Lloyd John Ogilvie. *Leviticus*. Nashville, TN: Thomas Nelson, 1987.

Douglas, Mary. *Leviticus as Literature*. Oxford: Oxford University Press, 1999.

ELLICOTT, Charles John. *A Bible Commentary for English Readers, by Various Writers. Edited by Charles John Ellicott*. London: Cassell & Co., 1905.

Even-Israel, Adin, Adin Steinsaltz, Tzvi Hersch. Weinreb, Shalom Z. Berger, Joshua Schreier, and Rashi. *Koren Talmud Bavli*. Jerusalem: Shefa Foundation, 2012.

- Ezra, Abraham Ibn, H. Norman Strickman, And Arthur M. Silver. *Ibn Ezra's Commentary On the Pentateuch*. New York: Menorah, 1988.
- Feinstein, Moses, And Moses Feinstein. *Igros Moshe*. Chicago, IL: Davka, 1997.
- Freehof, Solomon B. *Reform Responsa*. Cincinnati: Hebrew Union College Press, 1960.
- Furst, Rachel. "Captivity, Conversion, and Communal Identity: Sexual Angst and Religious Crisis in Frankfurt, 1241." *Jewish History* 22, No. 1-2 (2008).
- Golinkin, David. *An Index of Conservative Responsa and Practical Halakhic Studies, 1917-1990*. New York: Rabbinical Assembly, 1992.
- Goodman, Arnold. "Solemnizing a Marriage between a Kohen and a Convert." Rabbinical Assembly, Halakha. March 12, 1996. Accessed March 27, 2017. https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/Teshuvot/19912000/Goodman_Marriageconvert.Pdf.
- Gordon, Rabbi Jeremy. "On Cohanim and Converts: A Legal Response." On Cohanim and Converts: A Legal Response. January 01, 1970. Accessed March 28, 2017. [Http://rabbionanarrowbridge.blogspot.com/2016/08/On-Cohanim-And-Converts-Legal-Response.html](http://rabbionanarrowbridge.blogspot.com/2016/08/On-Cohanim-And-Converts-Legal-Response.html).
- Greenblatt, Jonathan. "ADL Head: Ultra-Orthodox Using Hate Speech Against Reform Jews." Ha'aretz. March 16, 2016. Accessed March 28, 2017. ADL Head: Ultra-Orthodox Using Hate Speech Against Reform Jews <http://www.haaretz.com/opinion/.premium-1.710885>.
- Grossman, Avraham. *Pious and Rebellious: Jewish Women in Medieval Europe*. Hanover, NH: Univ. Press of New England, 2004.
- Haberman, Clyde. "Rabbis Decide Some Israelis Cannot Marry." *The New York Times*. December 22, 1994. Accessed March 28, 2017. <http://www.nytimes.com/1994/12/23/World/Rabbis-Decide-Some-Israelis-Cannot-Marry.html>.
- "Harlot." Dictionary.Com Unabridged. Accessed March 16, 2017. <http://www.dictionary.com/browse/Harlot>.
- Hartman, David, and Charlie Buckholtz. *The God Who Hates Lies: Confronting & Rethinking Jewish Tradition*. Woodstock, VT: Jewish Lights Publishing, 2014.
- "Hendiadys." Merriam-Webster. Accessed March 17, 2017. <https://www.merriam-webster.com/dictionary/Hendiadys>.

Isseroff, Sampson A., Baruch Epstein, and Bahya Ben Asher Ben Hlava. *Grammatical Explanations on the Torah: Based upon Torah Temimah and Rabbeinu Bahya Ben Asher with Over 200 Elucidations by Rashi*. New York: M.P. Press, 2002.

Johnson, Paul. *A History of the Jews*. New York: Harper & Row, 1987.

JPS Tanakh: The Holy Scriptures. Philadelphia, PA: Jewish Publication Society, 2008.

Karo, Joseph Ben Ephraim. *Shulchan Aruch: Even Haezer*. Vilna: Rom, 1927.

Kehati, Pinhas. *The Mishnah: A New Translation with a Commentary Everyman's Mishnah Series*. Jerusalem, Israel: Eliner Library, Department for Torah Education and Culture in The Diaspora of the World Zionist Organization, 1989.

"Kohen Marriages: Marriage - General Response on Ask the Rabbi." AISH. Accessed March 28, 2017. http://www.AISH.Com/Atr/Kohen_Marriages.html.

Koren Mishnah Sdura Bartenura. Jerusalem: Koren Publishers, 2016.

Levine, Baruch A. *Leviticus: The Traditional Hebrew Text with The New JPS Translation*. Philadelphia, PA: The Jewish Publication Society, 1989.

Lombard, Yoḥanan, and David Munk. *The Kohen's Handbook: a Complete Guide to Help Today's Kohen Maintain his Spiritual Distinction*. Jerusalem: Jerusalem Publications, 2005.

Magonet, Jonathan. *A Rabbi Reads the Torah*. London: SCM Press, 2013.

Maimonides, Moses, and Eliyahu Touger. *Mishneh Torah*. New York: Moznaim, 1997.

Manoah, Hezekiah Ben, and Eliyahu Munk. *Chizkuni: Torah Commentary*. Brooklyn NY: Ktav Publishers, 2013.

"Marriage of a Cohen to a Divorcee Prohibited." CCAR. Accessed March 12, 2017. <https://ccarnet.org/responsa/Arr-435-436/> (Vol. LIII, 1943, Pp. 85-86)

Maslin, Simeon J., and Ismar David. *Gates of Mitzvah / Sha'are Mitsvah, A Guide to The Jewish Life Cycle*. New York: Central Conference of American Rabbis, 1979.

May, H. G. "The Fertility Cult in Hosea." *The American Journal of Semitic Languages and Literatures* 48, No. 2 (1932): 73-98. Accessed March 16, 2017.

Medina, Shmuel De, Dayid Avitan, and Shemu'el Devir. *She'elot U-Teshuvot Maharashdam: Ha-Shayakhot Ba-Tur*. Yerushalayim: Zikhron Aharon, 2007.

Milgrom, Jacob. *The Anchor Bible: Leviticus 1-16*. New York: Doubleday, 1991.

Milgrom, Jacob. *Leviticus: A Book of Ritual and Ethics*. Minneapolis, MN: Fortress Press, 2004.

"Mishnah Horayot 3 | Sefaria." Sefaria: A Living Library of Jewish Texts Online. Accessed March 27, 2017. http://www.sefaria.org/Mishnah_Horayot.3?Lang=Bi.

Neusner, Jacob. *The Perfect Torah: Vol. 13 Of The Brill Reference Library of Ancient Judaism*. Leiden: Brill, 2003.

"Orthodox Aspersions Against Reform Marriages." CCAR. Accessed March 12, 2017. <https://ccarnet.org/Responsa/Rrr-194-203/>.

Owens, J. Edward. *Leviticus*. Collegeville, MN: Liturgical Press, 2011.

Perfet, Isaac Ben Sheshet, And Yisra'el Hayim Daikhes. *She'elot U-Teshuvot Bar Sheshet: Sefer Sh.U.T. Ha-Rivash Ha-Hadashot*. Yerushalayim: H.Mo.L., 1974.

Perfet, Isaac Ben Sheshet. *Sh. U-T. Ha-Ribash*. Brooklyn, NY: Ch. Reich, 1994.

"Priestly and Levitical Status in Reform Judaism." CCAR. Accessed March 12, 2017. <https://ccarnet.org/Responsa/Priestly-Levitical-Status-Reform-Judaism/>.

Rosenblum, Jonathan. "Not Quite So Fast." Jewish Media Resources. March 13, 1998. Accessed March 28, 2017. <http://www.jewishmediaresources.com/569/Not-Quite-So-Fast>.

Scherman, Nosson, Hersh Goldwurm, Avie Gold, And Meir Zlotowitz. *The Chumash: The Torah, Haftaros and Five Megillos / Hamishah Humshe Torah: 'im Targum Onkelos, Pe. Rashi, Haftarot Ve-Hamesh Megilot, 'im Kol Tefilot Shabat Nusah Sefarad*. Brooklyn, NY: Mesorah Publications Ltd., 2008.

Scherman, Nosson. *Torah Nev'im Ketuvim: Tanakh/ Tanach/The Jewish Scripture: The Twenty-Four Books of The Bible Featuring a Contemporary Translation with Annotated Commentary*. Brooklyn: Mesorah, 2011.

Scherman, Nosson, And Hersh Goldwurm. *Vayikra/Leviticus, Artscroll Tanach Series*. Brooklyn, NY: Mesorah Publications, 2012.

Sforno, Obadiah Ben Jacob, And Ralph Pelcovitz. *Sforno: Commentary On the Torah / Be'ur 'al Ha-Torah Le-Rabi 'Ovadyah Sforno*. Brooklyn, NY: Mesorah, 1987.

"Solemnizing The Marriage Between a Cohen and Divorcee (Rabbinical Assembly)." Religious Institute. December 17, 2013. Accessed March 28, 2017. <http://religiousinstitute.org/Solemnizing-The-Marriage-Between-A-Cohen-And-Divorcee-Rabbinical-Assembly>

Sprinkle, Joe M. *Leviticus and Numbers*. Grand Rapids: Baker Books, a Division of Baker Publishing Group, 2015.

Strack, Hermann L. *Introduction to The Talmud and Midrash: Authorised Transl. On The Basis of the Author's Revised Copy of The 5. German Ed.* Philadelphia: Jewish Publication Soc. Of America, 5705.

"The Work of Maimonides: The Mishneh Torah & The Guide for The Perplexed." The Mishneh Torah & The Guide for The Perplexed - Judaic Treasures. Accessed March 28, 2017. <http://www.jewishvirtuallibrary.org/The-Mishneh-Torah-And-The-Guide-For-The-Perplexed-Judaic-Treasures>.

Philo, And Charles Duke. Yonge. *The Works of Philo: Complete and Unabridged*. Peabody, MA: Hendrickson, 2008.

Theodor, J., And Chanoch Albeck. *Midrash Bereshit Rabba*. Jerusalem: Wahrmann Books, 1965.

Torah, Daas. "Cohen II - Marrying A Baalas Teshuva." Cohen II - Marrying A Baalas Teshuva. January 01, 1970. Accessed March 28, 2017. <http://daattorah.blogspot.com/2008/10/Cohen-Ii-Marrying-Baalas-Teshuva.Html>.

Washofsky, Mark. "'Responsa and The Art of Writing: Three Examples from The Teshuvot of Rabbi Moshe Feinstein.'" In Peter S. Knobel and Mark N. Staitman, Eds., *An American Rabbinate: A Festschrift for Walter Jacob* (Pittsburgh: Rodef Shalom Press, 2001), Pp. 149 - 204. Accessed March 28, 2017. https://www.academia.edu/2945990/_Responsa_And_The_Art_Of_Writing_Three_Examples_From_The_Teshuvot_Of_Rabbi_Moshe_Feinstein_.

Wenham, Gordon J. *The Book of Leviticus*. Grand Rapids, MI: W.B. Eerdmans, 1979.

"Woman Returning to Her First Husband." CCAR. Accessed March 12, 2017. <https://ccarnet.Org/responsa/Rrr-163-167/>.

Yosef, Ovadiya. *Yabia' Omer*. Yerushalayim: Hamehaber, 1994.

Zipor, M. "Restrictions on Marriage for Priests." *Biblica* 68, No. 2 (1987): 259-67. Accessed December 21, 2016. Jstor.