



## LIBRARY COPYRIGHT NOTICE

[www.huc.edu/libraries](http://www.huc.edu/libraries)

### Regulated Warning

See Code of Federal Regulations, Title 37, Volume 1, Section 201.14:

The copyright law of the United States (title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use,” that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

## INSTRUCTIONS FROM AUTHOR TO LIBRARY FOR THESES AND PRIZE ESSAYS

RESTRICTION REMOVED

$$\frac{3}{4} / 8!$$

03:3

25

Initials

**AUTHOR** Harold Seymour Jaye

TITLE "Shulhan 'Arukh, 'Even Ha-'Ezer, Hilkhot Periyyah Ureviyyah  
and Hilkhot 'Ishshut - An Annotated Translation"

TYPE OF THESIS: Ph.D. ☐ D.H.L. ☐ Rabbinic ☒

Master's [ ] Prize Essay [ ]

1. May circulate [☒] ) Not necessary  
 ) for Ph.D.  
2. Is restricted [☐] for years. ) thesis

**Note:** The Library shall respect restrictions placed on theses or prize essays for a period of no more than ten years.

I understand that the Library may make a photocopy of my thesis for security purposes.

3. The Library may sell photocopies of my thesis.

**yes**

DO

April 3, 1970  
Date

Date \_\_\_\_\_

Harold S. Jase  
Signature of Author

Signature of Author

Library  
Record

**Microfilmed**

Date \_\_\_\_\_

July, 1970

Lucia Steiner  
Signature of Library Staff Member

Signature of Library Staff Member

SHULHAN 'ARUKH, 'EVEN HA-'EZER, HILKHOT PERIYYAH UREVIYYAH  
AND HILKHOT 'ISHSHUT - AN ANNOTATED TRANSLATION

By

HAROLD SEYMOUR JAYE, B.A., B.H.L.

Thesis submitted in partial fulfillment  
of the requirements for the Degree of  
Master of Arts in Hebrew Letters and  
Ordination

Hebrew Union College-Jewish Institute of Religion

1970

Referee, Prof. Alexander Guttmann

## DIGEST

This work is an attempt at an original translation of the first seventeen chapters of Shulhan 'Arukh, 'Even Ha-'ezer, dealing primarily with laws of marriage, remarriage, and personal status.

Chapter One enjoins upon every Jewish male the obligation to marry and beget children in fulfillment of the divine commandment. Therein are also discussed matters of polygamy.

Chapter Two states that a man must marry a suitable woman and details the prescriptions for determining what persons and families are of worthy lineage and status. Other qualifications for a wife are mentioned.

In Chapter Three are given rules for determining who is of qualified priestly lineage, and Chapter Four treats of those such as members of heathen peoples who are forbidden to marry Jews as well as those to whom is applied the term mamzer.

Chapter Five deals with the biblical injunction prohibiting those with defective reproductive organs from marrying with Jews, and also details rules against castrating man or beast. Chapter Six tells which women are forbidden to marry a priest.

In Chapter Seven are given laws regarding captive women and their assumed defilement and those to whom is applied the term halalah.

Chapter Eight tells how the status of children follows that of their father, Chapter Nine tells who is termed a qatlanit, and Chapter Ten treats of those divorced women who are permitted to remarry their ex-husbands.

In Chapter Eleven are found laws about a married woman suspected of infidelity and Chapter Twelve deals with the question of permission of a woman to marry the witnesses of the get or the witnesses who testify to her husband's death.

The rules that a divorcee or a widow must wait ninety days before remarriage and that one should not marry the nursing or pregnant wife of one's fellow appear in Chapter Thirteen.

Chapter Fourteen states the law that one should not marry during the period of mourning and Chapter Fifteen treats of the incestuous unions prohibited in the Bible and Talmud.

Chapter Sixteen details the prohibition of marrying gentiles and slaves and Chapter Seventeen deals with the permission of a woman whose husband has died to remarry and under what conditions the testimony to his death is valid and invalid.

FOR MY PARENTS

## PREFACE

The Shulhan 'Arukh is the culmination of centuries of editing of legal codes and stands today as the Jewish law book par excellence. Its author, Rabbi Joseph Karo (Palestine, 1488-1575), wrote it as an abridgment of his monumental Bet Yosef, a commentary upon the 'Arba'ah Turim of Rabbi Jacob ben Asher. Along with the notes of Rabbi Moses Isserles (Cracow, 1520-72), stating the practices of the German-Polish communities, the Shulhan 'Arukh became the authoritative code of Jewish life.

The Shulhan 'Arukh follows the same four part arrangement of laws found in the Tur. The first part, entitled 'Orah Hayyim ("The Way of Life"), contains ritual laws of prayer, synagogue, Sabbath, and festivals. Part two, 'Yoreh De'ah ("It Teaches Wisdom"), deals with food laws, honoring of parents, charity, circumcision, mourning, etc. Part three, 'Even Ha-'ezer ("The Stone of Help"), is concerned with laws of marriage, divorce, and related subjects while the fourth part, 'Hoshen Mishpat ("The Breastplate of Judgment") treats of civil law. Each part is divided into chapters and further subdivided into paragraphs.

This work is an attempt at an original translation into English of the first seventeen chapters of 'Even Ha-'ezer, dealing with various aspects of marriage, remarriage, and personal status.

The notes of Rabbi Moses Isserles are preceded by the word NOTE. Parentheses are as they occur in the

original text, indicating comments by later editors and giving sources for various statements.

The notes of the translator help to clarify the text and some of the material for them has been taken from the 18th century commentary, Ba'er Hetev by Dayyan Judah Ashkenazi of Tiktin.

Appended to the text is a glossary of Hebrew terms left untranslated in the text as well as lists of cited authorities and Talmudic chapters.

The translator wishes to express his deep appreciation to Rabbi Dr. Alexander Guttmann, Professor of Talmud and Rabbinics, for his constant encouragement and for his willingness to share his knowledge both in and out of the classroom. The years which the translator spent at the College-Institute were greatly enriched as a result of his having been privileged to study under this revered scholar and teacher.



## TABLE OF CONTENTS

Chapter	Page
PREFACE . . . . .	ii
I. THE LAWS OF PROCREATION AND THAT ONE SHOULD NOT BE WITHOUT A WIFE . . . . .	1
II. THAT ONE SHOULD ATTEMPT TO MARRY A SUITABLE WIFE . . . . .	7
III. THE LAW ABOUT A SON WHO IS OF DOUBTFUL PRIESTLY STOCK . . . . .	13
IV. THOSE WHO ARE FORBIDDEN TO ENTER THE CONGREGATION AND WHO IS CALLED A <u>MAMZER</u> . . . . .	17
V. THE LAW OF A <u>PEZU'A DAKKA'</u> AND <u>KERUT</u> <u>SHOFKHAH</u> , AND THE PROHIBITION OF CASTRATING A MAN OR BEAST OR FOWL . . . . .	30
VI. WOMEN WHO ARE FORBIDDEN TO A PRIEST AND THE LAW REGARDING THE WIFE OF A PRIEST . . . . .	35
VII. THE LAW CONCERNING A WOMAN WHO WAS TAKEN CAPTIVE, AND WHO IS TERMED A <u>HALALAH</u> . . . . .	42
VIII. IN ANY CASE OF DOUBT THE OFFSPRING FOLLOWS THE MALE . . . . .	51
IX. WHO IS TERMED A <u>QATLANIT</u> . . . . .	52
X. WHICH DIVORCEE IS PERMITTED TO RETURN TO HER HUSBAND . . . . .	53

XI. A WOMAN UNDER SUSPICION WHILE BEING MARRIED . . .	55
XII. IF WITNESSES OF THE GET AND SIMILARLY THOSE WHO TESTIFIED TO THE DEATH OF THE HUSBAND ARE PERMITTED TO MARRY THAT WOMAN . . . . .	59
XIII. A DIVORCEE OR A WIDOW MUST WAIT NINETY DAYS BEFORE SHE REMARRIES; AND THAT ONE SHOULD NOT MARRY THE NURSING WIFE NOR THE PREGNANT WIFE OF HIS FELLOW . . . . .	61
XIV. ONE SHOULD NOT MARRY DURING THE MOURNING PERIOD . . . . .	67
XV. THE INCESTUOUS CONNECTIONS PROHIBITED BY BIBLICAL LAW AND BY RABBINIC LAW . . . .	68
XVI. THE PROHIBITION OF MARRYING A GENTILE OR A SLAVE . . . . .	76
XVII. THE PERMISSION TO REMARRY OF A MARRIED WOMAN WHOSE HUSBAND DIED AND OF A WOMAN WHO SAYS, "YOU DIVORCED ME"; AND THE LAWS OF THE <u>ERVAH</u> AND OF A WOMAN WHO MARRIED IN PROHIBITION OR IN ERROR . . . . .	79
NOTES . . . . .	105
GLOSSARY OF UNTRANSLATED HEBREW TERMS . . . . .	112
RABBINIC AUTHORITIES CITED BY KARO AND ISSERLES . . .	116
TALMUDIC CHAPTERS CITED IN THE TEXT . . . . .	120
WORKS CONSULTED . . . . .	121

## HILKHOT PERIYYAH UREVIYYAH

- I. The laws of procreation and that one should not be without a wife. Herein are fourteen paragraphs.

1. Every man is obligated to marry in order to fulfill the commandment to be fruitful and multiply, and everyone who does not engage in procreation is regarded as if he is shedding blood, diminishing the godly image, and causing the Divine Presence to depart from Israel.

NOTE: Everyone who does not have a wife lives without blessing, without Torah, etc., <sup>1</sup> and is not called a man. As soon as he marries his sins vanish, as it is stated in Scripture: "Whoso findeth a wife findeth a great good and obtaineth favor of the Lord." [Prov. 18:22] . <sup>2</sup>

2. One must not sell a scroll of the Law except in order to study Torah or marry.

3. It is incumbent upon every Jew that he marry at the age of eighteen, and it is the most preferable way of performing this commandment to marry earlier; however one should not marry before the age of thirteen years because this is considered lewdness. In any event one should not pass his twentieth year unmarried, and with regard to one who has passed his twentieth year and does not want to marry, the court shall compel him to marry in order that he can fulfill the precept of procreation. However, if he is occupied with study and concerned about it, and fears marrying lest he be overly burdened regarding making a living, and thereby neglect study, it is permitted for him to delay marriage.

NOTE: At the present time <sup>3</sup> it is not the practice to compel a person to get married, and thus, he who has not fulfilled the precept of procreation and comes to marry a woman who is not capable of bearing children, such as

a barren woman, an old woman, or a child because he desires her or because of her wealth, even though according to the Law we should object to this, it has not been the practice for many generations to be particular in the matter of marriages. Even regarding one who married a woman and lived with her for ten years [and she bore no children] it is not the practice to compel him to divorce her even though he did not fulfill the commandment of procreation, and the same holds true with regard to other types of marriages (Ribash, chapter 15) provided that the woman is not prohibited to him.

4. He whose soul is attached in love to the Torah like ben Azzai,<sup>4</sup> continually joined to it all his days, and for this reason does not marry, is not culpable provided that his desire does not overpower him.

5. After one has sired a male child and a female child he has fulfilled the commandment of procreation provided that the son is not a eunuch or the daughter an 'aylonit (explanation: the word 'aylonit is from 'ayil ["ram"]), that is, the male of the sheep, which is to say that the female has the nature of a male of which the signs are that she does not have women's breasts and her voice is deep, and the pubic region does not protrude as in other females).

6. If there were born to one a male and a female and they died but left children, such a person has fulfilled the requirement of procreation. When does this apply? When the grandchildren were male and female and they came from a male and female even though the male was the son of his daughter and the female was the daughter of his son, since they came from his two children he has fulfilled the precept of procreation. However, if a man had a son and a daughter and they died and one of them

left a male and female child,he has not then fulfilled this commandment.

NOTE: If the son were a memger,a deafmute,an insane person,or a minor the man fulfilled the obligation (Bet Yosef in the name of Rashba').

7. If one had children while he was a gentile and then he and they converted to Judaism together,then he has fulfilled this commandment;but if one had children while he was a slave and he and they were subsequently manumitted together,he has not fulfilled this commandment until he sire children while free.

8. Although one has fulfilled the precept of procreation it is still forbidden for him to remain unmarried and he must marry a woman capable of bearing children if he has the means; even if he has many children. And if he does not have the means to marry a woman capable of childbirth unless he sell a scroll of the Law, then,if he has no children he should sell it in order to marry such a woman,but if he has children he should not sell the scroll but should marry a woman who cannot bear children so that he does not in any case remain unmarried. There are those of the opinion that even if one has children he should sell a scroll of the Law in order to marry a woman capable of bearing children.

NOTE: However,if one realizes that he is no longer potent or fit for siring children he may marry a woman who is incapable of bearing children (Nimoqe Yosef in the chapter Ha-ba' 'al Yevimto) and thus if one has many children and fears that if he were to marry a woman capable of bearing children then quarrels and arguments would arise between the children and his wife,he is permitted to marry a woman incapable of childbirth. It is forbidden, however,to remain unmarried because of such a fear (Teru-

mat Ha-deshen, chapter 283).

9. A man may marry many wives provided that it is possible for him to fulfill their needs. In any event the Sages gave good counsel: that a man should not marry more than four wives in order that each one might have one marital visit a month. In a locality where it is the practice to marry only one wife one is not permitted to marry another woman in addition to his wife (see below at the end of chapter 2 where it states that it is forbidden to marry two women in two separate places).

10. Rabbenu Gershom placed a ban upon one who marries more than one wife,<sup>5</sup> but he placed the ban neither upon one who marries a yevamah [in addition to his wife] nor upon one who [is married and also] betroths a woman.<sup>6</sup>

NOTE: That is, if one does not want to marry her but to divorce her (Mahariq, section 101), and the same applies in every case where there is voiding of fulfillment of a commandment, for example, if one lived with his wife for ten years and she did not give birth (Mordekhai, chapter Ha-holez; Rashba', chapter 280; and Maharam of Padua, chapter 19). However there are those who disagree and hold that the ban of Rabbenu Gershom applies even in a case where a commandment is involved and even in the case of a yibbum, and is obligated to perform halizah (Hagahot Mordekhai to Yevamot and to Ketubot, and also Nimoqe Yosef, chapter Ha-holez), but in the case where the first wife is not able to be divorced, such as if she became insane, or where the husband is obligated by law to divorce her but she does not want to take the bill of divorcement from her husband, it is the practice to be lenient and to permit him to marry a second wife (so is

the implied meaning in a responsum of Rashba'), and even more so if she is betrothed and she wants neither to marry him nor to be divorced from him. However the decree of Rabbenu Gershom has not spread to all countries.

NOTE: And only in a place where it is known that his decree has not spread [does it not apply], but generally it applies to everywhere (Responsa of Rabbi Judah Mintz, chapter 110). See Yoreh De'ah, chapter 228: "If one went from a place where it was the practice to be stringent to a place where it was the practice to be lenient..."

Rabbenu Gershom imposed the ban only until the end of the fifth millenium. <sup>7</sup>

NOTE: In any case, in all these countries the decree and the custom stand and they do not marry two wives; moreover by means of excommunications and bans they compel one who violates the decree and marries two wives to divorce one of them. There are those of the opinion that nowadays they should not compel one who violated the ban of Rabbenu Gershom (Bet Yosef, chapter 86) because the fifth millenium is already completed (ibid. in the name of Mahariq) but we do not so practice. There are some who say that he whose wife changed her religion shall bestow a bill of divorce upon her through an agent and marry another woman, and such is the practice in some localities (Pisque Rabbi Israel Isserlein, chapter 226) and in a place where monogamy is not the practice there is no need to be stringent and it is permitted to marry a second wife without divorcing the first one (ibid., Minhage Renuš).

11. It is meritorious to enforce the decree through bans and excommunications against one who marries a wife in addition to his present wife.

12. Regarding one who swore that he would not take

a wife in addition to his first wife and he lived with his wife for ten years without her bearing children -- this will be explained in chapter 154.

13. The commandment to procreate is not incumbent upon a woman (see chapter 154), but even so there are those authorities who say that a woman should not remain unmarried because of suspicion (Hagahot 'Alfasi, chapter Ha-ba' 'al Yevinto in the name of 'Or Zaru'a).

14. The ruling regarding one who married a woman, lived with her for ten years and she did not give birth will be explained there (chapter 154).



II. That one should attempt to marry a suitable wife. Herein are eleven paragraphs.

1. A man should not marry a woman who has any disqualification. <sup>8</sup>

NOTE: Everyone who marries a disqualified woman because of her wealth will have unworthy children but without this, if she were not disqualified but he married her because of her wealth he is permitted to do so (Responsa of Ribash, chapter 15). If a man wants to marry a disqualified woman the members of his family can object to this (Ran, chapter Ha-mokher) and if he does not wish to pay attention to them they should do something as a sign that his seed not be mixed with theirs. If someone were promised much money for the marriage [as dowry] and then subsequently those promising went back on their word he should not make his bride an 'agunah' because of this nor should he argue because of his wife's property, and he who does so will not succeed nor will his marriage be a success because the money which a man takes with his wife is not deserved money and everyone who acts thusly is called "one who married for the sake of money," however all that money which one's father-in-law or mother-in-law gives him he should take graciously and then this will benefit him (Bet Yosef in the name of 'Orehot Hayyim).

2. All the Jewish families are presumed to be of legitimate descent and it is permitted to marry one from them a priori. Even so, if you see two families which are continually quarreling because of jealousy (or two people who are fighting one another) (chapter 'Asarah Yuhasin) or if you saw a family constantly engaged in argument and strife, or if you saw a man who quarrels greatly with everyone and is especially insolent, then we suspect them of unfit genealogy and it is proper to keep far from them, for such are the signs of genealogical dis-

qualification. Thus regarding everyone who continually charges others with a defect, for example one who puts suspicion upon families or individuals and says that they are manzerim, we suspect him of being a manzer himself, and if he says that others are slaves we suspect him of perhaps being a slave himself, for everyone who charges others with defects is really charging them with his own defect; and thus regarding one who is insolent and cruel, hating his fellows and not acting kindly toward them,<sup>9</sup> we especially suspect that one of being a Gibeonite.<sup>10</sup>

3. Regarding a family whose legitimacy is contested, provided that two witnesses testified that a mamzer or a halal had been mixed into it, or it possesses slave status, such a family is in a state of doubt [of legitimacy]. If it is a priestly family, one shall not marry a woman from it until he investigates her four mothers, which are indeed eight, namely: her mother, her mother's mother, her mother's father's mother, and that one's mother. If the family whose legitimacy is Levitical or Israelitic, he must investigate the ascent back to one mother more and thus investigate ten mothers; but a woman who comes to be married does not need investigation for there is no specific law prohibiting women without blemish [in their lineage] to marry men with blemish [in their lineage].

4. If a person is called a mamzer and remains silent, or is called a natin and remains silent, or is called a slave and remains silent, then we suspect him; we should not take wives from his family unless we investigate in the manner previously stated.

NOTE: Some are of the opinion that this pertains only to a family in which there is mixed one of these blemished people, but regarding another man whom they call

thus and he remains silent, there is nothing about which to be concerned (Tur in the name of Rabbi Isaac and Bet Yosef in the name of Ramban and Rashba'). Some hold in addition that all this was only in former times because the court was concerned with one who reviled his fellow and they punished him accordingly, therefore silence was like an admission of guilt;<sup>11</sup> but in our day he who remains silent during a quarrel is praiseworthy, unless they call him a name at a time when there is no quarrel (Bet Yosef in the name of Strictures of Rabad). Others hold that we do not say "silence is like an admission of guilt" unless the man accused protested when accused in another instance of accusation disqualifying him, but if he kept silent continually this is not like an admission of guilt (Ran, end of first chapter of Ketubot) -- and all this pertains to a disqualification which touches himself, but if they want to declare his offspring unfit in his presence and he remains silent there is no indication of an admission in such a case; but we must be somewhat apprehensive in such a case (Responsa of Maharam of Padua, chapter 14). He who hears an accusation in other [i.e. not family] matters and remains silent, this is a sign that he is of distinguished family status.

5. Every unblemished woman who is married to one from a family in which there is mixed a doubtful halal and becomes widowed is forbidden to a priest a priori, but if she is already married to one she need not leave him because of two doubts: 1) perhaps she is the widow of that halal and perhaps she is not his widow and, 2) even if we say [i.e. assume] that she is his widow perhaps he is not a halal.

NOTE: Some say [this applies] only to the widow because she has the presumptive status of legitimacy, but

her daughter, even if she did marry, should be divorced from her husband -- and some are lenient and say that there is no difference between her and her daughter (both opinions in Bet Yosef, end of chapter 66).

But if there is mixed into such a family a (definite) halal, then if she is already married she should be divorced from her husband; and the same holds true if a doubtful mamzer or definite mamzer was mixed into it.

NOTE: All this pertains only to one who knows about the matter, but regarding a family in which there is mixed one of illegitimate status and the situation is not publicly known, since it was concealed it remains so; and he who knows of its disqualification is not permitted to reveal it, but he should let the family remain in the presumptive state of legitimacy for all Jewish families who have submerged disqualified people will be legitimate in the future. <sup>12</sup> In any case, it is the proper thing to reveal it to the chaste [very pious ones] (thus implies the Ran, chapter 'Asarah Yuhasin) and so only a family which was concealed and mixed, but all the time it is not mixed we reveal the blemished ones and announce them in order that the ones of legitimate descent separate from them (ibid. in the Hagahot 'Alfasi) -- see Hoshen Mishpat, chapter 35: "who is trustworthy to testify concerning families."

6. A man should ever strive to marry the daughter of a scholar and to give his daughter in marriage to a scholar. If he does not find a scholar's daughter then he should marry the daughter of one of the prominent men of his generation. If he does not a daughter of one of the prominent men of his generation then he should marry the daughter of a synagogue head. If he cannot find such then let him marry the daughter of a manager of chari-

ity. If he cannot find such let him marry the daughter of a teacher of children. One should not give his daughter in marriage to an ignoramus.

NOTE: Regarding daughters of ignoramuses Scripture says: "Cursed be he who lies with a beast" [Deut. 27: 21]; but this applies to an ignoramus who is not meticulous with regard to religious observance (Tur). Also it is a commandment that a man marry his sister's daughter (Gemara' to Sanhedrin and Yevamot). There are those who say one must marry even his brother's daughter (Rambam, chapter 2 of Hilkhot Issure Bi'ah).

7. One should not marry a woman from a family of lepers, nor from a family of epileptics provided that it is confirmed three times that their children will be thus affected. <sup>13</sup>

8. One who is an 'am ha-'arez should not marry a woman of priestly stock, and if he does marry her their marriage will not succeed for either he or she will die prematurely or an obstacle will come between them. However, when a scholar marries a woman of priestly stock this is befitting and praiseworthy as Torah and priesthood are together in one place.

9. A young man should not marry an elderly woman, nor should an elderly man marry a young woman, for such a thing causes lewdness. <sup>14</sup>

10. A man should not marry a woman if it is his intention to divorce her eventually, but if he declared at the outset that he was marrying her for only a stipulated amount of time then he is permitted to marry her.

11. One should not marry a woman in one country

and then go and marry a woman in another land lest the children marry one another and the case arise of a brother marrying his sister. But such a marriage [to two women in two lands] is permitted to a great man whose name is known and whose offspring after him are well known.

III. The law about a son who is of doubtful priestly stock. Herein are nine paragraphs.

1. If one should come at this time and say, "I am of priestly descent," he is not believed; we do not consider him of priestly descent by his own statement. He should neither be called up first to the Reading of the Law nor raise his hands in the priestly benediction.

NOTE: Some are of the opinion that he is to be believed and thus entitled to read first in the Law and to raise his hands in benediction at this time when we no longer observe the biblical law of terumah, in which case we would be concerned lest people raise him [i.e. consider him a priest] in regard to the terumah (Bet Yosef in the name of Rabbi Moses Cohen); and thus at this time such is our practice every place where people do not observe terumah in our day, and we should not be at all apprehensive.

He should not eat of the godshe ha-gevu unless we have one witness to attest to his priestly status; but he prohibits himself to marry a divorcee, a zonah, or a halalah,<sup>15</sup> he should not render himself impure by contact with the dead,<sup>16</sup> and if he then married a woman forbidden to a priest or became impure by means of the dead he is to be flogged, and she with whom he had intercourse (if she was unfit for a priest) is regarded as a doubtful halalah. But if he declared himself a priest in ignorance of the legal implications he is to be believed. How is this possible? It happened that one made a casual statement saying, "I remember when I was a child and would ride on my father's shoulders, they took me out of school, stripped me of my shirt, and immersed me so I could eat terumah in the evening, and my friends kept away from me and called me 'Yohanan the eater of hallot'," and Rabbi<sup>17</sup> raised him to the priesthood by his own testimony.<sup>18</sup>

2. If one witness testified to his being a priest he is believed with regard to the eating of terumah at this time, also to read the Law first and to raise his hands in blessing, and he is believed even more were his father testifying for him. In these days we even promote one to priestly status by means of documents. How so? If it were written in a document, "So-and-so, a priest, borrowed a maneh from so-and-so," and witnesses had signed it, then the one so mentioned is considered in the status of a priest like the priests of our day, and moreover, we promote one to priestly status, as the priests of our day, from seeing one lifting hands in blessing or from seeing one reading first in the Law.

NOTE: Some say that of one signed a document himself thusly: "I, so-and-so, a priest, am witness," he is believed at this time (Ran, chapter 2 of Ketubot).

3. If one of the forced converts testifies that another of them is of priestly descent we promote him to read in the Law and do not suspect that his mother was a gentile.

4. Even were two to appear and each one were to testify that the other was a priest, they are to be believed without our suspecting they are conspiring.

5. An adult is believed when he says, "I remember when I was a child and I saw so-and-so immersing and eating terumah," and we promote the one about whom he spoke to priestly status of the priests of our day by his testimony.

6. If one comes and says, "I am a priest," and a witness testifies that he knows this one's father to be a priest, we do not ascribe to this one priestly status on the testimony of that witness lest he be a halal un-



til there be a witness that he himself is a priest. However, if his father is presumed to be a priest or if two witnesses come and testify that this one's father is a priest, then this one is presumed to be as his father (and in every matter we go according to presumptive status, for they even punish by burning and stoning according to presumptive status).

7. If a rumor spread that one whose father is presumed to be a priest is the son of a divorcee or the son of a haluzah we are apprehensive and we demote him from his status, but if there came one witness afterward and testified that he was fit, we then elevate him to the priesthood on the testimony of that one witness. If, after this, there came two witnesses and testified that he was a halal, we demote him from the priesthood. Were there then to come one witness and testify to his being fit, we elevate him to the priesthood, for this last witness is considered as joined with the first witness making two who testified that he was fit and two who testified that he was unfit. These cancel out one another and the rumor is nullified, for the two are like one hundred and the priest remains in the presumptive status of his father. 19

8. If a woman did not wait three months after separation by death or divorce from her husband and married again and gave birth, and it is not known whether it is a nine-month child by the first husband or a seven-month child by the last husband, and if one of the husbands was a priest and the other was a Yisra'el, then the child is a doubtful priest. Thus too, if the child of a priest were mixed up with the child of a Yisra'el then, when these interchanged children grow up, they are both considered doubtful priests and we apply strict laws of Yisra'elim

and strict laws of priests. They should not marry women who are unfit for priests and they should not defile themselves by contact with the dead, and they do not eat terumah. If one of them had married a divorcee he must divorce her but he is not punished.

9. Regarding two priests whose children were interchanged or the case where a wife of a priest did not wait three months after separation from her husband and married another priest and gave birth and it is not known whether the child is a nine-month child of the first husband or a seven-month child of the second one, in these cases the child is a priest and we apply to the child the restrictions of both of them. He must mourn as an onen for them and they must mourn as onenim for him, but he may not defile himself for them nor may they defile themselves for him. To what type of situation does this apply? When they are born in wedlock, but were they born from an illicit relationship we deny him the privileges of priesthood [declare him a halel] since it is not known certainly who his father was. How is such a case? If ten priests were standing together and one of them separated from the group and had intercourse with a woman, then even though it is certain that the offspring is the son of a priest and though he is punished if he defiles himself through contact with the dead or marries a divorcee, he must not perform Temple service nor eat terumah.

NOTE: If a woman had illicit relations with a priest and then within three months she married another priest, the child resulting is disqualified with regard to the priesthood. If a priest had intercourse with a single woman then admitted that the offspring is his son, then the son is a priest in all respects and we are not apprehensive that perhaps she [the mother] freely made herself available to others (Responsa of Ro'sh, chapter 32).

IV. Those who are forbidden to enter the congregation,<sup>20</sup> and who is called a mamzer. Herein are thirty-seven paragraphs.

1. Mamzerim and netinim are forbidden from marrying legitimate Jews by a perpetual prohibition eternally, whether they be male or female.

2. Male Ammonites and Moabites are forbidden to marry Jewish women by a perpetual prohibition, but their females are permitted immediately to marry Jews.

3. Egyptians and Edomites are forbidden only to the third generation, be they males or females. Such a case would be that if he converts, both he and his son are forbidden but his grandson is permitted.

4. The son of an Egyptian woman who became a proselyte while pregnant is considered a second-generation Egyptian.

5. If a Jew had intercourse with any of these aforementioned nationalities prior to their conversion, the offspring is considered to be of the same nation as its mother. If a male of any of these peoples, with the exception of a mamzer, had intercourse with a Jewess, the offspring is fit for marriage with a Jewess but blemished with regard to the priesthood.

6. If one woman of these peoples converts to Judaism and marries a Jew, or one man of these peoples converts to Judaism and marries a Jewess, then the offspring is considered to follow the line of the blemished [inferior] one; thus if an Ammonite or Egyptian proselyte marries a [born] Jewish woman, the female offspring is fit even to

marry a priest, for she is fit no matter whose line we follow; but in the case of a second-generation Egyptian who marries a first-generation Egyptian woman, the offspring is taken to be of the second generation. Where a first-generation Egyptian marries a second-generation Egyptian woman, some say that the offspring is of the third generation and according to Maimonides it is of the second generation.

7. If an Ammonite marries an Egyptian woman the offspring is an Ammonite and if an Egyptian marries an Ammonite woman the offspring is Egyptian, for among the gentile nations the offspring follows the male line. However, if they had converted to Judaism, the line of the inferior [lit. blemished] of both is followed, thus if an Ammonite proselyte married an Egyptian female proselyte, the offspring, if it be male, is considered an Ammonite and therefore eternally forbidden to a Jewess, and if it be female, it is considered to be an Egyptian.

NOTE: If an Egyptian male proselyte married a non-converted Ammonite woman, the offspring, if male, is an Ammonite, and if female, is permitted to Jews (alternate reading: is an Egyptian) (Tur).

8. If an Egyptian proselyte marries an Ammonite female proselyte the offspring is Egyptian and forbidden to marry Jews until its line reaches the third generation.

9. All members of all other gentile nations are immediately considered as Jews upon conversion.

10. At the present time all the gentile nations have become intermingled. Therefore, an Ammonite, Moabite, or Edomite who converts to Judaism is immediately permitted to marry Jews, for we apply the principle that

"everyone who separates separates from the majority" <sup>21</sup> and we rely on the assumption that he is from the majority of gentile peoples who are permitted to marry Jews immediately upon conversion. According to Maimonides this holds true for the Egyptian, but is the opinion of Rabbenu Asher that the Egyptian is still under the prohibition which applies to him [according to the Torah] .

11. A slave who underwent ritual immersion as the procedure for becoming a slave <sup>22</sup> is forbidden to a Jewish woman and a male Jew is forbidden to marry a female slave whether she is his property or that of another.

12. After a master frees a slave, the slave is considered a Jew in all respects. If the master declares the slave to be free, or if the master puts phylacteries on the slave, or if the master is leading the service in the synagogue and calls the slave up to read in the scroll of the Law, or if the master gives the slave a Jewish woman in marriage, the slave is still not permitted to a Jewish woman until the master writes a document of manumission for the slave. Nonetheless, his marriage is suspect [as being valid] , and there is an authority who holds that even if his master did not give a woman to the slave in marriage but the slave married her in the presence of his master, his marriage is still suspect, and even more it is suspect if one married his female slave. <sup>23</sup>

13. Who is a mamzer? He who is the offspring from one of the various forbidden sexual relationships whether the penalty for which is death or extirpation, with the exception of one who is born of a niddah, for even though one thus born has a disqualification, he is not considered a mamzer even by rabbinic law.

14. If a woman whose husband is in a foreign land <sup>24</sup> and has remained there for more than twelve months bears a child after twelve months, the child is a mamzer, for the foetus does not remain in its mother's womb more than twelve months. There is an authority who holds that the child is not presumed to be a mamzer, so since there is a difference of opinion here the child is a doubtful mamzer.

NOTE: However if the birth occurs within twelve months there is no need to be apprehensive for we say that the foetus remained so long in its mother's womb (chapter He-'arel, and so wrote Mahariq); and only if there was seen no detestable thing [i.e. lewd activity] in her, but if they did see a detestable thing in her we do not say that the foetus remains so long in the womb and we are suspicious of it (Responsa of Rambam). If a woman became pregnant by her husband at the end of Siwan and gave birth at the beginning of Kislev, even though there was an interval of only five months, <sup>25</sup> we do not suspect the child and we say that she was pregnant prior to this time because the number of months named determines the period of pregnancy and so the child is a seven-month baby (in the Responsa of Rabbi Judah Mintz, chapter 6) and even if she miscarried in Tishri and she had heard the embryo crying after birth, we do not suspect that she was pregnant prior to this time for it is possible for a five-month old to cry, but it is still a nefel and unfit to live (in Bet Yosef quoting a responsum, for so did Rabbi Duran write in a responsum) (quoted at the end of chapter 178, Tur).

15. In the case of a married woman about whom a rumor has spread that she was committing adultery while married and about whom the people were bearing tales, we do not suspect her children of being mamzerim because we assume that the majority of sexual relations were with her husband, but we do suspect her as a lewd woman and a

priest must be concerned regarding her as prohibited by the law of the Torah (and if her husband is a priest we must take into consideration that her children might be halalim) (Rabbi Jacob Weil, chapter 24) and the same apprehension should be exercised by a Yisra'el if he desires to keep from a detestable thing. If, however, this woman is very lewd then we do regard her children with suspicion [i.e. consider them mamzerim].

NOTE: In any event she is believed in saying that her children are fit (Maharam of Padua, chapter 33). If she were lewd when she was single or betrothed but was not so after she married, even though she was seen committing adultery one time, her children are fit (also this ibid.) .

16. In the case where a woman whose husband went to a foreign land remarried assuming him to be dead and it was subsequently found that the husband was still alive, the offspring from the second husband is a definite mamzer and is permitted to marry a mamzeret, and if the first husband returned and had sexual relations with her before the second husband divorced her and she then gave birth, the offspring is a mamzer according to rabbinic law and is forbidden to marry a definite mamzeret, however he is permitted to marry one who is considered a mamzeret only by rabbinic law and those like him (but if the woman mentioned had ever been acting lewdly and afterwards her husband had relations with her, the offspring is not a mamzer) (Mordekhai, end of chapter Ha-folez).

17. If one who is half slave and half free <sup>26</sup> has intercourse with a married woman, the offspring cannot be helped because the element of mamzerut and the element of fitness are mixed in him, therefore he is forbidden even to a slave woman; and so are his children in such a state perpetually. <sup>27</sup>

18. If a Jew marries a mamzeret or a mamzer marries a Jewish woman, the offspring is perpetually a mamzer.

19. If a gentile or a slave had sexual relations with a mamzeret the offspring is a mamzer, and if such a one had relations with a married or unmarried Jewish woman, the offspring is fit but disqualified for the priesthood.

20. If a mamzer should have intercourse with a gentile, the offspring is a gentile, but if he converts he is considered a Jew. If a mamzer has intercourse with a slave woman the offspring is a slave, but if he is freed he is considered a free Jew. Therefore a mamzer may marry in principle a slave woman who accepted the commandments and underwent immersion as part of the procedure of becoming a slave to permit his sons that they will be free and permitted to marry Jewish women.

21. If a gentile were to have intercourse with his mother and sire a son by her who is subsequently converted to Judaism, that son is permitted to enter the congregation.

22. Male gentile proselytes and freed slaves are permitted to marry a mamzeret and a mamzer is permitted to marry a female proselyte and a freed female slave because a group of gentiles is not called a "congregation," and the offspring in such cases is a mamzer, even if the woman conceived him and bore him as a Jewess, <sup>28</sup> as, for instance, if his father were a proselyte and married a female proselyte, even this one is permitted to marry a mamzeret, and this applies only up to the tenth generation of his descendants. However, from then on he is forbidden for the stigma of gerut has already disappeared from him and they will come to say a Jew can marry a mamzeret.



According to Maimonides he is permitted to marry a mamzeret and so through his great grandson until the stigma of gerut had disappeared from him and he does not know that he is the descendant of a proselyte; and this law applies in the same manner to proselytes and to manumitted slaves.

23. If a proselyte marries a Jewess or if a Jew marries a female proselyte the offspring is a Jew in all respects and forbidden to marry a mamzeret.

24. To what situation does the case of a mamzer marrying a mamzeret apply? When both are definite mamzerim, but if one is a definite mamzer and the other is a doubtful mamzer, or even if both are doubtful mamzerim they are forbidden to each other because it could possibly be that one is a mamzer and the other is not a mamzer. How is this? A doubtful mamzer, for example, who is the product of a doubtful 'erwah, i.e. his father had intercourse with a woman who was betrothed doubtfully or doubtfully divorced.

25. If a sister-in-law did not wait three months after the death of her husband but performed levirate marriage <sup>29</sup> and bore a son who could be either a nine-month child of the first husband or a seven-month child of the second husband, the offspring is fit; and if afterwards the yavam had intercourse with her again and she became pregnant and bore a son, that son is a doubtful mamzer and forbidden to marry either a mamzeret or a fit Jewess.

26. Were a single woman to become pregnant and bear a child, then if she were not available for investigation or if she were insane or mute or even if she said, "The son is the offspring of so-and-so," and we know that the man mentioned is a mamzer, still the son is only a doubtful

manzer; however, even if the aforementioned man confesses that the woman had relations with him (for just as she was free with him so do we infer that she was free with others) and if that man whom she pointed out is fit, the offspring is fit. In any event, we do not consider the son to be the definite heir of that man if he does not acknowledge that he is his son. (even if she was his steady paramour [i.e. she did not go with other men] she is not believed against him) (Ran, end of chapter 'Almanah la-kohen Gadol) and even one witness is not believed when the man denies it (ibid.). However we remain suspicious of her words and that child is forbidden to all relatives of that man.

NOTE: And all this applies only to a single woman, but if we were dealing here with one who was adulterous while married then even if she says, "The child is from so-and-so" and the man is a manzer we are not suspicious because of her testimony for we assume the majority of her sexual relations to have been with her husband and the child is fit and permitted to marry the relatives of the man about whom his mother spoke (Pisqei of Rabbi Isserlein, chapter 37 and Bet Yosef has also written thusly).

If a betrothed woman living in her father's house became pregnant and declared that her betrothed caused the pregnancy, then the child is fit if either the betrothed man confesses or if he is not available for questioning (and the child is his heir even if the betrothed man does not remember and only does not deny the woman's word) (ibid., Ran). But if the betrothed man does not admit his action but contradicts the woman saying that the offspring is not from him, then the offspring is a definite manzer, and if the woman is not available for questioning or if she says, "I do not know who was the father of the child," then the child is a doubtful manzer. The woman is not presumed to be lewd but she is believed in saying "I had relations with

my betrothed," and so even if he contradicts her. This refers to other people, for were she married to a priest she would not be divorced and the offspring from him is fit, but she is forbidden to the betrothed man himself because [by saying what he did about her] he made her for himself like a piece of prohibited meat.

28. If the public were talebearing about her, saying that she acted loosely with her betrothed or with others, even though her betrothed had relations with her in his father-in-law's house, the offspring is a doubtful manzer because we assume that just as she made herself freely available to the betrothed man so she made herself freely available to others. But if she were interrogated and stated, "I had relations with my betrothed," the offspring is fit. (So too if it were known that the betrothed man had had intercourse with her and a rumor that she had been loose with others had not spread) (so it is implied in chapter 'Almanah la-kohen Gadol as quoted by Ran at the end of the first chapter of Ketubot and the Maggid Mishneh, chapter 15 of Hilkhot 'Issure Bi'ah).

29. If a married woman declares that her foetus is not from her husband she is not believed to blemish the child.

NOTE: There are some who hold that this applies only to a married woman whose child is presumed fit, but regarding a betrothed woman who declares that her child is a manzer, even though the betrothed man says that the child is his and his hand never left hers;<sup>31</sup> some say that the child is a doubtful manzer and some hold that the betrothed man is believed. (Such is Isserles' view that this applies to a betrothed man — the words of Nimoqe Yosef, chapter 'Almanah, in this case where he quotes these two opinions). But the father who declares that the foetus is not from him or that

one of his sons is not his is believed to disqualify the son, and such a one is a definite mamzer; and if the son has children, the father [of the son who is the grandfather of these children] is not believed even with regard to his son [and not with regard to the grandchildren]. If a woman declares that she was impregnated by a gentile or by a slave, the offspring is fit, for the husband is not able to contradict her in this.

30. If one declares that he himself is a mamzer, then he is believed with regard to his being forbidden to marry a fit Jewish woman and he is forbidden to marry a mamzeret until it is known for sure that he is a mamzer, and his children share the same status; but if he has grandchildren he is believed only in that he disqualifies himself alone.<sup>32</sup>

31. An 'asufi who was taken up from the street is a doubtful mamzer when there is no proof that it was not cast out to die, but if there is proof that it was not cast out to die, whether there was bodily proof such as its being circumcized or its limbs being corrected and straightened as they do to children, or its being anointed with oil or if they had put kohal on its eyes or hung an amulet on it, or if there is proof by the place, such as its being found in a place frequented by crowds or if it were set in a tree where an animal could not reach or if it were near a city or found in a nearby synagogue or on the side passages of a public thoroughfare, then it does not come under the category of 'asufi at all since they took care to watch out for it and it was cast out only because of [the family's suffering from] famine.

32. If an infant were cast out on the road and someone came and declared, "He is my son, I cast him out,"

that one is believed, and so is one declaring to be his mother believed. If the infant is taken up from the street and then his father and mother come and say, "He is our son," these are not believed since the infant had already acquired the designation of an 'asufi', but in years of famine they are believed because they had cast him out on account of hunger, desiring that others would feed him, therefore they remained silent until he was taken up.

33. If an 'asufi' were found in a city in which there were gentiles and Jews, whether the majority were gentiles or Jews, he is a doubtful gentile with regard to genealogy; if he betrothed a woman she requires a get for divorce because of doubt.<sup>33</sup> If the court immersed him for the sake of conversion or he underwent immersion on his own accord after he matured, then he is like the other 'asufim' found in Jewish cities with regard to genealogy, for ritual immersion serves only to remove him from the category of a gentile.<sup>34</sup>

34. If he did not immerse himself and the court did not immerse him, then, if the majority of the city<sup>35</sup> where he was found was gentile it is permitted to feed him forbidden foods. Were the majority Jews then we return his lost article to him as we do to a Jew. If the city were half gentile and half Jewish it is incumbent upon us to sustain him as a Jew: we save his life<sup>36</sup> on the Sabbath, but regarding cases of torts and money matters we apply the principle "the burden of proof is upon the one who makes a claim of his fellow."<sup>37</sup>

NOTE: Some say that even if he were found in a city with a majority of gentiles we do save his life on the Sabbath, but it is not incumbent upon us to sustain him unless he was found in a city with a majority of Jews (Tur).

35. If the case was that a number of women, wives of priests, Yisra'elim, and mamzerim gave birth in one house, then the midwife is believed to say "This son is a priest," or "Levite," or "Yisra'el," or "mamzer," because there is no established status and we do not know their gonealogy. With regard to what does this apply? When she is presumed trustworthy and no one complains about her, but if one did complain about her, even if one said that she testified falsely, she is not believed, and the son is preseumed fit though he has no specific lineage.

36. Those of doubtful lineage such as the shetuqi and 'asufi are forbidden to marry one another, and if such a marriage took place it should not be continued, rather the husband should divorce his wife, and the offspring is doubtful like its parents -- and these in such doubtful cases have no correction <sup>38</sup> except that they should marry proselytes and their offspring will then follow the disqualified parent. How is this? If a shetuqi or 'asufi marries a female proselyte or a male proselyte or freed slave marries a shetuqit or 'asufit, then the offspring is either a shetuqi or an 'asufi respectively.

37. Regarding any city in which there is a female slave or gentile who is capable of bearing children, since the 'asufi is found therein he is either a doubtful gentile or doubtful slave; when he marries a female proselyte she is then a doubtful married woman. If the son of a shetuqi marries a woman whose relationship with him is possibly incestuous, then she is a doubtful married woman for betrothal does not take effect involving incest. What sort of woman is it that her relationship with him would be incest? Everyone whose father or brother is living when his mother becomes pregnant, and every woman who was divorced or widowed, for perhaps she is the wife of his fa-

ther or the wife of his father's brother.

NOTE: It is forbidden to marry Karaites <sup>39</sup> for they are all doubtful manserim; neither do we receive them if they desire to return to Judaism (Bet Yosef, found in the Responsa of Rabbenu Samson), but with regard to forced converts who return to the Jewish religion, it seems to me that it is permitted to marry with them as with other proselytes.

- V. The law of a pegu'a dalka' and kerut shofkhah, and the prohibition of castrating a man or beast or fowl. Herein are fourteen paragraphs.

1. A pegu'a dalka' <sup>40</sup> or a kerut shofkhah <sup>41</sup> is forbidden to marry a Jewish woman, but is permitted to marry a female proselyte or a freed female slave. Even a priest whose testicles are crushed is permitted to marry a female proselyte or a freed female slave because he is not in his sanctified state; <sup>42</sup> so even a netinah or a woman of one of the doubtful categories is permitted to him, for since one with crushed testicles is forbidden to enter the congregation <sup>43</sup> it was not declared forbidden for him to marry netinot or those of doubtful status. However he is forbidden to marry a definite mamzeret for such is forbidden to him by the Torah. And there are some authorities who permit his marrying even a mamzeret (Tur, Rabad, and Rashba').

2. Who is designated as a pezu'a dalka'? Anyone whose testicles are smashed. And a kerut shofkhah is anyone whose membrum virile is mutilated. It is possible to declare a man disqualified through three members: by the membrum virile, by the testicles, or by the canals through which the semen flows, which are called spermatic cords; and when one of these three members is crushed or mutilated or split (i.e. squashed) he is disqualified. How is this explained? If the membrum is injured or crushed or the corona or area above it is cracked, he is disqualified. If the membrum is split from the top of the corona but there remains surrounding the membrum any part of it, even as much as a hair's breadth, the man is fit.

3. If there is a slanting cut like a reed pen from the membrum upward from the corona he is fit. If



the cut has the shape of a spout of which the inner part is removed and the sides are left, then, according to Rashi and Ro'sh, the man is disqualified, but according to Maimonides, he is fit.

4. If the membrum is perforated below the corona he is fit; if the corona itself is perforated, then, if when he has an emission the semen comes from the perforation, he is disqualified, but if the perforation is closed up he is declared fit.

5. If the membrum is perforated below the corona in an instance where the other end of the perforation is higher up, he is disqualified for the entire corona prevents normality.

6. If the seminal canal were stopped up and one saw the semen in the urinary canal he is disqualified.

7. If a man had both testicles removed, or one of them was mutilated, or one of them crushed or smashed, or one was lacking, or one was perforated (with a hole that penetrated) (Bet Yosef quoting Nimoqe Yosef quoting Tosafot, chapter He-'arel), then he is disqualified.

NOTE: Such is the accepted rule, and it is not in accordance with those who are lenient and permit it for a man who has one testicle if the one which was removed was complete when removed and the right one remained (this is the view of Rabbenu Tam); surely I have seen authorities act in a lenient manner according to the latter view, but it is advisable to be concerned for the biblical prohibitions according to the opinion of those who are stringent, and they are the majority.

8. If the spermatic cords (or just one of them)

are severed, or one is crushed or split, then the man in such a case is disqualified.

9. If one spermatic cord is punctured to the urinary canal and the man is urinating from the urinary tract and from the seminal canal he is fit.

10. Every disqualification mentioned above refers to an instance where it did not come about "by the hand of heaven", such as if a man mutilated another or a thorn pierced his testis or something similar to these, but if one were born with a mutilated membrum or with crushed testicles or without testicles or he became ill and these members became lame or if sores appeared on them and harmed or decayed them, then such a person is fit to enter the congregation for all these afflictions are "by the hand of heaven" according to Maimonides. However according to Rabbenu Asher these are not called "by the hand of heaven" but are called "by means of thunder and hail" or "from one's mother's womb," but when caused by disease they are considered by the agency of man and the one afflicted is disqualified. And the Ro'sh wrote that the Palestinian Talmud implies this.

11. It is forbidden to damage the reproductive organs, whether of man, cattle, beasts, or fowl, whether unclean or clean, whether in the Land of Israel or outside the land, and everyone who castrates is liable to flogging by biblical law in every instance. Even if someone castrates after another has castrated he is to be flogged. How can this be? One comes and cuts off the membrum, and another comes and cuts off the testicles or tears them out, and another comes and cuts out the spermatic cords; or someone else comes and crushes the membrum, and another comes and tears it out, and another comes and cuts it off,

then all are to be flogged, and even though the last mentioned did not really render him impotent, still one who mutilates the sexual organs, whether of a man, cattle, beast, or fowl [is liable to flogging]. But one who causes a female to be impotent, be she human or of other species, is exempt from punishment, but it is still prohibited to do so.

12. It is forbidden for one to give a cup of root-drink to a man or to any species of animal in order to render it impotent, but one is not flogged for this. A woman is permitted to drink root-drink so as to render herself impotent to the extent that she would not give birth.

13. If one forced another and set a dog or other beast upon him so that he caused him genital mutilation or if one made another sit in water or snow so that his genitals were harmed, he is not flogged unless he directly castrated the other but he is deserving of rabbinic stripes.

NOTE: But it is permitted to remove the comb of a rooster even though it is rendered impotent by this; and the same holds true for similar actions because nothing was actually done to the genitals (in Hagahot 'Alfasi, chapter Ba-meh behemah).

14. It is forbidden to tell a gentile to castrate a beast of a Jew, but if the gentile took the beast and castrated it on his own it is permitted; however, if the Jew was devious about this matter he is fined (and even if he were not devious but the gentile knew him and did it with the intention of being of benefit to the Jew) and they sell the beast to another Jew. It is permitted to sell it even to the first-mentioned Jew's oldest son but it should not be sold or given to his youngest son.

NOTE: It is permitted to give a beast to a gentile

for half-income <sup>44</sup> even though the gentile will certainly castrate it (Hagahot Maimuni, Hilkhot 'Issure Bi'ah) for the gentile does it with the intention of being of benefit to himself (Bet Yosef), and it is permitted to sell cattle and roosters to gentiles even though it is certain that the gentile is buying them to castrate them, and there are those authorities who forbid this (Terumat Ha-deshen), however if the gentile who buys the animals does not castrate them himself but gives them to another gentile to castrate it is permitted in all instances (ibid.). The prohibition of causing pain to living creatures does not apply in any matter of necessities for healing ('issur weheter ha-'arokh, chapter 59) and therefore it is permitted to pluck feathers from live geese without concern for causing pain to living creatures (Rabbi Isserlein, chapter 160); in any case people should keep from this because of cruelty.

VI. Women who are forbidden to a priest,  
and the law regarding the wife of a  
priest. Herein are fifteen paragraphs.

1. A priest is forbidden by the Torah from marrying a divorcee, a zonah, and a halalah,<sup>45</sup> and he is forbidden by rabbinic law from marrying a haluzah, therefore if he transgressed and married a doubtful haluzah he does not have to divorce her, but regarding a divorcee, even if she is only a doubtful divorcee, he must divorce her whether she is divorced from a state of betrothal or of marriage; and even a trace of a get disqualifies a woman from marrying a priest, and if he married her he can be compelled to divorce her. And what is a "trace of a get"? For example if a woman's husband said to her, "You are divorced from me and not permitted to marry any other man," even though she is not divorced by such a get she is disqualified from marrying a priest (and even if she were divorced merely because of a rumor of her being betrothed even though it was clear that there was no validity in that betrothal and she is given a get only on the basis of stringency, even in such a case she is disqualified for marriage with a priest) (Responsa of Rashba', chapter 550). However if a man gave his wife a get on condition and the condition was not fulfilled, it is as naught and does not disqualify her. A priest is permitted on principle to divorce on condition.

2. A minor girl who protested against her husband<sup>46</sup> is permitted to a priest but she is forbidden if he gave her a get; however if after he gave her a get he took her back and then she protested against him, she is permitted to a priest because the protestation nullifies the get. If after he divorced her she married another and then protested against that one, some authorities say that she is permitted to a priest.

3. If a rumor spread that so-and-so, a priest, divorced his wife, but [it is found that] she is married to him we do not take her from him because we do not concern ourselves with a rumor after the marriage or after the betrothal, but if the husband dies and she marries another priest she must be divorced.

4. If a rumor spread about a certain priest that he wrote a get for his wife, then, if in that locality they call the giving of the get the writing of the get, even though they also call the writing alone writing, it is as if a rumor had spread that so-and-so divorced his wife; and if they do not call the giving of the get writing, we are not concerned.

5. If the rumor spread that a woman was betrothed or married and then divorced, then we pay heed to the rumor to forbid her to a priest; and this is only if the rumor spread without an excuse, but if it spread with an excuse, for example if it was rumored that a man married or divorced her on condition or that he threw the get [in delivering it to her] and it is doubtful whether it fell close to him or to her, we do not concern ourselves with the rumor. But if there is a plausible reason for the rumor regarding the divorce but not regarding the betrothal we are concerned with the rumor of the betrothal to forbid her generally, but we do not pay attention to the rumor of the divorce to forbid her to a priest, and this only if the plausible cause spread about at the same time as the rumor, however if the rumor spread per se and then after a while the plausible cause became known it does not nullify the rumor. If afterwards it became clear that the rumor was false, even if there was no plausible reason, we regard it as nullified. Every rumor which has not been confirmed by the court is not a rumor with which to be concerned

(see below chapter 45)(If a rumor spread that a woman was a haluzah some hold that we do not consider it).

6. If a priest marries one of the types of disqualified women then they and those who deal with them are placed under a ban and under similar restrictions until such a time as he divorces her.

7. If a priest divorced his wife then she should not dwell in the same lane with him and if they were living in rented property or in a court which they both owned then she should give way to him;<sup>47</sup> if the court is hers then he must give way to her. These matters are explained in chapter 119.

8. Who is termed a zonah?<sup>48</sup> Every woman who is not Jewish, or a Jewish woman who had sexual relations with a man to whom it is forbidden to her to marry due to a prohibition that applies to all [i.e. not only to a priest], or if she had sexual relations with a halal, even though she is permitted to marry him; therefore a woman who had relations with a beast, even though such an act is punishable by stoning, is not termed a zonah and is thus not disqualified from marriage with a priest for she did not have relations with a man. If woman has intercourse while she is niddah, even though such an act is punishable by extirpation, she is not termed a zonah and is not thereby disqualified for marriage with a priest for the act was not with one she is forbidden to marry. Thus too, if a single woman had intercourse, even if she were a prostitute and freely made herself available, which is punishable by stripes, she is not termed a zonah and is not disqualified for marriage with a priest because she is not forbidden to marry such a one with whom she had relations. But if a woman had sexual relations with one who is prohibited by

a negative prohibition which applies to all (and it is not a specific prohibition of priests), or with one prohibited by a prohibition expressed in positive terms (and there is no need to mention her having intercourse with one to whom she is forbidden because of incest), or even with a gentile, since she is forbidden to marry these, she is termed a zonah. Thus too, a female proselyte or a freed female slave, even if she were converted or freed when under the age of three years, since she is not the daughter of a Jew [i.e. not born a Jewess] she is then considered a zonah and forbidden to a priest. So too if a gentile has intercourse with a yevamah he renders her a zonah. And there are some authorities who hold that if one has intercourse with one prohibited to him by a positive precept or by a negative precept, even with one prohibited by a prohibition of consanguinity, he does not render her a zonah except in the case where he had relations with [another man's] yevamah.

9. Every woman who has intercourse with a man by whom she is rendered a zonah, whether by force or willingly, or by mistake, naturally or unnaturally, is disqualified as soon as the man has sexually contacted her and she is termed a zonah, provided that she is at least three years and one day old and the man is at least nine years and one day old.

10. If the wife of a priest had extra-marital relations she is then forbidden to her husband even if it was done forcibly.

11. If the wife of a Yisra'el was raped, even though she is permitted to her husband, she is forbidden to marry a priest.

12. If the wife of a priest said to her husband, "I



was raped," or "I inadvertently had intercourse with another," or if one witness testified that she had been adulterous, whether forcibly or willingly, she is not forbidden to her husband since she may have set her eyes upon another man [and wanted a divorce]. However if her husband who is a priest believes her or if he believes the witness and his mind relies on their words then he should divorce her so as to consider the doubt (see below chapters 115,116).

13. If the wife of a priest said to her husband, "I was raped," then, even though she is permitted to her husband as has been explained, she is forbidden absolutely to every other priest after her husband dies, for she declared herself a zonah, thus rendering herself forbidden to a priest and becoming like a piece of forbidden meat. 49

14. If a priest betrothed an adult woman or a minor girl and after some time he had relations with her and then claimed that he found her deflowered, she is forbidden to him because of the suspicion that she had sexual relations before or after the betrothal, but if a Yisra'el makes such a claim, his wife is not forbidden to him because there are two doubts involved here: 1) perhaps she had relations before the betrothal and perhaps she had relations after the betrothal, and 2) even if after the betrothal it could have been forcibly or willingly, for a woman who was raped is permitted to a Yisra'el. Therefore if a girl's father betrothed her to a Yisra'el when she was less than three years and one day old and her husband claimed that he found her deflowered she is forbidden to him because of the possibility of there being only one doubt involved: that perhaps she was raped forcibly, perhaps willingly, and in cases involving a doubt pertaining to a biblical prohibition we decide stringently.

15. Every woman whose husband [publicly expressed jealousy and] warned her (or if the court warned her) (Tur) and she retired [with the suspected man] and did not drink the water of sotah <sup>50</sup> is forbidden to her husband even if he is a Yisra'el, and if her husband dies she is forbidden to a priest.

16. If a rumor spread that a certain woman in the city was adulterous we do not suspect her, and even if her husband divorced her because she transgressed Jewish custom or because of witnesses to her doing a detestable deed and he died before giving her a get, she is permitted to a priest.

17. If it were the case that people saw that a certain woman had relations with a man who subsequently went away and when they asked her "Who was the man who had intercourse with you?" she answered, "A fit man," then she is believed. Not only so, but even if they saw that she was pregnant and asked, "By whom are you pregnant?" and she answered, "By a fit man," she is believed and she (and her daughter) (Tur) is permitted to a priest. To what does this apply? When the location where the sexual act occurred was a crossroads or in corners of fields where people pass, and the majority of those passing are fit, and the majority of people dwelling in the city from which these passers-by came are fit, for the Sages help up a higher standard in cases of priestly genealogy and required two "majorities;" but if the majority of the passers-by would disqualify her, such as if they were gentiles or mamzerim or the like even though the majority of the people in the place from which they came are fit, or if the majority of the inhabitants of that place are unfit even though the majority of passers-by are fit, we suspect her and we say that she had relations with one who rendered her

unfit and she must not on principle marry a priest;but had she been married she does not have to leave him. There are those who say that concerning a woman who states "I had intercourse with a fit man," where there is one majority involved we declare her a priori fit to marry a priest and ex post facto. <sup>51</sup>

18. If people saw that a woman had had sexual relations in the city or had become pregnant,even if there was no one dwelling there except one gentile or one halal or slave or the like,this woman should not marry a priest on principle,for "everything permanent is like half to half," <sup>52</sup> but if she were married she need not be divorced since she stated "I had intercourse with a fit man." Were she mute or deaf or if she said "I do not know with whom I had intercourse" or were she a minor unable to determine whether the man was fit or unfit,then she is a doubtful zonah,and were she married to a priest she must be divorced,except if there were two fit majorities involved. There are those who say that even were she impregnated in the city,if the man went to her she can marry on principle since the majority of the city and the majority of traveling merchants are fit,unless she went to him,and if it is unclear,it not being known who went to whom,she can marry on principle.

[The word fit in all these cases means kasher,i.e. an unblemished Jew.]

HILKHOT 'ISHSHUT

VII. The law concerning a woman who was taken captive, and who is termed a halalah. Herein are twenty-three paragraphs.

1. A woman who was taken captive when she was three years and one day old or more is forbidden to a priest because she is a doubtful zonah, i.e. perhaps she had sexual relations with a gentile, but if she had a witness testifying that a gentile had not been alone with her then she is fit to marry a priest; and even a male slave, a female slave, or a relative is considered reliable for such testimony.

NOTE: And even women who are not valid witnesses in cases of a woman, such as one's mother-in-law, etc. are valid witnesses in the case of a captive woman. (Hagahot 'Alfasi, chapter 2 of Ketubot).

Also two captive women who testified in each other's case are valid witnesses, and so too a minor speaking casually is believed. It once happened that a minor was taken captive along with his mother and he spoke casually saying, "I and my mother were taken captive among gentiles. When I went out to draw water my mind was on my mother. When I went out to gather wood my mind was on my mother,"<sup>54</sup> and the Sages allowed her to marry a priest on the statement of the minor.<sup>55</sup> There is an authority who wrote that a minor is believed even if he spoke with the intention of testifying.

2. A husband is not a valid witness in the case of his captive wife that she was not defiled because a man cannot testify on his own behalf. Neither can a woman's female slave testify for her, but her husband's female slave can testify for her; also her female slave is believed if she spoke casually.

NOTE: A gentile is an invalid witness in the case

of a captive woman, and he is not believed even if he speaks casually (Ro'sh, chapter 32), and some authorities are lenient regarding one who speaks casually ('Or Zar'u'a) and the same applies to one who testifies repeating what he heard from another witness. And the testimony of one who speaks casually is valid only in order to give a lenient decision but not to render a strict decision (Rabbi David Cohen, Bah).

3. If a priest testified that a captive woman was undefiled he should not marry her lest perhaps he desired her, but if he redeemed her and then testified in her behalf he may marry her, for if he had not known that she was undefiled he would not have spent his money on her account.

4. If a woman said, "I was captured but I am undefiled," she is believed, for the mouth which forbade is the mouth that permits. Even so if there were one witness who testified that she was captive; but were there two witnesses that she was captive she is not believed unless one of them testifies that she is undefiled.

5. Were there two witnesses that she was taken captive and one testifies that she was defiled and the other contradicts him and testifies that she is undefiled and that no gentile was alone with her all the time she was a captive, even if the one testifying that she is undefiled is a male or female slave, she [i.e. the woman in the case] is permitted.

NOTE: Some authorities say that if the woman states, "I was defiled," she is believed against the one witness who states that she is undefiled, but not against two witnesses (Hagahot 'Alfasi, chapter Ha-'ishshah shenit-'armela').

6. If a woman said, "I was taken captive but I am undefiled," and the court permitted her to marry (or she was married in the presence of the court and they did not object) and afterwards came two witnesses that she was taken captive, still she may marry in principle and shall not go out from her first permitted state.<sup>56</sup> And even if a captor went after her<sup>57</sup> and now she is captive before us in her master's authority she shall not go out from her permission [to marry] which the court gave her, and they guard her until she is redeemed; and if two witnesses came afterwards testifying that she had been defiled, then even if she were married or if she had children she need not be divorced, but if one witness came this is nothing.

7. If she said, "I was taken captive and I am undefiled and I have witnesses that I am undefiled," they do not say, "We will wait until the witnesses come," but they allow her at once [to marry], and not only this but even if there were a rumor that there were witnesses to her being defiled they permit her before the witnesses come, for the court is lenient in the case of a captive woman.

8. If a father said, "My daughter was taken captive and I redeemed her," whether she is an adult or a minor he is not believed to forbid her<sup>58</sup> (and the same holds true if he said that she had illicit intercourse) (Hagahot Maimuni, Hilkhos 'Issure Bi'ah, chapter 18 in the name of Rashba').

9. A priest's wife who was forbidden to him because of her having been captive, since the matter is one of doubt,<sup>59</sup> is permitted to dwell in the same courtyard as the priest provided that his children and household servants are constantly with him and able to keep watch over him.

10. If troops of siege have taken a city, then if gentiles were surrounding the city on all sides so that no woman could escape before they see her and put her under their authority, all the women in the city are disqualified [and considered] like captive women out of suspicion that they had relations with gentiles, but were a woman three years of age or less, or if it were possible for a woman to escape without their knowing of her, or if there were one hiding place in the city even if it holds only one, then this one saves all [from being considered defiled]. How is this? Every woman who says, "I am undefiled" is believed even though she has no witness because she can say "I escaped when the city was besieged," or "I was in the hiding place and I was saved." She is believed when saying "I neither escaped nor hid nor was defiled." To what does this apply? To a troop of the same kingdom which is settled in the city and [the men] do not fear, therefore they are considered as possibly subjected to intercourse, but regarding a troop of another kingdom which overran [the city] and passed through it, the women are not forbidden because the men of the troop had no spare time to have sex as they were occupied with plunder and fleeing away, but if they captured women and they were taken under their authority, even though Jews pursued them and rescued the women from their power, the women are forbidden. There are some who differ and say that even if it is a troop of another kingdom the women are forbidden.

11. If a woman was imprisoned by gentiles for the sake of money <sup>60</sup> she is permitted even to marry a priest.

NOTE: And only if they owe them [money, i.e. to the gentile captors] so that they fear to touch the woman lest they lose their own money, but if they seized a woman so that Jews would ransom her with money and the gentiles would not lose money, then the woman is forbidden to her husband

who is a priest (Toledot 'Adam Wehawah, chapter 23 and so implied in Tosafot, chapter 'Elu Mezi'ot)

If [the woman were imprisoned] for the sake of taking her life and was subsequently rescued she is forbidden for the priesthood, therefore if her husband is a priest she is forbidden to him.

NOTE: Some say that [were she imprisoned] for the sake of taking her life she is forbidden to her husband who is a Yisra'el, for we suspect that she was willing for the captors so that they would not kill her (Tosafot, Ro'sh, Tur, Ran, and Pisqe of Rabbi Isserlein, chapter 92) and only regarding a woman imprisoned for her own sake and they have a suspicion of death [i.e. they consider the death penalty] (Hagahot Maimuni, chapter 18 in the name of other authorities), but regarding those imprisoned because of their husbands, they are not forbidden unless their husbands were sentenced to death (in Pisqe of Rabbi Isserlein, chapter 92), and some hold that in every case where she thinks that she would be kept alive for a ransom and return, she is not forbidden to her husband who is a Yisra'el for she did not make herself willing [to the captors] even though she was imprisoned for her own sake (ibid.). And at times of persecution and much killing our Sages permitted her to her husband who is a Yisra'el, namely in accordance with the first view, and if she is imprisoned by gentiles and Jews go in and out [can visit her any time] she is permitted to her husband (Hagahot Maimuni, chapter 18). If a Jew and his wife converted and then returned to Judaism, his wife is permitted to him and we do not suspect that she was adulterous while married even if her husband is a priest. If his wife alone converted she is forbidden to her husband even if he is a Yisra'el (responsa of Rashba' and Hagahot Mordekhai on Ketubot) unless she has a witness that she did not behave loosely as a captive; and some are lenient and



say that we do not suspect her of looseness (ibid.), and in times of persecution, when they converted by force and then returned after the compulsion ceased, some are lenient to permit them even to their husbands who are priests (Ro'sh, chapter 32) and if a woman vowed to convert and had not yet converted but returned, she is permitted to her husband (Mahariq, chapter 160).

With regard to what is this said? Regarding a time when Jews have authority over gentiles and they fear them, but at a time when gentiles have authority over Jews, then, even for the sake of money, when a woman is taken into gentile hands she is forbidden [to her husband] unless one testified for her as to her being captive.

NOTE: All this refers to when she was imprisoned by gentiles and handed over to their authority, but if she were alone with a gentile, even if she were owing them money they do not forbid her because of this act of being alone even though she acted against the law; and even if a rumor of lewdness spread about her we do not consider a rumor after marriage to forbid her to her husband (Responsa of Ro'sh, ibid.), however were she alone [with the gentile] for the sake of lewdness we decide strictly (Mahariq, chapter 160).

12. Who is termed a halalah? She who is born of a relationship forbidden to a priest, such as if a common priest had relations with a zonah or a divorcee or if a high priest had relations with one of these or with a widow or married a woman who had had intercourse and had intercourse with her: these offspring are rendered halal perpetually. And if he sires a child from such a woman, whether the one who made her a halalah or someone else, the offspring, whether male or female, is halal and the woman herself is profaned by his sexual act as soon as he made sexual contact with her, whether he had relations with

her unwittingly or wittingly, forcibly or willingly provided that he is a priest nine years and one day of age or more and the woman with whom he had relations is at least three years and one day old, but if a priest [only] betrothed one forbidden to priests and she was widowed or divorced after having been [only] betrothed she is not profaned; but if she were married, even though she had no intercourse <sup>61</sup> she is profaned, for every married woman is presumed to have had intercourse even though she is found to be a virgin.

13. If a priest himself transgressed and had intercourse with one forbidden to priests he is not rendered halal.

14. If a priest had intercourse with one forbidden on account of incest or with a yevamah [who must marry her yavam, not this priest] and she becomes pregnant from the first intercourse, the offspring is not halal but he has rendered her a zonah and if he again has relations with her, or another priest does, the offspring is halal. But if one has intercourse with a female proselyte or a freed female slave, even if she became pregnant from the first intercourse, the offspring is a halal.

15. If a priest has intercourse with a niddah the offspring is fit and not a halal.

16. If a halal marries a fit woman the offspring from her is a halal and so too his grandson, all are halalim perpetually, and if she bore a daughter she is forbidden to marry a priest. However, if that daughter married a Yisra'el and bore him a daughter, that daughter is fit for the priesthood because if a Yisra'el marries a halalah the offspring is fit.

17. If a gentile or a slave has intercourse with a Jewish woman and she bears him a daughter, that daughter is disqualified for marriage with a priest. <sup>63</sup>

18. If a priest marries a divorcee who is pregnant by him or by another and bears, even if she is a halalah, the offspring is fit for it did not come from sinful seed.

19. If a priest had relations with a haluzah, she and her offspring are halalim by rabbinic law, but were a priest to have intercourse with one of the sheniyyot, she and the offspring from her are fit.

20. If a priest had relations with a doubtful zonah or a doubtful divorcee (or a doubtful haluzah) (Tur) she is a doubtful halalah and her offspring is a doubtful halal and we apply the stringencies pertaining to priests and those pertaining to Yisra'elim: he must not eat terumah nor defile himself for the dead and he should marry a woman fit for a priest, but if he ate terumah or defiled himself or married a divorcee he is flogged with rabbinic stripes, and the same applies to a halal by rabbinic law, but with regard to a halal by biblical law surely he is like a layman [non-priest] and may marry a divorcee and defile himself for the dead, as it is stated in Scripture: "Speak unto the priests, the sons of Aaron" [Lev. 21:1] <sup>64</sup> Even though they are the sons of Aaron they are not priests unless they are in their proper priestly status.

21. If a male proselyte marries a female proselyte and she bears a daughter, that daughter shall not marry a priest in principle, even her granddaughter perpetually even though she conceived and bore as a Jewess, but if she married a priest she need not be divorced. And

if she has a Jew on one side of her family, for example if a proselyte married a Jewess or a Jew married a female proselyte, the daughter is permitted to a priest on principle and the same applies to a freed slave who marries a Jewess or a Jew who marries a freed female slave.

22. A kohenet is permitted to marry a halal, a proselyte, or a freed slave for they need not be cautious regarding fitness for marrying those disqualified for the priesthood as it is written in Scripture, "Sons of Aaron" [Lev. 21:1] not "daughters of Aaron."

23. Concerning a family in which there is mixed a doubtful halal or a definite halal and also if there is mixed in it a doubtful or certain mamzer, there is an explanation in chapter two.

VIII. In any case of doubt the offspring follows the male. Herein are five paragraphs.

1. Priests, Levites, and Yisra'elim are permitted to marry each other and the offspring follows the male [is designation with regard to status] .

2. Levites, Yisra'elim, and halalim are permitted to marry each other and the offspring follows the male.

3. Levites, Yisra'elim, halalim, proselytes, and freed slaves are permitted to marry one another, and if a proselyte or freed slave married a Leviyyah or Yisra'elit or halalah the son is a Yisra'el. If a Yisra'el, Levite, or halal married a female proselyte or a freed female slave, the offspring follows the male.

4. In all cases where a woman marries in a prohibited relationship the offspring follows the one who is blemished [in status] , for if one of the parents is disqualified for the priesthood the offspring is disqualified for the priesthood, and if one of the parents is unfit to enter the congregation then the offspring is forbidden to enter the congregation.

5. The offspring of a female slave or of a gentile is like them [respectively] whether the mothers were impregnated by one who was fit or unfit.

IX. Who is termed a qaṭlanit. Herein are two paragraphs.

1. If a woman were married (or betrothed) (Maggid Mishneh, chapter 21 and Nimoqe Yosef, chapter Ha-ba' 'al Yevinto) to two men and they died, she shall not marry a third for it is already known that her husbands are prone to die, and if she is married already to a third husband she need not be divorced from him; and even if only betrothed to a third husband he may marry her. And if he knew about her [being a qaṭlanit] she gets the amount of the ketubah; if he did not know about her she does not get the ketubah amount from the third husband but from the second husband she does get the ketubah amount even if he did not know about her [being a qaṭlanit].

NOTE: Some say that this applies only if they died a natural death, but if one of them were killed or died through an object or fell and died and the like it is nothing, and therefore many render lenient decisions in these matters and do not object (Bet Yosef in the name of a responsum of Ramban). Some say that the same holds true for a woman who was divorced twice: one should not marry her (Rashi, chapter 2 of Yevamot and Ran, beginning of chapter Na'arah), but others hold that this applies in cases of death only (Hagahot Maimuni in the name of Tosafot) and so is the law.

2. If a man's two wives died he still need not keep from remarrying.

X. Which divorcee is permitted to return to her husband. Herein are seven paragraphs.

1. If one divorces his wife and subsequently she becomes a harlot she is permitted to return to her husband. <sup>65</sup>

NOTE: So too if she was loose with her first husband and married to the second so that he divorced her, she is permitted to return to the first one even if she was his only woman friend at first (Responsa of Ro'sh, chapter 54 and Maharam of Padua, chapter 19).

But if she were betrothed to another and subsequently divorced, or he died, she is forbidden to return to the first husband (even if she were divorced merely because of a rumor ed betrothal (Ro'sh, chapter 5), and see above chapter 46, paragraphs 5 and 6).

2. If a deaf person divorced his wife by means of signs and she then left and was married to another deaf person (needless to say a hearing person) she is forbidden to her first husband who was deaf, but if the wife of a hearing person was divorced and went and married a deaf person and was then divorced from him she is permitted to return to her hearing first husband (and see below chapter 119 if he is permitted to dwell in the same courtyard with her after he divorced her).

3. If one divorced his wife on account of a bad name bad reputation that spread about her or because she was in the habit of vowing or she was an 'aylonit, he should not return to her, and some say only if he said to her, "For such a reason I divorce you," and he repeated his words saying, "Were it not so I would not divorce you," but if he did not repeat his words he can take her back. Some hold

that had he said to her, "For such a reason I am divorcing you," even though he did not repeat his words, he cannot take her back. One authority says that even if he did not say to her, "Because of this do I divorce you," he cannot take her back.

4. If one divorced his wife because he kept seeing blood every time of intercourse he cannot take her back.

5. With regard to all to whom they <sup>66</sup> say, "He shall not take her back," if one erred and took her back before she was betrothed to another he need not divorce her; and if he divorced her, if he had children after he took her back, he is permitted to take her back in order not to give them a bad reputation.

6. If one divorces his wife for these reasons we say to him: "Know that you can never take her back."

7. If one divorces his wife because of a vow she vowed [which caused him] to divorce her he may take her back. <sup>67</sup>



XI. A woman under suspicion while being married. Herein are eight paragraphs.

1. Regarding a woman under suspicion while married, if she had a warning and had retired [with a man] and had not drunk the water of bitterness,<sup>68</sup> since she is forbidden to her husband for his sake she is eternally forbidden to the one with whom she was alone just as she is forbidden to her husband. If he transgresses and marries her, we cause her to be divorced with a get even if she had many children with him.

From a tradition they learned that just as she is forbidden to her husband so is she forbidden to the one with whom she had relations (and this holds true if she were forbidden to her husband because of him, she is forbidden to him) (the opinion of Isserles). However if a warning did not precede, and witnesses came against her saying that she retired with this man and he [i.e. the husband] came and saw a detestable thing, for example they entered after him and found her standing over the bed and putting on her undergarments or putting on her girdle, or if they found saliva on the upper part of the curtained bed (or they saw prints of shoes lying under the bed reversed) (Tur) or if they [i.e. the man and the woman] were going out from a dark place or lifting each other from a pit or the like, or they [i.e. the witnesses] saw him kissing the opening of her blouse or if they saw them kissing one another, or if they entered one after another and barred the doors (Bet Yosef in reference to a responsum of Rashbâ', chapter 1, 251) and similar things (in the opinion of the judges); if her husband divorced her on account of such a detestable thing<sup>69</sup> she shall not marry the suspected man, and if he transgressed and married her and had children with her she need not be divorced. To what does this apply? When the people of the

city had borne tales about her and the suspected man for a day and a half or more and they said, "So-and-so was lewd with so-and-so" and the rumor did not stop, provided that neither she nor he (i.e. the husband) (Ran, chapter 2 of Yevamot) had enemies who were spreading the rumor, but were there no rumor about this matter in the city or if the rumor stopped for any reason except intimidation, then if she married the suspected man she need not divorce him even if she has no children. Even if one witness came and testified that she was lewd with him she need not be divorced.

NOTE: Some say that were there in this case a rumor of substance, such as clarified by witnesses of the odious act, they cause her to be divorced even from her husband (Rashi and She'eltot and Mordekhai in the name of Maharam, chapter 2 of Yevamot) if he has no children with her, but for one of the reasons <sup>70</sup> we do not cause her to be divorced from the husband; however if her husband divorced her and the suspected man married her we cause her to be divorced from the suspected man for one of the reasons if she had no children from him (so implies 'Alfasi and Rambam). Two witnesses of the lewd act are counted together even though they saw the thing one after the other or the odious act which one saw was not the one which the other saw (Mordekhai, chapter 2 of Yevamot in reference to a responsum of Maharam). One witness in the case of an odious act is as nothing (responsum of Maharam at the end of Nashim).

2. She whose husband divorced her on the testimony of witnesses to an odious act and marries another and is divorced by him is forbidden to marry the suspected man on whose account she was divorced from her husband, but if she does marry she need not be divorced even though she has no children. Every woman about whom two witnesses

come and testify that she was lewd with this one while married to her first husband shall divorce this one [i.e. her current husband] even though she has many children with him.

3. In every instance where the Sages said, "She shall be divorced," she is divorced without the amount stipulated in the ketubah.

4. There are some authorities who say that if witnesses came and said that a married woman had been lewd they must undergo examination and interrogation (and we do not accept testimony which is not given in the presence of the woman and her husband) (Responsa of Ro'sh, chapter 46).

5. If a man is suspected of intercourse with a female slave or a gentile woman and she is freed or converted he shall not marry her <sup>71</sup> but if he did marry her he need not divorce her. (If he divorced her she is forbidden to return to him unless he had children with her) (Bet Yosef quoting Rashba').

6. If a gentile or slave has relations with a Jewish woman, even though the gentile converted to Judaism or the slave was freed, he shall not marry her, but if he married her he need not divorce her.

7. Regarding a woman about whom the Sages said, "He shall not marry," she should not even live with him in the same lane [i.e. with the man involved] and even more should she not wait on him.

8. In all cases where they <sup>72</sup> forewarned a man and he then transgressed and married it is not termed "post

facto" and they cause her to be divorced from him. (One who divorces his wife in order that his fellow might marry her, he [i.e. the fellow] is forbidden to marry her-- and this is explained below, chapter 143, paragraph 15).

XII. If witnesses of the get and similarly those who testified to the death of the husband are permitted to marry that woman [in that case]. Herein are four paragraphs.

1. The person [shali'ah] bringing the get who must say "before me it was written and before me it was signed," and so the one witness who testified on behalf of the woman that her husband died, shall not marry her because of suspicion, and if he did marry her he need not divorce her; but one bringing the get who does not have to say "before me it was written and before me it was signed" is permitted to marry her since she is not being married on his testimony. And if there are two witnesses who testify regarding a woman whose husband has died, one of them is permitted to marry her for two are not likely to sin for the sake of one, and see the Tur, chapter 141.

NOTE: In the responsa of the Ro'sh who quoted Ba'al Ha-'ittur; and some say that even with two [witnesses]; even though it is permitted a conscientious man should in any case keep far from this (Hagahot Maimuni, chapter 10 of Gerushin and the Kol Bo and Tosafot to Yevamot).

2. If a woman vowed refusal of any benefit from her husband and he did not annul it for her and she came before a Sage to permit her <sup>73</sup> but he forbade her for he could not find a reason for permitting her, <sup>74</sup> the Sage shall not marry her lest they say, "He forbade her to her husband so that he could marry her," but if he married her he need not divorce her. This applies to an expert judging alone, but a court is not suspect, and for this reason if the woman protested or performed halizah before a court then one of the judges may marry her.

3. If all of these <sup>75</sup> were married to others and

they were subsequently widowed or divorced, they may be married to these.

4. If all of these [the Sage, the messenger, etc.] had wives at that time <sup>77</sup> and they afterwards died or were divorced and it was the wives who persuaded their husbands to divorce them, these are permitted to marry them in principle. (If their wives were sick and died they shall not marry) (Nimoqe Yosef, chapter 2 of Yevamot). And every one of them is permitted to marry the son of the witness who testified in her behalf or the son of the Sage who forbade her to her husband or other relatives for here is no reason to suspect that they cause them to divorce their husbands for the sake of their relatives.

XIII. A divorcee or a widow must wait ninety days before she remarries; and that one should not marry the nursing wife of one's fellow nor the pregnant wife of his fellow. Herein are fourteen paragraphs.

1. Every woman who was divorced or widowed shall not remarry or become betrothed to another until she waits ninety days, excluding the day on which she was divorced or her husband died, and excluding the day on which she was rebetrothed, in order that it be known if she is or is not pregnant to distinguish between the seed of the first husband and that of the second (but she is permitted to make betrothal arrangements without betrothal) (Bet Yosef in the name of a responsum of Ro'sh, and Terumat Ha-deshen, chapter 217) only the prospective husband should not enter into the house with her (ibid.).

From the day of the writing of the get they count the ninety days for a divorcee, and even if it was on condition or if the get reached her<sup>78</sup> only after many years we count from the day of the writing for her former husband is not alone with her after they write it for her.

NOTE: Some say that they count from the day of the giving of the get (Tur in the name of Ro'sh), and so it appears to me that it is fitting to be strict.

And it is a decree of the Sages that even a woman unfit to bear children and even a woman who was divorced or widowed [only] from the state of betrothal must wait ninety days. Even a minor girl or an old woman or a barren woman or an 'aylonit, and even if her husband was in a foreign land or was rendered a eunuch by a human agent or by sickness or was imprisoned or she miscarried after her husband's death, and even a virgin divorced or widowed while betrothed, all must wait ninety days.

2. A yevameh whose yavam has died must wait three months after the death of the yavan.

3. If a woman was made pregnant by Reuben and they both admit that she is pregnant by him, and she goes and becomes betrothed to Simon and he divorces her and she wants to marry Reuben, she must wait ninety days after being divorced from Simon.

4. If one remarries his divorced wife she does not have to wait the ninety days.

5. If a female slave or proselyte was married to her husband while in gentile or servile state and subsequently was converted or freed, she must wait, and even if a proselyte and his wife were converted together they [i.e. the authorities] separate them for ninety days in order to distinguish between seed sown in holiness and seed sown in unholiness.<sup>79</sup>

6. One who formally refuses her husband [see glossary on mi'un] need not wait, for the Sages declared only regarding a divorcee, and so too one who acts lewdly need not wait because she overturns herself at the time of intercourse in order that she not become pregnant, and so too regarding those who are raped and seduced -- they need not wait. The same applies to a captive woman even if she is an adult.

NOTE: Some say that these do need to wait ninety days if they are adult and fit to become pregnant (Tur). A woman who was raped while married, if she had not had intercourse with her husband first, must wait. ('Or Zaru'a)

7. A concubine special to a man who wants to marry another must wait.



8. If one were married in error and it is known that she is forbidden to her husband and the court causes him to divorce her, if she were a minor who was unfit to bear children she does not have to wait, for this is an infrequent occurrence and with regard to every infrequent occurrence the Sages did not ordain the restriction.

9. Regarding a woman who was divorced and a rumor of invalidity about the get spread and the authorities said it was necessary to have another get because of dispute, some say that she must wait three months from the issuance of the second get and some say that she need only count from the issuance of the first get.

NOTE: And the first opinion has to be considered (this is the opinion of Raboi Isaac and the Ro'sh, so in the Tur in their names) and so if she had been divorced merely because of a rumor about the betrothal she must wait (Bet Yosef in the name of the Ro'sh).

10. They put under the ban one who betroths a woman within ninety days.

NOTE: Some say that he must divorce her and if he is a Yisra'el he may take her back after three months, but a priest may not take her back (Tur), and this only if he transgressed wittingly, but had he betrothed her in error he need not divorce her, but they do separate them (Rabbi Jacob Weil, chapter 73), and some are strict even with one who betrothed in error (Terumat Ha-deshen, chapter 250) and it seems that regarding a priest who is forbidden to take back his wife we can depend upon the words of those who decide leniently and not require him to divorce her, and regarding a Yisra'el we cannot rely on one who decides in a lenient manner with regard to one who acts in error, and so it seems to me. If he divorced her she is forbidden

to dwell with him in the same lane (Ribash, chapter 50). If the court did not compel him until three months have passed even though he betrothed in sin, again they do not compel him since the time has passed (Mordekhai, chapter Ha-ḥolez in the name of Maharam) and if he married her and divorced her see below, this chapter, paragraph 12, what the law is concerning the ketubah.

If he betrothed her and fled away they do not put him under the ban (and they instruct him to flee -- Tur in the name of Rabbi Yeḥi'el). There is one authority who says that this fleeing must be to a place so far that the measure of his return be three months, but it does not seem so from the words of the other authorities.

11. The Sages declared that a man should neither marry nor betroth a pregnant wife of his fellow nor his fellow's nursing wife until the infant reaches the age of twenty-four months (for thus it is according to the way the months are arranged, one full and one deficient) <sup>81</sup> (Hagahot Mordekhai, chapter Ha-ḥolez) exclusive of the day on which it was born and the day on which she [the mother] was betrothed, and the extra month of the intercalated year counts as one of the twenty-four months (and some say that one should be apprehensive in principle even regarding the extra month) (Terumat Ha-deshen, chapter 216) whether she is a widow or a divorcee or a loose woman (and some are lenient regarding a loose woman) (Hagahot Mordekhai, chapter Ha-ḥolez in the name of others) and one should be lenient in the case of one who was lewd [between the two marriages] so that her husband may watch her (Responsa of Rabbi Judah Mintz, chapter 5). Even if she gave her son to a wet-nurse or she weaned him within twenty-four months, she should not remarry even if the wet-nurse swore with the understanding of the public in mind that she would not go back on her word.

(and some say that if the wet-nurse swore and the man married the woman he need not divorce her) (Maga-hot Morde-khai to Ketubot) even if she swore to a great man like one of those who frequent the court of the king, but if her son dies she is permitted to remarry and we are not suspicious that she will kill him. So too, if she woaned him while her husband was alive or if she had never lactated, for example she had drying of the nipples or her milk stopped while her husband was alive and they hired a wet-nurse for the son while her husband was alive, or she gave her son to a wet-nurse three months prior to her husband's death and she had not suckled it during the entire three months, she is permitted to remarry.

12. If one transgressed and married a pregnant or nursing woman within the stated time, they put him under a ban unless he fled, and he divorces her with a get; and even were he a priest he must give her the amount of the ketubah if she claims it of him, and if he were a Yisra'el he may take her back after twenty-four months of nursing and write her another ketubah. If he married and fled and after the stated time he came and dwelled with his wife, it is nothing. If he betrothed a pregnant or nursing woman they do not compel him to divorce her but he should not marry until after the time of suckling or until the child dies.

NOTE: Some hold that there is no difference in this case between betrothal and marriage (the majority of authorities) and so is the law; and see above, this chapter, paragraph 10, how it is practiced.

13. A widow who was nursing her son can say, "I nurse only for a fee," and she can claim her ketubah right away, and even though she cannot marry until the end of twenty-four months, and there is no difference between if

she began to nurse or if she had not begun (Maharam of Padua, chapter 30 and Rabbi Jacob Weil and Ribash and Responsa of the Ro'sh, chapter 53).

14. This is what authorities said regarding a divorcee: one says that [she may remarry] only if she nursed the son before she was divorced until he [i.e. the son] recognized her but not prior to this time, for thus if she so wishes she would not suckle him at all even for a fee. Another says that the woman whose husband dies and leaves her pregnant and she bears and does not suckle her son must wait twenty-four months, and the implication from his words is that the same holds true for a divorcee.

XIV. One should not marry during the mourning period. Herein is one paragraph.

1. If a man's wife or one of his relatives for whom he must mourn dies, then for how long is he forbidden to marry? This is explained in Tur, Yoreh De'ah, chapter 392.

XV. The incestuous connections prohibited by biblical law and by rabbinic law. Herein are thirty-- one paragraphs.

1. Regarding such connections which are forbidden because they are incestuous, be they prohibited biblically or rabbinically, in the case of those prohibited biblically betrothal does not take effect, and in the case of those rabbinically forbidden betrothal is valid and a get is required, <sup>82</sup> and so too if one marries a doubtful 'erwah she needs a get.

2. One's mother is forbidden him biblically, but his mother's mother is forbidden him only rabbinically, and there is no limit to it, even to his mother's mother's mother's mother it is eternally forbidden.

3. One's mother's father's mother is forbidden for him by rabbinic law, but only she.

4. One's father's mother is rabbinically forbidden to him and there is no limit to this even to his father's mother's mother's mother, it is eternally forbidden.

5. One's father's father's mother is forbidden to him only rabbinically; one's father's wife is forbidden to him biblically be she his wife by marriage or by betrothal, during his father's life or after his death, or if his father had divorced her (but a female slave is permitted to him), but a woman whom one's father had raped is permitted to him.

6. One's father's father's wife is rabbinically forbidden to him, and there is no limit to this prohibition for even the wife of Jacob our father is forbidden

for anyone of us.

7. One's mother's father's wife is rabbinically forbidden to him. (And some authorities rule that one's father's mother's father's wife is forbidden to him) (Terumat Ha-deshen, chapter 215)

8. The wife of one's father's half-brother by his father is forbidden to one biblically, but the wife of one's father's half-brother by his mother is only prohibited rabbinically.

9. One's mother's half-brother's wife is forbidden to him only rabbinically whether that half-brother is from the mother or the father.

10. One's sister is forbidden to him biblically be she his half-sister by his father or his mother, whether through marriage or through illicit relations, even if one's father had intercourse with an 'erwah and sired a daughter through her still that daughter is his sister and he is culpable for relations with her except for his half-sister who was the daughter of a female slave or of a gentile.

NOTE: It appears to me that it is a priori forbidden to have relations with her for there are some who hold that only by biblical law the offspring follows the status of the female slave or gentile, however rabbinically it is his [i.e. his father's] offspring, therefore we are stringent a priori.

Some say that this applies only to a female slave of someone else, but if one's father had relations with his own slave and sired a daughter she is his [i.e. the son's] sister (and even if he said that he intended this for lewdness he is not believed) ('Or Zaru'a).

11. One is permitted to marry his father's wife's daughter whom she bore from a previous husband, and even her stepdaughter<sup>83</sup> who grew up in the same house with the other children is permitted to them, and we are not apprehensive about the mar'it 'ayin prohibition, i.e. her appearing to be their sister.

12. One's daughter, daughter's daughter, and son's daughter are forbidden to one biblically, and one's son's daughter's daughter, daughter's daughter's daughter, son's son's daughter, and daughter's son's daughter are forbidden rabbinically and there is no limit to this prohibition. So does the Palestinian Talmud state that Abraham is forbidden to marry any Jewish woman and Sarah is forbidden to marry any Jewish man, but in the opinion of Maimonides there is a limit to this.<sup>84</sup>

13. One's wife's daughter, daughter's daughter, and son's daughter are forbidden to him biblically -- this means only the daughter of the woman to whom he is married, but the daughter of a woman to whom he is betrothed is permitted to him after the death of his betrothed (and even if he married the daughter while his betrothed was alive he need not divorce her)(Nimoqe Yosef, beginning of chapter Nose'im 'al ha-'anusah).

14. One's wife's daughter's daughter's daughter and one's wife's son's son's daughter are rabbinically prohibited to him with no limit although according to Maimonides there is a limit.

15. One's wife's mother, the mother of his wife's mother, and one's wife's father's mother are biblically forbidden to him, but one's wife's mother's mother's mother and his wife's father's father's mother and his



wife's father's mother's mother's mother are forbidden to him rabbinically, and there is no limit to this though in the opinion of Maimonides there is.

16. One's father's sister and one's mother's sister are biblically prohibited to him, whether that sister is only the daughter of her father or her mother. <sup>85</sup>

17. One is permitted to his father's brother's daughter and his mother's brother's daughter; so too are his father's brother and his mother's brother permitted to marry his wife and his daughter.

18. One's father's half-brother's wife <sup>86</sup> is biblically forbidden, but one's father's half-brother's [of the mother] and one's mother's half-brother's <sup>87</sup> wife are forbidden only rabbinically -- and so too with the descendants, for example the wife of the half-brother [from the mother] of the father of one's father (and the wife of the half-brother <sup>88</sup> of one's mother's mother) are permitted. The wife of one's father's father's half-brother from the father and the half-sister of one's father's father <sup>89</sup> and one's mother's mother's sister are permitted to one for marriage, though there are authorities who prohibit these.

19. One's son's wife is biblically forbidden to him, and his grandson's wife is rabbinically forbidden to him, and there is no limit to this even to the point where any one of these is forbidden to the patriarch Jacob.

20. The wife of one's daughter's son is rabbinically forbidden to him though there is a limit.

21. One's wife's son's wife is permitted to him and his own wife's son is permitted to the wife of the former.

22. One's brother's wife is forbidden to him biblically whether the brother was a half-brother from the father or from the mother, whether born out of wedlock or in.

23. If two stepsons grew up in the same house each is permitted to marry the other's wife and we do not concern ourselves about the possibility of people saying that one married his brother's wife.

24. A man is permitted to marry his father-in-law's wife and his father-in-law is permitted to marry the wife of the former, though some authorities forbid this.

25. One is permitted to marry his brother's son's wife and his sister's son's wife (and he is permitted to marry his brother's or sister's daughter -- it is actually an obligation to marry her, as above, chapter 2).

26. The sister of one's wife is biblically forbidden to him all the while his wife is living -- it makes no difference if she is her half-sister either from the father or the mother, and so, even if he divorced his wife; however, after his wife's death he is permitted to marry her sister (and everyone who divorces a wife, even on the basis of a mere rumor, is forbidden to marry her relatives) (Bet Yosef in the name of Rashba').

27. If a man betrothed a woman and she went away to another country and subsequently witnesses came and

testified that she had died, so the man married her sister but it later became known that she [i.e. the original wife] had not died, the man is forbidden to marry either of them and they both require a get from him, also all the items which are enumerated in chapter Ha-'ishshah rabbah (and in chapter Ha-zoreq) apply to them, however were one of these two women to die, the man would be permitted to marry the other one. But if one's wife went to another country and witnesses came and testified that she died, and so the man married her sister and subsequently it became known that she had not died, then her sister does not require a get from him and is permitted to him and he is permitted to the second wife's relatives and she to his relatives, so too if the first wife dies he is permitted to the second. So also regarding all the forbidden unions which were presumed permitted at the time of marriage and later found to be forbidden, the women do not require a get, for betrothal takes no effect in the case of prohibited unions (so too in any case of illicit relations which one commits with relatives forbidden to him because of his wife, they do not forbid his wife to him and he is permitted to marry the relatives of the second wife (Tur); however, if the woman relative made it a practice to be with him because of his wife they force him to divorce his wife (Hagahot 'Alfasi, ibid.)).

And why did they obligate the sister of a betrothed woman to have a get? Lest people say, "There was a condition involved in the betrothal," and he married her sister in accordance with the law, and since her sister was divorced with a get her sister, who is the first betrothed, is forbidden so that they will not say, "He married the sister of his divorced wife." However, when his married wife went away there was nothing suspect that they should say, "He had a condition in the marriage," for a man does not make his sexual relations lewd, therefore

everyone knows that the marriage of the second wife is nothing.

28. If one's wife and his wife's sister's husband went to a foreign country and he was told later, "Your wife and her sister's husband have died," and he married his wife's sister and subsequently his wife and brother-in-law returned, then his wife's sister requires a get from him, and it makes no difference if she were married to him through the testimony of one or two witnesses.<sup>90</sup> And she is forbidden to her brother-in-law and his wife is forbidden to him whether she was married or betrothed to him.

NOTE: If one was lewd with his wife's sister and subsequently his wife and brother-in-law both died, some hold that he is forbidden to marry his wife's sister, for just as she is forbidden to the husband so is she forbidden to the one with whom she had relations even though she was forbidden to him without this (Pisq. of Rabbi Isserlein, chapter 26) (see below chapter 178).

29. If one were told, "Your wife died," and he then married her sister and he was subsequently told, "She [i.e. your first wife] was alive"<sup>91</sup> and is now dead," then his first child is a mamzer and the second is not a mamzer.

30. If one has a concubine and there was not witnessing that he betrothed her, she is permitted to his relatives, but if there are witnesses that the woman said, "Betroth me" in the presence of two witnesses, she is forbidden to his relatives. However, if she just said "Betroth me" not in the presence of two witnesses, her word counts for nothing.

31. If one betroths a woman and then the betrothal is rendered invalid because it had been conditional and the condition was not fulfilled; or if the woman were betrothed to one by her father without her consent but it was found that she was a bozeret, then he is permitted to marry her relatives (and this only if the betrothal were rendered invalid without a get, but if he gave her a get he is forbidden to all her relatives as explained).

XVI. The prohibition of marrying a gentile or a slave. Herein are six paragraphs.

1. Were a Jew to have sexual relations with a gentile in the way of matrimony or were a Jewish woman to have relations with a gentile (in the way of matrimony), then these are to be flogged according to biblical law, as Scripture states: "Thou shalt not intermarry with them," [Dt. 7:3] (some disagree with this) however if one had relations with a gentile by way of lewdness accidentally then he is culpable on her account according to rabbinic law both because of having relations with a gentile and with a zonah and they punish him with rabbinic stripes, and had he set her aside for himself in lewdness [i.e. she is his steady consort] then he is guilty according to rabbinic law because of the niddah rule, the laws against intercourse with a slave woman, a gentile, and a zonah. If he were a priest, even if he only accidentally had intercourse with her, he receives flogging by biblical law because of being with a zonah.

2. If one had intercourse with a gentile woman and if neither the zealous have struck him nor the court flogged him, then his punishment as stated in the Prophetic writings is that of extirpation, as Scripture states: "For Judah hath dealt treacherously, and an abomination is committed in Israel and Jerusalem; for Judah hath profaned the holiness of the Lord which He loveth, and hath married the daughter of a strange god. May the Lord cut off to the man that doeth this him that calleth and him that answereth out of the tents of Jacob..." [Mal. 2:11,12] The Rabbis interpret this to mean if he is a Jew he will have no alert student among his descendants and no wise disciple among them.

NOTE: This transgression incurs a loss not incurred by violation of other forbidden relationships, for his son by the slave or gentile is not his son as is not the case with other prohibited unions (Tur in the name of Rambam). If one has intercourse with a gentile in public, the punishment for which is that the zealous strike him as will be explained in Hoshen Mishpat, chapter 425 -- this is in the category of unchaste relationships and his punishment is to be killed so that he would not sin (Bet Yosef in the name of 'Orehot Hayyim in the name of Rambam) as in the case of other unchaste unions, as explained in Yoreh De'ah, chapter 157.

3. A slave woman who underwent ritual immersion for the sake of becoming a slave is forbidden to a free man, be she his slave or that of his fellow; and one who has intercourse with her is given rabbinic stripes.

4. If one is caught with his female slave, then they make her leave him, sell her, distribute the price to poor Jews, flog him, shave his hair, and put him under the ban for thirty days.

5. If an infant of a Jewish woman were mixed up with that of a slave woman, then both are doubtful slaves, so they must force the master of the slave woman to free both of them. If one son is the son of the master of the slave woman then when they grow up this one should free that one and vice versa and both are permitted to enter the congregation.

6. Were there such a mixing of daughters then both are doubtful slaves and if one has intercourse with any of them the offspring is doubtful; so too if the child of a Jew is mixed with the child of a gentile we

immerse both of them for the sake of conversion and each is a doubtful proselyte.



XVII. The permission to remarry of a married woman whose husband died and of a woman who says, "You divorced me"; and the laws of the 'erwah and of a woman who married in prohibition or in error. Herein are fifty-eight paragraphs.

1. A married woman is in the category of prohibited unions <sup>92</sup> and betrothal does not take effect regarding her. Pertaining to whom is this said? To a definite married woman, but if there is doubt whether she is betrothed or whether she is divorced then the betrothal does take effect on account of the doubt and she requires a get from both of them <sup>93</sup> and the same holds true for those married on the basis of a get which was rabbinically invalid, for if one came and betrothed her she requires a get from both of them: from the first one according to the rabbinic law and from the second according to biblical law.

2. A married woman who stretched forth her hand and received betrothal from another man in her husband's presence is betrothed to the second man, for a woman who says, "You divorced me" to her husband in his presence is believed, the assumption being that a woman would not be defiant in her husband's presence.

NOTE: Some say only to the extent that the betrothal takes effect is she believed and she requires a get but she is not believed to marry another (Ran, chapter 2 of Ketubot in the name of other authorities) or to collect the amount of the ketubah (Hagahot Maimuni, chapter 2 of Gerushin) and some disagree and hold that she is believed for all [i.e. both] matters (Rambam), and some say moreover that at this time when boldness and impudence have increased she is believed only in a restrictive sense <sup>94</sup> and the assumption that she would not be

defiant is impaired (Bet Yosef in the name of 'Orehot Hayyim).

But if another betrothed her in her husband's absence the betrothal does not take effect until she brings proof that she was divorced prior to the betrothal for we consider that all who act in the husband's absence are defiant. The Ro'sh wrote that as long as the husband is in the city when she becomes betrothed to another it is called "in his presence" (and there are those who disagree and hold that we require [the action] literally in his presence) (Mahariq, root 72 and Ribash, chapter 157). And that which we state, that a woman is not defiant in her husband's presence to say, "You divorced me" -- these words apply where there is not one to support her, but where there is one to support her she will be very defiant, and if she marries another in her husband's absence even though when her husband comes she says to him in his presence, "You divorced me," she is not believed for since she was not yet married she is very defiant in order not to render herself a harlot. And there is an authority who says that even if she was not yet married to another but betrothed to him in her husband's absence and afterwards her husband came and she said to him in his presence, "You divorced me," she is not believed; and soem say that were there a quarrel between them or she claimed her ketubah she is not believed to say, "You divorced me," even in his presence. Some authorities hold that in a place where she is believed to remarry she may also claim her ketubah.<sup>95</sup> (Mahariq, root 72 and Ribash, chapter 157) (and some say that she is not believed with regard to any financial matter at all) (this is explained above)

3. If a woman's husband went to a distant land and people subsequently testified that he died, even one

witness, and even if that witness were a male or female slave or a woman or a relative,<sup>96</sup> the woman in this case is permitted to remarry; and even if the testimony is given by a witness quoting another witness, or a woman quoting a woman, or a slave or a relative, they are fit for this testimony. And those disqualified to testify according to rabbinic law are qualified for this testimony, but those disqualified to testify according to biblical law are disqualified in this instance. If those whose words are used to report the death are speaking casually<sup>97</sup> they are qualified [i.e. their words are accepted]. So too a gentile or an apostate or a mumar with regard to the entire Torah, if he is speaking casually he is believed.

NOTE: If a witness did not come in the ways mentioned above but only a rumor that the husband died had spread then they do not let his wife remarry (Terumat Ha-deshen, chapter 222 and Responsa of Ramban, chapter 80).

4. Everyone is considered reliable to give such testimony for a woman with the exception of five women who are presumed legally to hate one another for they cannot testify to the death of the husband as they may intend to forbid her to him while he is yet alive, and these are they: her mother-in-law (even if she is not presently her mother-in-law but only in case the yavam marries her)(Tur), her mother-in-law's daughter, her rival wife, her husband's brother's wife, and her husband's daughter ( and she too can testify in their cases) (Tur).

5. We have already stated that the witness who said, "I have heard that so-and-so died," is qualified for the testimony in a woman's case even if he heard [the report] from a woman who heard it from a slave, and

they allow her [i.e. the woman whose husband died] to remarry on the strength of his word.

NOTE: And so even if he did not say from whom he heard it but said in a general way that he heard it he is qualified as a witness and there is no apprehension that perhaps the first witness we originally witnessed the death was unfit.

But if the witness or the woman or the slave said, "So-and-so died and I saw that he was dead," then they ask him, "How did you see and how did you know?" If he then testifies [citing] a clear [i.e. conclusive] matter he is believed, and if he testifies in regard to matters which mostly lead to death they do not permit the wife to remarry, for they do not testify about a man who dies unless they saw that he was definitely dead without a doubt.

NOTE: If he [i.e. the witness] had heard wailing women who mentioned him <sup>98</sup> among the dead and mourned him they [i.e. the court] allow his wife to remarry (so wrote the Maggid Mishne in the name of the Tosofta') and therefore we should object to women that they not eulogize a man on the basis of suppositions that imply that he is dead; and so too is his wife forbidden to wail for him or to dress in black all the time that there is no sufficient testimony here, for her remarriage (opinion of Isserles, and so wrote Ribash, chapter 149). And thus no court should issue a transcript of testimony to a woman of what witnesses testified before them if there was not in that testimony sufficient substance to permit her to remarry unless they have explicitly written the reason that they did not permit her on the basis of that testimony, for we are afraid of calamity from a court not made up of experts (ibid, in Responsa of the Ro'sh).

6. In periods of persecution they permit women

to remarry on the word of repentant persons.

NOTE: Who testify as to what they saw in a perilous time even though they changed their religion because of compulsion (Responsa of Ro'sh, chapter 57). As for worthless and frivolous apostates who returned, but not in complete sincerity, they do not rely on their testimony — only when they are speaking casually (Rabbi Isserlein, chapter 220) or when it is known that they testified without perverseness and deceit (*ibid.*, chapter 224); and everything is in accordance with the situation of the witnesses and the discretion of the judge.

7. If one came and said, "I killed him," she the wife may remarry for a man cannot make [i.e. declare] himself wicked; and the same is true for a gentile who said while speaking casually, "I killed so-and-so," that they let his [i.e. the dead man's] wife remarry.

8. If a witness said privately to a woman, "Your husband died," then she does not need his testimony again but she can go to the court and say, "My husband is dead"; but if the witness in whose name she said that the husband was dead came and said that he did not say that he was dead she is not believed.

NOTE: And the court does not have to send after him even though he is in the city, but they rely in principle upon a witness testifying as to what he heard from another witness (Responsa of Rabbi Jacob Weil, chapter 9).

9. If one witness says "he died" and another says "he was killed," even though they contradict each other, since they both agree that he is no longer alive, then this one thw wife may remarry.

10. If they heard a voice stating, "So-and-so died,"

and they went and did not find a man there they permit his wife to remarry, and if they heard this voice in a field or in a ruin they do not give her permission to remarry on the basis of that voice for we suspect that perhaps it was a demon since the voice went forth from a place where demons are commonly found.

11. If they found written <sup>100</sup> in a document, "so-and-so died," or, "was killed," his wife may remarry, and so even if it [i.e. the document] is not verified, but according to Maimonides it is necessary that they know that it is a Jew's writing.

NOTE: And so it is proper to decide strictly, and even if they know that it was written by a Jew, if we can say that he wrote thus because a rumor went out that he died, e.g. he drowned in water that did not have a [visible] end or the like we do not permit remarriage by the writing for we suspect that he so wrote because of the rumor that spread (Terumat Ha-deshen, chapter 240).

12. If someone became mute and they investigated him the way they investigate in the case of gittin and his mind was found to be stable and he wrote that so-and-so son of so-and-so had died, they rely upon his writing and his the dead man's wife may remarry.

13. What we said about a witness who heard from another witness being fit for testimony in the case of a woman, to what does it apply? That he heard from a sane person that so-and-so died, e.g. a male or female slave, but if he heard from an insane person or a minor he may not testify and they do not rely on his words. If he heard from children saying, "Now we have come from so-and-so's funeral, such ones were hired mourners there and so-and-so was the hakham and so-and-so was a pallbearer

and such ones attended the bier," then he can testify what he heard from them according to these words and the like and they permit his wife to remarry.

NOTE: Only right away,<sup>101</sup> e.g. that they say now we have come from so-and-so's funeral, etc., but if it is not right away then their testimony carries no weight at all ('Or Zaru'a and Rabbi Jacob Weil, chapter 45 and Piske of Rabbi Isserlein, chapter 220), and even if they grew up afterwards they may not testify to what they saw when they were minors (ibid., 'Or Zaru'a).

14. We have already stated that on the statement of a gentile who was speaking casually they permit women to remarry. How is this? If he were speaking casually and said, "Woe to so-and-so for he died. How nice he was, how favorable he was toward me," or if he were speaking casually and said, "When I was on the road so-and-so who was walking with us fell and died and we were amazed at this, how suddenly he died," or similar words, for they show that it was not his intention to testify, this one is believed, and a Jew who heard news of death from a gentile speaking casually may testify what he heard from him and his wife may remarry on the strength of his testimony.

NOTE: So too if the gentile said, "So-and-so died," while speaking casually — even though he did not say other things also he is called "one who rightly speaks innocently" (Ribash, chapter 376) and some decide strictly (Bet Yosef in the name of Ran).

Regarding what are these things said? If there was no pretext involved, but, were there a pretext in the speech, perhaps he meant to say something else as he said to one, "Do such and such for me and I will not kill you as I killed so-and-so — this is not "speaking casually" for his intention is to bring fear upon this one.

NOTE: And so too, in a place where we must be apprehensive about lying where they instructed him to say such, we do not rely on him for testimony (Rabbi Isaac, chapter 23).

And so if he heard from the gentile court where it was said, "We killed so-and-so," they are not believed for they are strengthening themselves with a lie, and so in all similar instances.

NOTE: And some say that all things heard in gentile courts are not believed even if they say that he was killed according to the law but not by themselves (Tur in the name of Ro'sh) and all this is only in gentile courts but other gentiles speaking casually about people who are tried in the gentile courts are believed (Pisqe of Rabbi Isserlein, chapter 34).

15. A gentile who spoke casually at first, even though they questioned him afterwards and examined him until he clearly related the entire incident, is believed and they permit the wife to remarry on the strength of his word.

NOTE: But if they asked him first, "Where is our fellow?" and he said to them that he died this is not called "speaking casually," and only so if they questioned that gentile himself, but if they interrogated another gentile (Pisqe of Rabbi Isserlein, chapter 161) or they searched for the Jew in the city and a rumor spread about this and a gentile came and spoke casually saying that he died (Responsa of Maharam, Hilkhos Nashim), even though he was with the gentile when they questioned, it is called "speaking casually." If they were speaking together about the Jew and a gentile came and said, "What are you talking about?" and they said to him, "About the Jew, if he is living or dead," and he told them that he was dead, this is not called "speaking casually" (Ribash). Were there a



doubt if one spoke casually or not then they do not permit the wife <sup>102</sup> to remarry for cases of doubt involving biblical law are decided strictly, and so too in every place where there is a divergence of these laws we go according to the strict decision (*ibid.*). Some hold that which we say, for if they questioned the gentile first it is not called "speaking casually," thus e.g. only if a Jew asks him, but if gentiles ask him and he tells then it is called "speaking casually" provided that they did not ask him in the presence of a Jew (*Terumat Ha-deshen*, chapter 239), and if a Jew asked him and a gentile told that he died and related approximations which indicated death, even though this is not called "speaking casually" and the wife is forbidden to remarry, in any case if she transgressed and remarried by the authority of a Sage who permitted her she need not be divorced if there are circumstantial proofs and estimations that her husband is dead (*Pisqe of Rabbi Isserlein*, chapter 139).

16. If a gentile speaks casually according to [what he heard] from another gentile speaking casually they permit her to marry on the strength of her word.

NOTE: Even if the gentile did not clearly tell that the first gentile was speaking casually we go in this doubtful instance for a lenient decision and assume that he was surely speaking casually (*Mahariq*, root 121) and there are some who disagree with this (*Responso of Ran* ).

17. If a gentile and a Jew went out from us to another place and the gentile came and said, "The man who went out from here with me died," they permit the man's wife to remarry on the strength of his word even though the gentile does not know the man; and some say he must say, "I buried him."

NOTE: And only in such a case that he does not men-

tion the name of the dead and he is not acquainted with him, but if he does know him we do not require his saying "I buried him" while speaking casually (notes to the Maggid Mishneh according to the opinion of Rambam, and so wrote Isserlein in his Pisqa, chapter 223 and Bet Yosef in the name of the Responsa of Ran and Ribash) and thus has the practice spread even in a place where they say that we require his saying "I buried him," but in every instance he says something the implication of which is that he definitely died and does not speak from conjecture it is legally effective. (Bet Yosef in the name of the Responsa of Ran and Ribash).

And so if ten men went out together from place to place and were in shackles or were together in a caravan or similar things and a gentile spoke casually and said that the ten men who went out from such a place to such a place are in a caravan and so did they all die, then they [i.e. the court] permit their wives to remarry, and some say that it is necessary for the gentile to say, "I buried them."

18. If one came and said, "The court" or "Certain men said 'when you go to a certain place say to them that Isaac the son of Misha'el died', " and the messenger came and said to us that he does not know who he [Isaac the son of Michael] is, since we know so-and-so who is known by that name then his wife is permitted to remarry and we do not say that perhaps it is another Isaac the son of Michael who died provided that there are presumed to be there no two Isaacs the sons of Michael or if when two are presumed and it is known that one is alive.

NOTE: Some say that all this applies only when the witness mentions the name of his city, but if he did not mention the name of his city then even though we know that one perished it is not effective even though he men-

tioned his name (Responsa of Ribash and Responsa of Ran and Mahariq, chapter 185). And some decide leniently and some say that in a place where he mentions the name of his father we do not require that he mention the name of his city (Ro'sh, chapter 51 and so wrote Mahariq, chapter 176). And in a place where there are estimations which indicate that it is he we may be lenient and rely on the authority who said we need not require that he mention the name of his city (Mahariq, chapter 185 and Responsa of Ro'sh).

19. If a Jew says, "A Jewish man with us died, such was his appearance and such were his distinguishing characteristics," then we do not say that he is so-and-so by estimation until a witness testifies that he is so-and-so and mentions his name and that of his city, but if one said, "So-and-so went out with us and died," then we search that city and if only he went out from there may his wife remarry.

NOTE: And the same applies to a gentile who speaks casually (opinion of Isserles and so implied in the Responsa of Rambam who quotes Bet Yosef).

20. He who makes a statement ["attacks"] against a woman saying that she is obligated to a yavam and afterwards he himself testifies before a court that he heard that the husband died long ago, we rely on him since the first words were not uttered before a court.

21. They do not investigate witnesses in cases of women with interrogation and examination, and even if they were contradicted by investigation they are qualified and it is forbidden to investigate and interrogate too much (Responsa of Rambam), but in a situation where we might suspect craftiness interrogation and examination

are necessary (Rabbi Jacob Weil, chapter 150).

22. When they examine the form [of the dead man] in order to identify him so as to testify about him they examine him and look at him even at night by candlelight or moonlight.

23. If they saw one standing far off and he said that he was so-and-so the son of so-and-so or [that he was] from such a place and then a snake bit him and he is dying, and they went and found him changed so that they did not recognize him, still they permit his wife to remarry.

24. If they found him killed or dead, then if his forehead and nose and full face are intact and they recognized by them that he is so-and-so they may testify about him, but if one of these were removed, even though there were very distinct characteristics in his garments, they count for nothing and we suspect that they might be borrowed clothes; and even if there were bodily characteristics and even a mole they do not testify about him, but if there were very distinctive signs they do testify about him.

NOTE: For example, if he had something extra or lacking or a mutation in one of his members, but were something small or long or white or red this is not a distinctive sign (Responsa of Ro'sh, chapter 51) and even a hundred characteristics which are not distinctive are as nothing, and so even to join them with other indicating estimations (Pisqe of Rabbi Isserlein, chapters 185 and 224). Were there a large mound on his nose or were his nose very hooked or the like then this is a distinct sign, but were it just a little bit hooked it is not. The same holds true with regard to an incision on his body or in one of his members, but large teeth, even very large, are not a distinctive sign (Pisqe of Rabbi Isserlein,

chapter 151) and every sign valid when a Jew testifies is the same when a gentile speaks of it casually (Responsum of Maharam in Hilkhos Nashim and Rabbi Meir of Padua, chapters 2 and 36).

25. Rabbeinu Tam wrote that the requirement that they should testify about one unless his forehead, nose, and full face are intact applies only when there is nothing but their head there, but if his entire body is whole, even if there is not a full face, forehead, and nose, they can identify him by the general impression of his form. The later authorities, however, take issue with him.

26. They do not testify regarding a man unless they found him within three days after his being killed or after his death, but after three days they cannot testify about him because his face has changed. Regarding what is this said? Regarding a time when he was on dry land, but if he drowned in water and the water cast him on to dry land, then even after many days they may testify about him if they recognize him, for in water he changes only after a long time, and this is so provided that they looked at him right after they took him up from the water and provided also that he had no wound, but if he delayed after he was cast from the water they cannot testify about him (even within three days) (Bet Yosef in the name of Ramban and Rashba'), and so if he had a wound they do not testify about him because the water corrupts the wound and it is blown and it changes.

NOTE: If it is doubtful whether the dead man was delayed or not we follow a stringent decision, and even if the wife remarried she must be divorced (Ribash, chapter 380). And all this applies regarding testimony about [the corpse] with an identification from a general impression,

however, when testimony is given from proof by significant characteristics, even if the corpse remained a longer time before being examined they permit his wife to remarry.

27. If they found a man killed and they recognize him by a general impression though they do not know when he was killed, some say that they assume that he was killed within the last three days and testify about him while others forbid this; but if a rumor spread that so-and-so died or was killed, and after three days they found him dead and recognized him, then, according to the opinion of all authorities, his wife is permitted to remarry.

28. Some say in the name of Rabbonu Tam that as to [the rule] that they testify about him only within three days, these words apply when the corpse is injured in the facial region, but if it is not injured in the facial region they can testify about him even after many days from a general impression of his body and form (and even if he had fallen into the water) and this is not plausible in the view of the later authorities.

NOTE: Some make the [following] distinction: that everyone who was with him when he drowned in the water, even though he was whole, should not testify about him, but one who did not see his drowning and says that he recognizes him by general impression, provided that he is whole, may testify about him (Tur and Terumat Ha-deshen, chapter 205) (in the name of Asheri).

29. They only testify about a man who died when they saw that he was definitely dead and there was no doubt about it, How is this? If they saw him falling into a den of lions or tigers of the like they do not testify about him for perhaps the animals were not hungry and did not eat him, but if he fell into a pit of snakes or scor-

pions they may testify about him because he presses 103  
them when he stands on them and they will harm him.

30. If a man fell into a furnace of fire or into a kettle filled with boiling wine or oil or water or they cut two of his organs 104 or the major part thereof, even if he got up and fled they may testify that he is dead, for surely he will eventually die; and so too in all similar instances where it is impossible that he could live but will die in a short time they may testify about him.

31. If they saw him crucified and a bird eating at him, even though they stabbed him or shot arrows at him they do not testify about him, but if they saw a bird eating at a place from where the soul departs when it is removed, such as his brain, heart, or intestines one may then testify that he is dead.

32. If they saw a man fall into the sea, even if he drowned in the Mediterranean Sea, they do not testify that he died for perhaps he went out at another place [along the shore]. If he fell into collected waters such as a cistern or a cave all the boundaries of which a person standing [on the edge] can see in all directions and he remains under water [so long] that his life departs and he does not come up, one may testify that he is dead and they allow his wife to remarry. 105 So too if they bound his feet and let him down into the sea and [in hauling him up] there came into their hand only his leg including the part above the knee, then they permit his wife to remarry after twelve months for a torn animal or man cannot live twelve months. 106 But if he fell into the sea and they cast a net and brought up one foot including the part above the knee or the like they do not permit his wife to remarry for I say it is the foot of another,

however if there were a very distinct characterisic on his leg they rely on it saying thatit is the leg of the man who fell (and some say that even a distinct characteristic in his clothing is legal here since they saw him drown in these clothes) (Maharam of Padua, chapter 36).

33. If one witness said, "I saw him die in battle," or "in a ruin falling in," or "He drowned in the Mediterranean Sea and died," or similar things which mostly cause death, then, if he said, "I buried him," he is believedand [the wife of the dead man] may remarry on the strength of his word. If he did not say, "I buried him," she shall not remarry, but if she [already] remarried she need not be divorced.

34. So too the woman about whom one witness testified that her husband drowned in water which did not have a [visible] end and did not emerge and his memory was lost and his name forgotten, she shall not remarry on the strength of this testimony as explained (and even if the court permitted her and she had not yet remarried she shall not remarry) (Ribash, chapter 379), but if she remarried she need not be divorced.

NOTE: Only if she were remarried according to the word of a sage or by a mistaken opinion that she was permitted to do so, but were she married in [wilful] violation of the law she must be divorced (Responsea of Maharam quoting Mordekhai, end of Yevamot), and all this [applies] only to one about whom they testified that he actually drowned in water which has no visible end, but regarding one about whom they testified that he was on a boat that broke in the sea or something similar, or even if he drowned only the witnesses did not testify that he remained in the water long enough for his life to depart, or even if they testified simply that he



drowned we are suspicious that perhaps he called these things "drowning," for such is the manner of popular speech to call these things "drowning," then she must be divorced unless they testified clearly that he actually drowned and remained [in the water] for sufficient time for his life to depart (Bet Yosef in the name of Responsa of Ramban, chapter 128).

And even if a gentile speaking casually said, "So-and-so drowned," she may remarry on the strength of his word and she need not be divorced, and the sage who decided that she may remarry in principle (because of "water without a [visible] end") is put under the ban.

35. There is an authority who states that if a man fell into water without a [visible] end his wife may collect her ketubah (even though she is forbidden to remarry).

36. Concerning them that dwell in a town that is besieged, or that travel in a ship storm-tossed at sea, or a man that is gone forth to be judged [on a capital charge] -- these are presumed to be still living, therefore they do not testify about any of these that he died in order to permit his wife [to remarry]; and even concerning one that was in a town that was overcome after a siege, or that traveled in a ship that was lost at sea, or one who has been condemned to death, they do not testify because they are doubtfully alive and we apply to them the more stringent rules for the dead and the more stringent rules for the living.

37. If one witness came and testified that a woman's husband died and they permitted her to remarry on the strength of his word and subsequently one witness came and contradicted the first saying, "He did not die,"

then the woman shall not go out from her permitted state and may remarry, for one witness is believed regarding the case of a woman as two in other testimony and the words of one do not count when opposed by two (but because of evil talk she should not remarry) (Tur). But if the second witness came before they granted her permission she may then not remarry, and if she did remarry she must be divorced because she is in a doubtful state. If she married the witness who testified for her and she says, "It is evident to me that he is dead," she need not be divorced, and some say she need be; and if two witnesses came and said, "He is not dead," then even though she remarried she must be divorced according to the opinion of all authorities.

NOTE: And only so if she remains silent, but if she also says, "He is dead," it is like two witnesses against two provided the witnesses are women, but the husband who married her is not believed with regard to himself (Nimoge Yosef, chapter Ha-'ishshah Qama').

To what situation does it apply that the one witness on whose word she remarried was like two who came and contradicted him? For example, she remarried on the testimony of a man and then came two witnesses and said that her husband had not died, or she remarried on the testimony of a woman or her own testimony and then came two women or two rabbinically unfit witnesses and said he did not die, but if a fit witness said, "He died," and many women said, "He did not die," or many rabbinically unfit witnesses said, "He did not die," then it is as half to half.

NOTE: And so only if they came together before they granted her permission on the word of the first witness, but if they permitted her on the word of a fit witness and afterwards the unfit witness came she shall not go out from her first permitted state. (Tur)

And if she marries one of her witnesses and she states, "It is evident to me that he <sup>107</sup> is dead," she need not be divorced.

NOTE: And the rule regarding gentiles speaking casually is like that regarding others disqualified for testimony (Mordekhai, chapter Ha-'ishshah Batra') and every gentile who does not speak innocently is believed neither to forbid nor to permit.

38. If a woman says, "He is dead," or if one said, "My husband is dead," and afterwards a fit witness came and said, "He did not die," she shall not remarry, and if she did remarry she shall be divorced; and some say if another woman or she says, "He is dead," and they permit her to remarry on her word and afterwards a fit witness came and said, "He did not die," she shall not go out from her first permitted state (but if two women came first and the court permitted her to remarry on their testimony and afterwards one fit witness came, she shall not go out from her permitted state according to all authorities) (so wrote Bet Yosef in the name of Maggid Mishneh).

39. A woman who is permitted to remarry on the strength of the word of one witness shall remarry only with the permission of the court, and if she remarries not in accordance with a decision of the court some say that she shall not be divorced even if a witness came and said, "He did not die." (and the court must be composed of three qualified people related neither to each other nor to the witnesses)

40. If a woman says, "He did not die," and two women say, "He died," then she may remarry for we say

"two witnesses are like a hundred" only about fit witnesses, but regarding unfit witnesses we follow the majority whether to render a lenient or a stringent decision.

41. If two testify that they heard from one that so-and-so died and one witness testified that he heard from one that he <sup>106</sup> is alive, then the man's wife is permitted to remarry.

42. If two witnesses say, "He is dead" and two say, "He is not dead," then the wife may not remarry, and if she did remarry she should be divorced because it is a doubtful state, and if she married one of the witnesses and said, "It is evident to me that he is dead," then she need not be divorced (they do not cause a woman to be divorced from her present husband if a rumor spread that her first husband is alive) (Rabbenu Yeruham).

43. The wife herself is believed to say that her husband is dead and may remarry or be married to the yavam on the strength of her word and they give her her basic ketubah, and if she marries the yavam he enters into the right of inheritance on her word (and even an insone woman is believed) (Toledot 'Adam Wehawah, chapter 53) (but only if she is aware of the nature of marriage and widowhood) (ibid. in the name of Rambam). To what does this apply? When she came to a court and said, "My husband is dead, grant me permission to remarry," and she did not mention the ketubah they permit her to marry, administer an oath to her, and give her the ketubah; but if she came and said, "My husband is dead, give me my ketubah," they do not permit her even to remarry for she came out of concern for the ketubah and in the assumption that her husband did not die, and her intention is not to remarry

but only to take her ketubah while he is alive (and some say that even if she has a witness that he is dead it is not effective in such a situation) (Rimoge Yosef in the name of Ritba').

44. If she came and said, "My husband is dead, permit me to remarry and give me my ketubah," then they permit her to remarry and give her her ketubah because the main part of her words were out of concern for marriage, but if she came and said, "Give me my ketubah and permit me to remarry," they permit her to remarry but do not give her her ketubah, but if she seizes it they do not take it from her hand. One authority says that in either case they do not permit her to remarry since she mentioned the ketubah.

45. If one has two wives and one of them came and said, "My husband is dead," she may remarry on the strength of her own words but her rival wife is forbidden, for a rival is not believed to testify in the case of her co-wife, and even if this one were married first we do not say that if her husband had not died she would have forbidden herself to him, lest because of hatred of her rival she wants to forbid both of them to him.

46. If one says, "My husband died," and her rival contradicts her and says, "He did not die," this one may remarry for just as she may not testify in her case to permit her so may she not testify in her case to forbid her.

47. If this one says, "My husband died," and her rival says, "He was killed," since both are saying that he is not alive both may remarry.

48. With regard to what are these things said that a woman is believed to say, "My husband is dead"? When there is peace between him and her and peace in the world, but if there is quarreling between him and her, e.g. that she said, "You divorced me before this and that one," and then those witnesses came and contradicted her (or in a case where her husband changed his religion and left her an 'agunah) (Hag-hot 'Alfusi) and afterwards she and her husband went to a foreign land and then she came back and said, "My husband is dead," she is not believed (even if she says, "I buried him") (Bet Yosef in the name of Mag'id Mishneh, chapter 13 of Hilkhot Gerushin) even though there is peace in the world, and even if one witness came and testified about her husband that he is dead, she shall not remarry since she may have hired him; and if she did remarry she need not be divorced for he has a witness. So too if there was war in the world and she came and said, "My husband died in the war," she is not believed even though there was peace between him and her as her thought may have been on the fact [i.e. she conjectures] that the men involved in war die and she says he died as the former and latter were killed, and her husband was in their midst, for she says after these were killed he too was killed among them, therefore she is not believed even if she says, "I buried him," and some say that if she said, "I buried him," she is believed; and if she said, "He died on his bed," she is believed according to the opinion of all.

NOTE: And the same is the case regarding everyone who says that he died or was killed far from the war, they are believed because it is not assumed that they are speaking from conjecture, except concerning one who says that he died or was killed actually in battle; however if not in battle, even if he went close to the lines of battle

to acquire spoil, she is believed (Mordekhai, chapter Ha-'ishshah Batra' in the name of Rabbi Eliezer ben Joel Halevi).

49. If it is assumed that there is no war in the world and a woman came and said, "A war was in a certain place and my husband died in the war," she shall not remarry on principle, but if she remarried she need not be divorced (some say even if she remarried she must be divorced) (Tur in the name of Ro'sh).

50. If one witness came and said, "I saw that he died in the war," or "in the ruin," if he said also, "I buried him," the wife may remarry on the strength of his word, and if he did not say, "I buried him," she shall not remarry; but if she did remarry she need not be divorced.

NOTE: But two witnesses [in such a case] are believed even if they did not say, "We buried him." (Tur in the name of Ro'sh). And some say even one witness is believed even if he said, "He died" or "He was killed" and saw him afterwards and recognized him well from a general impression and saw that he was dead, he is believed for it is as if he had said, "I buried him." (Bet Yosef in the name of Mordekhai, chapter Ha-'ishshah) And if a gentile speaking innocently says that he died in war it is also necessary that he say, "I buried him," (Bet Yosef in the name of Ran, chapter Ha-'ishshah and so implied in the Asheri and Tosafot) and there are some who are lenient in this matter (Mordekhai in the name of Rabbenu Simhah, Rabbi Nathan, and Rabbi Eliezer ben Joel Halevi).

51. If a woman says, "My husband died under a ruin," she is not believed, and so too if there were a plague of snakes or scorpions and she said, "A snake" or "A

scorpion bit him and he died," she is not believed for perhaps she bases her opinion on the fact that most men die from such a bite (and therefore the rule regarding them is as that regarding the case of a war and it is necessary that she say, "He died on his bed," or that she say, "I buried him." (Bet Yosef in the name of the Maggid Mishneh).

52. If she said, "They filled a house" or "a cave with smoke, he died and I escaped," she is not believed for just as a miracle was worked for her so was it for him.

53. If it were a year of famine and she said, "My husband is dead," she is not believed (and even if she said, "He died on his bed") (Tur). [If she said,] "And I buried him," she is believed. (if she said, "He died of thirst" it is as if she said, "He died of hunger.") (Bet Yosef).

54. If she said, "Gentiles" or "Robbers fell upon us, he was killed and I was saved," she is believed for it is not their practice to kill women so that we should be allowed to say just as she was saved so was he.

55. Were there a plague in the world and she said, "My husband is dead," she is believed (and some say she is not believed) (Tur and Rabbenu Yeruham).

56. If a woman's husband went to a foreign country and they came and said to her, "Your husband is dead," and she remarried and then her husband came back, there is no difference whether she was married on the testimony of one or two witnesses (even if she had not had intercourse) (Ro'sh, Ribash, Ritba', and Nimoge Yosef, chapter 508), she must be divorced from both of them and she requires



a get from both of them, and from neither of them can she claim her ketubah (even if the first husband took her back) (Maggahot 'Alfasi) nor the increase from her melog property which they consumed even though they are not obligated for her redemption; and only that which her husband consumed before the first came back, but that which he consumed after the first came back he must restore and he is obligated to give compensation for her used zon barzel property provided that it is completely consumed, but that which still is there in substance she can take, and if she took from either of them the ketubah or the increase she must return it; and only if she took from the second after the first came back, but if she took from him before the first husband came back she does not have to return it.

Neither of them may render themselves impure for her <sup>109</sup> if they were priests and neither of them has a claim to anything found by her or to the work of her hands or the right of nullifying her vows; and she is disqualified from marriage with a priest, from eating terumah, and from eating the tithe if she were the daughter of a Levite (but her first husband may be her heir if she dies) (Bet Yosef and the Maggid Mishneh).

If this one's brother dies and that one's brother dies they perform halizah and do not contract levirate marriage. The child from the second husband is a mamzer only according to rabbinic law, and if he <sup>110</sup> had relations with her before the second divorced her the child sired by him is a mamzer according to rabbinic law.

57. If they said to her, "Your husband is dead" and she remarried and afterwards they told her that he was living <sup>111</sup> and then died, then the child that he sired before he died is a mamzer according to biblical

law and that which he sired afterwards is not a mamzer but some say he is a mamzer according to rabbinic law.

58. If a woman were not married to the second man but only betrothed and her husband returned she does not need a get from the second and is permitted to return to the first, and so too is she permitted to the second if the first husband dies or divorces her.

NOTE: If a woman is betrothed and she errs and thinks she is not betrothed and marries another man she must be divorced from both of them, and all the ways mentioned above as pertaining to her apply to her but regarding one who is compelled to marry or for whom the court decided erroneously and she married on their words and is like one compelled she is permitted to her first husband (Responsa of Rashba', chapter 1, 189 quoted in Bet Yosef).

## NOTES

- 1) The entire quotation is found in b. Yevamot 62b.
- 2) A play on words: "vanish" is mitpaqqeqin and "obtaineth favor" is wayyafeq - taken here to be related.
- 3) i.e. in the period when Isserles was writing.
- 4) As told in b. Yevamot 63b: "Ben Azzai replied, [when asked why he remains a bachelor] "But what shall I do seeing that my soul is in love with the Torah? The world can be carried on by others."
- 5) This was done in the year 1000 at the Synod at Worms presided over by Rabbenu Gershom.
- 6) For the sake of either tying her down for his pleasure or if he is planning on divorcing his wife.
- 7) According to the Hebrew calendar.
- 8) i.e. a disqualification would render her forbidden to him, e.g. mamzerut, or, were he a priest, a woman whom the Torah proscribes for him.
- 9) "For three characteristics mark a Jew: he is chaste, merciful, and a doer of good deeds, and one who does not possess these three characteristics is not worthy to join with, but this is only if he possess no such characteristics at all. However if he displays one of these he is worthy to join with; and Gibeonites could be recognized by their having no such characteristic" - Ba'er Hetev.
- 10) Who is not permitted to marry Jews. See glossary under NATIN.
- 11) Based on the Talmudic principle found in b. Yevamot 87b; "Silence is like an admission of guilt."
- 12) In the Messianic time.

13) For example, if a woman circumcized her son and he died because of the operation and also her sister circumcized her son and he died as a result of circumcision, then the other sisters should not circumcize their sons, etc. - Ba'er Hetev.

14) This applies only when the young girl does not desire him, but he is permitted to marry her if she desires him.

15) According to the Law: "A widow, or one divorced, or a profaned woman, or a zonah, these shall he the priest not take..." (Lev. 21:14).

16) "Neither shall he go in to any dead body..." (ibid., v.11).

17) Rabbi Judah the Prince, ca. 135-ca. 200 C.E. Compiler of the Mishnah (See A. Guttmann, "The Patriarch Judah I - His Birth and His Death" (HUCA XXV), Cincinnati, 1954).

18) This example is found in b. Yevamot 26a.

19) This was with regard to rabbinic terumah but not with regard to biblical terumah - Ba'er Hetev.

20) A term meaning "to marry into a Jewish family," the source of which is Deut. 23:2-9.

21) This Talmudic principle is found in b. Ketubot 15a.

22) Ritual immersion is a requirement for a non-Jewish slave becoming the slave of a Jew.

23) "Suspect as being valid" implies that a get would be necessary for the dissolution of the marriage.

24) Literally "a land at the sea," indicating all countries outside of the Land of Palestine except Babylonia.

25) Siwan is the ninth month, Kislew the third.

26) i.e. a slave who was owned by two persons, one who freed him and one who did not.

27) He can marry no woman but a female proselyte, and so his daughter is permitted to marry only a proselyte, and their children are mamzerim - Ba'er Hetev.

28) Literally "in [a state of] holiness."

29) i.e. became the wife of her deceased husband's brother.

30) i.e. while not yet living with her husband until the marriage.

31) i.e. they were always together.

32) i.e. only he shares the stigma of blemish of mamzerut.

33) i.e. that he might have been a Jew and therefore it was a valid betrothal.

34) But it cannot remove from him the stigma of an 'asufi or other possible stigmas.

35) The majority principle applies here.

36) Literally "remove debris for him."

37) This Talmudic principle is found in b. Beva' Mezi'a 37a and means here that since only Jews can collect from Jews in such matters he must prove his being Jewish.

38) i.e. nothing can be done for them.

39) A Jewish sect which arose in the eighth century C.E. in opposition to the Talmud accepting only the authority of the Bible.

40) i.e. one whose testicles are crushed.

41) i.e. one whose membrum virile is mutilated.

42) In such a state he cannot perform his priestly functions.

43) To marry a Jewess, as stated in Deut. 23:2.

44) Where a Jew and gentile will share the income from the beast.

45) Lev. 21:14.

46) i.e. refused actual marriage when she became of age.

47) i.e. move away.

48) For the sake of prohibiting her to a priest as the Torah requires.

49) hatikhah de'issura' - a term borrowed from the laws of kashrut.

50) The Torah prescribes (in Num. 5:11-31) that a wife suspected of adultery be made to endure a trial by ordeal, that of drinking the bitter water whose effect if she were guilty would be to distend the stomach and cause the thigh to fall.

51) i.e. if she had already married the priest she may remain married to him.

52) A Talmudic principle found in b. Ketubot 15a.

53) Literally "speaking according to his innocence," "innocently," i.e. making a statement in ignorance of its legal implications, without the intention of offering legal testimony.

54) i.e. he watched her so that no one assaulted her.

55) This example is found in b. Ketubot 27b.

56) Which was given her by the court, i.e. the permission to marry stands.

57) i.e. recaptured her.

58) i.e. forbid her to marry a priest or to return to her husband if she were married.

59) i.e. doubt as to her having had relations with a gentile.

60) i.e. they owe a debt.

61) So writes the Rambam. This implies that even if witnesses testify that she did not have intercourse she is still in the presumptive state of having had intercourse. The Taz (Ture Zahav: R. David ben Samuel Halevi, Poland, 1586-1667) wrote that if there are witnesses that she did not have intercourse then the children she bears from another priest are not definite halalim and are therefore forbidden to defile themselves for the dead,

and we go according to the strict view in both cases, namely she is made a halalah even though there are witnesses that she did not have intercourse, and the children also follow the strict view lest they are not halalim. - Ba'er Hetev.

62) Literally "in holiness."

63) She is disqualified in principle but ex post facto (i.e. did she marry) she need not be divorced - Ba'er Hetev based on later authorities.

64) Rashi comments on this verse: "The sons of Aaron," I might infer that this applies also to the halalim, therefore Scripture states, "the priests."

65) The Torah states that a man cannot remarry his divorced wife in the case where she "departeth out of his house, and goeth and becometh the wife of another man (Dt. 24:2)," but here the case is different for Ba'er Hetev says her "becoming [the wife of another man]" means betrothal and not lewdness, in which case she did not become another man's wife.

66) The Rabbis.

67) If he freed her of the vow, and we do not suspect corruption as if she were a habitual maker of vows - Ba'er Hetev.

68) See note #50.

69) For the husband is permitted to divorce her by the testimony of witnesses of the detestable thing but they i.e. the court do not compel him - Ba'er Hetev.

70) The two reasons being the rumor of substance and the having of children.

71) Since this would confirm the rumor.

72) The court or an authority.

73) To her husband.

74) He found no ground for the remission of her vow, and since her vow was not nullified she was forbidden to her husband.

75) Women concerned in their respective actions.

76) i.e. the Sage, the messenger who brought the got, or the man who testified to the death of the husband.

77) Of their action which resulted in enabling the woman mentioned to remarry.

78) Literally "reached into her hand."

79) i.e. while they were Jews.

80) After her becoming a widow or a divorcee.

81) i.e. the normal order of the months, one of thirty days alternating with one of twenty-nine days.

82) To effect the divorce.

83) i.e. of his father's wife.

84) It is a principle that if a question be unresolved in the Talmud and it involves a rabbinic matter, then a lenient view is taken with regard to it, and if it has to do with a biblical matter then a strict view is held to. Since the matter involved here is rabbinic and there is no resolution in the Babylonian Talmud, Maimonides makes a lenient decision. This matter is, however, resolved in the Palestinian and therefore other authorities, basing their decision on the Palestinian Talmud, decide strictly. We are here, of course, dealing with a purely theoretical matter.

85) i.e. one's father's or mother's half-sister.

86) The brother being the child of his father.

87) Whether from his mother or father.

88) From the father or mother.

89) Whether the sister is her mother's or father's.

90) To the first wife's death.

91) When you married her sister.

92) Prohibited to all but her husband.



93) i.e. from the one concerning whom there is doubt whether she was betrothed or divorced and also from the one who subsequently betrothed her.

94) i.e. she needs a get.

95) Namely the basic ketubah and not the addition - Ba'er Hetev.

96) Who are, in other cases, not valid witnesses.

97) See note #53.

98) i.e. the supposedly dead husband.

99) Believing that the man was killed but not that the one testifying did the killing.

100) Even if he wrote in non-Hebrew script it is valid if it is known that a Jew wrote it.

101) That is right after seeing the body he testifies, and it is not necessary that he saw the corpse right after death but right after he sees him he says, "Now I have come from the burial." - Ba'er Hetev.

102) Of the supposedly dead husband.

103) Automatically because of the narrowness of the pit.

104) i.e. the gullet and the windpipe.

105) A person observing a drowning accident would not depart as long as there was any hope of rescue and, as all the shores were visible and no rescue was observed, it may be regarded as a certainty that the drowned man was dead.

106) A principle found in b. Hullin 42a.

107) My first husband.

108) i.e. the man in question.

109) If she died.

110) The first husband.

111) At the time of her remarriage.

GLOSSARY OF UNTRANSLATED HEBREW TERMS

'AGUNAH (lit., "tied"); a deserted wife, tied to an absent husband because, e.g., she is uncertain whether he is alive or not, and so cannot marry again.

'AM HA-'AREZ (lit. "people of the land"); the name given in rabbinic literature to (a) a person who was careless in the observance of laws of Levitical purity and of those relating to the priestly and Levitical gifts; and (b) an illiterate or uncultured man.

'ASUFI (lit., "one gathered in"); a foundling child gathered in from the street, whose father and mother are unknown.

'AYLONIT (from 'ayil, "ram"); a barren woman incapable of conception; a woman with male characteristics.

BOGERET. A girl from the age of twelve years and a half plus one day and onwards.

'ERWAH (lit., "nakedness," "unchastity," "incest"); a woman forbidden to a man (and vice versa) on account of consanguinity.

GERUT. Conversion to Judaism.

GET. A deed or legal document; used without further specification denotes generally a writ of divorce.

ḤALAL. One unfit for the priesthood because he is the offspring of his father's illegitimate relations (see Lev. 21:7, 14ff).

ḤALALAH. The female offspring of a priest's illegitimate relations, or a priest's wife illegitimately married to him.

ḤALIṢAH. The ceremony of rejecting levirate marriage. (lit., "taking off the shoe" of the brother of a husband who has died childless) (see Deut. 25:5-9).

ḤALLAH (pl. ḤALLOT); the priest's share of the dough (see Num. 15:20ff).

ḤALUṢAH. A woman who was rejected by the halizah ceremony.

LEVIYYAH. The daughter of a Levite.

MAMZER (f. MAMZERET, pl. MAMZERIM, MAMZEROT); a child born from a union prohibited under penalty of death or extirpation; the child of a mamzer.

MAMZERUT. The legal condition of a mamzer; bastardship.

MANEH. One hundred zuz. The maneh was a weight in gold or silver equal to fifty holy, or a hundred common sheqels.

MAR'IT 'AYIN. The appearance or semblance of wrong-doing.

MELOG (lit., "plucking" or "milking"); denotes property which belongs to the wife and of which the husband has only the usufruct without any rights to the capital, or responsibility for its loss or deterioration.

MI'UN (lit., "refusal"); a declaration by a fatherless girl who has been married off by her mother or brothers under age, that she does not wish to live with her husband. Such a declaration made by her in the presence of an ecclesiastical court secures her freedom without the requirement of a get.

MUMAR (lit., "exchanged," "converted"); an apostate; an open opponent of Jewish law.

NATIN (f. NETINAH, pl. NETINIM, NETINOT); a descendant of the Gileonites who deceived Joshua (see Josh. 9: 3ff) and, when their identity was discovered, were made into hewers of wood and drawers of water for the Temple.

'ONEN (pl. 'ONENIM); a mourner while his dead relative is awaiting burial.

QODSHE HA-GEVUL. Sacred gifts for the priests (terumah, etc., set apart and consumed outside of the Temple and Jerusalem.

SHENIYYOT (lit., "relationships in the second degree"); incest of second degree, intermarriage forbidden by rabbinical enactment.

SHETUQI (lit., "silenced"); a child who knows who his mother is but not his father.

SOTAH. A married woman suspected of infidelity who has been formally warned by her husband.

TERUMAH (lit., "that which is lifted" or "separated"); the heave-offering given to the priests from the yields of the yearly harvests, from certain sacrifices, and from the sheqels collected in a special chamber in the Temple.

YAVAM. The brother-in-law who in the case of his brother dying without issue enters into his estate and marries his wife.

YEVAH. The brother's childless widow (see Dt. 25:5-10).

YIBBUM. Levirate marriage with a brother's childless widow.

YISRA'EL. One belonging to a common Israelitic family neither of the priestly nor Levitic tribe.

ZONAH. One unfit to marry a priest.

ZON BARZEL (lit., "property of the iron sheep"); property which the wife makes over to the husband from her dowry, on condition that the husband is responsible to her for its full money value, whether he makes a profit or a loss on the transaction.

RABBINIC AUTHORITIES CITED BY KARO AND ISSERLES

- Abraham ben David of Posquieres. 1125-1198. France.  
Author of Strictures to the Mishneh Torah.
- Asher ben Jehiel. 1250-1328. Toledo. Author of Halakhot.
- Asheri. See Jacob ben Asher.
- Ba'al Ha-'ittur. See Isaac ben Abba Mari.
- Bet Yosef. Commentary on the Tur of Jacob ben Asher by Joseph Karo.
- David Cohen. 16th cent. Italy
- Eliezer ben Joel Halevi. 1160-1235.
- Eliezer ben Nathan. 1089-1169. Mayence.
- Gershom ben Judah. 960-1040. Mayence.
- Hagahot Maimuni. 13th cent. Extracts from the Mishneh Torah. Various attributed to R. Meir of Rothenburg, R. Mordecai ben Hillel, and to an unidentified German scholar.
- Hagahot Mordekhai. 1360. Anonymous.
- Isaac ben Samuel. 1115-1200(?). France.
- Isaac ben Abba Mari. 1122-93. France. Author of 'Ittur Soferim.
- Isaac ben Jacob Alfasi. 1013-1103. N. Africa and Spain.  
Author of Halakhot.
- Isaac ben Moses. 1200-70. Vienna. Author of 'Or Zaru'a.
- Isaac ben Sheshet Barfat. 1326-1408. Spain.
- Israel ben Petahiah Isserlein. ca. 1390-1460. Germany.  
Author of Terumat Ha-deshen and Pesachim Ukhetavim.

- 'Issur Weheter Ha-'arokh. 13th cent. By Rabbi Jonah, Germany.
- Jacob ben Asher. 14th cent. Spain. Author of the Tur.
- Jacob ben Meir. 1100-71. France.
- Jacob Weil. 15th cent. Erfurt.
- Jeruham ben Meshullam. 14th cent. Provence. Author of Toledot 'Adam Wehawah.
- Joel Sirkes. 1561-1640. Poland. Author of Bayit Hadash. (called Baḥ for short).
- Joseph ibn Habib. 14th cent. Spain. Author of Ninoge Yosef.
- Joseph Kolon. 1420-1480. Italy.
- Judah Mintz. 16th cent. Italy.
- Kol Bo. 1490. Anonymous.
- Maggid Mishneh. Commentary to Mishneh Torah of Maimonides by Yom Tov Vidal, 1th cent., Spain.
- Maharam. See Meir of Rothenburg.
- Maharam of Padua. See Meir of Padua.
- Mahariq. See Joseph Kolon.
- Maimonides. See Moses ben Maimon.
- Meir ben Samuel. ca. 1060-ca. 1135. France.
- Meir of Padua. 16th cent. Italy.
- Meir of Rothenburg. 1215-93. Germany
- Mordekhai. Short for Sefer Ha-Mordekhai. See Mordecai ben Hillel.
- Mordecai ben Hillel. d. 1298. Germany. Author of Sefer Ha-Mordekhai.

Moses ben Maimon. 1135-1206. Cairo. Author of Mishneh Torah, sections of which referred to in this work are Milkhot Gerushin and Milkhot 'Issure Bi'ah.

Moses ben Nahman. 1194-1270. Spain. Author of Torat Hu-'adam.

Moses Cohen of Lunel. 13th cent. France.

Nathan of Mayence. 11th cent. France.

Nissim ben Reuben Gerondi. 14th cent. Barcelona.

Nimoqe Yosef. See Joseph ibn Habib.

'Orehot Mayyim. Code of ritual law by Aaron Ha-Cohen of Lunel, France. 14th cent.

'Or Zaru'a. See Isaac ben Moses.

Pesagim Ukheta'vim. See Israel ben Petahiah Isserlein.

Pisqe. Short for Pesagim Ukheta'vim.

Rabad. See Abraham ben David.

Rabbenu Samson. See Samson ben Abraham of Sens.

Rabbenu Simha. See Simha of Speyer.

Rabbenu Tam. See Jacob ben Meir.

Rabbi Isaac. See Isaac ben Samuel.

Rabbenu Jeruham. See Jeruham ben Meshullam.

Rabbi Nathan. See Nathan of Mayence.

Ram. See Meir ben Samuel.

Rambam. See Moses ben Maimon.

Ramban. See Moses ben Nahman.

Ran. See Nissim ben Reuben Gerondi.

Rashba'. See Solomon ben Adret.

Rashi. See Solomon ben Isaac.



- Ribash. See Isaac ben Sheshet Barfat.
- Ritba'. See Yom Tov ben Abraham.
- Ro'sh. See Asher ben Jehiel.
- Samson ben Abraham of Sens. ca. 1150-1230. France.
- She'eltot. Responsa of Rav Ahai Gaon. Pumbeditha.
- Simha of Speyer. 13th cent. Germany.
- Solomon ben Adret. 1235-1310. Barcelona.
- Solomon ben Isaac. 1040-1105. Troyes.
- Terumat Ha-deshen. See Israel ben Petahiah Isserlein.
- Toledot 'Adam Wehawah. See Jeruham ben Meshullam.
- Tur. Short for 'Arba'ah Turin'. See Jacob ben Asher.
- Yom Tov ben Abraham. 14th cent. Seville.

# TALMUDIC CHAPTERS CITED IN THIS WORK

'ALLANAH LA-KOHLN GADOL	Yevamot 7
'ASARAH YUHASIN	Qiddushin 4
BA-MEH BEHEMAH	Shabbat 5
HA-BA' 'AL YEVIMTO	Yevamot 6
HA-HOLEZ	Yevamot 4
HA-'ISHSHAH BATRA'	Yevamot 16
HA-'ISHSHAH RABBAH	Yevamot 10
HA-'ISHSHAH SHMIT'ARIELAH	Ketubot 2
HA-MOKHER	Bava' Batra' 2
HA-ZOREQ	Gittin 8
HE-'AREL	Yevamot 8
NA'ARAH	Nedarim 10
NOSE'IN 'AL HA'ANUSAH	Yevamot 11

## WORKS CONSULTED

David Werner Anram. The Jewish Law of Divorce. New York, Hermon Press, 1968.

Leopold Greenwald. Ha-Ray Rabbi Yosef Caro Ugomano. New York, Feldheim, 1953.

Heinrich G. F. Löwe. Der Shulchan Aruch oder die vier jüdischen Gesetz-Bücher ins Deutsche übertragen -- Erstes Buch oder des ersten Theils erste Abtheilung von Haezer -- enthält alle Gesetze über die Ehe. Hamburg, Perthes-Besser und Henke, 1837.

Jacob R. Marcus. The Jew in the Medieval World. New York, Harper and Row, 1965.

E. Sautayra and M. Charleville. Code Rabbinique, Eben Haezer traduit par extraits. Algiers, Mme. V. Phillipe, 1868.

Chaim Tchernowitz. Toledot Ha-poseqim. New York, We'ad Ha-yovel, 1946-47.