

Mishnah Yevamot, chapter 14

משנה יבמות פרק יד

(1) A deaf [mute] man who married a sound woman or a sound man who married a deaf [mute] woman [both marriages having Rabbinical validity]: If he wishes to release her [by divorcing her], he may do so; and if he wishes to retain her, he may also do so. Just as he marries [the woman] by [communicating to her with] gestures, so, too, he divorces her with gestures. If a sound man married a sound woman [the marriage here has Biblical

validity] and she became deaf [and mute], he may, if he wishes, release her [by issuing her a divorce]; and if he wishes, he may retain her. If she became mentally incompetent [even if she knows how to watch over her letter of divorce and thus is Biblically capable of receiving a divorce, however, the Rabbis instituted that] he may not divorce her. If he, however, became deaf [and mute] or mentally incompetent, he may never divorce her [since at the time of marriage, he was sound. Therefore, his marriage has a Biblical validity and granting a divorce through gestures has Rabbinic force only and is only valid where the marriage has the same force and was effected in the same manner]. Rabbi Yohanan ben Nuri [argues and maintains that a woman who became deaf and mute cannot receive a divorce and] asked [the Sages]; Why [according to your view] may a woman who became deaf [and mute] be divorced, while a man who became deaf [and mute] may not divorce [his wife]? They [the Sages] answered him; A man who gives a divorce is not like a woman who is divorced. While a woman may be divorced with her consent, as well as without it, a man can give a divorce only with his full consent [and therefore, since her consent is not necessary, a woman

א חרש שְׁנֵשָׂא פְּקֻחָתָהּ, וּפְקֻחָהּ שְׁנֵשָׂא חֲרָשָׁתָה, אִם רְצָה יוֹצִיאָהּ, וְאִם רְצָה יִקְיָם. כְּשֵׁם שֶׁהוּא כּוֹנֵס בְּרַמְיָזָה, כִּדְּהוּא מוֹצִיא בְּרַמְיָזָה. פְּקֻחָהּ שְׁנֵשָׂא פְּקֻחָתָהּ, וְנִתְחַרְשָׁה, (אִם רְצָה יוֹצִיאָהּ, וְאִם רְצָה יִקְיָם. גִּשְׁתִּיתִית, לֹא יוֹצִיאָהּ. נִתְחַרְשָׁה הוּא אוֹ גִּשְׁתִּיתָהּ, אִינוּ מוֹצִיא עוֹלָמִית. אָמַר רַבִּי יוֹחָנָן בֶּן נוּרִי, מִפְּנֵי מַה הָאִשָּׁה שֶׁנִּתְחַרְשָׁה יוֹצֵאתָהּ, וְהָאִישׁ שֶׁנִּתְחַרְשָׁה אִינוּ מוֹצִיאָהּ. אָמְרוּ לוֹ, אִינוּ דוֹמֵה הָאִישׁ הַמְּגִרֵשׁ לָאִשָּׁה הַמִּתְגַּרְשֶׁת, שֶׁהָאִשָּׁה יוֹצֵאתָהּ לְרְצוֹנָהּ וְשִׁלָּא לְרְצוֹנָהּ, וְהָאִישׁ אִינוּ מוֹצִיאָהּ אֶלָּא

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א חרש. כשם שכונס ברמזיה. כלומר בקידושין כך גרושין. וכן פקח בחרשת ברמזיה כנס שרמז לו עד שנתרצית לו וברמזיה יוציא אם רצה להוציא: ונתחרשה. אע"פ שקדושין גמורים היו שפקות היתה באותו זמן: אם רצה להוציא יוציא. דלא בעינן דעת האשה: נשתתית לא יוציא. ואע"פ שידעת לשמור גיטה ומתגרשת מן התורה, תקנו חכמים שלא יגרשנה כדי שלא ינהגו בה מנהג הפקר: נתחרש הוא. לאחר קדושין, הואיל והיו קדושיו קדושין גמורים לא יוציא עולמית, שאין

need not have mental competence in order to receive her divorce].

(2) Rabbi Yohanan ben Gudgadah testified concerning a deaf [minor] who was given in marriage by her father [who was sound and therefore, she has a Biblically valid marriage] that she [herself] is released by a letter of divorce [i.e., even as an adult, when she no longer is in her father's charge, she may be divorced directly, since her consent is not necessary]. They [the Sages] said to him [to Rabbi Yohanan ben Nuri]; This one [the case in the Mishnah above is in the same position [as is this one and proves our view that a deaf woman may receive a divorce].

(3) [If two brothers married two sisters and one of the men died, the widow is exempt from *halitzah* and from levirate marriage since one may not marry his wife's sister (see Mishnah 1:1). So, too, where the marriage has Rabbinical validity such as] if two deaf brothers were married to two deaf sisters, or to two sisters who were of sound mind, or to two sisters one of whom was deaf and the other was of sound mind; and so, also, if two deaf sisters were married to two brothers who were of sound mind, or to two deaf brothers, or to two brothers, one of whom was deaf and the other of sound mind, [if one of the brothers dies childless] these [women] are exempt from *halitzah* and from levirate marriage. [Since the Rabbinic force of the marriage of one sister is equal to the levirate force of the widowed sister, each, therefore, exempts the other as is the case of two sound brothers who married two sound sisters.] If [the women, however], were strangers [and not related to each other, the respective levirs] must marry them [since no *halitzah* is possible with a deaf mute (see 12:4)] and if they wish

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גרושין שאינן גמורים מפקיעין קדושין גמורים: **ב שהשיאה אביה.** בקטנותה וקיבל קידושיה והיו קדושין גמורים, אע"פ שהיא חרשת, שעל דעת אביה נתקדשה ולא על דעתה: **יוצאה בגט.** אפילו לאחר שגדלה ופקע כח אב מקבלת היא את גיטה: **אף זו.** פקח שנתחרשה, כיוצא בה: **ג הרי אלן פטורות.** דהואיל ושניהן חרשים או שתיהן חרשות, בקדושי זו כך קדושי זו, ואתו קדושין דאשתו, אע"פ שאינן גמורים ומפקעי זיקת יבמתו שהרי אינה זיקה גמורה: **יכנסו.** שאין חליצה בחרש וחרשת,

לרצונה: **ב העיד רבי יוחנן בן גודגדה על החרשת שהשיאה אביה, שהיא יוצאה בגט. אמרו לו, אף זו כיוצא בה: ג שני אחים חרשים, נשואים לשתי אחיות חרשות, או לשתי אחיות פקחות, או לשתי אחיות חרשת ואחת פקחת, או שתי אחיות חרשות נשואות לשני אחים פקחים, או לשני אחין חרשין או לשני אחין, אחד חרש ואחד פקח, הרי אלו פטורות מן החליצה ומן היבום. ואם**

to divorce them [afterwards], they may do so [by gesturing, as the original marriage was also conveyed through gesture].

(4) If two brothers, one of whom was deaf and the other of sound mind, were married to two sisters who were of sound mind, and the deaf brother, the husband of the sister of sound mind, died, what should the brother of sound mind, [who is the] husband of the sister of sound mind, do? [Nothing, since his sister-in-law] is exempt [from

halitzah and *yibum*], as being his wife's sister. If the brother of sound mind, the husband of [the sister who was of] sound mind, died, what should the deaf brother, the husband [of the sister who was] of sound mind, do? He must release his wife by a letter of divorce [since the levirate bond with his sister-in-law, whose marriage as one between normal persons, is of Biblical force, it supersedes his marriage with his wife, which is of Rabbinical force and his wife now becomes prohibited to him as the sister of his *zekukah*] while his brother's wife is forever forbidden [to marry again, since he, as a deaf man, cannot submit to *halitzah* and he may not proceed with a levirate marriage, as Rabbinically, she is the sister of his former wife].

(5) If two brothers of sound mind were married to two sisters, one of whom was deaf and the other of sound mind, and the brother of sound mind, the husband of the deaf sister, died, what should the brother of sound mind, the husband [of the sister who was] of sound mind, do? [Nothing; since his sister-in-law] is exempt [from *halitzah* and *yibum*], as his wife's sister. If the brother of sound mind, the husband of [the sister who was] of sound mind, died, what should the brother of sound mind, the husband of the deaf sister, do? He must divorce his wife with a letter of divorce [the levirate bond of Biblical force supersedes his

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שאינן בואמר ואמרה. ואח"כ אם רצו להוציא יוציא בגט, דאתי גט ברמיוה ומפקע נשואין דידיה וזיקת אחיו דהואי ברמיוה: **ד מוציא את אשתו בגט.** דזיקת אחותה הבא מכח קדושין גמורים אוסרתה עליו, ואין כח בקדושין דידיה לדחות היבמה משום אחות אשתו: **ואשת אחיו אסורה לעולם.** דהרש לא חליץ. ולכנוס אי אפשר משום אחות אשה:

היו נכריות, יכנסו, ואם רצו להוציא יוציא: **ד שני אחים, אחד חרש ואחד פקח, נשואים לשתי אחיות פקחות, מת חרש, בעל הפקחת, מה יעשה פקח בעל הפקחת, תצא משום אחות אשה. מת פקח בעל הפקחת, מה יעשה חרש בעל פקחת, מוציא אשתו בגט, ואשת אחיו אסורה לעולם: ה שני אחים פקחים נשואים לשתי אחיות, אחת חרשת ואחת פקחת, מת פקח בעל חרשת, מה יעשה פקח בעל פקחת, תצא משום אחות אשה. מת פקח בעל פקחת, מה יעשה פקח בעל חרשת, מוציא את אשתו בגט, ואת אשת**

marriage of Rabbinical force, as above, and his wife now becomes prohibited to him as the sister of his *zekukah*] and [since they are both sound people he releases] his brother's wife by *halitzah*, [here, too, he may not marry her as she is prohibited to him, Rabbinically, as his former wife's sister].

(6) If two brothers, one of whom was deaf and the other of sound mind, were married to two sisters, one of whom was deaf and the other of sound mind, and the deaf brother, the husband of the deaf sister, died, what should [the brother who was] of sound mind, the husband of [the sister who was] of sound mind, do? [Nothing; since the widow] is exempt by virtue of her being his wife's sister. If the brother of sound mind, the husband of [the sister who was] of sound mind, died, what should the deaf brother, the husband of the deaf sister, do? He releases his wife [who became prohibited to him as the sister of his *zekukah*] with a letter of divorce. while his brother's wife is forever forbidden to marry again [since he, as a deaf man cannot submit to *halitzah* and he may not proceed with levirate marriage, as Rabbinically, she is the sister of his former wife].

(7) If two brothers, one of whom was deaf and the other of sound mind, were married to two strangers who were of sound mind, and the deaf brother, the husband of [the woman who was] of sound mind died, what should the brother of sound mind, the husband of the woman of sound mind, do? — He either submits to *halitzah* or contracts levirate marriage. If the brother of sound mind, the husband of [the woman who was] of sound mind, died, what should the deaf brother, the husband of the woman who was of sound mind, do? He must marry her and he may never divorce her [since her levirate bond, which comes from his brother's marriage, is of Biblical force, while his divorce would only be of Rabbinical force].

(8) If two brothers of sound mind were married to two strangers, one of whom

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ז כונס ואינו מוציא לעולם. דלא אתי גט דידיה ומפקע זיקת יבומי אחיו הראשון:

אָחיו בְּחֻלְיָהּ: וְשְׁנֵי אָחִים, אֶחָד חָרַשׁ וְאֶחָד פְּקֻחַ, נְשׂוּאִים לְשֵׁתֵי אֶחָיו, אֶתְּ חֲרָשׁ וְאֶתְּ חֲרָשׁ וְאֶתְּ חֲרָשׁ, מֵת חָרַשׁ בְּעַל חֲרָשׁ, מֵה יַעֲשֶׂה פְּקֻחַ בְּעַל פְּקֻחַ, תֵּצֵא מִשּׁוּם אֲחֻת אִשָּׁה. מֵת פְּקֻחַ בְּעַל פְּקֻחַ, מֵה יַעֲשֶׂה חָרַשׁ בְּעַל חֲרָשׁ, מוֹצִיא אִשְׁתּוֹ בְּגֵט, וְאִשְׁתּוֹ אָחִיו אֲסוּרָה לְעוֹלָם: ז שְׁנֵי אָחִים, אֶחָד חָרַשׁ וְאֶחָד פְּקֻחַ, נְשׂוּאִים לְשֵׁתֵי נְכָרִיּוֹת פְּקֻחוֹת, מֵת חָרַשׁ בְּעַל פְּקֻחַ, מֵה יַעֲשֶׂה פְּקֻחַ בְּעַל פְּקֻחַ, אוֹ חוֹלֵץ אוֹ מֵיבֵם. מֵת פְּקֻחַ בְּעַל פְּקֻחַ, מֵה יַעֲשֶׂה חָרַשׁ בְּעַל פְּקֻחַ, כּוֹנֵס, וְאִינוֹ מוֹצִיא לְעוֹלָם: ח שְׁנֵי אָחִים פְּקֻחִים

was of sound mind and the other deaf, and the brother of sound mind, the husband of the deaf woman died, what should the brother of sound mind, the husband of the woman of sound mind, do? He marries [the widow, since one may not submit to *halitzah* from a deaf woman] and if he wishes to divorce her [afterwards] he may do so [via gestures]. If the brother of sound mind, the husband of the woman of sound mind, died, what should the brother of sound mind, the husband of the deaf woman, do? He may either submit to

halitzah or contract levirate marriage.

(9) If two brothers, one of whom was deaf and the other of sound mind, were married to two strangers, one of whom was deaf and the other of sound mind, and the deaf brother, the husband of the deaf woman, died, what should the brother of sound mind, the husband of the woman of sound mind do? He must marry [the widow, since *halitzah* cannot be performed when either party is deaf and mute], but if he wishes to divorce her [afterwards], he may do so [via gestures]. If the brother of sound mind, the husband of the woman of sound mind, died, what should the deaf brother, the husband of the deaf woman, do? He must marry [the widow] and he may never divorce her [since the divorce of a deaf man is only of Rabbinical force, but his levirate marriage is of Biblical force].

נְשׂוּאִים לְשֵׁתֵי נְכָרִיּוֹת, אַחַת פְּקַחַת וְאַחַת חֲרֻשָּׁת, מִת פְּקַח בְּעַל חֲרֻשָּׁת, מִה יַעֲשֶׂה פְּקַח בְּעַל פְּקַחַת, כּוֹנֵס. וְאִם רָצָה לְהוֹצִיא, יוֹצִיא. מִת פְּקַח בְּעַל הַפְּקַחַת, מִה יַעֲשֶׂה פְּקַח בְּעַל חֲרֻשָּׁת, אוֹ חוֹלֵץ אוֹ מִיָּבֵם: ט שְׁנֵי אָחִים, אֶחָד חֲרָשׁ וְאֶחָד פְּקַח, נְשׂוּאִים לְשֵׁתֵי נְכָרִיּוֹת, אַחַת חֲרֻשָּׁת וְאַחַת פְּקַחַת, מִת חֲרָשׁ בְּעַל חֲרֻשָּׁת, מִה יַעֲשֶׂה פְּקַח בְּעַל פְּקַחַת, כּוֹנֵס. וְאִם רָצָה לְהוֹצִיא, יוֹצִיא. מִת פְּקַח בְּעַל פְּקַחַת, מִה יַעֲשֶׂה חֲרָשׁ בְּעַל חֲרֻשָּׁת, כּוֹנֵס, וְאִינוּ מוֹצִיא לְעוֹלָם: